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## Frequently Asked Questions about Asbestos

Results achieved in prior matters are not meant to be a guarantee of success as the facts and legal circumstances vary from matter to matter.

Here we provide a brief explanation of common questions relating to asbestos and asbestos exposure.

### **What is asbestos?**

Asbestos is a naturally occurring mineral. It is durable, flexible, and acid- and heat-resistant. These properties made it widely popular for many industrial, commercial, and residential uses during much of the 20<sup>th</sup> century.

After asbestos is mined and purified, it is processed into fluffy fibers that are added to various types of binding agents to create the materials and products used for various applications. There were approximately 3,000 different types of commercial products that contain asbestos. Unfortunately, certain uses of asbestos are still permitted in the United States.

Asbestos was commonly found in roofing materials, plasters, siding materials, pipe and boiler coverings, attic insulations, floor tiles, some forms of linoleum, HVAC duct insulation and more.

### **Who is at risk of asbestos exposure?**

Asbestos is found in thousands of commercial materials used for construction and building, transportation, foundries, and industry. The widespread use of asbestos has put hundreds of thousands of workers at risk of being exposed to it. These workers are likely to eventually suffer from asbestos-related diseases, and their family members are at risk of suffering from these diseases, too, due to household contact.

The following is a non-exhaustive list of trades that put workers at risk of exposure to asbestos:

- Insulators
- Sheetmetal Workers
- Steamfitters
- Plumbers & Pipefitters
- Masons & Bricklayers
- Ironworkers
- Roofers
- Carpenters & Joiners
- Boilermakers
- Tilersetters
- Shipfitters
- Electricians
- Operating Engineers
- Painters
- Plasterers
- Lathers
- Millwrights
- Laborers
- Machinists
- Auto and equipment mechanics (especially those servicing breaks and clutches)

- Plumbing maintenance workers
- HVAC heating maintenance workers

### **What are the sources of asbestos exposure?**

Microscopic particles of asbestos are released if materials containing it are damaged or disturbed. These microscopic particles are easily inhaled into the lungs, causing mesothelioma, lung cancer, asbestosis, and other diseases.

Scientists were aware of the inherent danger of asbestos by the early 1900s. Yet, for decades, the asbestos industry hid these scientific findings and denied responsibility.

The following list includes some of the major sources of asbestos exposure:

- Asbestos pipe covering - Generally white and gray in color, this product was placed around pipes. It came in half-moon sections.
- Asbestos block - Asbestos block was used for insulation around equipment like boilers and tanks. It had a similar appearance to asbestos pipe covering, except it was in a rectangular shape.
- Asbestos cement - Asbestos cement had to be mixed with water before being applied. Before being mixed, it had a dry, powdery, white-grayish appearance and was used to fill in gaps when using pipe covering and block on equipment like boilers and tanks.
- Asbestos packing – Identified by a braided rope form, this product varied in appearance from grayish-white to graphite black. Packing was utilized to fill gaps in pump connections and other equipment where high heat could be generated. The packing was needed to seal flanges or joints. Depending on its use, asbestos packing could have either an oily or drier consistency.
- Asbestos gaskets – Asbestos gasket material was used as a sealant in high temperature lines between flanges and other connections. These products ranged in color from whitish to black, similarly to asbestos packing. It was either sold in sheets or it came pre-cut in the form of circles.
- Asbestos fire brick - Utilized around furnaces and boilers, asbestos fire brick came in a range of colors from white to gray and was generally cemented in with asbestos furnace cement.
- Asbestos furnace cement - Available as either a dry or pre-mixed wet material, asbestos furnace cement was typically used to hold bricks together around furnaces or boilers.
- Asbestos flexible duct connectors - This product was used by sheet metal workers generally in making connections for ducts, which would be carrying high temperature air.
- Asbestos tape - Asbestos tape came in a variety of colors ranging from white to black. When this product came in black, it was fibrous in appearance. Asbestos tape was typically used by electricians when sealing or making electrical connections.
- Asbestos blankets - This product was generally whitish to grayish and used to cover hot equipment while people were working nearby and on turbines or other equipment permanently as an insulating barrier. Asbestos blankets looked very similar to household blankets.
- Asbestos wire – With a fibrous appearance, this product came in various forms, but generally had some of the following designations: AF, A, AA, AIA.
- Asbestos cable – Asbestos cable had some of the following designations: AVA, AVB or AVL. The outer covering or some of the inner layers would have a fibrous appearance.
- Asbestos containing heater cord - This product was the type of asbestos wire generally used on toasters and in high voltage electrical overhead lighting. The wire generally had two conductors and had a fibrous outer covering.
- Asbestos brake linings - Asbestos brake linings were used in all vehicles from the time they were first invented until the mid to late 1970s. It was a grayish, bulky material that was attached to the brake shoe. At this time, asbestos was utilized in both disc and drum brakes.
- Asbestos clutches – Similarly to asbestos brake lining, asbestos clutches were used in all vehicles from the time they were invented until the 1970s. They were whitish to grayish in color and appeared in the clutch itself.

