

Asbestos

State Of The Asbestos Litigation Environment — October 2008

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Commentary

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Introduction

This is the first in a series of reports that will summarize current issues in the asbestos litigation environment. This report focuses on information reported in the annual status reports filed by asbestos personal injury trusts. Most of these trusts follow a calendar-year reporting cycle, and, thus, most of the annual reports for 2007 became available in March and April of 2008. Because of the large number of asbestos-related bankruptcies that have concluded recently, the amount of publicly available data from the trusts on claim flows has blossomed, as indicated in table 1:

Table 1: Number Of Trusts For Which Public Claims Activity Reports Were Found

Reporting year	Number of trust reports
2000	4
2001	6
2002	6
2003	7
2004	9
2005	13
2006	19
2007	31

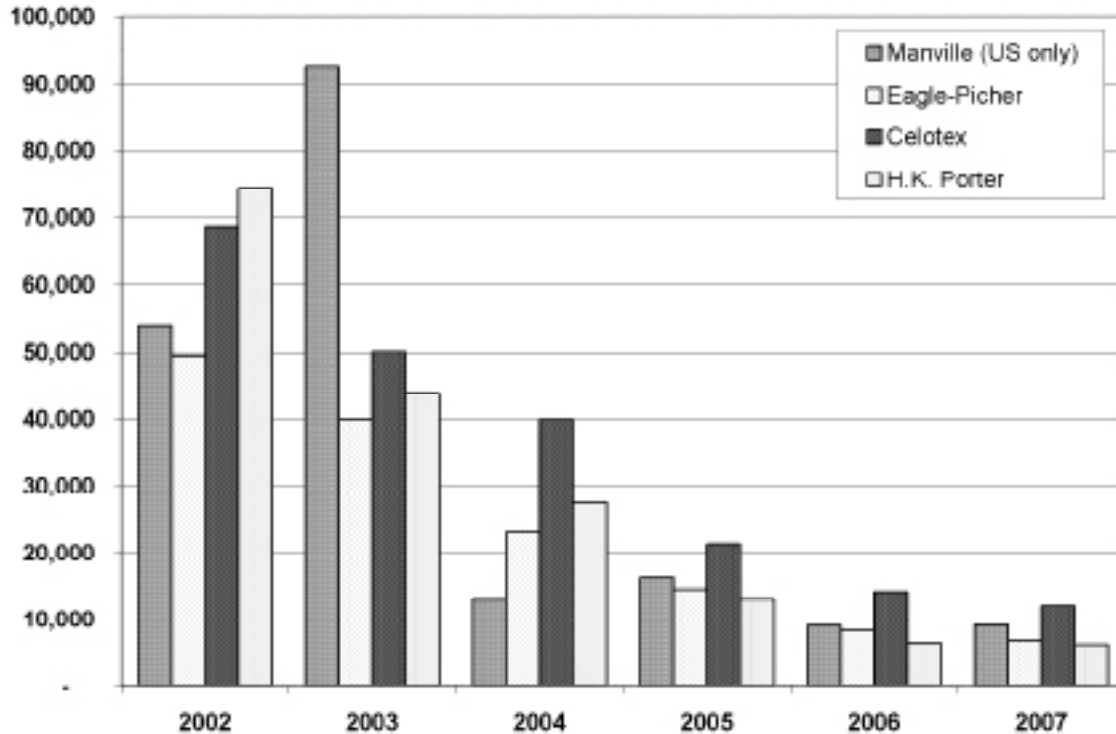
This report uses the trusts' data to address two questions: How many claims are there? And how much trust money is available to pay these claims?

How Many Claims?

Reported filings

Two questions that many people involved in asbestos litigation care about are: How many claims are there? And how is this number changing? The number of new asbestos claims — particularly nonmalignant claims — has fallen in recent years, along with the decline of medical screening operations. This decline has been associated with the rulings of Judge Janis Graham Jack in MDL 1553, in which she sharply criticized the quality of evidence derived from screening operations in silica litigation.¹ However, the decline in claim recruiting was already well underway before Judge Jack's evidentiary hearings began. What is the magnitude of the drop? How many new claims are there each year now? Data from the trusts can help answer these questions.

The number most commonly used to answer the question, how many claims are there? is the annual count of new filings reported by major defendants. This number, for four large trusts and for each year from 2002 through 2007, is shown in figure 1.² A comparison of the data for 2007 and 2002 reveals a drop in the number of trust filings that ranges from one-sixth as many claims filed for the Celotex trust to one-twelfth as many claims filed for the H.K. Porter trust. At the beginning of this period, all of these trusts received several tens of thousands of claims per year. By 2007, filing rates had declined to a range of just over 6,000 for the H.K. Porter trust and to just over 12,000 for the Celotex trust.

