

Be Certain.

KCIC



ASBESTOS LITIGATION: 2018 YEAR IN REVIEW

KCIC Industry Report

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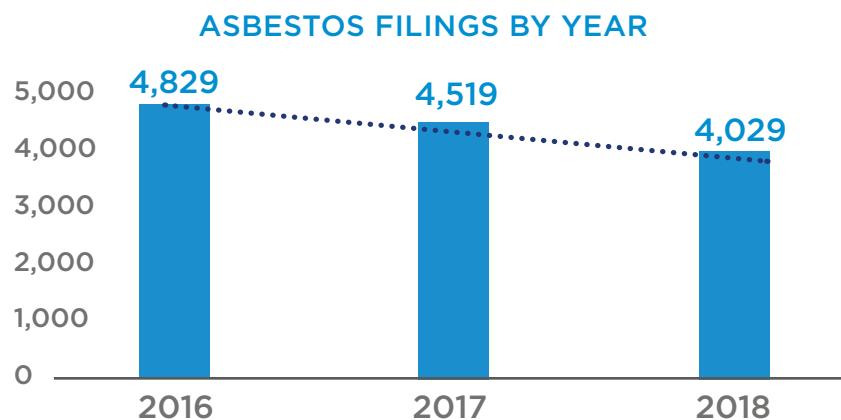
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INTRODUCTION

The analysis and observations discussed in this report are based on asbestos complaint filing data that KCIC received and processed through January 31, 2019, for 2018 and previous years. The year referenced in the report is based on the year in which the complaint was filed in court, regardless of when any individual defendant was served or when KCIC received the complaint. As noted in previous reports, the average lag time between the complaint filing and service or receipt by KCIC is about one month. While filings statistics for 2018 will likely evolve as more are received, these are the trends that are notable at this point in the year. There is no national register for asbestos complaints, however, KCIC estimates that the data include over 90% of all asbestos lawsuits filed nationwide. This year's report includes asbestos claim filing trends, an update on the effects of personal jurisdiction and bankruptcy trust transparency legislation, as well as statistics regarding talc-related lawsuits. It also includes an analysis of observed filing patterns compared to historical asbestos projections.

FILINGS OVERVIEW

For 2018, the data show a downward trend in filings. At the time of this report, overall asbestos filings are down about 11% from 2017 and 17% from the 2016 total. At this point last year, 2017 filings were down 8% from 2016 (versus 6% today). Following that trend, one can expect the decline to become less pronounced as 2018 filings continue to come in.



While all disease types are showing lower filings, the largest decreases are in non-malignant and other cancer filings, which are down about 40% and 31%, respectively, compared to 2017. These are much larger decreases than occurred last year for these two disease types. Similarly, mesothelioma filings also decreased, but only by about 6% in 2018. This is also a larger decrease for this disease than has been seen in prior years (5% decrease between 2016 and 2017). Lung cancer filings have decreased the least in 2018 (about a 2% decline) — the only disease category where the percentage change year over year has become less pronounced (-8% between 2016 and 2017 compared to -2% between 2017 and 2018).

ANNUAL ASBESTOS FILINGS BY DISEASE

Disease	2016 Filings	2017 Filings	2018 Filings	% Change
Mesothelioma	2,326	2,225	2,087	-6.2%
Lung Cancer	1,221	1,123	1,098	-2.2%
Other Cancer	152	136	94	-30.9%
Non-Malignant	756	691	415	-39.9%
Unknown	374	344	335	-2.6%
Grand Total	4,829	4,519	4,029	-10.8%

JURISDICTION OVERVIEW

The top jurisdictions for 2018 are not surprising; they have stayed consistent year over year. For 2018, however, many of the main venues saw major decreases in filings. For instance, Wayne County, Mich., and Baltimore City, Md. — historically sources of many non-malignant filings — saw decreases of about 47% and 45% respectively, and Middlesex, Mass., experienced a 41% decline. Also of note, Newport News, Va., another jurisdiction known for non-malignant claims, had 81% fewer filings in 2018 and is no longer a top jurisdiction. This location went from being the 9th ranked jurisdiction in 2016, to 14th in 2017, to 33rd in 2018. The only notable increase occurred in St. Clair County, Ill., where filings continued to climb from 207 in 2017 to 268 in 2018 (30% increase). Most of the increase is attributable to a 35% increase in lung cancer filings by the Gori Julian firm in this locale. Madison County, Ill., remains the epicenter for asbestos litigation, with only a slight decrease of 3% over the past year.

