

Asbestos Risk and Exposures

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It has been estimated that 100 million people working in high-risk industries in the United States were exposed to asbestos during the 20th century. Once considered a “mineral miracle”, asbestos was widely used due to its favorable characteristic (resistance to fire and corrosion) and abundant availability. Its versatility has led it to be used in multiple industries especially in building materials and shipbuilding during World War II. Despite the litigations that have arisen due to this product, asbestos is still legally used in the United States today.

Several medical conditions have been linked to asbestos exposure including mesothelioma, lung cancer, asbestosis, and pleural injuries. These fatal conditions have varying latency ranging from 10 to 40 years. As a result, the health hazards of asbestos were only realized in the 1970s – decades after millions of people were exposed to the product. While occupational exposure to asbestos were significantly reduced following the requirements by the Occupational Safety and Health Administration (OSHA) in the early 1970s, it is expected that asbestos will continue to manifest through 2050 in the United States.

By the end of 2002, RAND Corp estimated that approximately 730,000 asbestos claims were filed against defendant companies. Further, the same report states that the number of claims filed annually increased tremendously in the mid to late 1990s where most of the growth in claims was attributed to claimants with nonmalignant injuries. However, Manville Trust, a prominent defendant in asbestos litigation recently report that defendant companies experienced a significant drop in claim filing for nonmalignant injuries during 2004, 2005 and 2006. Other positive development includes the rise of asbestos trust, which became operational in 2004-2006. This suggests that more than \$30 billion in asset and investment income are

available for payments – a relief for this case, which involves multiple plaintiffs and multiple defendants.

Several factors contributed to the recent decrease in claim filings. Firstly, several states such as Florida and Kansas have enacted litigation that requires a defined medical criterion in order for a claimant to be eligible for compensation. Most of the criteria focused on nonmalignant claims. Secondly, many asbestos trust have placed limits on amounts available for payment to nonmalignant claimants during a year or cumulatively over a number of years. Third, a general restriction is imposed in several states, which limit venues to state residents and only where asbestos exposure occurred in the state.

In spite of the positive developments, a significant reduction in total asbestos claim liabilities is not expected since it is expected the increase in payments made to malignant case to offset the reduction of nonmalignant claims. In addition, the availability of funds from bankruptcy trusts will not reduce the burden on solvent defendants, as it is unrealistic to expect a reduction in overall liabilities.

In predicting future claim filings for mass toxic tort, medical models, economic models and actuarial principles all come into play. In addition, some have suggested that by surveying law firms, one could predict a law firms' future behavior in filing asbestos claims. While it is expected that nonmalignant claims will reduce in the future, this does not appear to have an effect on the filing of malignant cases such as mesothelioma and other asbestos cancer claims. As these claims usually involve life-threatening diseases, it is unlikely that the amount of asbestos liability will diminish in the future.