Figure 1: Annual Filings For Four Longstanding Trusts³

Unfiled Inventories And Recruiting Rates

One reason for the wide range is that claim counts are presented by year of filing, and filings are somewhat disconnected from the underlying processes that create claims. This is because a claim is often filed against a particular defendant or trust several years after the first contact between a claimant and an attorney. Though the process by which claims arise varies by disease, the diagnosis date provides a better indicator of the initiation of the claiming process than does the filing date. Most people diagnosed with mesothelioma apparently contact lawyers soon after diagnosis if they intend to pursue claims at all. For nonmalignant claims, the “diagnosis” itself may have been made by a screening operation run for the purpose of recruiting claimants, so the diagnosis date is, in effect, identical to the recruiting date.⁴ The situation for nonmesothelial cancer claims is more complicated, because a person is usually diagnosed in the course of ordinary medical care but may not be immediately aware of the potential connection between the disease and asbestos exposure. Even for these claims, however, the diagnosis date can be a better proxy for the date on which the claim process began than is any other commonly available date.⁵

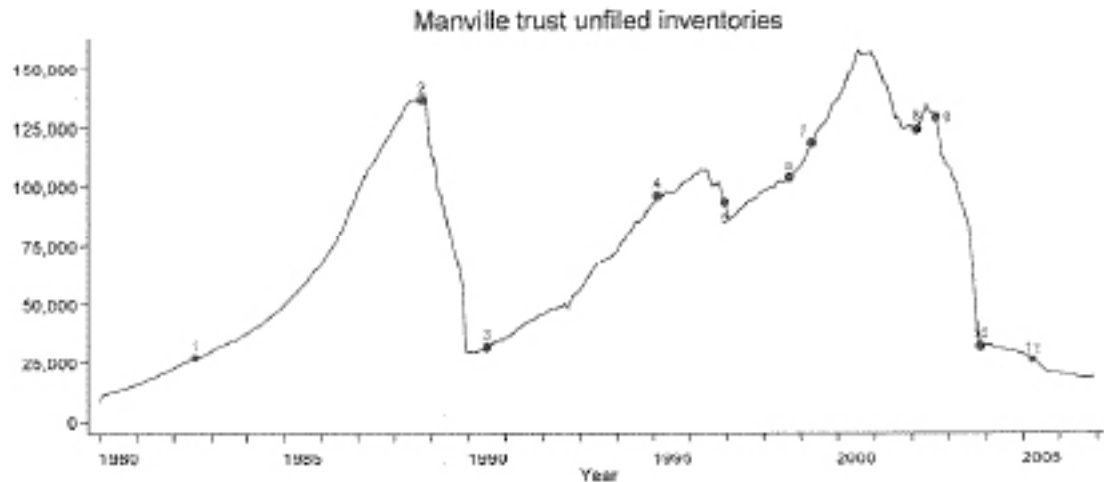
For convenience we call the date of the first contact between claimants and attorneys as the “recruiting” date of the claim regardless of whether the claimant or attorney initiated the contact. Because of the close relationship between diagnosis and the first contact with an attorney, the number of people newly diagnosed in each year who will ultimately file asbestos claims comprises the “recruiting rate.”

Filing rates can deviate from the contemporaneous recruiting rate because claims often are not filed against a given defendant until several years after diagnosis. The most obvious effect of this delay is that a change in the recruiting rate may not be seen in a defendant’s filing data for several years. A more subtle and, at times, a more serious problem with relying on filing rates is caused by swings in a defendant’s “unfiled inventory,” i.e., the difference between the number of claims recruited by an attorney as of a specified date that will eventually be filed against a defendant and the number already filed as of that date. Swings in the unfiled inventory cause a defendant’s reported filings to understate or overstate the contemporaneous recruiting rate, sometimes by several fold and for several years running.

The recruiting rate, the filing rate, and the unfilled inventory are tied together arithmetically. If on a certain day more new claims are diagnosed than are filed against a defendant, the defendant's unfilled inventory increases. Conversely, if more claims are filed than are diagnosed, the inventory declines. These increases and decreases accumulate over the

course of a year, so that, for example, the difference between the number of Manville trust claims diagnosed in 2003 (the recruiting rate), and the number of Manville trust claims filed in that year (the filing rate), is precisely equal to the change in the Manville trust's unfilled inventory between January 1, 2003, and January 1, 2004.

Figure 2: Unfiled Inventories Of The Manville Personal Injury Trust (U.S. Claims Only)



1	August 1982	Johns-Manville Company declares bankruptcy. New claims against company are barred by court, so all newly recruited claims go into unfiled inventory, which rises rapidly.
2	October 1988	Confirmation of Manville reorganization is final; trust is established to pay claims. It is soon evident that the trust will not have sufficient funds to pay all claimants; a race to the courthouse ensues. Inventories drop to near prebankruptcy levels within a year.
3	July 1990	Judge Weinstein stays proceedings against the Manville Trust in order to preserve the trust's assets for equitable distribution to all beneficiaries. All newly recruited claims again forced into unfiled inventories.
4	February 1995	Trust resumes operation, paying claims under the 1995 Trust Distribution Plan (1995 TDP). To protect the interests of future claimants, each claimant's recovery is restricted. Inventoried claimants begin to file, and inventories are falling by mid 1996.
5	December 1996	Trust's medical audit program adopts stringent criteria for acceptable medical evidence. Lawyers submitting claims that do not meet the criteria face adverse actions by the trust. The program leads to a dispute between the trust and certain attorneys. Claims are held back, and inventories again begin to rise.
6	September 1998	The dispute over the medical audit program becomes litigation—Adams v. False is filed. Filings drop further below recruiting, and the rate of increase in unfiled inventories accelerates.
7	April 1999	Adams settlement ends the medical audit program. This time, it takes some lawyers a year or more to re-start the machinery for filing thousands of trust claims monthly. Unfiled inventories begin declining by mid-2000, after peaking at over 150,000.
8	February 2002	Trust claims processing is interrupted as the trust shifts from a paper-based claims filing process to an electronic process. Inventories increase during the hiatus but resume their decline once the new systems are running.
9	August 2002	Trust announces that the 1995 TDP will be replaced with a 2002 TDP, under which most non-mesothelioma claimants will receive smaller payments. Inventory claimants are given one year during which they may file claims to be paid under the older, more generous terms. Attorneys rush to file inventory claims within the grace period.
10	October 2003	The grace period for filing claims under the 1995 TDP expires after having been extended from the original deadline of August 31, 2003. All claims filed after this date are processed under the 2002 TDP provisions, regardless of diagnosis date. Inventories continue to decline but at a less frenetic pace.
11	March 2005	For the first time, unfiled inventories drop below their level on Manville's bankruptcy filing date.

