

Projecting Numbers of Claims and Costs in Mass Tort Actions:
Essential Information for Investment, Acquisition, Insurance,
And Bankruptcy Re-Organization

Mass tort actions that address health effects of exposures to hazardous substances emitted from processes or products present a unique risk management challenge for businesses. The number and timing of *cases* - individuals with impaired health associated with exposure to the substances in question - can be highly uncertain due to characteristics of the exposed population, the intensity and duration of exposure, and the latency period for manifestation of the health effects. The number and timing of *claims* are also subject to uncertainty arising from the strategies of plaintiffs' lawyers and varying propensities of exposed individuals to sue. The result is financial uncertainty, which may cause lenders, insurers, customers, and potential business partners to limit their involvement with the targeted company. For some major business entities faced with mass tort liability, survival without re-organization through Chapter 11 of the Bankruptcy Code has proven to be impossible. Re-organization itself also presents a significant challenge because of the uncertain costs associated with future claims.

Various disciplines not typically employed in standard product liability actions - epidemiology, toxicology, demography, exposure analysis, quantitative risk assessment, and statistical analysis - can be used advantageously to reduce uncertainty in the estimates of numbers, timing, and costs of mass tort claims. Asbestos provides the premiere example of a mass tort where techniques from these disciplines have been applied successfully. Other examples are specific or non-specific side-effects associated with prescription or over-the-counter drugs, food additives, accidental chemical releases, and emissions from manufacturing operations.

Price Associates, Inc. (PAI), a risk assessment and statistical analysis consulting firm, applies various techniques, including those from the disciplines listed above, to project future claims and costs of asbestos-related disease. The results provide our clients with information for financing negotiations, insurance coverage analysis, and the due diligence process for acquisitions. PAI also has analyzed claims associated with chemical releases and drug side-effects where claimants were identified, in part, based on self-reported symptoms. In addition to projecting future claims and costs, our analysis of background rates for self-reported symptoms has been useful for addressing frivolous claims.

PAI is continuing to develop new efficient approaches for dealing with product liability suits and mass tort actions. For more information about PAI capabilities and experience, contact Dr. Bertram Price at 207.288.8012 or bprice@priceassociatesinc.com.

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