

## Cellphone Lawsuits could have broad ramifications

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Lawsuits could have broad ramifications for the industry

Since David Reynard, of Madeira Beach, filed the first lawsuit in 1992 claiming cell phones pose a health hazard, judges have been tossing the cases out of court for lack of scientific evidence.

Jeffrey Morganroth, a Detroit attorney who represents six brain tumor patients in separate cases, thinks that is about to change.

Reynard alleged his wife's fatal brain tumor was caused by her cell phone. Publicity about the case caused the Cellular Telecommunications Industry Association to pledge \$25 million for research to allay the public's fears.

"That was 12 years ago, and a lot has happened in terms of scientific studies since then," Morganroth said. "We believe the cell phone industry will battle us like Goliath, but we believe we have very credible witnesses to make the case. We wouldn't have taken the cases if we didn't."

A court victory for any of Morganroth's clients could have wide-ranging effects for the mammoth cell phone industry in this country, which had total revenues last year of more than \$100 billion. More than a quarter of a million people work in the wireless industry, which has seen consumer use grow from 33 million users in 1995 to more than 190 million.

Since federal safety standards were not designed to protect the public from the low-level radiation emitted by cell phones over the long term, the court system could become the arbiter of law on cell phone-related health issues.

Morganroth's lead plaintiff, Michael Murray, got his first cell phone, an early Motorola flip phone model, at age 23. Murray was a heavy, daily user until severe headaches, vision problems and other symptoms caused him to consult a doctor 10 years later. In November 1999, he was diagnosed with brain cancer and died April 20, 2003, at age 35.

Murray worked as a communications technician, testing wireless phones for Motorola at its Libertyville, Ill., facility, before his illness. He and his wife Patricia filed a lawsuit, naming Motorola and others as defendants, alleging the tumor in his left temporal lobe was caused by exposure to radio frequency (RF) radiation emitted by cell phones he used.

Norman Sandler, director of global strategic issues for Motorola, Inc., said the cases are baseless and he expects they will meet the same fate as another high-profile case that was thrown out of federal court in 2002.

"There is no credible, reliable scientific evidence to support a claim on the injuries that have been put forward," Sandler said.

In a second set of cases, the plaintiffs allege that cell phones emit an unsafe level of radio frequency radiation and that wireless companies have been negligent in not supplying hands-free earpiece kits with each phone. They ask that the companies supply headsets and reimburse consumers who already have bought them.

"There are studies that show there are actual biological changes, and some of them create adverse consequences," said Michael Allweiss, a New Orleans attorney who filed the first headset case. "The vast majority of people out there have no clue. Our position is simple. As a public health and safety issue, [headsets] should have been supplied, like using a seat belt."

Attorney Kenneth Starr, representing the wireless industry, said there is no health issue that requires using a headset.

"We are confident that the courts will find, as the scientific community has found, that wireless phones cause no adverse health effects," said Starr, the former independent counsel in the Whitewater investigation involving Bill and Hillary Clinton.

The Murrays and the five other brain tumor patients, in separate cases, also have named a laundry list of other defendants, including phone manufacturers and wireless service providers.

"Michael held the phone to his left ear. All of our six clients had heavy cell phone usage, and they all had their tumor located where they held their cell phone on a regular basis. It matched up exactly," Morganroth said.

All six cases, originally filed in Washington, D.C., Superior Court in 2001, were transferred to federal court in Baltimore after industry lawyers argued that federal agencies -- the Federal Communications Commission and the Food and Drug Administration -- have regulatory authority over the phones and federal law should be applied.

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The cases were assigned to U.S. District Judge Catherine Blake, who had jurisdiction over a similar case filed by Maryland neurologist Christopher Newman. Newman alleged his daily use of cell phones over a period of years caused his brain tumor. He, too, has died.

Blake dismissed his case after a hearing on the scientific merits, saying there is no consensus in the scientific community that cell phones can cause brain tumors.

When Blake dismissed the Newman case in 2002, the matter appeared settled. But in July 2004, she decided the remaining six brain tumor cases did not belong in federal court and sent them back to D.C. Superior Court for action there. The industry appealed, but the U.S. Court of Appeals for the 4th Circuit upheld her decision, meaning the cases can go forward in state court. The cases are awaiting a trial date.

*An appeals court decision sending some of the headset cases back to state courts is being appealed by the industry to the U.S. Supreme Court.*

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