

PETITIONS SEEK INVESTIGATIONS OF ASBESTOS PLAINTIFF RECRUITMENT

by
David Price

As part of its efforts to oppose abusive asbestos lawsuits, the Washington Legal Foundation (WLF) has begun filing petitions with state bar authorities asking those authorities to probe attorney-sponsored medical screenings of workers for asbestos-related illnesses. WLF's petitions contend that such screening programs commonly generate large numbers of spurious claims, and that these programs are a key component of the asbestos litigation crisis facing U.S. companies. To date, WLF has filed petitions with the bar authorities of Illinois, Mississippi, Missouri, Texas, Washington, and West Virginia.

Asbestos litigation has defied decades of repeated optimistic predictions on the part of industry and commentators. Many have assumed over the years that the level of new claims would soon stabilize as current claims were settled and as unprotected, hazardous exposure to asbestos receded further into the past.

In reality, however, as dozens of major enterprises have entered bankruptcy proceedings on account of asbestos lawsuits, thousands of other companies have come into the sights of plaintiffs' attorneys with portfolios of asbestos claims. According to RAND, an estimated 730,000 asbestos claims have been filed against some 8,400 companies, with a total payout – so far – of \$70 billion. Moreover, the American civil justice system hasn't seen anything yet: Estimates of the ultimate cost of all asbestos claims range from \$200 billion to \$265 billion. At the same time, the minority of claimants who have been seriously injured by asbestos are having trouble obtaining compensation thanks to the overwhelming number of illegitimate claims in the system.

Courts and scholars have observed that mass screenings, arranged by plaintiffs' attorneys and carried out by screening companies and doctors who are paid by the attorneys, lead to a high proportion of "positive" findings with respect to individuals who are actually suffering from no impairment. WLF's petitions detail the evidence that there has been substantial recruitment of plaintiffs with no impairment. The petitions ask bar authorities to initiate formal investigations and to treat such recruitment as a violation of legal ethics rules concerning false evidence and misrepresentation.

Counsel are urged to contact WLF if they are able to share information pertinent to this effort.

David Price is Senior Vice President for Legal Affairs of the Washington Legal Foundation. WLF's petitions can be viewed on WLF's web site, www.wlf.org.

About WLF And The COUNSEL'S ADVISORY

The Washington Legal Foundation (WLF) is the nation's largest non-profit, free enterprise public interest law and policy center. WLF litigates *and* publishes in order to advocate legal policies that promote economic growth, job creation, and the civil liberties of business. As a 501(c)(3) tax exempt organization, WLF relies upon the charitable support of individuals, businesses, associations, and foundations to fund its programs.

This COUNSEL'S ADVISORY is one of WLF's seven publication formats. Its purpose is to inform the free enterprise community about a development in the legal policy world that can be favorably influenced by the immediate involvement of legal experts and business and community leaders.

For more information on the Washington Legal Foundation, please contact Daniel J. Popeo, Chairman, at (202) 588-0302.

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on the World Wide Web:**

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