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## Man Goes to Court to Fight His Own Impending Autopsy

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A man anticipating death from a rare form of cancer caused by inhaling asbestos is challenging the constitutionality of a court order requiring his body to be autopsied as a condition of his estate being paid a settlement.

James Ross, 71, objects to the procedure on personal moral grounds, said his attorney, Matthew Bergman of [Bergman & Frockt](#) in Seattle.

Bergman, interviewed prior to his appearance in court last week to argue the case, said mandatory autopsies have been a standard requirement of asbestos settlements dating to a 1984 Washington state court rule. The rule does allow exceptions for "religious or ethical considerations," but Bergman contends that is unconstitutionally vague. *Ross v Saberhagen Holdings Inc.*, No. 08-2-02434-2 SEA (King Co., Wash., Super. Ct.).

"We want the rule declared unconstitutional," Bergman said. "Autopsy is very invasive; no one should have to do it if they don't want to."

As part of his pleadings, Bergman found cases of plaintiffs diagnosed with mesothelioma who were exempted from the autopsy requirement because of their religion.

"Mr. Ross could have said the autopsy violated his religion but he didn't because that isn't true. This is not religious, this is a matter of personal moral belief," Bergman said. "It is disturbing for a court to inquire about his religious beliefs before deciding if he can have a waiver."

Ross is dying from mesothelioma, a rare form of cancer that is invariably fatal and has long been known to be caused only by asbestos. The defendants don't dispute that Ross has mesothelioma, but they are insisting on the autopsy as a

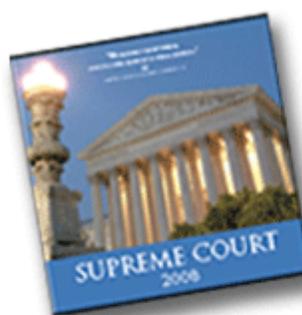
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condition of paying the settlement.

Jeff Wolf of Williams Kastner & Gibbs in Seattle, who represents the defendant company Saberhagen Holdings, did not respond to requests for comment.

"I have handled more than 250 mesothelioma cases and there were only five when an autopsy was required to confirm the diagnosis," Bergman said. "This is unnecessary."