

Testimony of

The Honorable Russ Feingold

June 19, 2003

Statement of U.S. Senator Russ Feingold
At the Senate Judiciary Committee Markup of Asbestos Litigation

June 19, 2003

Mr. Chairman, this asbestos issue is almost unique in my experience in the Senate. I have rarely heard such passion on a business issue. People are truly terrified of what asbestos liability has done or might do to their companies, the jobs and retirement plans of their workers, and the economy as a whole. There is real passion on this issue. And a real need for a solution. We owe these companies and all those who work for them our best efforts to help them.

At the same time, the victims of diseases caused by asbestos have truly heart wrenching stories. A brave Fort Atkinson, Wisconsin family suffering from the devastating effects of mesothelioma contacted me about their situation. Christopher Stoeckler is an airline mechanic, known affectionately by his friends and family as 'Gopher.' He began to experience pain in his abdomen in 1999, and later developed a chronic cough. After a series of hospital visits, two years of tests and examinations by countless doctors, Chris underwent video-assisted thoracoscopy and a biopsy in December 2001. Two weeks later, on New Years Eve, Chris was diagnosed with malignant mesothelioma. He was told that there were no treatment options, and that he should take a family vacation, relax, and enjoy his remaining months on this earth.

Chris has continued to work throughout his illness and treatment. The family is unable to survive without his income. His wife Wendy worries about life for her daughter Taylor after Chris is gone, which, according to his prognosis, will likely occur within a year.

Last Friday, Chris and Wendy returned to the hospital for a visit to examine a severe pain in yet another part of his abdomen. They were told that the mesothelioma had spread again and was thickening. Mesothelioma is a relentless and horrible disease, and 70 to 80 percent of all known cases are caused by asbestos.

Mr. Chairman, we have a duty to families like the Stoecklers and everyone else whose lives have been shattered by asbestos-related disease. They are more than just numbers on a spreadsheet. They are real living, breathing people with hopes and dreams who deserve our support and our help.

What is really unique about this issue, however, is not the heartwrenching stories of the victims, or the passion of the companies facing economic ruin or at least decades of legal expenses and claims. It is the fact that virtually everyone wants to find a solution. There are bills that affect our civil liability system that have gone through this committee that I truly do not want to pass the Senate or be enacted into law. That just isn't the case with this bill. I agree with the goal of this bill - to set up a trust fund that will compensate victims adequately and promptly and protect businesses from the costs of endless litigation. The issue here is not the goal, it's the means. It's the details of the bill, of the system that we are trying to set up.

On that score, Mr. Chairman, the bill we are marking up today falls far short of what I could vote for. We haven't addressed the medical criteria issues in a fair way. We haven't dealt with the financial issues - the adequacy of the Fund in the short term to handle the hundreds of thousands of claims that will come into this system immediately, and in the long term to handle claims that we can only guess at right now. We haven't addressed the size of the awards for different kinds of disease in a way that is satisfactory.

These issues, along with the myriad technical details of the Fund are really not suitable to be handled in a markup through discreet amendments. The complicated questions at issue here need further negotiations. I commend you for the work you have done and especially for focusing everyone's attention on this bill and keeping the parties' feet to

the fire, but at this point, I don't think the pressure is helping. I have been told that in some ways the bill has gotten worse, not better, in the past few weeks in the area of medical criteria. We really need some calm and good faith efforts to reach agreement, or all the work that has been done so far will come to nothing.

I really do want to vote for a asbestos reform bill in the end, Mr. Chairman, and I want to be helpful in bringing about an agreement that everyone can be proud of. So I hope that further discussions can continue without artificial deadlines that will bring us closer to consensus than we are now.

Thank you Mr. Chairman.

#