Whenever an analyst treats a defendant's filing rate as the rate at which new claims are being created, the implicit assumption is that the unfiled inventory remains constant over time. Figure 2 shows how wrong that assumption has often been. This is an estimate of Manville's unfiled inventory over the years since 1980.^{6,7} Periods of flat inventories have been rare. Most of the time, Manville's inventories steadily rose. This is a pattern that is punctuated by sharp inventory-clearing events, notably one that extended from late 1988 through 1989 and another from mid-2002 through late 2003. Each event cleared 100,000 or more inventory claims in a little over a year — rates greater than the highest recruiting rates ever achieved. Returning to figure 1, note that the 2002-2003 event corresponds to the highest year of claim filings reported by any of the trusts, i.e., the 93,000 claims reported by the Manville trust in 2003.⁸ Of these 93,000 claims, about 74,000 represent liquidation of the unfiled inventory, while only 19,000 new claims were diagnosed that year.

The swings in Manville's unfiled inventory — both upward and downward — appear to have been largely caused by events that were specific to the Manville trust. Of the three major periods of growing inventory, two are clearly associated with legal events that blocked new claims: from August 1982 through October 1988, when new filings against the Johns-Manville Company were barred due to the company's bankruptcy; and from July 1990 through February 1995, when trust claims processing was suspended by the bankruptcy court. The third period of inventory growth ran from the beginning of 1996 through the middle of 2000. The beginning of this period corresponded with another Manville trust-specific event, namely, the announcement of stricter requirements for medical evidence supporting claims. The trust threatened sanctions against law firms if they submitted too many claims that failed to meet its evidentiary standards. Even after this action by the Manville trust was terminated in April 1999 with the Adams settlement, inventories continued to grow for a time. In the absence of a deadline or other compelling reason to bring their outstanding claims quickly, some attorneys took a year or more to restart the machinery of filing Manville trust claims.

The two big downward adjustments in inventory can likewise be connected to events that are specific to the Manville trust. The first period, which spans the establishment of the trust in October 1988 through the end of 1989, has frequently been described as a "race to the courthouse." This was a period when claimants in the unfiled inventory recognized that the trust would not have sufficient funds to compensate all comers and tried to beat each other to the available funds. This race was called to a halt by judicial intervention. Judge Jack B. Weinstein placed a bar on the processing of trust claims while a more sustainable system for distributing the trust assets was negotiated. Negotiation led to the adoption of the 1995 Trust Distribution Procedures (TDP), which contained a matrix of "scheduled values" to be paid at ten cents on the dollar for various asbestos-related diseases. This formula ensured that the trust assets would be paid out slowly, and it guaranteed some recovery to every future claimant. A resumption of the race was thereby discouraged.⁹

The second sharp correction in inventories was driven by a deadline. In August 2002, the trust announced that the 1995 TDP was to be superseded. Payments for nonmalignant claims in particular would be much lower under the new 2002 TDP. Inventory claims, however, would be exempt from the new plan — provided they were filed within a year of the plan's adoption.¹⁰ Unfiled inventories plummeted as plaintiffs hurried to meet the deadline (which in the event was allowed to slip to October 2003).

Because the incentives that drive unfiled inventories up or down tend to be specific to a certain defendant, the behavior of unfiled inventories for different defendants will typically vary. Two defendants can report different filing rates for a particular year, or even for several years running, even if the two defendants receive claims from exactly the same claimants. This effect explains in part the differences seen between the four trusts in figure 1.

Claim flows By Date Diagnosed

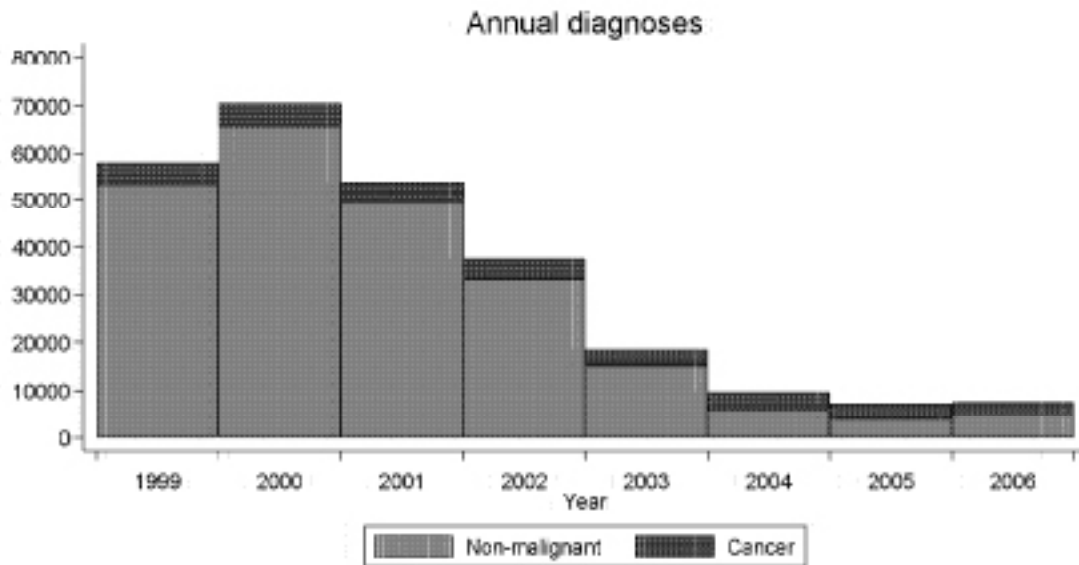
Further exploration helps answer the original questions: How many claims are there? And how is this number changing? To avoid the uncertainties created by swings in unfiled inventory, it is preferable to study the recruiting rate directly — that is, the counts of claims by year diagnosed. This quantity for the Man-

ville trust is graphed in figure 3 which provides a more accurate picture of the claim generation process.

