



Asbestos Litigation Costs, Compensation, and Alternatives

Asbestos litigation, the longest-running mass tort litigation in the United States, arose as a result of individuals' exposure to asbestos and the failure of many product manufacturers to protect their workers. Because asbestos is durable and has excellent fire-retardant capabilities, it was widely used in work settings through the early 1970s. Asbestos fibers are easily inhaled and can cause injuries such as a fatal form of cancer called mesothelioma and non-cancerous impaired lung function.

There have been sharp increases recently in the number of asbestos-related claims filed annually and in the number and types of firms named as defendants. Plaintiffs' attorneys have expressed concern over whether compensation is being divided fairly among claimants whose injuries vary in severity, and defendants claim that responsibility for paying compensation is not being allocated in proportion to culpability. There is also growing concern that the cost of settling claims now will deplete funds needed to compensate claimants whose symptoms have not yet surfaced but who will eventually become seriously ill.

The RAND Institute for Civil Justice (ICJ) began studying asbestos litigation in the early 1980s. This study provides a comprehensive description of the litigation through 2002, evaluates how well the tort system is resolving asbestos claims, and describes some alternative strategies.

Dimensions of the Litigation

Among ICJ's findings are the following:

- Approximately 730,000 people in the United States filed compensation claims for asbestos-related injuries from the early 1970s through the end of 2002, costing businesses and insurance companies more than \$70 billion (see the figure on the next page).
- Claimants have received about 42 cents of every dollar spent on asbestos litigation. Another

Abstract

Approximately 730,000 people have filed claims for asbestos injuries in the United States through 2002. At least 8,400 defendants and insurers have paid \$70 billion to settle these claims. The number of claims surged sharply through the 1990s, driven primarily by people who claim noncancerous injuries. Such trends have raised concerns that there may be no funds left to compensate those whose symptoms have not yet surfaced but who will become seriously ill in the future. A number of proposed reforms have been set forth to address these concerns.

31 cents have gone to defense costs, and 27 cents have gone to plaintiffs' attorney fees and other related costs.

- The number of asbestos claims has increased sharply through the 1990s and into 2002. Those who claim noncancerous injuries account for 90 percent of all new claims. Some evidence suggests that most of the noncancerous claimants have not suffered an injury that has affected their ability to perform daily activities, although they may eventually show symptoms such as lung abnormalities. The number of claims made by people with mesothelioma has also been increasing, nearly doubling between 1994 and 2002, but mesothelioma cases remain a small proportion of all asbestos claims.
- At least 8,400 entities had been named as defendants in asbestos claims through 2002. At least 73 companies named in a substantial number of asbestos claims filed for bankruptcy through mid-2004. Bankruptcy reorganization can drain defendants' resources and impose costs due to lost jobs and lost earnings.

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Asbestos Litigation Costs And Compensation An Interim Report

Sabine Zange



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