

What You Ought To Know:

What Happens in a Mesothelioma Case?

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This eBook is designed and intended to provide general information
concerning the investigation and pursuit of claims against asbestos
manufacturers, suppliers or distributors for asbestos disease.

INTRODUCTION

Asbestos, a fibrous mineral, has been the subject of interest and curiosity throughout history due to its fibrous nature, remarkable strength, and fire resistant properties. Despite industry knowledge of asbestos hazards by the 1930s, commercial use of asbestos increased steadily and dramatically through the 1960s as it was incorporated into literally hundreds of different industrial and construction products. With increasing awareness of asbestos hazards during the 1970s, the commercial use of asbestos in new materials was curtailed significantly through government restriction and regulation. Regardless of these belated efforts, millions of American workers and others were exposed to asbestos and thus placed at risk for the development of asbestos-related diseases many years later. The average time period between first exposure and the development of an asbestos disease is about 25 years, though it can be shorter or longer depending upon the circumstances.



ASBESTOS DISEASES

Asbestos exposure has been strongly associated with all types of lung cancer. The combination of cigarette smoking and asbestos exposure greatly increases the risk for lung cancer.

Mesothelioma is a rare type of cancer that attacks the lining of the lungs. Nearly all cases of mesothelioma can be traced to asbestos exposure as asbestos is essentially the only substance known to cause the disease in



North America. Mesothelioma can develop 20 to 50 years after asbestos exposures which are relatively small in time and intensity. Cases have been documented in workers' spouses who were exposed through laundering work clothes.

Some medical research and literature supports a limited association between asbestos exposure and laryngeal cancer and also cancers of the digestive tract such as esophageal, stomach and colon-rectum cancers. The medical evidence linking these cancers to asbestos is, however, much weaker than that linking asbestos to mesothelioma and lung cancer.

Asbestosis and asbestos-related **pleural disease** are non-cancerous conditions that may result from asbestos exposure. Asbestosis is a type of pulmonary fibrosis whereby scarring occurs within the lung tissue. Asbestos-related pleural disease is also a type of scarring which affects the pleura, or lining, of the lungs. Non-malignant asbestos diseases such as asbestosis can be detected on a chest x-ray before the condition presents noticeable or measurable breathing difficulties. Asbestosis is considered to be a progressive disease, which means that the condition can continue to worsen even though exposure to asbestos has ended.



CIGARETTE SMOKING & ASBESTOS

Like asbestos exposure, cigarette smoking can cause non-malignant lung disease and lung cancer. Emphysema, chronic obstructive pulmonary disease, and chronic bronchitis are examples of non-malignant diseases related to smoking. These conditions can co-exist with asbestos diseases such as asbestosis and asbestos-related pleural disease, and it can be difficult for even expert lung physicians to distinguish between disease and impairment caused by asbestos versus smoking.

It is well known that both asbestos and cigarette smoking can cause lung cancer. Less well known is that the combination of asbestos exposure and cigarette smoking drastically increases the risk for lung cancer over that posed by each of these risk factors independently. Cigarette smokers are 10 times more likely to develop lung cancer, while asbestos exposed smokers are 50-84¹ times more likely to develop the disease. Cigarette smoking does not cause Mesothelioma.

Past and/or continued cigarette smoking has a negative effect on your health, and on the viability and value of asbestos disease claims. You should nevertheless be frank and honest about the duration and amount of your smoking as accurate information is important to proper evaluation of your claims. Also, it is likely that your smoking history is already documented in medical records. Nicotine addiction is now recognized by medical experts as being much more than just a "bad

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habit”, and professional help is available for those struggling to stop smoking.

BELOW ARE LINKS TO SEVERAL STOP SMOKING SITES:

[American Lung Association](#)

[The Division of Tobacco Prevention and Control is a division of the](#)

[Pennsylvania Department of Health](#)

[The West Virginia Tobacco Quitline](#)

ASBESTOS CONTINUES TO CHANGE IN HEALTH STATUS

Non-malignant asbestos diseases such as asbestosis can progress and cause increasing breathing impairment over time. Also, some individuals with non-malignant asbestos disease unfortunately go on to develop an asbestos-related malignancy such as lung cancer or mesothelioma.



ASBESTOS PRODUCT IDENTIFICATION

In order to successfully pursue a claim for asbestos disease against an asbestos manufacturer, supplier or distributor, identification of specific asbestos products manufactured, supplied or distributed by the particular company is necessary. Considering that asbestos was removed from most



asbestos products before 1980, and that company records showing use of asbestos products at specific work sites are scarce to non-existent, this can be a difficult task. In most cases, such asbestos product identification must be

proven through the recollection of asbestos disease victims and/or their co-workers.

No claim for asbestos disease can succeed without specific asbestos product identification, regardless of the severity of disease or its obvious relationship to asbestos exposure.

LITIGATION

Most asbestos disease claims are pursued by filing a civil lawsuit against those asbestos manufacturers, suppliers and distributors who were responsible for the victim's asbestos exposure. An asbestos case can have a number of corporations or businesses as named defendants. In every state, such lawsuits are subject to a Statute of Limitations, which means that the case must be filed within a specific time period or it is forever lost. The time period during which the case must be filed varies from state to state, but typically begins to run when the asbestos disease is discovered or should have been discovered.



HOW LONG WILL MY CASE TAKE?

