

## **Asbestos time limit is Upheld**

By Jerrie Whiteley

A group of Austin College business law students presented arguments recently before a mock arbitration panel made up of federal, state and county judges. They looked at proposed legislation that would limit the amount of time a person has to file an asbestos-related law suit.

Asbestos is an insulating and fireproofing material that was widely used by manufacturing companies before the 1970s. People who worked with or around the material often developed respiratory diseases ranging from a thickening of the lining of the lungs to mesothelioma, a cancer of the lungs.

The mock arbitration was a part of a business law class taught by Sherman attorney Roger Sanders. It was not binding in any way on current asbestos-related legislation.

Twenty-seven students took part in the class project that sought to examine from both sides, a plan that could solve the problems created by the thousands of asbestos-related lawsuits which currently clog the legal system in America.

The plan, the Fairness in Asbestos Injury Resolution Act, seeks to limit the amount of time in which asbestos-related claims can be filed in this country. It also would set limits on the amount of money each claimant can receive and help to structure the pay-outs made by those companies that are sued. The students dealt exclusively with the Act's statute of limitations.

Sanders said he spoke with the students before assigning them to the project and specially set each student to work on the side that would be contrary to the student's natural tendency.

During their presentations, the students gave facts that supported the two sides to panel members Paul Brown and Richard Schell, federal district judges for the eastern district of Texas; Ray Grisham, judge, 336th state district court; Rayburn "Rim" Nall, judge, 59th state district court; and Carol Siebman, judge, Grayson County Court-at-Law 2.

Those who opposed the limitations said the 27-year limit placed on the fund that would pay out on asbestos-related cases could keep some people who are currently being exposed to asbestos from recovering damages. Asbestos-related health problems take years to develop and go through many stages.

A person can be exposed and not see any significant health problems for more than 10 years. Further, the group opposed to the statute of limitations said, it would punish those who were injured by asbestos by limiting or restricting the types of awards they could receive. At the same time the limitation would reward those companies that manufactured products with asbestos or placed workers in situations where they were exposed to asbestos after knowing the insulating material contained carcinogens.

The reward, those who opposed the statute of limitations said, comes in limiting the amount that those companies will have to pay out and structuring it so that the company is insulated from the damage that they caused.

Those who supported the statute of limitations said limiting companies' exposure to settlements will guard against job loss in industries such as construction and automotive repair which are still susceptible to such claims. Supporters also said that the statute of limitations would reserve the largest settlements for those claimants who actually come down with the worse diseases rather than allowing huge settlements for those claimants who were exposed to asbestos and sue based on a fear of becoming ill.

They also said it would prevent lawyers from making huge profits on the cases filed by such plaintiffs and it would remove asbestos litigation from the court's dockets, thereby allowing other cases to move more quickly through the court system.

After listening to the arguments on both sides, the panel voted to support the imposition of the statute of limitations.

Judge Schell said the panel voted unanimously to support the statute of limitations because it would allow the companies that have to pay out the settlements to see an end in sight and, thereby, give them a reason to stay in business.

That, he reasoned, would allow them to continue to pay out settlements and "meet the greater good" by making the largest payments to those claimants who have actually suffered from a debilitating disease. He acknowledged that the plan's 27-year limit might keep some people who are exposed to asbestos from recovering anything at all, but said that chance is small when weighed against the good it would do for claimants who are currently in the system awaiting settlements. The judges complimented the students on their preparedness, presentation and professionalism.

"We could see some future attorneys among you," Schell said.

The following students participated in the project in support of the statute of limitations: Ryan O'Conner, Kurt Spurrier, Lauren Vincent, Liam O'Gara (whose paper was read by Matt Jaremski), Colt Hearrell, Kimberly Cassady, Matt Walden, Ashley Jumpp (whose paper was read by Ryan O'Conner) Artie Cook, Christopher Fisher, Jason Birkner, Jaime Weems, Landry Gibbs and Matthew Jaremski. Students who presented material against the statute of limitations were: Sarah Russell, Robert Carter, John Carter Anness, II, Sunni Hayes, Natalia Makarova, Paul H. Williams Jr., Harshavardhan "Harry" Pantula, Brandon Pugh, Wesley Thorpe, Naomi Ajak, Preston Morehead, Jonathan Scott, and Jessica Stahovec.