

UNION HEALTH FUNDS ARE CLEARED TO SUE CIGARETTE MAKERS

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Three union trust funds that provide health-care benefits for Utahns working in construction can sue cigarette manufacturers to recover millions spent on tobacco-related illnesses, a Utah federal judge has ruled.

U.S. District Judge Dee Benson rejected the tobacco industry's request to dismiss the proposed class-action lawsuit, filed last year by trusts that provide benefits to Utah laborers, ironworkers, carpenters and cement masons.

The trusts contend the tobacco industry conspired to mislead the public about the amount of nicotine in cigarettes and its addictive power. Many workers would not have smoked if they had accurate information, and the trusts would not have had to pay the related medical bills, contends lead counsel Windle Turley of Dallas.

Dozens of similar suits have been filed by labor union health-care plans around the country, with mixed results. Some suits have been dismissed by judges, and appeals are pending. The first trial was held in an Ohio federal court in March, and jurors found the tobacco industry was not liable for the smoking-related illnesses of iron workers there.

In the Utah case, tobacco manufacturers argued the suit should be dismissed because there was no direct connection between their alleged conduct and the trusts. The trusts cannot recover for injuries suffered by individual smokers, the industry said.

But Benson ruled a jury could reasonably find the trusts' economic damages were foreseeable and were caused by the cigarette manufacturers. The trust funds' claims may be difficult to prove, Benson noted, but they will be allowed to proceed toward trial.

The trust funds argue they would have taken steps to reduce their smoking-related medical costs, were it not for the tobacco industry's alleged fraud.

With accurate information about nicotine addiction, the trusts would have moved sooner to create education and stop-smoking programs, they contend. They also could have limited coverage for tobacco-related illnesses or asked smokers to pay higher deductibles or co-payments for medical care, the trusts suggested.

The health-care trusts are funded by payments from businesses and employers, as negotiated in collective bargaining with union locals.

The lawsuit names large cigarette manufacturers, including R.J. Reynolds, Philip Morris and Brown & Williamson. It includes claims of racketeering, anti-trust violations and fraud.

Benson has dismissed the suit's claims against the Kimberly-Clark Corp., which manufactures cigarette papers, and Eastman Chemical Co., which makes cigarette filters.