

100 QUESTIONS & ANSWERS

ABOUT Mesothelioma

Fourth Edition



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QUESTIONS & ANSWERS ABOUT Mesothelioma Fourth Edition
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*Legal Matters:
Always Leave
It to the
Experts*

Why do people with mesothelioma file legal claims?

How do I file a timely claim?

How do I choose an attorney?

More . . .

24. Why do people with mesothelioma file legal claims?

Idiopathic

A condition or disease that is not caused by a specific chemical or substance.

Many illnesses are **idiopathic**, meaning they are not caused by a specific chemical or substance. Mesothelioma is different because its only known cause is exposure to asbestos.

For decades, asbestos companies knew of its dangers, yet they failed to take the simple steps that would have protected hundreds of thousands of workers, consumers, and their families. Most asbestos companies failed to put warnings on their products or use substitute materials. In fact, many companies went to great pains to keep the known dangers of asbestos secret from both their workers and the public. They put profits before safety.

Mesothelioma medical care—including treatments, travel and in home care—can also be very costly.

These two reasons are why most people with mesothelioma and other asbestos-related diseases file lawsuits to get compensation for their injuries.

In this chapter, we explain your rights and options as a victim of asbestos exposure. First, we explain the time limits in your state for filing legal claims for asbestos-related disease. Then we provide advice for finding the right attorney for you and your family. Finally, we provide an overview of the various kinds of financial help that may be available to you so you know which options to discuss with your attorney.

25. How do I file a timely claim?

To protect and assert your rights as a mesothelioma patient (or victim of another asbestos-related disease), you have to act quickly after you've received your diagnosis.

Every state has placed a time limit, called a **statute of limitations**, on mesothelioma claims. The clock starts ticking as soon as you receive your initial diagnosis, and if you don't file your claim within that time frame, you may lose many of your rights to compensation. In addition, because many people with mesothelioma live less than a year after diagnosis, it's important to act quickly.

Statute of limitations

A time limit set by individual states on how long a person can wait after being harmed before filing suit for damages against the responsible party.

26. How do I choose an attorney?

The laws about mesothelioma and asbestos-related disease claims are complex, and you'll need the help of a qualified and experienced mesothelioma attorney to help you decide which options make the most sense for you and your family.

You should find an experienced mesothelioma lawyer with a national reputation who has tried mesothelioma cases in court (gone to verdict) as well as negotiated out-of-court settlements. It's also important to hire an attorney who will actually work on your case—not one who will refer your case to another law firm. Many lawyers advertise for mesothelioma cases, but they actually don't work on the cases; instead, they refer you to another lawyer. You should avoid this situation.

Joe Belluck, LLB, says:

To protect your legal rights, you should contact an attorney as soon as possible after you've been diagnosed with mesothelioma or any asbestos-related disease. It is best to choose an attorney or law firm with significant experience in asbestos-related cases, but you also want an attorney you feel comfortable with.

Here are some things to look for when shopping for an attorney:

- **Experience:** The attorney should give you an overview of his or her experience and success rate in mesothelioma cases. Contact an attorney who has worked on mesothelioma cases, is respected by experts in the field (such as your doctors), and has written about mesothelioma and spoken at mesothelioma conferences.
- **Attention:** Your Attorney should listen to the specifics of your case, understand and address any concerns you have, and explain your options—and the pros and cons of each option in plain language you can understand. Your attorney also should make recommendations based on your specific case.
- **Fair and transparent fees:** Attorneys who work with mesothelioma patients typically accept cases on a contingency basis, which means they don't get paid unless they win your case or negotiate an acceptable settlement. Contingency fees are usually a percentage of a settlement or jury award, generally between 33.3% and 40% of the total money received. Make sure you understand what percentage your attorney will take and whether there will be any expenses in addition to the percentage, such as

postage, travel, or other expenses, and get the fee arrangement in writing. Expenses should be taken out of the total settlement, not your share of the proceeds.

- **Responsiveness:** Does the attorney (or someone from the firm) return your calls promptly? Do they answer your questions fully and courteously?
- **Comfort:** You should feel comfortable talking and working with your attorney, just as you should feel comfortable dealing with your doctor. If you don't feel comfortable, don't hesitate to check out other attorneys.