Recruiting peaked at just over 70,000 claims in 2000; this is 20,000 fewer claims than the peak year for filings at the Manville trust. After falling steadily for several years, the rate of new claims appears to have stabilized. The recruiting averaged 7,300 for the years 2005 and 2006, for a drop to about one-tenth of the peak.

Most of the change has been driven by falling levels of recruiting for nonmalignant claims. Over the same period, the annual recruiting rates of new nonmalignant claims fell to a few percent of their peak level, from 65,000 to just over 4,000 nonmalignant claims per year. By comparison, mesothelioma diagnoses have been stable, while lung cancer and other cancer claims have fallen approximately in half.

Figure 3: New Manville U.S. Claims Diagnosed Each Year (Includes Estimated Unfiled Inventory)



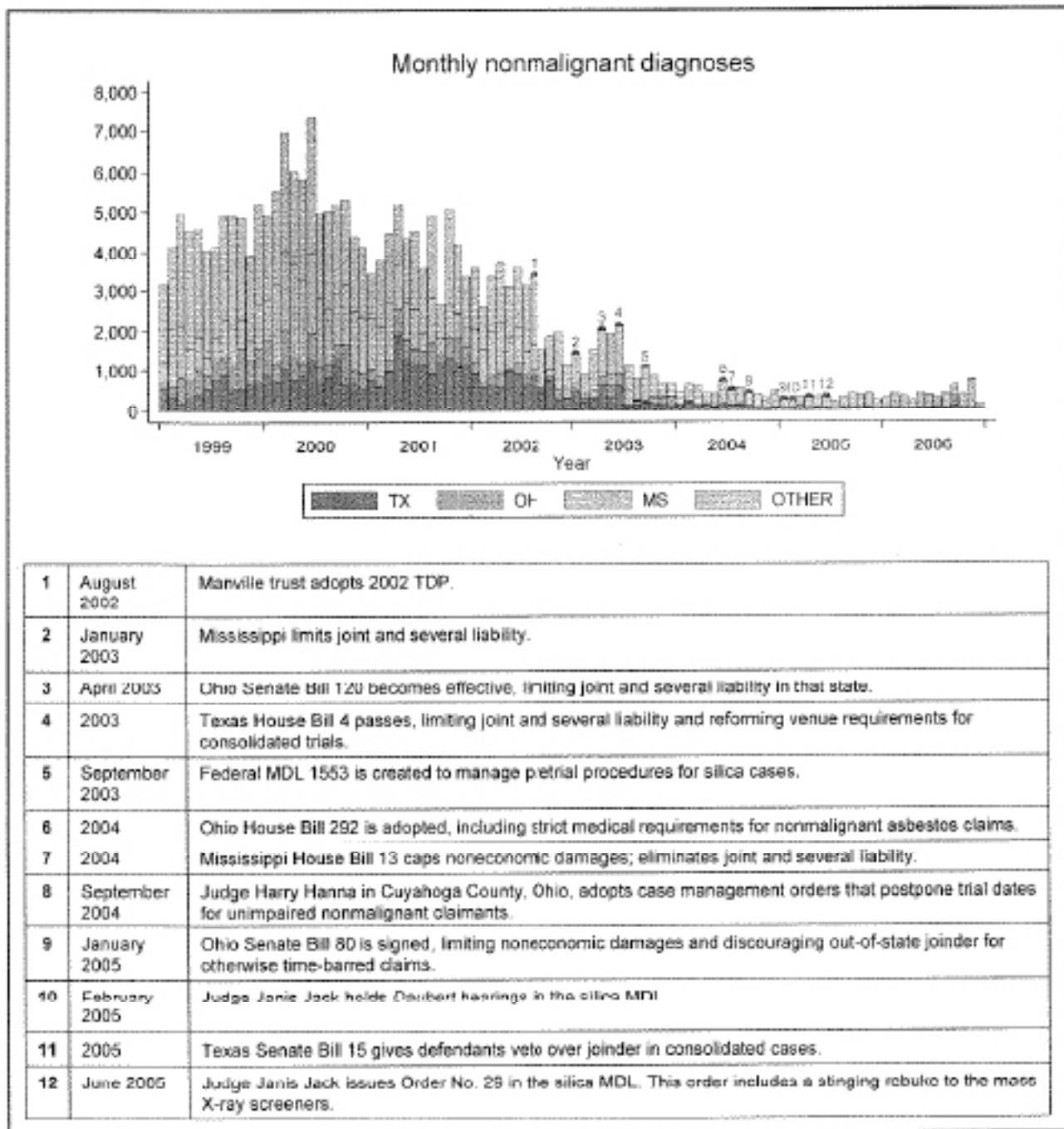
The recruiting rate gives a better answer than the filing rate to the question, how many claims are there? Still, there are a couple things to keep in mind when viewing figure 3. First, the Manville trust is the only source that has made publicly available data that includes dates of diagnosis. This is not a serious drawback, however. Virtually all claims do eventually file against the Manville trust. Thus, the trust's experience is a good approximation of the overall asbestos litigation universe, and its data are generally of high quality. It does make it more difficult to check the conclusions presented in figure 3 against other data sources, however. Second, the counts of diagnoses for the later years include some claims that were still in the trust's unfiled inventory as of the cutoff date (September 30, 2007) for this data set. Because these claims cannot be observed in the available

data, their number is estimated. This estimation adds some uncertainty to the exact levels — especially for the years 2005 and 2006.

