About Asbestos and Asbestos Diseases

History
Asbestos is a mineral composed of silicon, oxygen, hydrogen and other metal ions. Asbestos fibers insulate very well because they are strong, flexible and nonflammable. The three most common varieties of asbestos fibers are chrysolite, amosite and crocidolite. Asbestos is a tiny fiber, less than half the diameter of a strand of hair. In order to adhere to surfaces, it needs to be attached to something. When asbestos fibers are mixed with other materials, the product is called an ‘asbestos containing material’ or ACM.

Many industrial products are made of ACM, including sealants, cement pipe, wall insulation, pipe insulation and ceiling panels. ACM has been used frequently by the automotive industry and the shipping industry. NASA uses ACM to insulate the Space Shuttle.
One major drawback of using ACM is that the dust created from its manufacture, installation, and eventual deterioration releases asbestos in the air. Because asbestos is such a small, powdery component, it is easily airborne and also easily inhaled. And, unfortunately, when inhaled, asbestos can cause serious health problems.

Commercial production of asbestos insulation began in 1879, and as early as 1899 the first case of asbestos-related disease was described as “curious bodies” in the lungs. In 1935 the first cases of asbestosis and lung cancer attributable to asbestos exposure were diagnosed in the United States.

Even though the Federal Government placed a moratorium on the production of most asbestos products in the early 1970’s, installation of these products continued through the late 1970’s and even into the early 1980’s.

Most health information on asbestos has been derived from studies of workers who have been exposed to asbestos in the course of their occupation. Asbestos fiber concentrations for these workers were many times higher than those encountered by the general public. Although the risks associated with low level non-occupational exposure are not as well established, the Environmental Protection Agency (EPA) concludes that there is no safe level of exposure to asbestos fibers.

Because asbestos fibers are extremely aerodynamic, virtually everyone is exposed to asbestos. Therefore, measures to minimize exposure may reduce the risk of adverse health effects.

Not only people who worked under conditions where they were exposed to asbestos are at risk. Family members may also be at risk since asbestos fibers easily become airborne and, therefore, can come into the home on the clothing of the worker. It is important for family members of asbestos workers to also be tested for exposure.

**Exposure**

If you suspect you’ve been exposed to asbestos, get tested by a doctor.

Weitz & Luxenberg recommends that you consult with your primary care physician for an x-ray referral. It has been estimated that over 25 million people have been exposed to asbestos in the past 40 years. In fact, there are very small amounts of asbestos in the air we breathe every day. Most of us have asbestos fibers in our lungs. People whose work brings them in contact with asbestos or asbestos containing material (ACM) risk occupational exposure by inhaling airborne asbestos fibers.

The most common symptoms of asbestos exposure are: shortness of breath, coughing, chest pain, a dry crackling sound in the lungs while inhaling, and weight loss. Unfortunately, the detectable symptoms of asbestos exposure can often appear as early as 15 years after exposure, and then reappear at any time during one’s life. This scenario, therefore, makes it difficult to associate asbestos exposure with its symptoms. Annual or even semi-annual asbestos detection tests are recommended for anyone with occupational or familial asbestos exposure.

**Diseases**

Four specific diseases have been directly linked to asbestos exposure: Pleural Plaque & Thickening, Asbestosis, Lung Cancer and Mesothelioma.

*Pleural Plaque/Thickening*... involves scarring of the lining of the lung indicating that an individual has had lung damage sufficient to be at risk for more serious complications. The condition is not cancerous. Plaque or thickening impairs lung function, restricting breathing capacity.

*Asbestosis*... is a serious, chronic, non-cancerous fibrous hardening and scarring of the lungs. This scarring can cause lung impairment and heart disease. Symptoms of asbestosis are: shortness of breath, coughing and a dry crackling sound while inhaling. In advanced stages, asbestosis may
cause cardiac failure. Asbestosis is a slowly progressive disease with a latency period of 15 to 30 years or more.

Lung Cancer... is the most common type of cancer, found in individuals who have sustained prolonged exposure to asbestos. Lung cancer develops through the surrounding tissue, invading and often obstructing air passages.

The time between exposure to asbestos and the occurrence of lung cancer is often 20 to 30 years or more. It should be noted that there is a multiplying effect between smoking and asbestos exposure, which creates an extreme susceptibility to lung cancer.

Mesothelioma... is a rare cancer of the thin membranes lining the thoracic and abdominal cavities and surrounding internal organs (including the gastro-intestinal tract). Virtually all cases of mesothelioma are linked with asbestos exposure. Symptoms of mesothelioma are: shortness of breath, pain in the lower back or side of the chest, coughing, and weight loss. Mesothelioma is the most insidious of the asbestos-related diseases in that it can affect people who have experienced low or intermittent levels of asbestos exposure.