TOP 15 JURISDICTIONS BY TOTAL 2018 FILING COUNT

Jurisdiction	2016 Filings	2016 Rank	2017 Filings	2017 Rank	2018 Filings	2018 Rank	% Change
Madison County, IL	1,305	1	1,129	1	1,091	1	-3.4%
New York, NY	373	3	356	3	347	2	-2.5%
Baltimore City, MD	548	2	496	2	272	3	-45.2%
St. Clair County, IL	69	14	207	5	268	4	29.5%
Philadelphia, PA	246	5	263	4	215	5	-18.3%
St. Louis, MO	315	4	188	7	181	6	-3.7%
Cook County, IL	143	8	164	8	169	7	3.0%
Wayne County, MI	190	12	198	12	106	8	-46.5%
Middlesex, NJ	88	6	103	6	102	9	-1.0%
Los Angeles, CA	102	10	102	11	101	10	-1.0%
Kanawha, WV	98	11	124	10	99	11	-20.2%
New Castle, DE	144	7	131	9	99	11	-24.4%
Allegheny, PA	77	13	56	16	60	13	7.1%
Orleans, LA	51	16	50	18	54	14	8.0%
Middlesex, MA	64	15	90	13	53	15	-41.1%
Total (Top 15)	3,813		3,657		3,217		-12.0%
Total (All)	4,829		4,519		4,029		-10.8%

There continues to be a large concentration of filings in Madison County and the other top jurisdictions. **Madison County makes up 27% of all 2018 filings, an increase in the concentration compared to last year that stands in contrast to the overall decrease in concentration of the top 15 jurisdictions.** The top 15 jurisdictions (out of the 143 jurisdictions with filings in 2018) made up 80% of filings in 2018 versus 81% in 2017.

2017 JURISDICTIONAL CONCENTRATION



- MADISON COUNTY, IL
- OTHER TOP 15 JURISDICTIONS
- ALL OTHER JURISDICTIONS

2018 JURISDICTIONAL CONCENTRATION

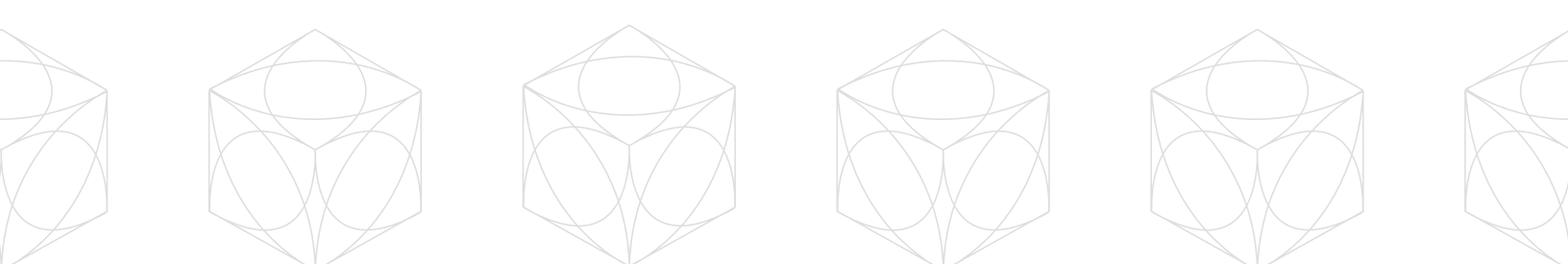


- MADISON COUNTY, IL
- OTHER TOP 15 JURISDICTIONS
- ALL OTHER JURISDICTIONS

PLAINTIFF FIRM TRENDS

Plaintiff firm filing trends in 2018 tracked similarly to the disease and jurisdictional trends observed. Many firms saw a significant decrease in filings: The Law Offices of Peter G. Angelos decreased by 38%, corresponding closely to the major decrease noted in Baltimore City, Md. filings. The Napoli Shkolnik firm continued to substantially decrease its filing activity, going from 86 filings in 2017 to only 45 in 2018 by cutting filings in Madison County, Ill., New Castle, Del., and St. Louis, Mo., almost in half. The observed decrease in Michigan filings corresponds to the firms Mazur & Kittel and Michael B. Serling, whose filings decreased by 36% and 48% respectively, due to decreasing filings in Saginaw, Monroe, and Wayne County, Mich. It is also worth noting that many of the jurisdictions and plaintiff firms seeing major decreases — such as Angelos’s firm in Baltimore and the Michigan jurisdictions — have been historical hot spots for non-malignant claims, which decreased significantly in 2018.

