

Asbestos and Your Legal Rights

Asbestos lawsuits have been ongoing for many years now, yet many people are still confused as to their legal rights in such cases and what will happen should they decide to pursue a claim in court. The truth is, there are no fixed or definite answers, because virtually every case is different.

Many asbestos lawsuits, however, have a number of common features, so let's look at [a "typical" lawsuit for someone who has contracted mesothelioma cancer because of asbestos exposure](#). From gathering information to identifying defendants, we present a rough guide as to what potential claimants can expect.

Getting started

If you're an Oregon resident, you'll want to find an attorney with considerable experience in dealing with asbestos claims. Be prepared for an extensive question and answer session. You'll be asked for:

- Essential information about yourself, particularly as regards a detailed medical history
- Information about your family members including:
 - Their work history
 - Their medical history
 - Any potential exposure they may have had to asbestos
- Permission to seek a release that allows the attorney to access your employment and medical records

A good attorney will never accept a case without reviewing all the facts first. If you talk to one who tells you that you have a surefire claim before reviewing all of the above, find another lawyer! A good attorney will only take your case if they are convinced you have a reasonable chance of success *after* they have gathered together all the relevant information.

Before proceeding with the lawsuit, your attorney will also discuss with you whether or not you should also be filing a worker's compensation claim against your employer.

Proceeding with the asbestos lawsuit

If both you and your attorney are happy to go ahead, the next step will be to file the complaint against any and all companies that could reasonably be seen to be responsible for your exposure to asbestos. This could include not just your employer, but also asbestos mining companies, distributors, manufacturers, insulation companies, as well as those who should have been responsible for your safety, like the general contractor and the owner of the site or building where you were exposed to asbestos.

Deciding who to sue can be like putting together a 10,000-piece jigsaw, and it takes a lot of experience and know-how to pin down the most likely defendants. This is why anyone filing an asbestos lawsuit in Oregon should hire [the best Portland toxic tort attorney they can find](#), because given everything that's at stake, you can bet the insurance companies representing the defendants will have hired the very best firm of lawyers they can find.

You could expect as many as a dozen defendants to be named in a "typical" asbestos lawsuit, but the numbers could be a bit lower or considerably higher. As you can see, this will require a vast amount of investigative research and hard work on the part of your attorney.

What happens next?

Once your attorney has identified the defendants and filed the claim, each defendant will be notified that they are being sued in an asbestos lawsuit. After they've been notified, they have about a month to respond (for "respond," read "contact the insurance company and round up their lawyers"). Once everyone knows who's involved, the real process begins. The next steps include:

- **Discovery.** Attorneys submit written questions and request documents from the other side. The defendants will want your medical history, employment history, even details about if and how long you've been married. Your team will be trying to find out who was responsible for the asbestos exposure.
- **Depositions.** Actually part of the discovery process, this is where you'll be asked to make a statement under oath and on video. You will be asked questions by both your attorney and the defendants' attorneys and could last anything from a couple of hours to a day. If you have a good lawyer, they will make sure you're totally prepared and know what to expect.
- **Additional research.** Your attorney will use investigators who will most likely want to speak to co-workers, as well as identifying the specific products that contained the asbestos to which you were exposed. It would not be out of the ordinary for thousands of pages of records, previous depositions, government documents and witness statements to be reviewed.

In all, the discovery process alone can take many months, unless you're in poor health, in which case your attorney will try to keep the entire discovery portion of your case limited to two or three months.

Once the discovery process is finally over, your attorney will ask for a court date. This is often the spur that the defendants need to start negotiating a settlement. In the majority of cases, insurance companies would rather not see the case go to a jury, because of the unpredictability of the award that may be made. Even cases that actually go to trial are frequently settled before any verdict is given.

Your attorney will submit a claim to each defendant based on what is deemed to be their share of the liability in your case. Some defendants will negotiate and then settle, especially once they've been shown the evidence that would be presented in court. Others refuse to settle and go to court, even after their co-defendants have already settled.

You will be constantly updated in these cases of what your attorney is seeking from each defendant and what offers have been forthcoming. Consultations will be frequent and ongoing until the conclusion of the case.

If your case does go to trial, they frequently last up to a month, due to the amount of testimony that must be given by doctors, oncologists, pathologists, expert industrial hygienists, you and your family, and co-workers.

It's not over till it's over

Even when a case has gone all the way to a verdict, it's probably not over. Whichever party has lost the case will generally appeal, so the final outcome may be delayed for months or even years. While this is undoubtedly frustrating, it's part of the legal process over which your attorney has no control, and which you should bear in mind when considering settlement offers.

If you do settle, you and your family members must sign a release, stating that once you've been paid by the defendant, they are released from any future responsibility relating to the claim.

You will also probably have been advised by your attorney to decide in advance how to distribute the settlement money. Make sure your will and estate are up-to-date and well defined, as this will make the distribution of the settlement much easier. Once the release is signed by all relevant parties, however, you can expect to receive payment within 90 days.

When an asbestos lawsuit becomes a wrongful death claim

If at any stage during the asbestos lawsuit the person making the claim dies, the personal injury case becomes a wrongful death case. The two cases are effectively joined together, and the discovery and trial preparation phases and settlement negotiations begin anew.

It's clear that filing an asbestos lawsuit is an incredibly daunting, time-consuming and even frightening experience, and one which should never be entered into without getting the best possible legal advice beforehand. However, it may be the only way to ensure your family's financial future if your illness has rendered you unable to work or worse, has shortened your life expectancy.

If you think you have a rightful claim, it won't cost you anything to find out. [Contact an experienced Portland personal injury attorney for a completely free consultation](#). They will ask you many of the questions discussed in this article and then advise you on whether or not you should proceed with a claim. If you decide to proceed, they will invest a great deal of time and resources to ensure you and your family get the compensation you deserve.