Your first meeting with an attorney, called an **initial consultation**, should be free, and the attorney should offer to come to your home. During the first meeting, here are some questions you may want to ask:

- What is your experience (or the firm's experience) successfully trying mesothelioma cases and lawsuits?
- How many cases have you handled?
- Will you handle the case, or will you refer it to another law firm?
- If you accept my case, will I be working with you or with someone else in your office? Who else will be on my legal team?
- What are my legal options, and which options do you recommend?
- What are the chances of success in my case?
- If you accept my case, how long will it take to receive my compensation?
- Will my case be part of a class action lawsuit, or will it be an individual suit?

Initial consultation

A first meeting with an attorney, where you can get to know the attorney's qualifications for handling your lawsuit.

- Will I have to go to trial to resolve my case, or will it be settled out of court?
- If I'm too sick to work with you, will you work with a member of my family on my behalf?
- How are you protecting my privacy within the firm and then dealing with potential defendants?

Joe says:

Be wary of law firms that send investigators or other non-lawyers to your initial meeting. You're hiring a lawyer, not a professional investigator or marketer—and you should be meeting with a lawyer, not someone who travels around signing up cases. Relatives may be able to file suit on behalf of someone who has died from mesothelioma or another asbestos-related illness, as long as the claim is filled within the time frame dictated by law. Contact an attorney to find out what your options are.

27. Is financial assistance available, and what are my legal options?

A mesothelioma diagnosis often includes a hefty financial burden. If you don't already have health insurance, you likely won't qualify for a new health insurance plan. Even if you have health insurance, your out-of-pocket expenses for doctors' appointments, tests, treatments, and prescriptions may go up significantly—and some treatments may not be covered at all. You will also likely spend more on transportation to and from various appointments and may have to spend more on meals and other travel-related expenses, depending on how far you live from your doctor and or treatment center. You also may want to participate in

experimental treatments, which typically are not covered by insurance.

Most mesothelioma patients have several avenues available to them to help out with the cost associated with their illness. The following section describes some of these options. Be sure to discuss this with your attorney; in some cases, filing certain claims may limit your rights to other forms of compensation. It's important to have mesothelioma lawyer handle all of your compensation benefit claims to make sure you're fully protected.

Individual Lawsuits

If you decide to file a lawsuit, your attorney will seek both compensatory and punitive damages. **Compensatory damages** cover your economic losses—such as medical expenses, lost income, and any additional costs related to your illness, and non-economic damages, such as a compensation for pain and suffering. **Punitive damages** are designed to punish the company (or companies) for their negligence or other bad behavior and exposing you to the risk of asbestos. Lawsuits can also cover damages for your spouse as well as a compensation.

Your attorney will look at several factors in your case, including:

- ***Your work and life history.*** An experienced attorney will take a detailed history so identify every way you may have been exposed to asbestos at work and at home—even from dust and fibers carried into your home by a household member who worked with or was exposed to asbestos. Because so many products (ranging from car brake pads to floor tiles) contain asbestos, it's not uncommon for

Compensatory damages

An award made by a judge or jury to cover both economic losses from harm, such as medical expenses, lost income, and any additional costs, and non-economic damages, such as pain and suffering.

Punitive damages

An award designed to punish the company (or companies) for their negligence or other bad behavior in exposing the injured person to the risk of asbestos.

people to be unaware or unable to remember how they were exposed (see Question 4 for information on secondhand exposure). Experienced mesothelioma attorneys have a vast store of knowledge and resources to identify how and where you may have been exposed to asbestos and who is responsible for that exposure. If you're a smoker and have mesothelioma or another asbestos-related illness, you're still eligible to file a claim. Smoking and asbestos exposure both can cause lung cancer, and these two factors combined increased your risk for developing lung cancer. **However, smoking does not cause mesothelioma, asbestosis, or other asbestos-related diseases.** If you've been diagnosed with one of these diseases, that cause is asbestos exposure, and your smoking habits have nothing to do with your illness.