Not all plaintiff firms experienced decreases in filing activity. SWMW Law increased its filings by 61% in 2018. This firm is mainly filing in Illinois, with a 7% increase in Madison County. However, the largest increase occurred in St. Louis, where SWMW filings increased from 27 in 2017 to 81 in 2018. Belluck & Fox also saw a 42% increase in filings, with heavier activity in various New York jurisdictions as well as in Middlesex, N.J.



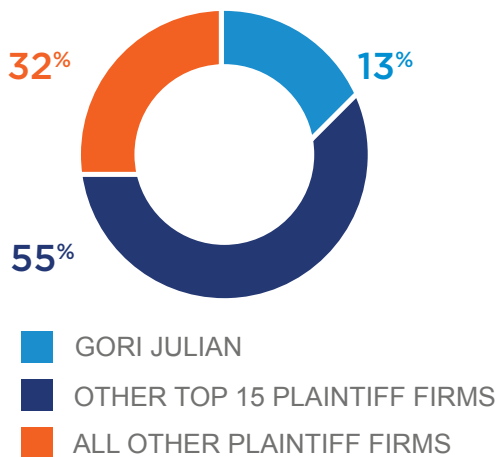
TOP 15 PLAINTIFF FIRMS BY TOTAL 2018 FILING COUNT

Plaintiff Firm	2016 Filings	2016 Rank	2017 Filings	2017 Rank	2018 Filings	2018 Rank	% Change
Gori Julian & Associates, PC	544	2	589	1	574	1	-2.5%
Weitz & Luxenberg, PC	436	4	451	3	440	2	-2.4%
Simmons Hanly Conroy, LLC	505	3	381	4	412	3	8.1%
Law Offices of Peter G. Angelos, PC	555	1	467	2	289	4	-38.1%
Maune Raichle Hartley French & Mudd, LLC	245	5	253	5	268	5	5.9%
Cooney & Conway	176	7	211	6	224	6	6.2%
SWMW Law, LLC	121	9	104	8	167	7	60.6%
Goldberg Persky & White, PC	201	6	148	7	145	8	-2.0%
Belluck & Fox, LLP	69	15	64	12	91	9	42.2%
Brayton Purcell	40	26	62	14	60	10	-3.2%
Shrader & Associates, LLP	79	11	59	15	52	11	-11.9%
Brookman Rosenberg Brown & Sandler	47	20	48	19	49	12	2.1%
Flint Law Firm, LLC	72	14	52	17	49	12	-5.8%
Motley Rice, LLC	50	17	51	18	47	14	-7.8%
Napoli Shkolnik, PLLC	127	8	86	9	45	15	-47.7%
Mazur & Kittel, PLLC	73	13	70	11	45	15	-35.7%
Total (Top 15)	3,340		3,096		2,957		-4.5%
Total (All)	4,829		4,519		4,029		-10.8%

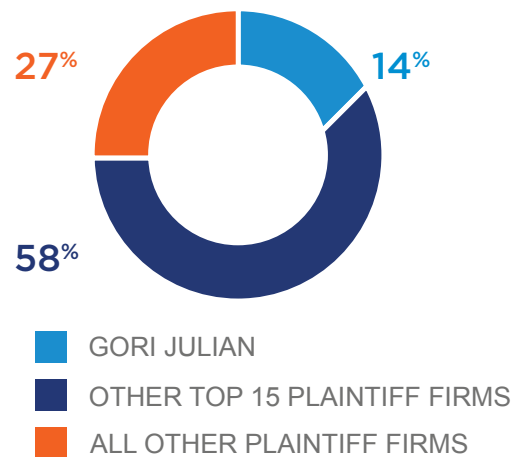
Gori Julian maintained its place as the top filer for 2018 with only a slight decrease in filings over last year.

