



Suffolk close-up

karl grossman

VICTOR YANNAZONE: a case makes a lawyer a star and a vocal critic too

Victor Yannacone, Jr., the feisty Suffolk lawyer who legally coordinated the launching of a massive lawsuit by Vietnam veterans against the chemical companies which manufactured and sold Agent Orange, was furious last week.

It has been some time several months for Mr. Yannacone who has had solid experience in bringing litigation against chemical companies to America's legal center stage: in the 1980s he was the main attorney in the legal attack against DDT which was pivotal in causing the outlawing in the U.S. of that deadly substance.

Other lawyers who got involved in the Agent Orange case forced Mr. Yannacone out. They then arranged a settlement which many vets and Mr. Yannacone say provides far too little for the thousands of veterans and children of veterans catastrophically damaged by Agent Orange. Further, they complain that the seven major chemical companies were excused from having to admit guilt.

Judge Jack Weinstein, who had mediated the settlement arrived at last month, had said it did not close the door on additional legal action involving Agent Orange.

But last week, Judge Weinstein dismissed a new Agent Orange lawsuit brought by Vietnam veterans represented by Mr. Yannacone which asked that the federal government be forced to provide "a uniform system" of "complete medical care" for the Agent Orange-injured veterans and their children.

"Give us a hearing. Let us present the evidence we have," Mr. Yannacone pleaded in U.S. District Court in Brooklyn. "If your honor feels the level of neglect rises to a constitutional level,

then say" the federal law is unconstitutional.

At issue was something called the Feres Doctrine, promulgated by the federal government in 1950 to prohibit servicemen from suing the government for wartime injuries. In 1982, an Agent Orange lawsuit Mr. Yannacone brought for vets was rejected by Judge George Pratt because of the Feres Doctrine. Judge Weinstein, however, in handling the Agent Orange case brought before him, had spoken of taking a wider view of the Feres Doctrine.

"It's par for the course," Mr. Yannacone was saying back at his office in Patchogue after Judge Weinstein's rejection of the new suit. "Weinstein basically told everybody when he announced a settlement that the vets could still sue the government. So they sued. The government objected, made a motion to dismiss, and the judge granted it."

Meanwhile, said Mr. Yannacone, the Agent Orange chemical companies are being allowed to sue the federal government to get reimbursed for the \$180 million they have agreed to pay out in the settlement. Yet "the veterans can't sue."

And, "the veterans are left with not enough money to cover their needs." The settlement provides "nowhere near enough money to take care of the 20,000 to 25,000 veterans who are now sick and their children who are now deformed and disabled."

After the grouping of lawyers who pushed him out of the case "take \$10 million for legal fees off the top" — an amount Mr. Yannacone says is far too much — that will leave, as interest on the remaining \$140 million accrues, \$10,000 for each injured vet or offspring.

If the number of Agent Orange victims is 40,000 or 45,000 "as we originally estimated," then the amount would come

to \$5,000 per veteran or offspring.

Whether it is \$5,000 or \$10,000, the amount "is so grossly inadequate as to shock the conscience of America," said Mr. Yannacone, speaking of the impacts of Agent Orange in cancer and other diseases — and death — for many veterans, and "poly-genetic birth defects" in their children.

He says he is "satisfied with the concept of a settlement" but the one arrived at was completely inadequate. Further, he wants "all documents and testimony" in the Agent Orange case "to become public record, to become available for all the people of the U.S. and the world to see so never again can the reckless, irresponsible and immoral promotion and sale of a dangerous product be countenanced by a civilized society." And, he wants far better provisions made for medical evaluation and care of vets and their children.

As to the lawyers who squeezed him out, they "abandoned the veterans," he charges. To some, perhaps, Mr. Yannacone's complaints about the settlement and the handling of the case might be attributed to resentment about being removed from it. But his protests are echoed by many others involved in the litigation.

"I think the settlement is disastrous. I think it is a sell-out," says Dr. Samuel Epstein of the University of Illinois Medical Center, an expert on the effects, and the politics, of toxic chemicals. He is the author of the landmark book, "The Politics of Cancer."

The attitude of the Agent Orange lawyers who ejected Mr. Yannacone was "take-the-money-and-run. These lawyers are Johnny-come-latelies . . . They made unequivocal commitments to the veterans that they would not make

under-the-table settlements, which in fact they did. They are likely to clean up vast personal fortunes. One of the lawyers even boasted of buying an island in the Caribbean."

Some lawyers in the case might have found Mr. Yannacone difficult but "the veterans love him," says Frank McCarthy, a veterans' leader in the suit. "He's a champion. He would stand up there and tell . . . the truth."

James Sparrow, executive director of the Agent Orange Victims International, said the settlement denied the vets "their day in court." The vets wanted to "put the chemical companies on the hot seat. He wanted the people to know what they've been doing, and that's not going to happen now."

Mr. Yannacone was going on last week about a "devil's bargain" between the government — including components such as the U.S. Food and Drug Administration and the U.S. Public Health Service — and the major chemical companies. He spoke of the government systematically "covering up for industry," repressing "the release of any information showing a product toxic, unsafe or commercially undesirable."

If the class action suit would have gone to trial, a jury conceivably could have awarded the veterans billions — as if any dollar amount would suffice for the tragedy of Agent Orange.

But as important, if a trial was held and Victor Yannacone allowed to remain on the case, the public could have been made more aware of not only the callous disregard for life that the chemical companies and the federal government displayed in connection with Agent Orange, and also with many other poisons the chemical companies produce and the government approves