- ***Whether your claim is timely.*** As mentioned in Question 25, there's a limit to how long you can file your claim, starting from the moment you get diagnosed. Your attorney will look at whether you're still in the time frame of the statute of limitations.
- ***Your right to get funds from bankruptcy.*** Your attorney will determine your eligibility for payment from mesothelioma trust funds established under bankruptcy proceedings.
- ***Existing documents and new evidence pertaining to your circumstances.*** Your attorney should have an extensive library of documents and testimony from other asbestos cases that can be used in developing your case. In addition, your attorney may interview you and other witnesses such as coworkers, medical experts, and someone to help build your case.

- ***Who should be sued.*** Even if you don't remember where or when you may have been exposed to asbestos, your attorney can help you determine these details by examining your work history and other facts. Generally, the defendants in asbestos exposure case include the manufactures of asbestos-containing products; contractors that installed and/or repaired asbestos containing products and equipment; suppliers of materials to work site; and property owners who allowed asbestos to be used on their property.
- ***What is a fair level of compensation for your suffering?*** An experienced mesothelioma attorney will be able to give you a rough idea of what your claim should be worth, based on the circumstances of your case and the outcome of similar cases. However, it's important to remember that each case is different. While most attorneys won't accept your case unless they believe it has a very good chance of being successful, no attorney should make any promises about the amount of compensation you'll receive. Instead, as your case progresses, your attorney will evaluate any offers based on what he or she feels is fair and reasonable compensation for you. (See Part 7 for more on how your case will proceed.)

Mesothelioma Trust Funds

Many companies that manufactured asbestos products have filed for bankruptcy protection to avoid making huge payouts to injured workers and their families. In many cases, bankruptcy judges have ordered companies to establish trust funds specifically victims of asbestos-related illnesses. There is no single large fund

of money available for mesothelioma victims, but there are individual funds set up for each bankrupt company. These trust funds pay at a very reduced rate, and the proceeds from these funds aren't enough to fully compensate you.

However, when combined with an individual lawsuit, these funds can help increase your compensation. Your attorney can help you determine whether you have a legitimate claim against one of the mesothelioma trust funds. The claims must be coordinated with your lawsuit, because they can affect other attempts to win compensation for your illness. There are over 60 asbestos companies that have filed for bankruptcy and established trust funds. Other companies are awaiting court approval for their bankruptcy trust fund; your attorney will have up-to-date information.

Class action lawsuits

Legal actions on behalf of a large group of people who suffer similar injuries or wrongdoing at the hands of the same defendant(s). Class action lawsuits aren't used in mesothelioma and asbestos cases.

Claimants

Persons suing for damages based on a claim that another person or a company willfully or negligently harmed them.

Class Action Lawsuits

Class action lawsuits involve a large group of people who suffer similar injuries or wrongdoing at the hands of the same defendant(s). Class action lawsuits aren't used in mesothelioma and asbestos cases. Class action suits most often are settled out of court and therefore often appeal to people who don't want to go to trial. However, because of the large number of **claimants** (those suing for damages), settlements in these cases are typically based on the broadest interests of the class. Individual circumstances that may warrant a larger settlement amount aren't considered in class action cases.

The lack of consideration for individual circumstances is the main reason that the U.S. Supreme Court has ruled that class action lawsuits aren't appropriate for

asbestos cases. People who are exposed to asbestos have widely differing circumstances, including different exposure levels, different ages, different diseases, and different medical treatment. Such variety makes it virtually impossible to craft a class action settlement that would be fair to every member of the class.

28. What other kinds of assistance are available to me?

Depending on your circumstances, you may be eligible to receive other kinds of assistance to help you with the financial impact of your illness. You should discuss these options with your attorney, who can tell you more about the process of applying for these forms of assistance and the impact such applications may have on your case. You should also be aware that some of the sources of assistance below such as Medicare, Medicaid, and health insurance may have the right to get paid back out of the proceeds of your lawsuit. Your attorney should handle any such lien issues.

- ***Workers' compensation.*** If you worked for an asbestos company, you may also have the right to file a claim. In most states, you cannot sue your employer, but you can file a worker's compensation claim. The laws governing worker's compensation claims vary from state to state and can be extremely confusing. Your attorney can explain your options and the pros and cons if you want to file a claim against your (current or former) employer.
- ***Veterans' benefits.*** Many members of the military were exposed to asbestos during their service. You may be eligible to file a claim with the Department of Veterans Affairs.

