

Testimony of

The Honorable George V. Voinovich

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Thank you, Mr. Chairman. I want to thank you and Senator Leahy for holding this hearing and allowing me to testify. I want to preface my remarks by saying that I have great concerns for victims of asbestos exposure. To those families who have lost loved ones or who have to live with debilitating illness caused by asbestos, I offer my deepest sympathies. You are at the forefront of my mind as I discuss the issue of asbestos liability, because I want to be sure that the solution we craft is one that will ensure that the truly sick are allowed fair compensation for their injuries.

I think, Mr. Chairman, most people would agree that the issue of asbestos litigation is presenting a crisis in our country. With over fifty companies already in bankruptcy and a slew of bankruptcies soon to follow, the United States Supreme Court had it right when they called this an "elephantine mess." What people need to understand, though, is that this mess has far-reaching effects and the ripples are being felt way beyond the corporate boardroom.

Corporate bankruptcies affect victims' compensation so that asbestos victims, individuals who are truly sick, only receive pennies on the dollar. Employees of bankrupt companies suffer as well as they watch their jobs disappear and their pensions and 401K plans decrease dramatically. Take the case of Federal Mogul, a company that employs over 1200 people in six cities throughout Ohio. Employees held 16% of the company's stock, and then watched as that stock lost 99% of its value. Not only current employees, but also retirees are feeling the effects of these bankruptcies. Many retirees depend on company stock and dividends for income - when this value heads south, retirees feel it immediately.

Now, Ohio is a manufacturing state. Our manufacturers are the backbone of our economy. Unfortunately, we also have a lot of companies facing asbestos liability. One of them, Owens Corning, is headquartered in Toledo and went bankrupt in 2000. In the two years preceding this bankruptcy, the stock lost 97% of its value -- 14% of the stock was owned by company employees. Now, Owens Corning has been making a come back and actually saw their sales rise to \$4.9 billion in 2002. However, accounting charges to cover their asbestos liability expenses contributed to what may be the Toledo firm's biggest loss ever when last month, it had to report a \$2.8 billion loss for the year. And their biggest factor in the loss? A \$2.4 billion charge taken in the third quarter to reflect rising estimates of its asbestos liability over the next 50 years.

Another Ohio company recently spoke to me, off the record, about its growing asbestos liability. When this company announced that it had limited asbestos liability, the stock dropped by about 20% and its debt rating was lowered. This began a chain reaction ripple effect, which included the loss of over one hundred jobs, the sale of assets, a 50% cut in capital investments, and a huge cut in the amount of contributions to the surrounding community. Not to mention the employees

of this company, who own a significant portion of the stock and are now watching their savings plan dwindle.

As I've said before, companies like this one make up the backbone of Ohio's economy. They don't want to shirk their responsibility to those victims who have or will become truly sick because of asbestos exposure. They just want to know that they are compensating those individuals who need it and not lining the pockets of personal injury lawyers and their unimpaired plaintiffs.

And what I am hearing from my Ohio companies is that they support taking the medical criteria approach advocated by the American Bar Association. As you probably know, in coming to this decision, the ABA formed a commission chaired by Judge Nathaniel Jones and including eleven members of the legal community, representing the plaintiff, defense and corporate bars. The Commission heard extensive medical testimony from the nation's leading physicians in the area of pulmonary function. And the ABA's end result, one that I support, is one that prevents resources from being misdirected because of a flood of premature claims, that helps companies avoid bankruptcy, and most importantly of all, that protects the rights of victims who suffer from a serious or functionally impairing asbestos-related disease.

The asbestos crisis is ripping through our economy, leaving the truly injured behind and without compensation. We really need to do something about it. If we let this go, if we do nothing, no stimulus package will be able to undo the damage.

Again, Mr. Chairman, I thank you very much for allowing me to sit in on this hearing.