

Welding Fume Consultant Rebutts Misleading Article

A one-sided story published last month in the left-leaning magazine *Mother Jones* attacked the welding industry's efforts to defend itself from the onslaught of welding fume litigation by falsely accusing the industry of manufacturing fake science. The article, entitled "Toxic Smoke and Mirrors," claims the welding industry has paid for false studies to defeat legitimate claims brought by injured welders. The truth is that plaintiffs are losing the overwhelming majority of cases because they are finding it difficult to convince juries that they have sustained legitimate injuries as a result of being exposed to welding fumes.

The *Mother Jones* article claims that a study conducted by Jon Fryzek is an example of "industry buying science." While it is true that the industry funded the Fryzek study, the article fails to disclose that Fryzek researched existing data collected before the welding fume litigation explosion. Fryzek examined a database of hospital records for nearly 30,000 workers collected over a 25-year period, from 1977 to 2002. Fryzek concluded from his review of the data that welders were no more likely than non-welders to receive hospital treatment for parkinsonism or other neurological injury than non-welders.

The *Mother Jones* article contains no specific criticism of the methodology employed by Fryzek, and cites no facts to support its contention that the study is unreliable, other than to note that the Fryzek study "ignored welders who were never hospitalized." This statement itself is misleading since the Fryzek study examined hospital records. This is akin to arguing that a study of cars is incomplete because it "ignored" trucks.

More interesting is the notion that the Fryzek study is somehow defective because it only examined welders who were hospitalized for parkinsonism or neurological injury. After all, the plaintiffs in these cases claim serious permanent disabilities and seek millions of dollars in damages allegedly due to welding fume exposure. Would one expect that such serious injuries would result in hospitalization, either for treatment or testing. The article makes no effort to reconcile these seemingly inconsistent positions.

Of course, the *Mother Jones* article voices no concern over the questionable reliability of mass-screenings of welders by lawyer paid physicians, or the fact that over 70% of plaintiffs who submitted fact sheets in the MDL were diagnosed by a lawyer paid physician rather than their own doctors. The *Mother Jones* article also had no reservations about citing a "study" of a small group of Alabama welders (who all happen to be welding fume plaintiffs), purporting to show a link between exposure and injury, even though that study was paid for by plaintiffs' lawyers. So much for good science.

Nowhere does the *Mother Jones* article address the fact that plaintiffs have been forced to drop five cases they chose for trial because they were caught lying, and two plaintiffs were found to have faked their disabilities. Meritless claims, not "bought" science, explains the industry's success defending fume litigation (and why the industry has prevailed in 20 out of 23 welding fume jury trials in the last six years).



Submitted By:

Michael S. Degan, Esq.
GAWDA Coordinating Counsel for Welding Fume Litigation
Husch Blackwell Sanders, LLP
1620 Dodge Street, Suite 2100
Omaha, NE 68116
402.964.5037 direct dial
mike.degan@huschblackwell.com