Events Associated With The Collapse Of Nonmalignant Recruiting

For several years, a succession of legal events has made the world less friendly for the mass recruiting of nonmalignant claims. Perhaps the best-known event was the finding by Judge Janis Jack in June 2005 that diagnoses derived from screening events “were driven by neither health nor justice: they were manufactured for money.” Although Judge Jack's opinion related specifically to silica claims not to asbestos claims, many of the same lawyers, medical experts, and even claimants, were involved.¹¹ Judge Jack's findings are widely seen as relevant to asbestos litigation.

Figure 4: New Manville Nonmalignant Claims Diagnosed By Month And State



Interestingly, however, the diagnosis data reveal that plaintiffs' lawyers had largely abandoned mass recruiting of nonmalignant claims before Judge Jack even began the *Daubert* hearings that lead to her opinion. figure 4 is a detailed view based on the same data used for figure 3; it shows monthly rather than annual counts. Marked on the graph are the approximate dates of a selection of legal events that marked the

shifting of the tide against mass recruiting. Events of national importance are included, as are events specific to three states where large numbers of recruited claims were filed: Texas, Ohio, and Mississippi.

In each state, the decline in nonmalignant recruiting appears to precede the specific events that are identified, sometimes by a year or more. Apparently mass

recruiting firms were already exhausting the supply of readily recruitable claims before the sharp decline in claims recruiting mid-2002.

Cancer Claims

As with nonmalignant claims, swings in the unfiled inventories of cancer claims can cause spikes in filings against certain defendants; these spikes are

unrelated to the rate at which new claims are being generated. Counts of claims by date diagnosed are, therefore, more indicative of the sustainable underlying rate at which new claims are generated. figure 5, figure 6, and figure 7 indicate the estimated number of new claims diagnosed each year for mesothelioma, lung cancer, and other cancers, respectively.

Figure 5: New Manville Trust Mesothelioma Claims By Year (Includes Estimated Unfiled Inventory)

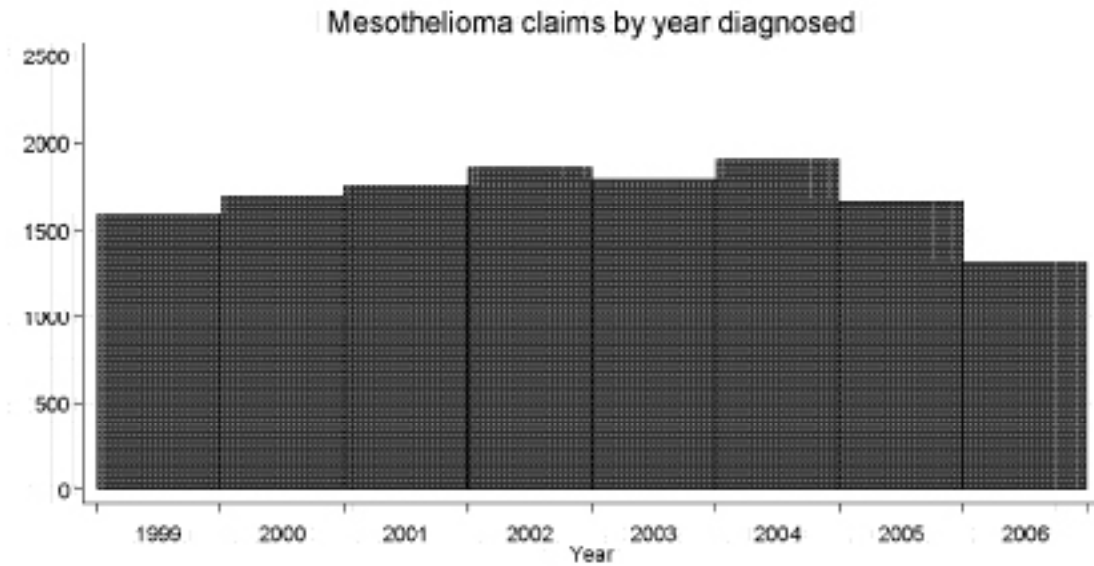


Figure 6: New Manville Trust Lung Cancer Claims By Year (Includes Estimated Unfiled Inventory)