- ***Social Security disability benefits.*** If your asbestos-related illness has forced you to quit working before you reach retirement age, you may be eligible for Social Security disability benefits. Again, filing for these benefits can be complex and confusing, so talk with your attorney about the filing process and what you can expect.
- ***Life insurance.*** If you purchased life insurance prior to your diagnosis with mesothelioma and you pass away, your life insurance beneficiaries will be entitled to a payment from your life insurance policy. It is important to make sure your beneficiaries are up to date with your life insurance company, and that your spouse, children or another person you trust knows about the policy, the policy number and how to contact the life insurance company.
- ***Health insurance***
- ***Medicare/Medicaid coverage.*** If you're over age 65, you should qualify for Medicare coverage. However, Medicare itself doesn't cover all medical expenses. If you're transitioning from an employer health insurance plan to Medicare, your out-of-pocket expenses could increase significantly, depending on what kind of supplemental Medicare insurance you purchase. Medicaid is a state-federal health insurance program that covers low-income individuals and families. Be sure to check with your attorney or ask for a referral to a Medicaid expert to stay up to date on changes in coverage, eligibility, and other factors.
- ***Long-term disability insurance.*** If you don't already have a long-term disability insurance policy before you are diagnosed with mesothelioma, you probably won't qualify for a new policy. However, if you're already covered before your diagnosis, this policy

should begin paying benefits (usually a percentage of your former salary) after you've been disabled for 6 months. Check with your employer's human resources department or with the insurance carrier to find out when your benefit kicks in, how much you'll receive, whether your payments from the policy are taxable, and the policy's time limits. Most policies only pay out for 2 or 3 years because they assume that, if you're permanently disabled, you'll apply for and receive Social Security disability benefits.

- ***Community assistance programs.*** Many communities have organizations that help arrange such things as transportation to and from doctor visits, home-delivered meals, help with household chores or errands, and financial assistance with out-of-pocket expenses. Your local chapter of the American Cancer Society and the Mesothelioma Applied Research Foundation (Curemeso) should be able to provide referrals to this kind of help in your community.

29. How does the claims process work?

Filing a lawsuit can be confusing, and this is especially true in asbestos-related cases because such lawsuits usually involve more than one defendant and often involve filings outside of court, such as claims to bankruptcy trusts. Laws vary from state to state, so be sure to ask your attorney to explain the requirements that pertain to your case.

Stages of a Lawsuit

Although every case has unique circumstances and facts, the process of consulting with an attorney and filing a lawsuit follows the same base pattern: initial contact,

preparation, filing the lawsuit, answer phase, deposition, and then settlement or trial. If a case goes to trial, there may also be an appeals process.

Joe says:

Because of the aggressive nature of mesothelioma and lung cancer, most states allow for expedited schedules for mesothelioma cases. Your attorney should do everything he or she can to fast-track your case and resolve your claims within 6 to 12 months. Cases are usually filed within 30 days of their initial consultation, and depositions typically are completed within 30 to 60 days of filing. The attorney handling your case, will attempt to make your case move even faster if your health warrants quicker action.

The following sections explain these stages in more detail.

Initial Contact

Your first contact with an attorney usually involves a brief telephone conversation to get some basic facts about your case and determine whether you should pursue a legal claim. If the attorney believes you have a valid case, the next step is scheduling a face-to-face meeting to discuss your case with your legal options in the process of filing in pursuing a lawsuit.

This in-person meeting should be done with a lawyer—not a paralegal or investigator. You should have an attorney visit you in your home. The lawyer should offer to come to your home for the in-person meetings so that you don't have to travel if you don't want to. During this meeting, the attorney will go over your work, life, and medical history and ask you to sign

release forms also called “authorizations” that allow the firm to get copies of your medical and employment records.

You will also sign a **retainer agreement** that spells out when, how, and how much the lawyer will be paid if your lawsuit is successful. You should hire a lawyer who works on a **contingency basis**, meaning they don't get paid unless they win an award for you, either in a trial or out-of-court settlement. If you do win an award, the fee will be deducted from your award.