- Asbestos corrugated sheets - Asbestos corrugated sheets were utilized in various buildings as a facing or a siding. They had a wave-like appearance and like most asbestos products, were whitish to grayish in color.
- Asbestos gloves - Asbestos gloves had a fibrous appearance and were used as protection from high temperature situations. They came as either a five-finger glove or a mitten.
- Asbestos leggings, aprons or other clothes - All asbestos clothing was worn by workers to protect themselves from high temperature operations.
- Asbestos ceiling tiles - While asbestos was commonly used in ceiling tiles, it was not used in all of them. In fact, it is difficult to distinguish which tiles did contain asbestos and which did not.
- Asbestos floor tiles - Similar to asbestos ceiling tiles, not all floor tiles contained asbestos, making it difficult to distinguish which ones did and which did not.
- Asbestos fire-proof spray insulation - This product was applied to various areas within a building for fire-proofing. Once sprayed and dried, it had a fibrous appearance.
- Asbestos wall board - This product was an asbestos containing wall board that was used for various framing and sheeting operations.
- Asbestos joint compound - Asbestos joint compound came either as a whitish powder that had to be mixed with water or as a pre-mixed material. It had a plaster-like appearance and was used as a sealing compound for joints with asbestos wall board.
- Asbestos roofing shingles - This product was very similar in appearance to regular asphalt shingles and was utilized in areas that needed fire-proofing properties. Similar to asbestos floor and ceiling tiles, it was difficult to tell whether or not roofing shingles contained asbestos or not.
- Asbestos roofing paper or felt - This product was a tar-like material that contained asbestos and was utilized as a base before asbestos shingles were applied.
- Asbestos Cement Pipe and Transite pipe - Whitish to grayish in color, asbestos Transite pipe was a cement pipe material used underground for varying applications.

## What are asbestos trusts?

Many asbestos manufacturers have resorted to bankruptcy to limit their liability for asbestos-related claims brought by or on behalf of the thousands of persons sickened or killed by asbestos products. Settlement trusts were created during these bankruptcy proceedings to ensure that some compensation would be available for both current and future victims of asbestos exposure. Asbestos corporations are required to fund asbestos trusts before they can emerge from bankruptcy, but thereafter the companies emerge free from claims and liability.

Although the asbestos trusts are collectively funded with billions of dollars, each victim is likely to receive pennies on the dollar because the trusts are meant to compensate *ALL* current and future victims of bankrupt asbestos companies – worldwide.

Even though the number of asbestos-related injuries keeps rising, the trusts' assets are fixed, and once exhausted, the victims have no recourse against the manufacturer who originally funded the trust.

The trusts assume all present and future liabilities, and all asbestos claims against the bankrupt company are directed to the trust by court injunction. This means that once the company emerges from bankruptcy, it will not longer be subject to asbestos-related suits, and victims can only seek compensation from the trust.

Congress codified the trust and injunction arrangement in 1994—into 524(g) of the bankruptcy code.

The first asbestos trust was set up by the Johns-Manville Corporation in 1982. By 2011, there were more than 60 asbestos trusts in the United States.

When an asbestos trust is formed, it will estimate the number of claims it expects to receive and the historic settlement value of those claims to calculate the amount of money that funds it. Each trust has fixed assets, and these assets are insufficient to pay the full historic settlement value for every claimant. Instead, each

claimant receives a liquidated settlement value, which is discounted by a payment percentage. In this respect, the trusts payment process is similar to the process by which tort class action lawsuits are settled.

Unlike in a tort lawsuit, however, where each defendant may be liable for all the damages due to the victim, each trust is only responsible for the harm it, itself, caused, and its payments do not take into account the harm caused by any other entity.

If claimants believe that they deserve a larger payment from a trust, they can reject the standard settlement and seek individual review from the trust. A larger payment may be made to claimants who became ill at an early age, or who have higher than normal damages. An individual review, however, will not automatically result in a higher payment.

### **Does Wilentz have experience with asbestos trusts?**

Yes - despite the strict and difficult requirements placed on victims by the trusts, Wilentz has successfully evaluated and processed hundreds of thousands of asbestos trust claims. We have been successful because we have the experience and the documentation to match up the right date to the requirements of the trust process. Our exclusive databases of information relating to contaminated sites and asbestos products allow us to satisfy the most stringent inquiries from the trusts so that our clients receive their rightful compensation.