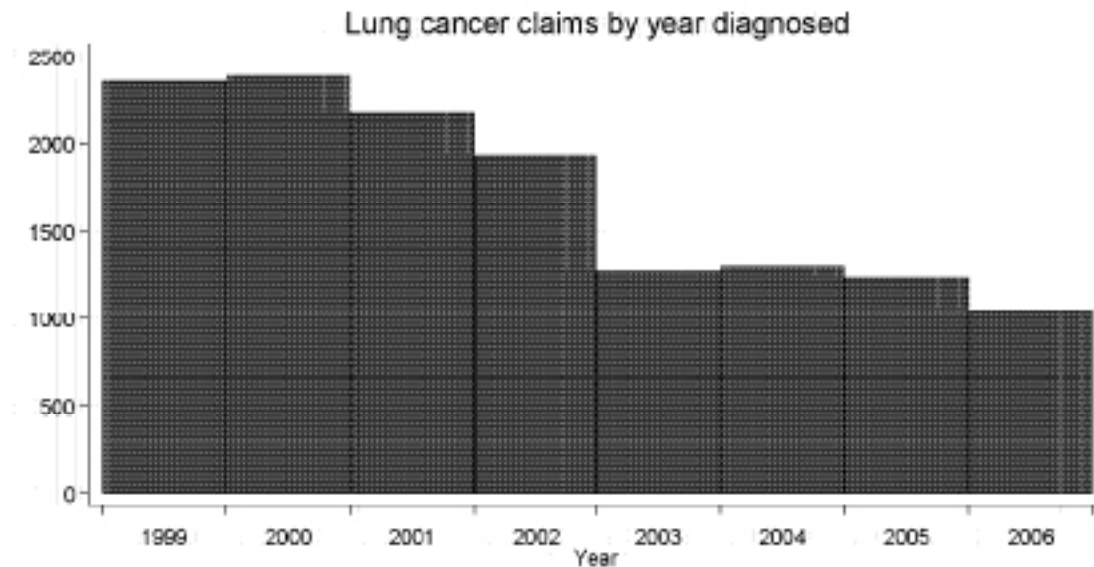
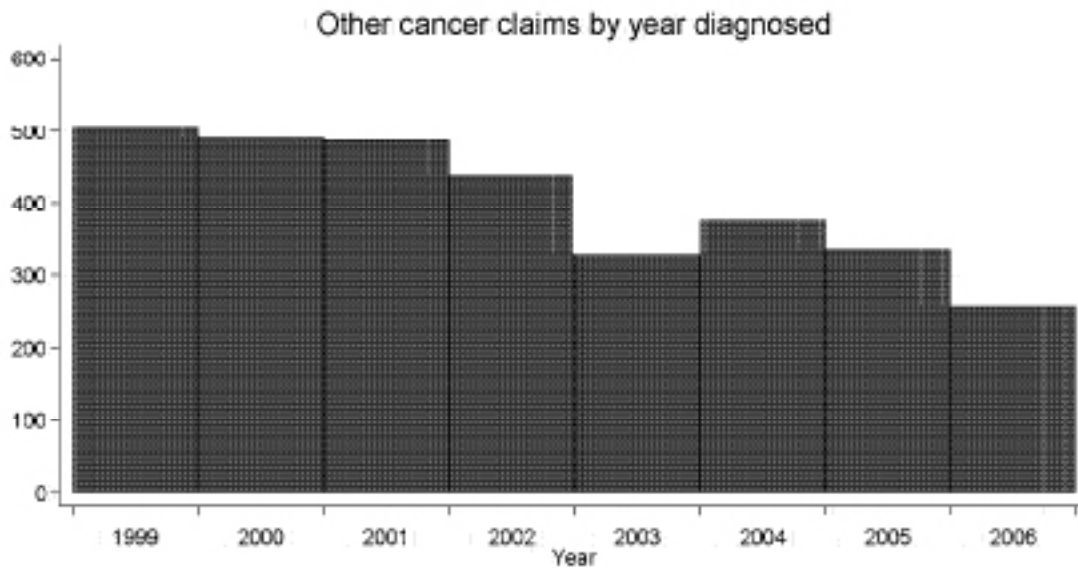


Figure 7: New Manville Trust Other Cancer Claims By Year (Includes Estimated Unfiled Inventory)



Overall, total new cancer diagnoses for 2005 and 2006 are estimated at 3,200 and 2,600 claims, respectively. The peak in these claims, 4,600, occurred in 2000. The changes in lung cancer and other cancer rates occurred during the same period that nonmalignant mass recruiting was ending, although the magnitude of the change is smaller. These observations are consistent with the idea that some, but not all, claims in these categories were recruited at the same recruiting events that generated nonmalignant claims.

It is less clear why mesothelioma claims appear to decline. The calculations placed the peak of mesothelioma claims at about 1,900 in 2004, followed by 1,700 in 2005 and only 1,300 in 2006. Presumably there has been no abrupt change in the incidence of the disease. Most likely the apparent drop is an artifact. As discussed above, the recruiting rate calcu-

lations have the most uncertainty for the years 2005 and 2006. It is entirely possible that mesothelioma recruiting rates have remained more or less constant over this period but that the number of these claims that remain in the Manville trust's unfiled inventory has been underestimated.

How Much Trust Money Is Available To Pay Claims?

Asset information for 35 confirmed asbestos personal injury bankruptcy trusts has been identified, and, taken together, these trusts have \$25.7 billion of hard assets, not including insurance. Another three pending bankruptcies have deals in place that are expected to put over \$7 billion of additional hard assets into asbestos personal injury bankruptcy trusts. In total, approximately \$33 billion in cash has been earmarked for approximately 40 trusts.¹²

Figure 8: Assets And Claims Of Confirmed Asbestos Bankruptcy Trusts¹³

Trust name	Net claimants' assets (\$ millions)	Years continuous claims processing	2007 claims	Total claims to date
ABB Lummus Global Inc. 524(g) Asbestos PI Trust	40.0	1	12,304	12,304
A-Best Asbestos Settlement Trust	12.3	3	0	35,229
ACandS Asbestos Settlement Trust	520.2	0	0	0

