

ABSTRACT

Mesothelioma is the dominant disease in asbestos personal injury lawsuits.¹ The number of claims exceeds those expected based on aging of workers who historically were exposed to high levels of asbestos. Recently, in many mesothelioma lawsuits the alleged exposure is asbestos in cosmetic talc products. Plaintiffs often have been successful in asbestos litigation using specious causal theories about the potency of low-level asbestos exposures, for example: “one fiber can kill” and “each and every exposure above ambient airborne asbestos levels is a substantial factor in the cause of the disease.” Through the late 1970s and early 1980s the US Environmental Protection Agency (EPA) unwittingly provided the foundation for plaintiffs’ causal theories; then starting in 1985, EPA modified its previous warnings about low-level asbestos exposures. Although some courts have recognized the flaws in plaintiffs’ theories, it appears not to be so in talc litigation. The counterargument to plaintiffs’ “low-level asbestos exposure is a substantial causal factor for mesothelioma” is the existence and prevalence of spontaneous mesothelioma cases, i.e., mesotheliomas that result from spontaneous tumor formation and are not a consequence of exposure to asbestos or any other known risk factor for the disease.² Spontaneous cases are not rare; almost all current female mesotheliomas in the US and virtually all future mesotheliomas are most likely spontaneous cases. Noting the existence and prevalence of spontaneous cases may be a valuable complement to defense evidence in talc-mesothelioma litigation whether or not it can be established that the talc does not contain asbestos.

1. Mesothelioma
 2. History of Specious Causal Theories for Mesothelioma
 3. Mesothelioma Spontaneous Cases (Existence and Rate)
 4. Is There an Asbestos Exposure Threshold for Mesothelioma?
 5. Spontaneous Mesothelioma and Talc Litigation
 - 5.1 Plaintiff Theories; Defendant Theories
 - 5.2 Future Mesothelioma Cases are Virtually All Spontaneous Cases
 6. Conclusions
- References

¹ 52% of asbestos personal injury lawsuits in 2018 up from 48% in 2016. Asbestos Litigation: 2018 Year in Review. KCIC. www.KCIC.com

² *Spontaneous* in this article where used to modify *mesothelioma* or *case* means an individual with mesothelioma resulting from spontaneous tumor formation that is not a consequence of asbestos exposure or any other identifiable risk factor for the disease. *Case* in this article refers is to a person who has been diagnosed with mesothelioma, i.e., a *medical case* of the disease, not a lawsuit and not a claim for compensation from an asbestos trust.

