

At A Glance

Asbestos Liability and Valuation

Overview

For over 20 years, experts in NERA's Product Liability and Mass Torts Practice have provided high-caliber analysis of a wide range of issues related to asbestos litigation. More than 80 defendants or their insurers have turned to NERA experts to address complex problems of assessment and valuation of asbestos liability claims. Our experts bring together relevant disciplines—including economics, statistics, accounting, epidemiological modeling, computer programming, and insurance modeling—to assist clients in a variety of contexts:

- Valuing liabilities related to commercial damages or other litigation
- Projecting liabilities to establish or assess reserves
- Forecasting potential liability for insurance buy-backs
- Valuing bankruptcy trusts and setting payout percentages
- Informing merger due diligence
- Developing claims databases
- Tracking litigation trends

NERA experts have in-depth knowledge of asbestos litigation trends around the country. Through our work compiling and maintaining a database of companies' asbestos-related liabilities, as reported in public 10-K filings, NERA experts publish an annual report of industry-wide litigation trends. In connection with analysis for individual defendants, NERA experts review claimant-level data, enabling us to track changes in litigation affecting particular types of claims or certain jurisdictions. Our knowledge

of macro- and micro-level trends in the litigation informs our work for clients in a number of different industries, including:

- Automotive
- Building products, including drywall, insulation, and roofing products
- Boiler and heating systems manufacturing
- Chemical manufacturing
- Mining
- Paper manufacturing
- Pharmaceuticals
- Pump and compressor manufacturing
- Railroads
- Ships
- Utilities

Key Areas of Expertise

Claims Forecasting

Combining scientific analysis with behavioral economics, NERA experts have developed rigorous models to forecast asbestos liabilities. To forecast future claims filings, we estimate the size of the population potentially exposed to a company's product; predict incidence of asbestos-related diseases; and project the number of claims that will be filed from the occupationally-exposed population. We analyze patterns of historical settlement values, including the fraction of claims closed without



payment; use statistical analysis to extrapolate forward settlement values; and price future claims. Our approach allows us to incorporate factors that may affect trends in filings, dismissal rates, and average settlement costs. These factors may include e.g., disease alleged, age of claimant, jurisdiction, plaintiffs' law firm, and tort reforms or other changes in the litigation environment. Among other applications, we use such forecasts to help companies establish reserves, and we frequently discuss the results with the companies' auditors.

Insurance Valuation and Allocation

NERA experts also have experience analyzing the insurance coverage for asbestos liabilities and allocating past and projected future claim costs to available coverage. Depending on the parameters of the insurance coverage (e.g., relevant aggregate or per occurrence limits, the existence of deductibles or self-insurance retention limits, or whether the policies specify claims-made or occurrence-based coverage), we build models to allocate both indemnity and defense costs to the available coverage. We can integrate our forecasts with our insurance analyses, to project the future path of consumption of insurance policy limits. We can also assess how alternative forecast assumptions may impact insurance allocations.

M&A Risk and Due Diligence for Future Liability

In connection with potential mergers and acquisitions, NERA experts apply their forecasting knowledge to assess a company's exposure to asbestos liabilities (calculating a best estimate and upper and lower bounds). Our assessment may be informed by our review of claims data for other companies with exposure in a similar industry or region, as well as our knowledge of general trends in asbestos litigation. We also evaluate liability estimates provided either by the firm or by a third party.

Sizing Trusts and Setting Payout Percentage

NERA has worked both for companies in Chapter 11 proceedings as well as for bankruptcy trusts in forecasting the number of claims expected to be filed against a trust in the future. In helping bankruptcy trusts set payout percentages, NERA experts evaluate the number of claims filed against the trust historically and assess how filing patterns and demands may change in the future. In helping companies or insurers estimate the size of the initial bankruptcy trusts, NERA evaluates historical claims and assesses whether they would meet the proposed payout criteria. In doing so, NERA has experience coding and evaluating claimant supporting documents.

Coding Claims Data

NERA has worked for companies and insurers in assessing the information provided by claimants to support their claims of an asbestos-related disease. NERA experts have mastered all aspects of managing and triaging documents, capturing data, and organizing information from claims files to generate electronic claims databases. We set up file systems to manage claims files; develop coding protocols to capture the information required for claims resolution and analysis; and develop and implement checks on the process to ensure accuracy and avoid bias. After building an electronic claims database, NERA analyzes the information provided to assess, e.g., occupational work history, sources and years of alleged exposure, other defendants named, and historical settlements, among other metrics. NERA has used this analysis to help clients evaluate insurance allocations and asbestos liability forecasts.

About NERA

NERA Economic Consulting (www.nera.com) is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For over half a century, NERA's economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world's leading law firms and corporations. With its main office in New York City, NERA serves clients from more than 25 offices across North America, Europe, and Asia Pacific.

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