Amatex Asbestos Disease Trust Fund ¹⁴	?	?	?	?
APC Asbestos Trust ¹⁵	?	0	0	0
API, Inc., Asbestos Settlement Trust ¹⁵	83	1	?	?
Armstrong World Industries, Inc., Asbestos Personal Injury Settlement Trust	2,101	1	125,323	125,323
ARTRA 524(g) Asbestos Trust	92	1	703	703
Babcock & Wilcox Asbestos Trust	1,589	2	83,596	193,852
Bartells Asbestos Settlement Trust	7	7	321	1,733
C.E. Thurston & Sons, Inc., Asbestos Trust	55	1	768	768
Celotex Asbestos Settlement Trust	706	8	12,114	651,299
Combustion Engineering 524(g) Asbestos PI Trust	1,114	2	77,115	85,446
DI Distributors, Inc. Asbestos Disease Trust ¹⁵	?	?	?	?
DII Industries, LLC, Asbestos PI Trust	2,754	2	54,042	77,497
Eagle-Picher, Inc., Personal Injury Trust	496	11	6,740	543,153
FMO Trust	635	0	0	0
Forty-Eight Insulations Qualified Settlement Trust ¹⁷	0	0	0	453,190
Fuller-Austin Asbestos Settlement Trust ¹⁵	?	?	?	?
H.K. Porter, Inc., Asbestos Trust	78	8	6,145	497,262
J.T. Thorpe Settlement Trust	187	2	1,327	2,849
J.T. Thorpe Company Successor Trust	190	3	1,666	2,137
Kaiser Aluminum & Chemical Corporation Asbestos Personal Injury Trust	1,197	1	105,946	105,946
Keene Creditors Trust	74	2	3,663	16,228
M. H. Detrick Company Asbestos Trust	2	1	36,800	36,800
Manville Personal Injury Settlement Trust	1,305	12	10,050	747,666
Muralo trust ¹⁵	?	?	?	?
Narco Asbestos Trust ¹⁸	2,000	0	0	0
NGC Bodily Injury Trust ¹⁷	510	4	?	?
Owens Corning/Fibreboard Asbestos Personal Injury Trust ¹⁹	4,476	1	176,026/ 147,974	178,026/ 147,974
Plibrico 524(g) Asbestos Trust	198	1	24,321	24,321
Porter Hayden Bodily Injury Trust	5	0	0	0
Raytech Corporation Asbestos Personal Injury Settlement Trust	89	0	0	0
Rock Wool Manufacturing Company Asbestos Trust ¹⁹	?	?	?	?

Rutland Fire Clay Company Asbestos Trust ²⁰	12	1	18,200	85,050
Shook & Fletcher Asbestos Settlement Trust ^{15, 21}	0.3	?	?	?
Stone & Webster Asbestos Trust ^{15, 22}	5	?	?	?
Swan Asbestos and Silica Settlement Trust	26	4	12	4,147
United States Gypsum Asbestos Personal Injury Settlement Trust	4,089	1	124,196	124,196
United States Mineral Products Company Personal Injury Settlement Trust ²³	26	0	0	0
UNR Trust	17	8	843	439,776
Utex Industries, Inc., Successor Trust	4	3	277	4,639
Western Asbestos Settlement Trust	980	4	937	9,564
Total current assets in trusts created by confirmed bankruptcies	25,730			
Assets committed to future trusts in deals announced in pending bankruptcies²⁴	approx. 7,000			
Total assets	approx. 33,000			

The availability of such a large magnitude of assets in asbestos trusts is a relatively new phenomenon. Of the confirmed trusts, only 12 have been processing claims continuously for three or more years. These longer-established trusts have a total of \$4.3 billion in assets — about one-eighth of all the trust assets.

One striking feature seen in figure 8 is the discrepancy between the large numbers of claims being received by trusts in their first year or two of operation and the much smaller numbers of claims being seen by the longer-established trusts. The evidence indicates that fewer than 10,000 new nonmalignant claims are being diagnosed and recruited each year. When one looks at the fact that a trust such as the Owens Corning/Fibreboard Personal Injury Trust received 178,026 claims against one subtrust in its first year of operation, it is clear that most of those claims were either open when Owens Corning filed for bankruptcy, or they were unfiled inventories that accumulated during the long-pending bankruptcy. Most of these claims, no doubt, were recruited before the collapse of nonmalignant recruiting that began in 2000.

Endnotes

1. J. Janis Jack, (*In Re Silica Products Liability Litigation*, Order No. 29 Addressing Subject-Matter Jurisdiction, Expert Testimony and Sanctions.).
2. These are the only four trusts that are both large enough to reasonably represent the universe of asbestos claims — or at least close to it — and which have been reporting claims for long enough to give a good picture of the changes over time.
3. Numbers for the Eagle-Picher, Celotex, and H.K. Porter trusts are from trust annual reports. Numbers for the Manville trust are from three data extracts prepared by the trust that contain claims through January 2002, April 2004, and September 2007, respectively. Duplicate claims, as identified by social security number and disease category, have been removed. Claims from non-U.S. residents are omitted from the Manville numbers unless a U.S. exposure location was reported. The omission of non-U.S. claims accounts for most of the differences between the filing counts reported here and the counts in the Manville trust's annual reports.

