

Knock on wood

Lawsuits target arsenic-treated lumber

Got a pressure-treated picnic table? Take your kids to a playground with pressure-treated lumber? Hang out on your pressure-treated deck much?

Better get you a litigator on speed dial, because according to Lawyers Weekly USA, you've got a potential lawsuit on your hands. And you're in lots of good company.

According to the lawyers trade journal, the lumber used to make countless picnic tables, playground equipment and decks is often soaked with arsenic in the form of chromated copper arsenate (CCA) to ward off wood-eating insects. And with new evidence suggesting CCA-treated lumber manufacturers were aware that the products can be harmful, "thousands" of lawsuits are now being filed across the country, claiming damages for everything from neurological damage to skin problems and fatigue.

The manufacturers say the wood is safe "if used properly," but the federal EPA has announced the use of CCA will be phased out of wood production altogether by the end of 2003. Three American manufacturers of arsenic-treated lumber have agreed to stop production for residential use, also by the end of '03, while the two biggest lumber retailers, Home Depot and Lowe's, have committed to stop selling the products even sooner.

But Lawyers Weekly says that "will not slow down litigation" and lawsuits

have already been won.

"Legal experts theorize these cases can be relatively easy to try and win," says the legal newspaper.

Swampscott mother **Terry Buckley** had the gut feeling the pressure treated lumber at the Bentley School playground in Salem was unsafe, and did some homework which led her to arsenic and 13 other harmful chemicals. She's since had the playground closed and has been looking for funds to build a new, safer one.

Attorney **Marsha Kazarosian**, president of the Essex Bar Association and a litigator herself, says she hasn't heard of any suits being filed locally relative to treated lumber, adding that doesn't mean they're not here. She also questions the industry's use of the phrase "used properly," and says evidence suggesting manufacturers knew the product was unsafe back in '77 smacks of the tobacco industry's unwillingness to make public information it knew about the hazards of smoking.

"When you can show a defendant lied about it, surely that's going to impact a jury," says the Haverhill attorney.

"That's the thing that bothers me the most about it. There's got to be a better way to do it than using carcinogens. And if the reason was because it's cheaper, than it's even more egregious."

Got a pressure-treated picnic table? Kazarosian is in the book.

— Elizabeth Dinan

Jeffrey Sensin, 8, brother Austin, 4, and Dillon Buckley, 4, peer through the locked gate that leads to the Bentley School playground. Dillon's mother, Terry Buckley, did some research that led her to believe chemicals used in the wood there could be harmful, and now lawsuits nationwide are bearing that theory out.