What should you do?

Who should be tested?

- Anyone with breathing problems;
- Anyone with prolonged exposure to asbestos, or anyone who thinks they have had prolonged exposure to asbestos;
- Immediate family members of people who have worked in asbestos-related industries, even if the person who worked with asbestos has no visible symptoms. Some people are simply more susceptible than others;
- Anyone with “burst exposure” (a very heavy concentration) to asbestos for short periods of time.

Initial testing is an x-ray (side and front view of your chest.) Further tests may include a pulmonary function test, blood work, a CT scan and/or biopsy.

It is your right to know what these tests reveal!

Doctors sometimes speak a language unintelligible to the layman. Don’t be afraid to question your doctor about your condition. If you don’t understand it completely, get him or her to explain it in a way that you can understand.

If you are unaware of the severity of your condition, you may lose the opportunity to file a claim for the health problems you are experiencing as a result of your exposure to asbestos.

GET YOUR DIAGNOSIS, WHETHER NEGATIVE OR POSITIVE, IN WRITING.

Are you at risk?
Some of the work environments, or trades, in which people came, or still may come in contact with asbestos are:

- Shipyards (all jobs)
- Hotels
- Construction sites (all jobs)
- Asbestos plant workers
- Home Improvement (all jobs)
- Custodian / Handyman

Weitz & Luxenberg, P. C.
Telephone (installation / repair)
Schools
Hospitals
Power Plants
Longshoremens
Boiler or Engine Rooms
Boiler Makers
Steamfitters
Metal lathers
Operational Engineers
Electricians
Asbestos Workers/Insulators/Layers
Shipyard Workers — including military
Military (Navy/Army tank units/Motor pool)
Merchant Marines
Firefighters
Cement plant workers
Steel Workers (plants and construction)
Automotive and other repair shops
Loading Docks
Heating and Air Conditioning
Pipefitters
Plumbers
Railroad Workers
Utility Workers / Power Companies
Glass factory workers
Oil Refinery
Chemical Plants
Industrial Plants
Industrial Painter
Sheetmetal workers
Laborers
Immediate family members of any occupationally exposed workers (they can be injured by the asbestos fibers brought home on clothes).

Know your rights!

Who is eligible to file a claim?

- Individuals injured by asbestos who have been diagnosed with an asbestos-related disease may be eligible to file a claim. Legal action must be taken in New York State within 3 years of when you knew (by virtue of a medical diagnosis) or should have known (due to symptoms) of your asbestos disease. Statutes in other states do vary, with New Jersey and Pennsylvania requiring legal action within 2 years, for example.

- The executor of the estate of a person who has died from an asbestos-related disease may be eligible to file a claim. Generally, legal action must be taken (in New York State, for instance) within 2 years from the date of death.

- A family member exposed in a secondary manner (for example, through asbestos fibers brought home on clothes by a parent who worked in an asbestos environment) may also be eligible to file a claim.

The statutes of limitation (the time in which you have to file a claim) are set by the courts, and are strictly adhered to. In cases of wrongful death, there are sometimes exceptions.

To be entirely certain of your statute of limitations scenario, you must always consult with our
specialists, as the laws vary in different states.

In order for us to win your case, it must be proven that you suffer from an asbestos-related disease. Simply being exposed to asbestos does not constitute a basis for filing a claim.

Because we do not file claims against your employer or landlord (but rather against asbestos manufacturers, distributors, contractors, etc.), it must be proven that you have been exposed to the asbestos product of a specific defendant at specific locations (place of employment or residence).

If you do not remember the name of the manufacturer of the particular asbestos product that was used on your jobsite (that caused your asbestos related disease), our extensive database may be able to supply this information. We can also help you identify your place of exposure.

You may not know you were exposed to asbestos — it may still be present in a workplace or home. Do not tolerate exposure to asbestos!

**About the legal process**

*What happens after you retain us to handle your claim?*

The Asbestos Questionnaire:
You are an important part of the legal process. In order for us to successfully prosecute your case we need you to work closely with us. It is most important to the success of your case that you complete the questionnaire that is mailed to you and return it to us as soon as possible.

You are not represented by counsel unless you sign a retainer agreement. This document states that you agree to allow us to represent you, and that we agree to do so. It also sets out the terms of how expenses will be paid, what percentage of the award (if there is one granted) you will receive and what percentage of the award your attorneys will earn for handling your case.

