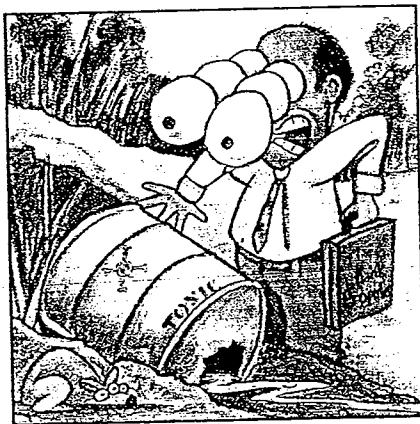


■ Heed This Warning

The New York-based law firm Lord Day & Lord is advising its banking clients to closely monitor their commercial loan activities in light of a recent court decision, and to conduct an environmental audit prior to foreclosure, particularly where real estate is used as collateral.

The advisory follows a decision by the U.S. District Court for the Western District of Pennsylvania in *Guidice v. BFG Electroplating and Manufacturing* denying summary judgment to a bank that in 1982 foreclosed on an industrial property later found to be contaminated. The case is a toxic tort action in which plaintiffs claim injury from exposure to various chemicals. The defendants include a bank that foreclosed on the

plant's mortgage and held title for eight months. The plaintiffs contend that the bank was owner of the property at the time of contamination.



Prior case law suggests that a bank's liability in foreclosure situations hinges on how long it has held title to the property. This case expands the liability because it does away with the time element. If this decision is followed by other jurisdictions it will mean that a bank can be liable for clean-up costs even if it held title for a very short time.

According to Larry Schnapf, an attorney in the Environmental Practice Group at Lord Day, "This is a case that should send tremors through the banking community."