In order to be compensated by a trust for the harm caused by asbestos exposure, a victim has to present all of the information demanded by the trust. The trusts place onerous requirements on victims who submit claims, including medical evidence of having an asbestos-related disease, and evidence to show that the bankrupt company that set up the trust has responsibility for the victim's asbestos exposure, including identifying the specific asbestos products to which the victim was exposed and the specific time and location where the exposure occurred. Some trusts only approve claims where the exposed person has one of a specific set of job titles/positions. Anecdotal evidence suggests that nearly half of all claims filed with the trusts are rejected and go unpaid.

### **What is mesothelioma?**

Mesothelioma is an aggressive cancer of the lining around the lung caused by exposure to asbestos and products made with or contaminated with asbestos. In the United States, doctors diagnose between 2,000 and 3,000 new cases of mesothelioma each year. If not diagnosed in its early stages, mesothelioma is often fatal within months of diagnosis and it has proven difficult to cure.

The most prevalent mesothelioma is pleural mesothelioma, which develops in the cell layer lining and surrounding the lungs. The two other mesotheliomas are found in the lining of the abdominal cavity ("peritoneal mesothelioma") and in the lining of the heart ("pericardial mesothelioma"). The chance of developing mesothelioma is correlated with the amount of asbestos to which a person has been exposed and the duration of the exposure, although very limited exposures have been shown to trigger the disease.

Symptoms of mesothelioma often appear decades after exposure, adding to the difficulty of diagnosis. While a definitive diagnosis of mesothelioma requires a biopsy, the following are some of the prevalent symptoms that should be brought to the attention of a doctor:

#### Plural mesothelioma

- Chest pains
- Chronic coughing
- Fatigue
- Fever and night sweats
- A buildup of fluid around the lungs ("pleural effusion")
- Weight loss

## Peritoneal mesothelioma

- Abdominal pain and swelling
- Unexpected or sudden weight loss
- Loss of appetite
- A buildup of fluid in the abdomen
- Anemia
- Bowe obstruction
- Fever
- Nausea

## Pericardial mesothelioma

- Chest pain
- Fluid buildup around the heart (“pericardial effusion”)
- An irregular heartbeat or palpitations (“arrhythmia”)
- Heart murmur
- Shortness of breath
- Fever and night sweats

## What is asbestosis?

Asbestosis is a chronic lung disease characterized by scarring of the lung tissue, caused by inhaling asbestos particles. Asbestosis may develop whether or not the victim also develops lung cancer or mesothelioma.

Symptoms of asbestosis typically don't show up for 10 to 40 years after initial exposure to asbestos. It's severity is usually related to the exposure dose. Symptoms include:

- Shortness of breath
- A persistent, dry cough
- Loss of appetite with weight loss
- Fingertips and toes that appear wider and rounder than normal (clubbing)
- Chest tightness or pain

## What other cancers can result from asbestos exposure?

Asbestos exposure can lead to all types of lung cancer, including adenocarcinoma, bronchoalveolar, small cell, large cell, oat cell and squamous cell.

As with all asbestos-related illnesses, lung cancer can go undetected anywhere from 10 to 30 years from the time the victim was first exposed.

A significant difference emerges when comparing lung cancer caused by cigarette smoking to lung cancer caused by asbestos. When an individual stops smoking cigarettes, their lung cancer risk immediately begins to decrease. However, if someone has been exposed to asbestos, their lung cancer risk remains high, because microscopic asbestos fibers can remain in the lungs for a lifetime.

## What are talc-related asbestos illnesses?

Talc is a mineral that is often mined in close proximity to where asbestos is found. It is sometimes impossible to separate these two minerals, and therefore, the talc may be contaminated with asbestos.

Talc is most often used after being ground into a fine powder. This powder is light and hangs in the air, and it can be easily inhaled. Therefore, the use of asbestos-contaminated talc powder can lead to asbestos being inhaled, too.

Talc powder absorbs moisture, oils and odors, and has an astringent effect on human skin. It can also keep materials from sticking. These properties make it popular for both industrial uses (including in tires and industrial ceramics such as sanitary ware – toilets, basins, etc.) and for baby powders, foot powders and cosmetics.

People who contract asbestos-related illnesses, but who did not work in jobs traditionally associated with exposure to asbestos, may have been exposed to asbestos through talc. Both New York and New Jersey juries have recently awarded damages against cosmetic talc manufacturers to mesothelioma victims who were exposed to asbestos by using contaminated talc.

Even though, by 1972, the FDA's testing revealed many popular cosmetic talc products were likely contaminated with asbestos, the manufacturers of these brands continued to sell them for decades longer.