Preparation

After the initial meeting, your attorney will research your case to determine who should be named as defendants and in which court your claim should be filed. Because laws in every state are different, one of the most important decisions is where to file your claim; typically, your claim will be filed in the state where you live or where you were exposed to asbestos. Your attorney will explain these options to you. An experienced mesothelioma attorney will already have records for most asbestos companies, and information on major job sites and navy ships. They'll use this information to help research your case.

Filing the Complaint

When the research is completed, your attorney will file your complaint in the appropriate court. The companies named as defendants will be served with copies of the complaint. The complaint typically will assert that the defendants are responsible for manufacturing, selling, and/or installing defective products and equipment, that they caused your asbestos exposure, and that they failed to warn you of the dangers of that exposure.

Retainer agreement

An agreement that spells out when, how, and how much the lawyer will be paid if your lawsuit is successful.

Contingency basis

An agreement that an attorney does not get paid unless they win an award for you, either in a trial or out-of-court settlement. If you do win an award, the fee will be deducted from your award.

Answer Phase

Defendants usually have 30 days to respond to lawsuits filed against them. In asbestos cases, defendants will send your lawyer a response to the allegations in the lawsuit. After the court receives the defendants' responses, the court will hold a hearing and scheduling conference for the case. At the conference, the court usually allots a certain amount of time between six and 12 months, for both sides to prepare their case and schedule a trial date.

Discovery phase

The time frame during which attorneys do the background research necessary for your case.

Discovery Phase

The **discovery phase** of your case gives both your attorney and the defendants time to interview witnesses, obtain needed documents and conduct other research pertaining to your lawsuit. Both your attorney and the defendants will hire medical and other experts to review your case; these experts may be called to testify if your case goes to trial.

Deposition

Deposition

Testimony given outside of a court room in a manner that is similar to an interview

As a plaintiff, you'll be required to give a **deposition**, which is testimony given outside of a court room. The deposition is similar to an interview and is not something to be anxious about attending. Depositions can take place at your home, your lawyer's office, a court reporter's office, or at a convenient location for you, such as a hotel conference room.

Prior to your deposition, your attorney will meet you to go over the questions that will be asked and prepare you for the deposition. The people present at your deposition will include you, your attorney, the court reporter (who takes a transcript of everything said during the deposition), and attorneys representing the defendants. Your deposition also may be recorded via audio or video.

Your attorney will ensure that the questions you're asked are fair and relate to your lawsuit. On occasion, he or she may object to a question and instruct you not to answer. Depending on the complexity of your case and the number of defendants, your deposition may take a couple of hours or may last longer.

The attorneys will be looking to find out how you were exposed to asbestos. You should be prepared for them to ask questions about your medical and work history.

After your deposition, your attorney will receive copies of the transcript. Evidence you give in your deposition may be used in court if your case goes to trial. Your attorney also may do a second videotaped deposition for use at trial, in which your attorney asks questions as if you were in the courtroom. This videotape will be played during your trial if you're unable to participate.

Joe says:

Except for your deposition, your attorney will perform most, if not all, of the work required during the discovery phase.

The release forms you sign at your first meeting permit your attorney to get copies of your medical and work records, so you won't even have to collect those documents.

30. Should I take this to a trial or settle without a trial?

When your claim is first filed, both your attorney and the court will assume that there will be a trial in your case. However, most mesothelioma and other

asbestos-related cases are settled out of court before a trial begins. There are several reasons why your case may settle:

- The defendant(s) may see that the evidence in your favor is overwhelming, making it unlikely that they would succeed at trial.
- The defendant(s) may wish to avoid the time and expense of a trial.

Settlement offers can come at any time after your claim is filed, even up to—or during—a trial. Your attorney will evaluate any settlement offers and discuss them with you.

Joe says:

You don't have to accept any offer if you feel it's unfair. An experienced mesothelioma attorney can advise you on whether a given offer is reasonable for your circumstances, but the decision to accept a settlement or proceed to trial is ultimately yours to make.

Many people prefer to settle over going to trial, because trial outcomes are unpredictable. In addition, if you receive a large award from a jury, one or more of the defendants in your case is likely to appeal the award, which obviously lengthens the process (see the following section). Settlement offers often include provisions that require you to keep the terms of the settlement private and usually state that the defendant does not admit to any wrongdoing. For some people, the lack of accountability in a settlement offer is a deal-breaker; they want the companies responsible for their asbestos exposure and illness to be held publicly accountable for their actions, so they prefer to go to trial. Only you can decide whether a settlement offer is acceptable to you.