The firm still makes up about 14% of all filings, with Weitz & Luxenberg contributing another 11%. Filings for the top 15 plaintiff firms decreased much less than overall filings from last year (5% vs. 11%). All combined, the top 15 plaintiff firms (out of 160 firms that filed asbestos complaints) account for 73% of total 2018 filings, an increase in concentration compared to last year.

2017 PLAINTIFF FIRM CONCENTRATION



2018 PLAINTIFF FIRM CONCENTRATION



MESOTHELIOMA FOCUS

In 2018, mesothelioma filings decreased 6% compared to 2017. This is a slightly more significant decrease than has occurred in prior years. Mesothelioma lawsuits naming only cosmetic talc exposures are excluded from this analysis and are, perhaps, a contributing factor. Otherwise, many of the trends in mesothelioma filings have remained consistent in 2018. The top 10 jurisdictions for these filings have remained the same from last year, with Madison County, Ill., still at the top of the list. Only two of the top 10 jurisdictions — Los Angeles, Calif., and Middlesex, N.J. — saw an increase in filings, with both increasing by 1%. All other jurisdictions in the top 10 saw a decrease compared to 2017, though these locations, combined, decreased less than mesothelioma filings nationwide.

TOP 10 MESOTHELIOMA JURISDICTIONS BY 2018 FILING COUNT

Top 10 Jurisdictions 2018	2016	2017	2018	% Change
Madison County, IL	1,083	1,018	989	-2.8%
Cook County, IL	94	109	107	-1.8%
Philadelphia, PA	97	128	101	-21.1%
Los Angeles, CA	91	84	85	1.2%
Middlesex, NJ	56	79	80	1.3%
New York, NY	93	77	74	-3.9%
St. Louis, MO	121	62	52	-16.1%
New Castle, DE	60	63	49	-22.2%
Alameda, CA	42	51	43	-15.7%
Middlesex, MA	35	45	38	-15.6%
Subtotal of Top 10 Mesothelioma Jurisdictions 2018	1,772	1,716	1,618	-5.7%
Mesothelioma Grand Total of All Jurisdictions	2,326	2,225	2,087	-6.2%

When looking at mesothelioma filings by plaintiff firm, the top firms are generally the same as in previous years, though activity has shifted somewhat. For instance, Simmons Hanly Conroy increased its mesothelioma filings by 15% in 2018, exceeding the number of filings by Gori Julian. Firms such as Belluck & Fox, Maune Raichle Hartley French & Mudd, and Cooney & Conway also increased their mesothelioma filings in 2018. Overall, mesothelioma filings of the top 10 plaintiff firms actually increased almost 2% over 2018, even though mesothelioma filings nationwide are down.

TOP 10 MESOTHELIOMA PLAINTIFF FIRMS BY 2018 FILING COUNT

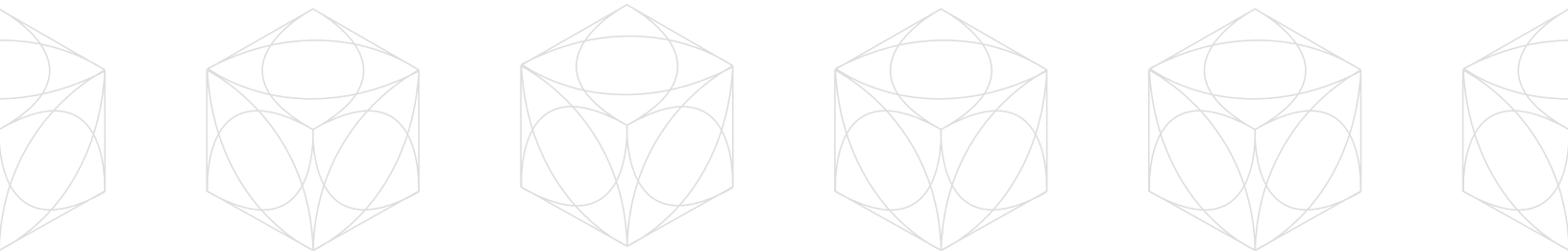
Top 10 Plaintiff Firms 2018	2016 Filings	2017 Filings	2018 Filings	% Change
Simmons Hanly Conroy, LLC	377	326	375	15.0%
Gori Julian & Associates, PC	328	330	288	-12.7%
Maune Raichle Hartley French & Mudd, LLC	245	253	267	5.5%
Cooney & Conway	128	157	166	5.7%
Weitz & Luxenberg, PC	119	144	144	0.0%
Belluck & Fox, LLP	58	50	63	26.0%
SWMW Law, LLC	96	60	56	-6.7%
Shrader & Associates, LLP	76	58	51	-12.1%
Waters Kraus & Paul, LLP	24	32	32	0.0%
Early Lucarelli Sweeney & Meisenkothen	34	38	30	-21.1%
Subtotal of Top 10 Mesothelioma Plaintiff Firms 2018	1,485	1,448	1,472	1.7%
Grand Total of All Mesothelioma Claims	2,326	2,225	2,087	-6.2%

