

Asbestos litigation stretches system

By Barbara Sager
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There are few topics in the area of litigation that raise as many important issues and as many heated opinions as asbestos litigation.

Lawsuits involving asbestos claims have been going on for decades.

The impact on businesses that have been sued in these cases and the impact on insurance companies that have defended them have been enormous.

The number of people who have been exposed to asbestos and claimed to have developed or might develop illnesses is so large that it is almost impossible to estimate.

Before it became known that exposure to asbestos can cause diseases, asbestos commonly was used in products because of its durability and fire-retardant characteristics.

It was also plentiful and relatively inexpensive to produce. Once the harmful health effects became known, it was banned by law for most uses and strictly limited in others.

The potential harm from asbestos depends in part on the way in which people were exposed.

Many of the asbestos lawsuits are filed by workers against their employers for exposure on the job.

The workers who have the greatest risk are those whose jobs involved direct exposure to large quantities of asbestos on a regular basis.

For example, workers who made insulation or other building materials containing asbestos probably had greater exposure than the truck drivers who delivered the finished products to the customers.

Several types of diseases are linked to asbestos exposure.

The worst of these are the various forms of cancer that are asbestos-related, several of which are often fatal.

Other diseases are not as likely to lead to death, but the illnesses can be serious and debilitating.

One of the factors that has complicated the field of asbestos litigation is the fact that there is often a very long delay between the time that someone is exposed to asbestos and the time when he first shows signs of illness.

This long delay between exposure and illness underlies one of the most controversial topics in asbestos litigation.

The question of whether someone must have actually suffered a physical injury or illness before he files an asbestos lawsuit to recover damages has been hotly debated for some time.

Many asbestos claims are made by individuals who have physical signs of asbestos-related damages, such as scarring of lung tissue, but no signs of sickness or physical impairment.

One of the reasons that people file these lawsuits as soon as they discover scarring of the lungs is because the physical impairment might not show up for years, and their claims might be barred if they miss the filing deadline.

The defendants in these cases argue that there is no right to recover damages if there is no sickness or physical impairment.

The impact on our court system of asbestos litigation has been enormous. To manage caseloads, judges have tried a number of created ways to handle these cases.

Even though the number of new cases filed has been increasing recently, there has been a tendency toward settlement by the parties and away from trying the cases.

The judicial system probably could not handle these cases if they all went to trial.

The insurance industry has played a major role in asbestos litigation because many defendants in these cases have relied on insurance policies to cover not only their potential liability for personal injury claims, but also the costs of defending these lawsuits.

In recent years, it has become virtually impossible to buy insurance coverage for asbestos-related liabilities.

The cost and difficulty of defending asbestos lawsuits is compounded by the fact that most companies named as defendants in these cases are also named as defendants in thousands of similar cases.

If a company is accused of manufacturing a product that contains asbestos, it faces the prospect of being sued not only by its own employees, but also by the employees of every customer to which it sold its products.

For every lawsuit filed, a company must hire counsel and defend the case.

From the standpoint of people who have been exposed to asbestos, the possibility of recovering money damages for their personal injuries is greatly diminished by the fact that so many other people have similar claims.

The total amount of money available to pay the injured parties is limited by the ability of the defendants to pay the claims.

For many companies, the cost of defending these lawsuits and paying settlements has exhausted their resources.

The number of companies that have filed for bankruptcy as a result continues to rise.

As more of the original defendants in these cases have filed for bankruptcy or gone out of business, the injured parties have broadened their search for companies to hold accountable.

Now, manufacturers of products that contained very little asbestos or had asbestos completely sealed within the product are being sued.

These companies argue that no one could have been harmed because they had little or no exposure to asbestos, but the cases continue.

Since the earliest asbestos cases were filed, billions of dollars have been spent in defending and settling these cases.

A number of laws have been passed and more have been considered as a way to improve the system of handling asbestos claims. Some of these laws focus on limiting liability in terms of total damages.

Others focus on limiting claims to those who have suffered physical impairment.

The issue is far from resolved, and it might not be for some time to come.

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