If you agree to a settlement, the defendant(s) will send your attorney a check for the full settlement amount. Your attorney will then send you a check for your portion; you also should receive a statement of deducted expenses with your check. You shouldn't have to wait until the end of your case to receive settlement money.

If your case involves multiple defendants, you may receive a settlement offer from some defendants but not from others. If that happens and you accept the settlement offers, those defendants will be dismissed from your complaint, and you will continue to trial with the remaining defendants.

If your case goes to trial, your attorney will present testimony and evidence in support of your claim, including the testimony of expert witnesses. You may have to be present in court and testify at the trial.

The length of a trial depends largely on the complexity of your case. Some trials take only a week, plus the time for the jury to deliberate; others may last several weeks or longer. Your attorney can give you an idea of how long a trial might last in your case.

If you win at trial, the jury will award you a sum of money. This award may be reduced by your previous settlements and other benefits you received, such as worker's compensation.

Appeals

Defendants who lose at trial usually have between 30 and 180 days (6 months) to file an appeal. An appeal delays any payment to you, but the defendant usually must post a **bond**, or security for the amount awarded

Bond

A security for the amount awarded at a trial that is set aside by the defendant until an appeal determines whether that is the amount they must actually pay to the plaintiff.

at trial, until the appeal is resolved. Appeals most often adjust the amount of the award given in the trial; in some cases, an appeals court may order a new trial.

If the defendant loses the appeal, the trial award stands. If the defendant wins the appeal, you'll receive the new award determined by the appeals court (or no payments at all if the appeals court reduces the award to zero or orders a new trial).

Joe says:

If your attorney works on a contingency basis and you lose an appeal, you do not have to pay your attorney out of your own pocket. Your attorney only gets paid from money you're awarded in a trial (and possible appeal) or a settlement.

31. What other legal issues do I need to know about?

Although treatments for mesothelioma have improved over the years, it remains an incurable and progressive disease. Survival times depend largely on how early your mesothelioma is diagnosed, what type of mesothelioma you have (see Questions 1 and 2), and how it responds to treatment, as well as your general health and genetic predisposition to fighting off disease.

Eventually, though, your symptoms and overall health will worsen, and you may reach a point where you're unable to make healthcare decisions for yourself. Planning ahead for this time can do much to ease the stress you and your family will feel as you deal with your illness.

This chapter covers basic end-of-life issues that every family affected by mesothelioma must face. Making sure your affairs are in order helps ensure that your wishes are carried out and gives your loved ones a guide if they have to make decisions on your behalf.

Advance Healthcare Directives

Advance healthcare directives, often called “living wills,” provide written instructions for your health care in the event you can’t make decisions yourself or are unable to communicate what you want. The rules and regulations for advance healthcare directives vary from state to state; your doctor or attorney can tell you what’s required in your state.

Advance directives also provide instructions for lifesaving and life-sustaining treatments. Without an advance directive of some sort, emergency responders will do everything they can to keep you alive and stabilize your condition; for example, if you have a heart attack, they will attempt to get your heart beating again in regular rhythm unless you’ve left instructions telling them not to attempt to resuscitate you (called a DNR order, for Do Not Resuscitate).

Joe says:

You can refuse any medical treatment you don't want, and you can put limits on the types of treatment you do want. For example, if you have to be put on a ventilator or other life-sustaining treatment (such as a feeding tube), you can include a time limit, after which your doctor and loved ones must discuss your chances of recovery and decide whether to continue or stop the treatment.

The most effective advance directives are fashioned after careful consideration and discussion with your loved ones. It's not an easy thing to contemplate or talk about, and sometimes it's less uncomfortable to have this discussion on a "what if" basis. For many people, the toughest question is deciding when the quality of life is poor enough to stop treatment.

Here are some "what if" questions to help you get started:

- What if you can't breathe on your own? Do you want to be put on a ventilator? How long are you willing to be kept on a ventilator?
- What if you're unable to eat? Do you want to have a feeding tube? How long do you want to survive on a feeding tube?
- If your chances of recovery are 50–50, do you want to continue life support?
- What if your chances of recovery are good, but you're likely to need round-the-clock medical care?

