

RICHARD D. SCHUSTER, ESQ.
VORYS, SATER, SEYMOUR AND PEASE L.L.P.

SENATE BILL 63 PROPONENT TESTIMONY
OHIO SENATE INSURANCE COMMITTEE
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Thank you for the opportunity to testify in support of S.B. 63. My name is Rick Schuster and I was admitted to the practice law in Ohio in 1981. I am a partner at the Vorys, Sater, Seymour and Pease LLP law firm. I am Chairperson of the Toxic Tort Group and the Product Liability Group at Vorys. As part of my legal practice, I have defended asbestos litigation in Ohio and across the country both as trial counsel and as national counsel for certain defendants. I currently am one of the Liaison Counsel for Defendants in Cuyahoga County, Ohio, where most of the asbestos lawsuits in Ohio are pending. I have had the privilege since the 1990s to testify in Ohio and other states on tort, asbestos, and silica reform bills.

I have had the opportunity to review the testimony of each of the proponent witnesses who testified at prior hearings before this committee, and I agree with each of the points they made. I will avoid simply repeating their testimony and focus on a few other points.

First, SB 63 simply requires Plaintiff lawyers to set forth their good faith basis for naming a defendant in an asbestos lawsuit. Some of the Plaintiff lawyers already only name defendants where they have evidence of the defendants' involvement and potential liability in an asbestos case. One example is the McDermott Hickey law firm, which is located in the Cleveland area and which files asbestos related cases in Ohio. The complaints filed by that firm normally only name a few defendants, and those defendants are normally selected based upon evidence that their asbestos containing products were used by or around the plaintiff. This shows that SB 63's primary goal of eliminating "over naming" of defendants is achievable.

Unfortunately, other law firms in Ohio engage in the practice of "over-naming" defendants when they file asbestos lawsuits. Certain defendants find themselves named in almost every asbestos case even though the plaintiff's work history or exposure history do not support naming those defendants. Once a defendant's name is in the computer, that name will be included in almost every asbestos suit filed. This "word processor" practice of law hurts the courts, the defendants, and even the plaintiffs.

How does over naming harm the courts? First, the Clerk's office has to use its limited staff to serve all named defendants and to update dockets. Next, the judges' staff must coordinate among all parties and field calls from the parties. When dozens of uninvolved defendants are named in a case, the workload of our courts is greatly increased. Finally, our judges are required to rule on discovery disputes, dispositive motions, and other matters as the uninvolved defendants seek to exit these lawsuits. This is simply a waste of taxpayer resources.

I am not going to repeat the prior testimony you have heard about how defendants are harmed by over naming. I do want to emphasize, however, that litigation costs are enormous for defendants sued without proof that their products caused exposure to an asbestos plaintiff. When you multiply those costs over thousands of cases filed throughout the United States, the costs can be devastating to

companies. This leads to lost jobs, to reduced investment in businesses, and, unfortunately in some cases, to bankruptcy filings.

Finally, over naming of defendants harms plaintiffs. Improper naming of asbestos defendants means delays in getting cases ready for trial, delays in settlements, and the exhaustion of funds that can be used to resolve claims. In many instances, plaintiffs see their recoveries reduced since they are responsible for paying court costs associated with the over named defendants. Furthermore, the over naming of defendants also significantly increases the time for plaintiff depositions to be completed, which is a direct physical burden on a sick plaintiff.

A number of states have passed over naming laws since 2020 including Iowa, Tennessee, North Dakota, Utah, Arizona, and West Virginia. Ohio now has the opportunity to join those states, and to further the tort and asbestos reforms where Ohio has long been a national leader.

S.B. 63 simply requires asbestos plaintiffs to disclose the evidence at the outset of the case that provides the basis for the claim asserted against each defendant. This is information that the plaintiffs should have before they ever make a claim against a defendant. As I noted above, certain plaintiff firms already do this, so there is no basis for the position that the requirements of SB 63 are unreasonable.

Conclusion

I support the enactment of S.B. 63. I am happy to answer any questions you may have.

