

Resolution No. 309

WHEREAS, several police officers who are members of the Fire and Police Disability, Retirement and Death Benefit Plan (Plan) have recently been injured or killed by firearms used by criminals, and

WHEREAS, the City of New Orleans, Louisiana has recently sued several gun manufacturers seeking reimbursement for millions of dollars spent on police, medical and other City services in connection with various shooting episodes, and

WHEREAS, the Fire and Police Disability and Retirement Fund has had to pay medical and disability benefits to several police officers who have been wounded or killed by firearms used by criminals, and

WHEREAS, the Board of Trustees is desirous of determining whether the Plan may participate in the litigation filed by the City of New Orleans in order to determine whether gun manufacturers and/or gun dealers which have produced and/or sold the firearms which have injured or killed Portland police officers may be financially liable to reimburse the Plan for expenses it has incurred with respect to such injuries and death.

NOW, THEREFORE BE IT RESOLVED by the Board of Trustees of the Fire and Police Disability and Retirement Fund that the Board's staff be and hereby is directed to investigate the possibility of the Plan participating in the litigation initiated by the City of New Orleans against several members of the firearms industry.

IT IS FURTHER RESOLVED that a report on the results of the staff investigation be presented to the Board of Trustees not later than the regular Board meeting on May 11, 1999.

ADOPTED by the Board of Trustees on this 12th day of January, 1999.

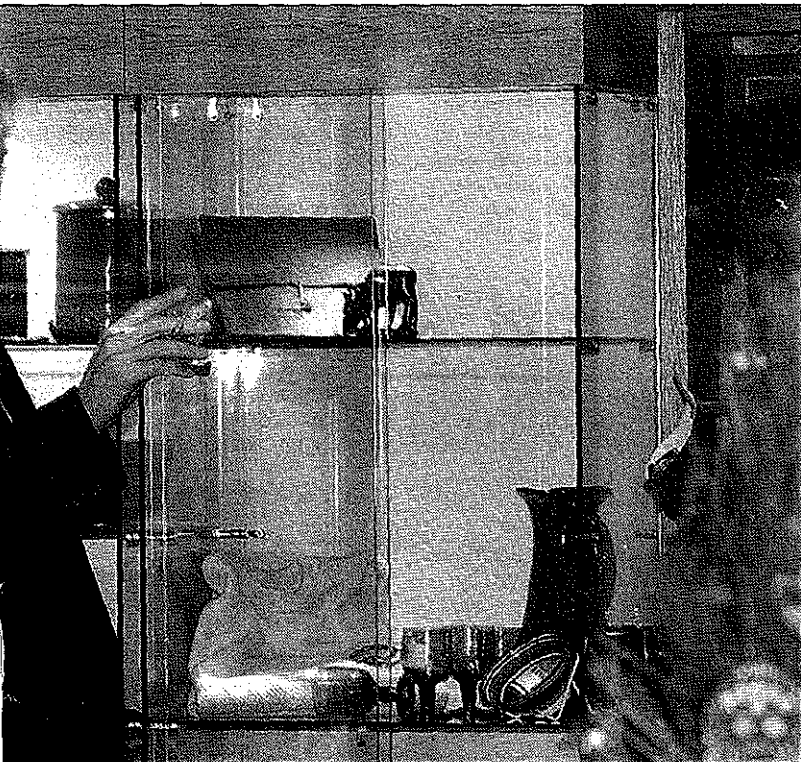
Edwin L. Freeman
Fund Administrator

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[This Resolution was tabled but the Chair directed staff to track the issue of whether the Plan can initiate/join in litigation against gun manufacturers in an attempt to recoup costs it has expended for Plan members who have been injured or killed by guns]

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KHUE BUI/Associated Press

Bill Clinton looks for Christmas gifts Wednesday at the Peace Corps Store in Washington, D.C. He will stay in the city until Dec. 30, when he and the first lady leave for Hilton Head, S.C.

Atmosphere in Congress will be bipartisan weekend

With the addition of five new members, are likely to try to attack Republicans and

rhetoric flew on the House floor, organizers were reluctant to discuss

Health industry fattens coffers of Speaker-to-be

■ Rep. J. Dennis Hastert, R-Ill., writes a bill to the liking of companies in the health care field, and his re-election budget grows accordingly

By JONATHAN D. SALANT
Associated Press

WASHINGTON — Before his elevation to House speaker-to-be, J. Dennis Hastert wrote health care overhaul legislation with the industry's concerns in mind. His campaign treasury reaped the reward.

Health professionals, pharmaceutical firms, hospitals and insurance companies contributed a total of at least \$171,455 to Hastert's 1998 campaign, accounting for nearly \$1 of every \$5 the Illinois Republican raised for his re-election, federal campaign records show.

Hastert is far from being a top House fund-raiser, no need since he's regularly been a shoo-in for re-election. But like many congressmen, his contributions have closely followed his legislative assignments, and Hastert sits on the Commerce Committee's subcommittees on health, energy and telecommunications.

In addition to health care, his biggest contributors include electric utilities, which gave \$40,000 for his

under federal election law. The 1998 legislation, which passed the House on a mostly party-line vote but died in the Senate, was developed in response to Democratic demands that Congress enact regulations on managed care health plans.

Hastert was chairman of a House Republican task force that produced a bill guaranteeing coverage of emergency room care in situations that a "prudent" person would consider a crisis, banning so-called "gates" that prevent doctors from talking to their patients about alternative treatments that might be covered, and giving women direct access to obstetrician-gynecologists.

However, it would not have expanded consumers' rights to sue health plans even as it called for limiting the damages patients can collect from medical malpractice suits.