You also may want to discuss these scenarios with your doctor or healthcare team (including home health aides and social workers, if you have them). If they know what your wishes are, they can help you and your loved ones navigate tough decisions when the time comes. In addition, your doctor can give you an idea of the kinds of complications and late-stage situations that you and your loved ones may have to face.

You should put your wishes in writing; many medical centers and law firms have standard forms you can fill out. File your advance directive with your will and other important papers and make sure your loved ones know where to find it should they need it.

This document should include:

- Instructions for your treatment in an emergency (such as a Do Not Resuscitate order).
- Instructions regarding life-sustaining treatments such as ventilators and feeding tubes, as well as time limits or other limitations you want to establish.
- Instructions for evaluating the outcome of your treatment and determining whether you would find those outcomes acceptable.
- A **healthcare proxy**—someone who's authorized to make decisions about your medical treatment if you're unable to make or communicate your wishes yourself.

Healthcare proxy

A person designated to make medical decisions for you if you are in surgery or otherwise unable to express your wishes about treatments or interventions.

Drafting Your Will

You should have a will that describes how your money, property, and personal effects are to be distributed after your death. If you die intestate—that is, without a will—whatever cash and possessions you leave behind will be distributed according to the laws of the state in which you live. These laws may or may not coincide with what you want.

Your will also names an executor, whose job is to administer your estate and work with your lawyer to continue your asbestos lawsuit. Your executor can be a relative or a trusted friend, or a lawyer.

Drafting a will is relatively inexpensive, and it can save your loved ones a lot of headaches. Your attorney can either draw one up for you or refer you to another lawyer who specializes in wills and estate planning.

Some things don't need to be included in your will. If you have life insurance, for example, the proceeds from that policy will be paid to the person or people you named as beneficiaries when you purchased it. You can list your estate as the beneficiary if you want the money from the policy to be pooled with your other assets. The same is true for certain retirement accounts, such as 401(k)s, and may be true for other financial holdings like CDs or money-market accounts. If you have or are eligible to receive a pension from your employer, check with your human resources department to find out what you need to do to ensure your spouse or children can claim pension funds after your death.

32. What other important papers should I have available for my loved ones?

Your loved ones should know where to find:

- Insurance policies, including contact information (if not an agent's name, and phone number, then the phone number for the life insurance company).
- Deeds, titles, and other ownership papers for real estate, autos, and other titled property
- Rental agreements for safe deposit boxes, post office boxes, storage units, etc.
- Bank account information
- Retirement account information, including pensions, IRAs, 401(k)s, and so on
- Any documentation related to your work history and asbestos exposure
- All documents related to your lawsuit

It's important to know that your family cannot access your accounts or make legal decisions for you while you're alive without authorization. A **power of attorney** will allow a relative or other person you designate to manage your financial and legal affairs if you are incapacitated. This is different from the healthcare proxy in that it's *only* for financial and legal matters, not health matters.

Joe says:

If you die before your case is resolved, either by settlement or jury verdict (see Part 7), your claim can proceed. Your estate will receive any award and the proceeds will be divided among your survivors. In addition, your spouse or children may be able to file a wrongful death lawsuit; your attorney, who is already familiar with your case, can advise your family of their rights and options.

Power of attorney

A document authorizing a designated person to handle your legal and financial affairs should you become unable to attend to them yourself as a result of your illness.



Your Guide to Mesothelioma

Fourth Edition

Experience matters.

Joseph Belluck is recognized as one of the country's leading mesothelioma lawyers. The firm he co-founded, Belluck & Fox, is ranked as one of the nation's top law firms by U.S. News & World Report. Belluck & Fox has helped thousands of clients, and their families, obtain the compensation they deserve through decades of experience, knowledge, resources, and compassion.

With offices in New York, New Jersey, Maine, and Massachusetts, Belluck & Fox's dedicated attorneys will also travel to a client's home at no cost — no matter where they are in the United States. In addition, they can arrange a telephone or video call to review your case and determine how they can help you pursue a mesothelioma claim.

Schedule a free consultation today.

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