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Hair-Relaxer Litigation May Proceed In Illinois Federal Court, Judge Rules

by [Ryan Nelson](#)

US district judge Mary Rowland decided not to throw out the majority of plaintiffs' claims against L'Oreal, Revlon, SoftSheen-Carson and other hair-relaxer marketers on 13 November. She says plaintiffs have sufficiently pleaded at this stage that defendants' negligence resulted in their unknowingly using toxic chemical straightening products on their hair, leading to cancers or other injuries.

Consolidated multidistrict litigation will go forward in Illinois' Northern District alleging that L'Oreal USA, Inc., Revlon, Inc., SoftSheen-Carson, LLC, Sally Beauty Holdings, Inc. and a host of other companies were negligent in developing, advertising and selling hair relaxers to consumers without providing warning about their risks.

As a result, the plaintiffs allege to have developed cancer and other injuries.

"According to Plaintiffs, Defendants had a duty to exercise reasonable care in the advertising and sale of their hair relaxer products, including a duty to warn of risks associated with the products, and also owed a continuing duty to Plaintiffs to remove, recall, or retrofit the unsafe and/or defective hair relaxer products. Plaintiffs claim Defendants breached these duties in several ways," US district judge Mary Rowland notes in a [13 November ruling](#) on defendants' motion to dismiss.

Further, "they allege that Defendants' negligence 'was a direct and proximate cause of the injuries, harm, and economic losses that Plaintiffs have suffered, and will continue to suffer.' ... Accepting Plaintiffs' factual allegations as true and reading the complaint as a whole shows Plaintiffs have plead sufficient facts to avoid dismissal," Rowland writes.

Neither were the defendants successful in dismissing plaintiffs' claims on preemption grounds.

Product liability claims under state laws are not expressly preempted by the Federal Food, Drug and Cosmetic Act, and the court determined the defendants did not meet the burden of proof for preemption, allowing plaintiffs' claims related to negligence, strict liability, and failure to warn to proceed.

"This is the core [of] every hair relaxer lawsuit and the opinion makes it clear that this was not a close call," says personal injury attorney Ronald Miller, Jr. of Miller & Zois, LLC in a [14 November post](#).

"This study fills an important gap in knowledge about the potential health effects of hair relaxer use, which is very common in Black women," says Kimberly Bertrand, co-investigator with the Black Women's Health Study.

Lawsuits first began filing against L'Oreal and other hair-relaxer marketers in October 2022 when the Journal of the American Cancer Institute published an [epidemiological study](#) suggesting that women who frequently use hair-straightening products are more than twice as likely to develop uterine cancer than women who do not. (Also see "[L'Oreal USA Faces First In Potential Wave Of Lawsuits Over Hair Straightener-Uterine Cancer Link](#)" - HBW Insight, 28 Oct, 2022.) Of the 33,947 Sister Study participants, who were followed for an average of 10.9 years, 378 uterine cancer cases were identified, with stronger associations seen in frequent hair relaxer users compared with never-users.

The authors, Che-Jung Chang at the National Institute of Environmental Health Sciences, et al., noted that more research was needed to replicate the group's findings in other settings and to identify specific chemicals driving the observed association.

At this point, additional research has come in the form of data from Boston University's Black Women's Health Study, [published](#) in Environmental Research in October. The study looked at a larger cohort of 44,798 women, who were followed for up to 22 years, and found that long-term use of chemical hair relaxers was associated with increased risk of uterine cancer among postmenopausal women, but not among premenopausal women, after adjusting for other potential risk factors.

"Black women are often underrepresented in health research and may have unique exposures that contribute to disparities in disease. This study fills an important gap in knowledge about the

potential health effects of hair relaxer use, which is very common in Black women,” says corresponding author Kimberly Bertrand, associate professor of medicine at Boston University Chobanian & Avedisian School of Medicine, in an [11 October post](#).

“The researchers hope these results will raise awareness of the potential toxic effects of these products and promote efforts to reduce exposure,” according to the post. (Also see "[L’Oreal Must Stop Selling Harmful Hair Relaxers, Women’s Group Says As Lawsuits Stack Up](#)" - HBW Insight, 2 May, 2023.)

EDCs Flagged As Potential Culprit

Awareness certainly seems to be up. The consolidated multidistrict litigation in Illinois federal court – In Re: Hair Relaxer Marketing Sales Practices and Products Liability – comprises 241 cases naming 14 defendant groups, “each of which is alleged to have distributed unspecified hair relaxer products during an unspecified time period over the last 50 years,” according to defendants’ [motion to dismiss](#) filed in July.

In the plaintiffs’ [Master Complaint](#), they outline their theory on why hair relaxer use can cause harm, asserting, “Defendants knew or should have known that phthalates and other EDCs [endocrine-disrupting chemicals] in their hair relaxer products significantly increase the risk of cancers and other negative health conditions.”

The plaintiffs claim they, on the other hand, did not know the products’ risks and should have been warned by the defendants.

Judge Rowland notes that “Defendants criticize Plaintiffs’ reliance on the 2022 Chang Article and argue they have not ‘establish[ed]’ Defendants’ breach. But these are not issues capable of being resolved on a motion to dismiss.”

In her order, Rowland throws out the plaintiffs’ negligent misrepresentation, fraud and fraudulent concealment claims, as well as fraud-based claims under US state consumer-protection and unfair or deceptive trade laws.

Miller notes, "The court evaluated the plaintiffs’ fraud-based claims and found that they did not meet the particularity requirements of Rule 9(b). Despite this, claims of unfair conduct were deemed adequately stated under Rule 8(a), as the plaintiffs alleged that the defendants misrepresented the safety and quality of their products."

The plaintiffs’ remaining 11 counts – including negligence and/or gross negligence, strict liability: design defect, strict liability: failure to warn, and breach of warranty claims – survived intact. The plaintiffs seek compensatory and punitive damages, monetary restitution, medical monitoring and equitable relief, and all other available remedies as a result of injuries incurred

by the defendants' alleged defective products and other wrongful practices.