

10 Tips For Corporate Counsel Faced with Asbestos Lawsuits

Asbestos litigation differs greatly from other forms of litigation and presents unique challenges for companies forced to defend asbestos claims. There have already been almost one million asbestos-related claims filed against approximately 12,000 companies, and plaintiffs' counsel are always looking for more targets. The asbestos litigation has cost businesses more than \$70 billion and forced more than 90 companies into bankruptcy. Here are some basic tips we recommend that will help you navigate what one United States Supreme Court Justice has called the "elephantine mass" of asbestos litigation.

1. **Notify your insurance carriers.** The first and most important step is notifying your insurance carriers that you have been named in an asbestos action. Insurance funds are vital to defending asbestos claims, and placing your carriers on notice as soon as possible is essential to recovering the insurance funds necessary to adequately defend asbestos actions.
2. **Retain experienced counsel.** Experienced counsel provide invaluable advice and assistance in preparing and coordinating your efforts in handling what is often a deluge of claims. Experienced counsel are knowledgeable and adept at handling the large influx of cases, and have the relationships with judges, special masters, plaintiffs' counsel and defense counsel that you will need to successfully defend this unique and complex litigation.
3. **Locate documents.** Asbestos litigation often turns on documents that date back at least forty or fifty years. It is important to find all documents that may pertain to asbestos, including documents from all current and former subsidiaries, divisions and departments.
4. **Examine document retention policy.** Your company's document retention policy may largely determine what documents are available. The litigation may necessitate changes to the document retention policy to prevent destruction of existing relevant documents.
5. **Identify key documents and witnesses.** Experienced counsel provide invaluable assistance in identifying the key documents and witnesses, including current and former employees, and can help you prepare these documents and witnesses for production in the course of the litigation.
6. **Establish system for tracking complaints.** A system for tracking complaints prevents you from being overwhelmed by the tidal wave of complaints you may receive. Such tracking system will ensure that no case gets lost and that every case is properly handled.

7. **Identify corporate history.** Experienced counsel can assist your review of corporate records to determine what, if any, liability you may have for any acquisitions, mergers, or divestitures.
8. **Review Workers' Compensation claims.** A review of Workers' Compensation claims filed by current and former employees for asbestos-related injuries will help determine your company's notice of the dangers of asbestos.
9. **Create budget.** A budget of appropriate resources is necessary to fund the yearly costs of litigation and the internal mechanisms required for processing and tracking claims since these costs are not covered by insurance.
10. **Notify officers and board of directors.** It is vital that your directors and officers understand the uniqueness of asbestos litigation and the costs and efforts required to adequately defend the flood of cases.

Following these tips will significantly prepare your company and help your counsel coordinate and defend the numerous asbestos claims. The attorneys at Darger Errante Yavitz & Blau have years of experience defending companies in asbestos actions as national coordinating counsel, regional counsel and local counsel.