

## Where the rubber meets the job: trouble for allergic employees

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Tire workers, medical professionals and fast food employees don't have much in common on the surface.

But latex exposure in their daily jobs links them together. It may also be fueling the next workers compensation crisis.

Tires are made with rubber, naturally. Surgeons, nurses and an increasing amount of food-service and janitorial employees wear latex gloves to keep their hands clean or not spread germs to others.

But the use of natural rubber latex, as the material is known, may do more harm than good in the workplace, because some people are sensitive to latex and develop debilitating allergies when exposed to too much of it.

"It's just become epidemic," said John Gelman, a New Jersey attorney who has practiced for 31 years and specializes in workers compensation, asbestos and latex litigation and toxic exposures.

Not everyone agrees.

"That's an old issue," said Robert Hartwig, chief economist with the Insurance Information Institute. "When the issue of latex sensitivity surfaced over a decade ago, principally in the medical profession, it was addressed by manufactures by the introduction of latex-free gloves."

That being said, companies aren't necessarily rushing to non-latex alternatives, Gelman said.

Hartwig admits that the use of latex gloves has grown, "particularly in food service and janitorial industries" and those groups may not be as well educated about risks and ways to mitigate them.

"It may well be the case that individuals in occupations less skilled than the medical profession are not as aware of the hazard or alternatives."

### Epidemic Questioned

But he resists the notion that latex allergies in the workplace have become epidemic., "It would be simply a mistake," he said, "to say that latex sensitivity is a major public health threat in America today."

Maybe so, but the courts appear to be dealing with at least a moderate amount of latex allergy cases involving millions of dollars in potential liability, according to various media reports compiled by III. And results for insurance companies are mixed.

In one case compiled by III and reported in the July 8 edition of Lawyer's Weekly USA, a latex glove manufacture fended off a federal lawsuit claiming its latex gloves were flawed and that the product lacked adequate safety warnings. It was the first federal court case involving latex-glove allergies.

In another, the Wisconsin Supreme Court upheld a verdict against a latex glove manufacture awarding \$1 million to a plaintiff who contracted asthma, an allergy and

other illnesses, as reported in the July 30, 2001 National Law Journal. She worked at a Milwaukee hospital.

That same year, a Texas jury awarded \$5 million in punitive damages in a latex allergy lawsuit against a glove manufacturer.

A 1999 study reported by the New York Times indicated that at least 200,000 nurses had had allergic reactions to latex gloves and that almost 1 in 10 health care workers exposed to the gloves developed allergies.

Health care workers and patients, who said they were harmed by latex exposure, the New York Times said, had filed more than 300 lawsuits at that time.

It's enough of an issue nationally that the federal Occupational Safety and Health Administration released a 1999 bulletin warning about latex risks, particularly the tendency in some people to develop allergic reactions to natural rubber products like gloves in the workplace.

Gelman publicized the bulletin in a June 1999 "Focus on the Law" article he posted on his primary Web site.

### Gradually Increasing

Gelman said he started to see more latex claims six years ago and they've gradually increased since then.

It's an issue to which the New Jersey attorney devotes serious attention on his Web site [www.gelmans.com](http://www.gelmans.com), plus information site [www.latexlaw.com](http://www.latexlaw.com).

"Once (natural rubber latex) sensitivity occurs, allergic individuals continue to experience symptoms," according to the article, "which have included life-threatening reactions, not only on exposure to (latex) in the workplace but also upon receiving or accompanying a family member receiving healthcare services at inpatient as well as office-based settings."

Gelman, in an InsuranceTimes interview, said latex gloves are used too often in the workplace now and could easily be restricted.

"I don't know why you need latex gloves in the food industry," he said. "There are other vinyls out there that have been out there for a while.

"It won't be the cost of gloves, but the cost of disability that will be astronomical in dimension" if latex gloves aren't restricted soon, he said.

That's because when people are sensitized to latex they automatically "become sensitized to all different substances in the workplace," he said.

"So the question is, how do you avoid it from the beginning?"

Latex gloves are a particular problem compared to other latex products, Gelman said, because they seem to "have a higher propensity based on medical studies" to cause allergies and sensitivity.

In the long run, Gelman said, government must step in and restrict latex use in the workplace because the resulting allergies will cost the U.S. economy far more by taking "workers who are highly skilled and highly trained, ... and put them on an industrial waste heap unable to work.

"It's an economic issue," he said. "That's all it is. Remove the latex gloves from the marketplace. Recall them all globally. When you do, the problem ends for those who (would) be sensitized in the future and for people who are sensitive" to latex now.

Money would be better spent, he said, to find ways “to treat and cure those who are sensitized now” instead of “putting money into paying injured workers” sidelined by latex allergies.

Without a solution, he said, “eventually insurance premiums ... (and) experience ratings for these companies” affected by latex claims “will go up.

Insurance companies, eventually will require insureds who wear latex gloves at work to buy extra coverage to hedge against claims, he said.

“Or ratings are going to go so high.” p