

Testimony of

Ms. Flora Green

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The Seniors Coalition

S. 3274, "Fairness in Asbestos Injury Resolution Act of 2006"

Before the
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Committee on the Judiciary
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On behalf of our more than 4 million members of The Seniors Coalition across the country, I would like to thank the members of the Judiciary Committee for this opportunity to testify in support of S. 3274, the Fairness in Asbestos Injury Resolution Act of 2006 (the FAIR Act). The Seniors Coalition is the nation's leading free-market senior education and advocacy organization. We are a non-partisan, non-profit 501(c)(4) organization. I would also like to thank Chairman Specter and Senator Leahy for their unflagging commitment to enacting bipartisan national asbestos litigation reform legislation.

Some may wonder why The Seniors Coalition has chosen to advocate on behalf of the asbestos trust fund legislation. I am here to tell you today that the current asbestos litigation crisis is a seniors' issue. And finding a solution to this seemingly intractable problem is a priority for seniors.

The simple fact is that many of today's asbestos victims are senior citizens. These men and women made up our nation's work force and military at a time when asbestos was commonly used in manufacturing, residential and commercial construction and in many, many other ways. Because of the long latency periods associated with asbestos-related diseases, many victims are not diagnosed until they are seniors, long after the time of their harmful exposure.

Seniors who worked during the World War II era up until the 1970's, when asbestos was still widely in use, are even today still being diagnosed with asbestos-related illnesses. Countless victims had no idea they were being exposed to asbestos until long after the fact.

As the members of this committee are well aware, a flood of asbestos claims has overwhelmed the courts, jeopardizing all victims' prospects for compensation. Over 730,000 individuals have brought claims, and as many as 300,000 claims are currently pending in the courts. Even though large-dose exposures to asbestos ended in the 1970s, and reports indicate that asbestos disease incidence is on the decline, claim filings continue and have even surged over the past decade.

Because the courts are overrun with claims, seriously ill asbestos victims often have to wait years for a court date; many die without ever seeing the inside of a court room or a penny of compensation.

The lengthy delays that are built into today's broken system are particularly harmful for seniors, who don't have the time to wait.

Victims who finally get compensation through the courts often receive only a small portion of the actual money expended on asbestos litigation in the current system - the rest is consumed by exorbitant and wasteful transaction costs. Much of the growth in asbestos claims can be attributed to for-profit mass screening programs conducted under dubious medical standards. The result is a massive influx of claims by unimpaired claimants that exhausts resources that could otherwise be used to compensate genuinely ill individuals.

The sheer volume of claims, both legitimate and questionable, and the resulting liability have forced at least 75 U.S. companies into bankruptcy. And asbestos bankruptcies hurt all victims, including seniors.

For starters, bankruptcies hurt the sick because they diminish the compensation available for sick victims and result in long delays in compensation becoming available to victims. When companies file for bankruptcy, victims often face years and years of delay before being compensated only pennies on the dollar, or nothing at all. Again, this is time that seniors simply don't have.

Asbestos-related bankruptcies also harm American seniors who aren't sick. Workers at many bankrupt companies have seen their retirements devastated as the value of their 401(k)s collapse along with their companies' stock prices. These bankruptcies and resulting stock losses make it even harder for seniors, especially those living on fixed incomes, to support themselves in their retirement years.

The FAIR Act's trust fund approach is the only solution to the asbestos litigation crisis that will ensure fair and timely compensation for victims and certainty and finality for businesses, workers, retirees and the U.S. economy.

The Fund's streamlined, administrative system will process claims efficiently and fairly, with clear eligibility requirements and fair award amounts based on clearly defined criteria that will ensure that funds will only be directed to those claimants who are truly ill due to asbestos. Moreover, the legislation provides for an accelerated start-up of the Fund, which will ensure it will be established and processing and paying claims quickly.

The FAIR Act will eliminate the fraud found in today's system by taking asbestos claims out of the courts and setting up a no-fault, privately funded victims' compensation fund. Claimants would no longer need to hire an attorney to obtain compensation. By removing the financial incentives for attorneys and unscrupulous doctors to game the system, the FAIR Act will ensure that the money will end up where it rightfully belongs - in the pockets of sick asbestos victims.

The Seniors Coalition applauds the recent improvements in the revised bill, S. 3274. Specifically, we are pleased to see that provisions have been added to protect the World Trade Center and Hurricane Katrina and Rita victims who were exposed to asbestos and that stronger medical criteria are now in place to make sure that only the truly impaired will be compensated. We welcome administrative changes aimed at ensuring that the sickest will be compensated first, and also, changes that will ensure veterans who are sick from asbestos exposure that occurred during their military service will have access to the Fund. As you know, veterans currently have limited avenues for seeking meaningful compensation in today's system.

Finally, the new and improved bill includes significant safeguards to ensure that in the unlikely scenario that the Fund should run out of money, the burden will not fall on the backs of the U.S. government and the taxpayers.

Too much time has gone by without a solution to this pressing national problem. For the sake of victims, and especially for senior victims, it is critical that this bill be passed this year.

When the prior version of the FAIR Act was on the floor earlier this year, it was regrettably stymied by opponents who used procedural maneuvers to prevent a full debate on the bill. Clearly, given what's at stake here, the Senate should have an opportunity to fully debate this important bill on its merits.

We are confident that with your leadership, this new version of the asbestos victims' trust fund legislation, S. 3274, can be brought to the Senate floor for the up-or-down vote it deserves. Be assured that our members stand ready to help in any way we can to help see that asbestos victims finally get the relief they desperately need.