Once a suit is filed, the case must be prepared for trial. This involves securing medical records and consulting medical experts, developing evidence of asbestos exposures, and participating in pre-trial “discovery”, which is a legal term for the development and exchange of information between the parties. Discovery typically includes filing and/or responding to written interrogatories, and the taking and/or defending of oral depositions. Trial preparation also includes filing and/or responding to various legal motions, and meeting with the assigned judge for various hearings or conferences.

The speed with which a case proceeds through the court system and is resolved through settlement or trial varies based upon a number of factors:

- These include the complexity of the individual case,
- The jurisdiction in which the case is filed,
- The number of cases or backlog on the particular court docket, and
- The timetable set by the court for completing pre-trial discovery and scheduling a trial date.

Due to the widespread use of asbestos in the past, many have fallen victim to asbestos disease and as a result some courts have dockets which are crowded with asbestos cases.

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WHAT ARE THE COSTS OF LITIGATION?

There are expenses and costs involved in bringing a lawsuit, preparing a lawsuit for trial and in trying a case before a jury. A party to a lawsuit is responsible for paying the costs of a lawsuit. As costs occur, those costs as well as attorneys' fees are deducted from any settlement recovery.

Once all costs are recovered, you will begin to receive your entire share of any settlement after attorneys' fees are deducted.

11 FACTORS TO CONSIDER IN YOUR ASBESTOS CASE

A number of factors unique to the individual case are considered, including the following:

1. The type of asbestos disease (MESOTHELIOMA v. LUNG CANCER);
2. The severity of asbestos disease per x-ray and/or breathing tests;
3. The amount and duration of cigarette smoking and related disease;
4. The nature and extent of any non-asbestos related diseases or conditions;
5. The age of the asbestos victim;
6. The existence and degree of any disability caused by asbestos disease;
7. The amount of any unpaid medical expenses related to the asbestos disease;
8. The amount and duration of asbestos exposure;
9. The time period during which asbestos exposure occurred;
10. The number and type of identifiable asbestos products;
11. Whether the asbestos victim, if deceased, is survived by a widow or widower;

4 THINGS TO CONSIDER: TRIAL OR SETTLE YOUR CASE

A number of factors must be considered when deciding whether to accept an offer of settlement or proceed to trial against an asbestos company defendant or defendants.

1. The strength of the case must be analyzed to evaluate the likelihood of success at trial on liability, medical and product exposure issues.
2. The substantial expense of a potentially lengthy trial
3. The time commitment required of the client for trial participation.
4. The uncertainty of recovery of a jury verdict.

Proving the existence of an asbestos disease or injury is an essential element to any asbestos disease claim. The type and severity of the asbestos disease at issue has a direct impact on the monetary amount recoverable on the claims.

BANKRUPTCY

Certain companies which may be responsible for your asbestos exposure and disease are under the protection of various bankruptcy courts, which ultimately establish and monitor separate asbestos disease claims procedures. These companies include Johns–Manville, Eagle–Pitcher, Celotex, Pittsburgh Corning, Raybestos–Manhattan, Unarco, Keene Corporation, Babcock & Wilcox, Forty–Eight Insulation, Owens Corning, Fibreboard Corporation, W.R. Grace, GAF Corporation, Armstrong World Industries, H.K. Porter, Harbison–Walker Refractories, North American Refractories, U.S. Gypsum, National Gypsum, A.P. Green, Federal Mogul, Chicago Firebrick, Kaiser, U.S. Minerals Products and many others. In fact, 60 asbestos companies filed for Bankruptcy Court protection arguing that their net worth could not cover their liabilities for damages caused by their asbestos products. Claims procedures are now in place for certain companies, while others continue to proceed through the bankruptcy and re–organization process.

Generally speaking, the existence of an asbestos disease and exposure to the company’s asbestos products must be documented in order to pursue a claim in bankruptcy. Questions concerning specific qualifying criteria, the amount of compensation available, and the timing of payment are determined by the bankruptcy court.

CONCLUSION

I again thank you for reading the eBook of The Law Offices of Lee W. Davis, Esquire, L.L.C.

Finally, please note that The Law Offices of Lee W. Davis, Esquire, L.L.C. injury cases other than asbestos personal injury claims, including industrial accidents, motor vehicle accidents, defective product or machinery cases, slip and fall cases, medical malpractice cases, and other catastrophic injury cases. Our offices also has a network of Attorneys to assist our clients in Elder Law, Worker's Compensation and associated Estate planning issues that often arise when serious injuries are involved.

Please do not hesitate to contact me first for a free consultation should you, a loved one or a friend have questions about any possible personal injury or disability claims.

This eBook is designed and intended to provide general information concerning the investigation and pursuit of claims against asbestos manufacturers, suppliers or distributors for asbestos disease.

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ABOUT THE AUTHOR:

Lee W. Davis, Esquire has been personally involved in asbestos litigation since 1988 as a paralegal, attorney and shareholder in a large asbestos personal injury practice. In 2013 he opened the Law Offices of Lee W Davis, Esquire, LLC. He is licensed to practice law in Pennsylvania, West Virginia and Michigan.

ABOUT THE LAW OFFICES OF LEE W DAVIS, ESQUIRE, LLC:

Unlike large firms with TV advertising, our office prides itself on personalized attorney service and availability for clients with life threatening illness like Mesothelioma or Lung Cancer. Our office has personal, extensive, hands-on experience proving a victim's asbestos exposure.

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¹ Agency for Toxic Substances and Disease Registry (ATSDR), Centers for Disease Control, 2006: <http://www.atsdr.cdc.gov/asbestos/site-kit/docs/CigarettesAsbestos2.pdf>