The bill also would have expanded the use of tax-free medical savings accounts and given small businesses the ability to form cooperative health plans.

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3 November 1998

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FIRE & POLICE PENSION
NOV 4 1 33 PM '98

Mr. Edwin Freeman
Administrator
Portland Fire & Police Disability and Retirement Fund
1800 SW First Avenue
Portland, Oregon 97201

RE: Article from 11/02/98 Wall Street Journal -- "*In Antigun Suit, the Fight will be Hard*"

Dear Ed:

Enclosed for your information is a recent article that describes a lawsuit which, as you and other members of the Board know, involves an issue that I have expressed continual interest in and which I have asked be investigated using the theory which the article describes.

I propose that the Board adopt a resolution directing staff to investigate participation in this lawsuit by the Fund. I would be most appreciative if you could see to it that a resolution be prepared so that it could be considered by the next meeting.

If you have any questions, please feel free to contact me.

Sincerely yours,


Paul C. Elsner

enclosure

c. Mayor Vera Katz (w/enclosure)
Bill Selby (w/enclosure)
Jeff Rogers (w/enclosure)

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In Antigon Suit, but Fight Will Be Hard

By PAUL M. BARRETT

Staff Reporter of THE WALL STREET JOURNAL

Cities are preparing to follow the lead of New Orleans in suing the firearms industry. But this municipal legal attack could face different and potentially greater hazards than the antitobacco litigation on which it is modeled.

New Orleans on Friday became the first city to file suit against major gun makers, seeking reimbursement for millions of dollars spent on police, medical and other city services in connection with unintentional shootings, teen suicides and criminal activity. The suit, filed in a Louisiana state court, imitates earlier suits filed by states that sought compensation from the tobacco industry for public expenses related to smokers' illnesses. The state tobacco suits have led to several multibillion-dollar settlements.

Promising similar blows to the gun industry, a coalition of prominent plaintiffs' lawyers who helped spark the tobacco litigation have agreed to fund the New Orleans suit. This coalition has lined up several other cities that are planning to file similar antigun suits "within months," said John Coale of Washington, D.C., a member of the group.

Mr. Coale declined to identify the cities his group expects to represent. But officials in Chicago and Philadelphia said their cities were moving independently toward decisions on whether to sue firearms makers, although they wouldn't employ the same attorneys as New Orleans.

"We all have to give a hard look at litigation," Mayor Edward Rendell of Philadelphia said Friday. After first raising the idea last year of cities suing the gun industry as a way of fighting crime, Mr. Rendell lately has been trying to negotiate with manufacturers over increased national regulation of firearms. In fact, Mr. Rendell said he called New Orleans Mayor Marc Morial on Thursday night to ask him to postpone the suit to allow for additional bargaining. Having failed in that effort, though, Mr. Rendell acknowledged the talks hadn't yielded much progress and that in January he expected to revisit the idea of Philadelphia filing its own suit.

Industry spokesmen, vowing a tough court fight, denied the main allegation in the New Orleans suit, that manufacturers have knowingly failed to include safety devices to prevent children and other "unauthorized" users from firing guns.

The suit further alleges the 15 defendant companies colluded or "tacitly agreed" to prevent the use of such safety mechanisms. This type of legal theory—that guns are "unreasonably dangerous" in their design—hasn't worked in past suits brought on behalf of individual victims. Some courts have said upholding such a theory would be tantamount to banning certain types of guns, which is a

case helped influence him to go ahead with it, as did the recent gunshot killing of a New Orleans gospel singer who was a personal friend.

While the Gauthier group was indisputably important in helping start the litigation threat that brought the tobacco industry to the table, the group's efforts to organize a national class action of smokers ultimately failed. Other lawyers represented the states in the litigation that has resulted in huge settlements.

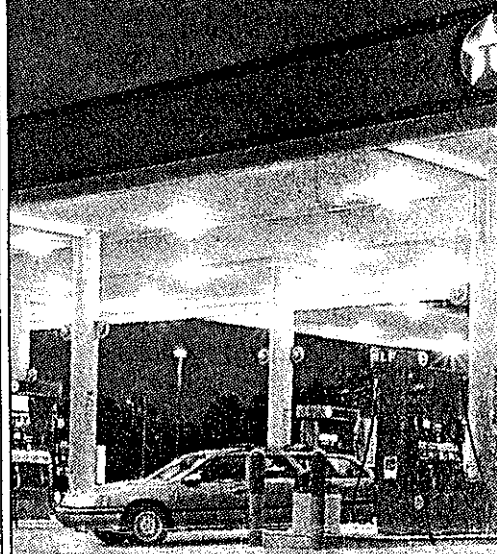
As a practical matter, the theory of inadequate safety technology could be "unwieldy to prove because there are so many types of guns and [such] different types of potential safety devices," said Kristen Rand, senior lawyer with the Violence Policy Center, a Washington, D.C., antigun group that isn't involved in the case. She nevertheless said that at a minimum, the New Orleans suit was "very important" because it showed growing hostility toward the gun industry, even in a southern city in a state with a long tradition of gun ownership.

David Kairys, a professor at Temple University Law School in Philadelphia who has studied theories under which cities might sue handgun manufacturers, said Louisiana's statute on "unreasonably dangerous" products appears to favor plaintiffs more than comparable law in other states.

As for a possible settlement, legal experts on gun litigation said there could be obstacles in the New Orleans suit that aren't present in the tobacco cases. The gun industry is more internally fractious and therefore even less likely than tobacco to negotiate a joint settlement.

Also, the firearms business has been in decline, and gun makers don't have the deep pockets of some cigarette makers, making it more difficult for them to offer a rich compromise, Ms. Rand said.

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