The retainer agreement is one of the documents contained in the asbestos questionnaire. Weitz & Luxenberg does not receive a fee unless we obtain a settlement on your behalf.

In order for us to proceed with filing a claim for you, we may be required to secure medical records (in addition to the ones you have already sent to us). For this process we need you to authorize the release of those records. The questionnaire also includes a set of authorizations that you are required to sign.

Even though some of the information you will be asked to give may seem redundant to you, there is a very good reason why we request the information.

Please be patient, bear with us and be very diligent about answering the questions contained in the questionnaire to the very best of your knowledge and ability. If you do not remember a detail, we recommend you consult with former co-workers or others who might be able to assist you. Although we have an extensive database that contains a vast amount of information about the asbestos manufacturers, we still need your help. Once more, you are very important to this process. Your active participation impacts the outcome of your case.

You may receive some compensation before a trial date has been set.

The Amended Case Management Order of 1996, which controls all asbestos-related personal injury cases in New York City, now facilitates the speedy resolution of 400 to 500 of our clients’ cases each year on a first-in-first-out (“FIFO”) basis. In addition, twice yearly the court in New York City accelerates a trial group for those very unfortunate people who have developed critical asbestos-related conditions in the extreme. The number of cases included in these “in extremis” trial clusters grows with each group, enabling us to settle more cases each year.
The backlog of asbestos cases in New York City numbers in the tens of thousands, and this can often result in a delay of several years for a trial date in the FIFO system. Because of our trial results in the past, however, we are able to settle with certain defendants years before a trial date has even been determined by the court. We continue to make progress in further negotiating more of these settlement agreements with additional defendants. Through these negotiations we are able to procure some compensation for our clients while they are awaiting the assignment of a trial date, and these agreements serve to remove the uncertainty from the tort system of our courts.

You will not be required to be present at an EBT (examination before trial or deposition) unless your case is going to trial.

In Summation

Here are some of the compelling reasons why the law firm of Weitz & Luxenberg, P.C. is your best choice for representation in an asbestos claim matter:

- Thousands of American asbestos victims (including members of over 700 union locals) depend upon Weitz & Luxenberg for the best legal representation available.
- Over 70% of asbestos cases tried in New York in 2001 were represented by Weitz & Luxenberg.
- Weitz & Luxenberg has won verdicts totalling in excess of $340,000,000 for individuals and groups of asbestos victims nationwide.
- Weitz & Luxenberg is powered by well over 50 attorneys and 250 dedicated support personnel.
- Weitz & Luxenberg has successfully litigated cases against over 100 manufacturers of asbestos products for more than 10 years.
- In the landmark 1991 Brooklyn Navy Yard case, Weitz & Luxenberg's victorious litigation pioneered consolidation of individual cases to overcome the large corporate asbestos manufacturers.
- Weitz & Luxenberg fought for and achieved accelerated New York asbestos litigation for victims of terminal asbestos-related diseases
- We achieve accelerated payments for asbestos victims through an advanced settlement process.
- We offer comprehensive asbestos client care by maintaining distinct worker’s compensation, estate and client relations departments on their behalf.

Other Asbestos Resources

**Asbestos hotline**
If you are working or living in an environment where you suspect asbestos to be present, report it to any one of the agencies listed below.

You may file a claim against asbestos manufacturers only if you are injured (that is, if you are positively diagnosed – in writing – with an asbestos-related disease), but you do not have to tolerate unlawful exposure to asbestos. The sooner you report a dangerous situation to the authorities, the sooner it can be effectively dealt with.

**New York City Dept. of Environmental Protection**
Asbestos Complaints:
(718)337-4357
New York State Dept. of Health
Asbestos Control Bureau (to report if workmen are hazardously removing asbestos in your building)
(212)352-6109

Environmental Health Information Line
(800)458-1158

New York Dept. of Housing / Public Information Line
Landlord/Tenant Issues
(718)739-6400

Federal OSHA Regional Office
If asbestos becomes airborne in the workplace
(212)337-2378

Asbestos websites
If you are connected to the world wide web, you might find the following medical-related web sites to be helpful sources of information and support.

Agency for Toxic Substances and Disease Registry, asbestos information
American Lung Association, asbestos information
American Lung Association, asbestosis information
National Cancer Institute, mesothelioma information
American Cancer Society, general cancer care information
Department of Environmental Protection, asbestos complaint information for New York City
OSHA Asbestos Information
The Online Reference for Chrysotile
Occupational Safety - Asbestos