4. Judge Jack described how the “diagnosis” of silicosis claims is driven by attorney recruiting efforts: “All told, the over 9,000 Plaintiffs . . . were diagnosed with silicosis by only 12 doctors. In virtually every case, these doctors were not the Plaintiffs’ treating physicians, did not work in the same city or even state as the Plaintiffs, and did not otherwise have any obvious connection to the Plaintiffs. Rather than being connected to the Plaintiffs, these doctors instead were affiliated with a handful of law firms and mobile x-ray screening companies.” (Jack, *op. cit.* at 30-31).
5. Bates and Mullin estimate that about one-half of nonmesothelial cancer claims “arose from the same mass recruitment activities that produced the vast majority of nonmalignant claims” rather than being pursued directly following a medical diagnosis. Charles Bates and Charlie Mullin, “The Bankruptcy Wave Of 2000 — Companies Sunk By An Ocean Of Recruited Asbestos Claims,” *Mealey’s Litig. Rep. Asb.* 18 (2007): 21–24.
6. The chart is based on dates of filing and dates of diagnosis reported in claims data made available by the Manville trust. Based on data extracts from January 2002 and September 2007. Counts are compensated for missing dates of diagnosis, and later years are also compensated to include an estimate of claims to be filed after the September 2007 cutoff date for the data.
7. Table of events from: <http://www.mantrust.org/history.htm> (as of June 5, 2008); *Manville Personal Injury Settlement Trust Newsletter* 10, no. 1 (April 1996); *Manville Personal Injury Settlement Trust Newsletter* 13, no. 4 (October 28, 1996); *Memorandum Re: Manville Trust TDP Changes and the Status of the Pro Rata Share Review* at <http://www.mantrust.org/FTP/REDUMEM2.pdf>.
8. The Manville trust’s annual report for 2003 contained a larger count of 101,200 new claims, largely because of non-U.S. claims. See *supra*, note 3.
9. <http://www.mantrust.org/history.htm>.
10. *Memorandum Re: Manville Trust TDP Changes and the Status of the Pro Rata Share Review*.
11. The fact that many of the same plaintiffs showed up in different lawsuits with separate diagnoses of asbestosis and silicosis was cited by Judge Jack as a major factor casting doubt on the validity of the claims. Of 6,757 “silicosis” claimants identified by the screening firm N&M, for example, at least 4,031 had made “asbestosis” claims with the Manville trust. See Jack, *op. cit.* at 78-80.
12. For eight confirmed trusts, current asset information was not locatable. These include: the Amatex Asbestos Disease Trust Fund; the APG Asbestos Trust; the DI Distributors, Inc., Asbestos Disease Trust Fund; the Forty-Eight Insulations Qualified Settlement Trust; the Fuller-Austin Asbestos Settlement Trust; the Muralo Trust; the Rock Wool Manufacturing Company Asbestos Trust; and the Stone & Webster Asbestos Trust. For five pending bankruptcies, the value of any assets committed to a future trust was not determinable. These include ASARCO (Case No. 05-21207, Bankr. S.D. Tex.); Congoleum (Case No. 03-51524, Bankr. D.N.J.); Flintkote (Case No. 04-11300, Bankr. D. Del.); G-I Holdings (Case No. 01-30135, Bankr. D.N.J.); and Skinner Engine Co. (Case No. 01-23987, Bankr. W.D. Pa.).
13. Unless otherwise noted, assets and claim counts are from annual reports filed by the trustees with the bankruptcy courts.
14. No annual reports were found for the Amatex Asbestos Disease Trust Fund (confirmed 1990); the DI Distributors, Inc., Asbestos Disease Trust (confirmed 1992); the Fuller-Austin Asbestos Settlement Trust; the Muralo Trust (confirmed 2007); the Rock Wool Manufacturing Company Asbestos Trust (confirmed 1999); the Stone & Webster Asbestos Trust; or the Shook and Fletcher Asbestos Trust.
15. No 2007 annual report is available for the APG Asbestos Trust. Its primary asset is 21% of reorganized ANH Refractories, according to the disclosure statements filed in that case.
16. The API, Inc., Asbestos Settlement Trust and the NGC Bodily Injury Trust file claims-activity reports are under seal, so claim filing counts are not available for these trusts.

17. The Forty-Eight Insulations Qualified Settlement Trust was liquidated in 2003.
18. No 2007 annual report is available for the NARCO Asbestos Trust. The trust's primary assets are 79% of reorganized ANH Refractories, and an open-ended commitment from Honeywell International, Inc., to fund all preexisting settlements, plus future asbestos settlements, up to an annual cap of \$145 million per year indefinitely (initially \$150 million).
19. The Owens Corning/Fibreboard Asbestos Personal Injury Trust is divided into two subtrusts against which claimants may file independent claims. The Owens Corning subtrust has received 178,026 claims, and the Fibreboard subtrust has received 147,974 claims. It is unclear how many claimants have filed claims against both trusts.
20. The Rutland Fire Clay Company Asbestos Trust first processed claims in 2003, but it does not process claims continuously. During 2007, the trust had its second "open filing period" during which it processed 18,500 claims, including unfiled inventory that had accumulated since January 2004. This value does not represent sustained annual filings.
21. "Alabama Bankruptcy Judge Confirms Reorganization Plan of Shook & Fletcher," *Mealey's Asb. Bankr. Rep.* 2, no. 4 (2002): 5.
22. Initial funding, according to the Asbestos Trust Agreement, was \$4.5 million cash plus an allowed general unsecured claim against the estate with a face value of \$1 million (Case No. 00-02142 Bankr. D. Del.).
23. A 2007 report for the United States Mineral Products Company Personal Injury Settlement Trust was not found; asset values are based on its 2006 annual report.
24. Significant deals have been announced in the Quigley, Pittsburgh Corning, and W.R. Grace bankruptcies. ■

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