

April 5, 2021

Governor Jim Justice
State Capitol
1900 Kanawha Blvd. E
Charleston, WV 25305

Re: U.S. Chamber Institute for Legal Reform Support for the Asbestos and Silica Claims Priorities Act, H.B. 2495

Dear Governor Justice,

Widespread fraud and abuse have plagued asbestos and silica personal injury lawsuits for years, reducing and significantly delaying the recoveries of victims. West Virginia has taken action to combat this fraud and abuse, including in 2015 by prioritizing claims of impaired claimants and establishing transparency between claims filed in the bankruptcy trust system and court system. H.B. 2495 builds upon these successes to address over naming of defendants in asbestos and silica actions.

The number of defendants named in asbestos lawsuits has increased exponentially since the early 2000s. An average of 65 defendants are named in asbestos lawsuits in the United States and this number is nearly doubled in West Virginia where an average of 120 defendants are named in asbestos complaints. Most of these defendants are not at all connected to the plaintiff's injuries and are eventually dismissed from the lawsuit. One report placed the percentage of defendants in West Virginia asbestos actions that are dismissed without any payment or liability at upwards of 70%.

Even when a defendant is dismissed from these lawsuits without payment or liability, they incur thousands of dollars in defense costs and lowered productivity until the dismissal. These unnecessary costs have driven some companies to bankruptcy. And the harms from over naming are not limited to the defendants themselves but are also felt by West Virginia's court system. The tactic drives up litigation costs and creates further court backlogs, decreasing the accessibility and efficiency of the courts for everyone. Including the asbestos victims, whose recoveries are significantly delayed.

The U.S. Chamber Institute for Legal Reform urges you to sign the bill into law. H.B. 2495 ensures that there is an evidentiary basis for the claims against each defendant named in an asbestos or silica action. It will cut down on unnecessary litigation and wasted defense costs, facilitate settlements, and focus judicial resources on claims with evidentiary support.

Sincerely,

Nathan Morris