LUNG CANCER FOCUS

Lung cancer filings nationwide decreased 2% in 2018. In the top 10 jurisdictions where lung cancer cases were filed in 2018, the total for these locations also decreased by 2%. While many jurisdictions saw significant decreases in lung cancer filings, others trended upward. Most significant were the decreases in Kanawha, W.Va., Wayne County, Mich., and New Castle, Del. The most significant increase occurred in St. Clair County, Ill., though it was notably smaller than the increase here between 2016 and 2017.

TOP 10 LUNG CANCER JURISDICTIONS BY 2018 FILING COUNT

Top 10 Jurisdictions 2018	2016	2017	2018	% Change
St. Clair County, IL	58	199	256	28.6%
St. Louis, MO	187	117	123	5.1%
Madison County, IL	213	98	95	-3.1%
Baltimore City, MD	140	98	79	-19.4%
Philadelphia, PA	88	80	74	-7.5%
Kanawha, WV	66	89	61	-31.5%
New Castle, DE	80	61	44	-27.9%
Wayne County, MI	53	61	42	-31.1%
New York, NY	46	34	39	14.7%
Cook County, IL	32	32	39	21.9%
Subtotal of Top 10 Lung Cancer Jurisdictions 2018	963	869	852	-2.0%
Lung Cancer Grand Total of All Jurisdictions	1,221	1,123	1,098	-2.2%



When looking at lung cancer filings by plaintiff firm, however, the activity is more interesting. While overall lung cancer filings decreased, lung cancer filings for the top 10 plaintiff firms actually increased by 9% last year. Firms like Gori Julian, Peter Angelos, and Weitz & Luxenburg had decreases in overall filings but increases in lung cancer filings. Other firms, like SWMW Law and Belluck & Fox, saw large increases in their overall filings that were largely attributable to increased lung cancer filings. SWMW saw the highest percent increase in lung cancer filings among the top plaintiff firms, mainly due to an enormous increase in lung cancer filings in St. Louis, Mo. (from 17 in 2017 to 77 in 2018).

TOP 10 LUNG CANCER PLAINTIFF FIRMS BY 2018 FILING COUNT

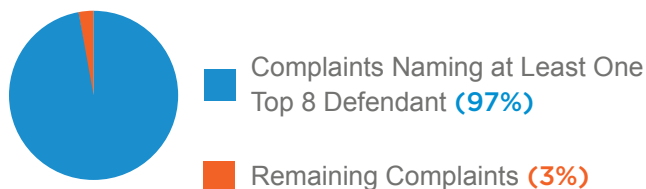
Top 10 Plaintiff Firms 2018	2016 Filings	2017 Filings	2018 Filings	% Change
Gori, Julian & Associates, PC	210	254	282	11.0%
SWMW Law, LLC	25	42	110	161.9%
Law Offices Of Peter G. Angelos, PC	128	74	83	12.2%
Weitz & Luxenburg, PC	74	67	71	6.0%
Napoli Shkolnik, PLLC	116	75	39	-48.0%
Goldberg, Persky & White, PC	38	47	38	-19.1%
Cooney & Conway	31	31	36	16.1%
Simmons Hanly Conroy	122	47	34	-27.7%
Belluck & Fox, LLP	11	14	25	78.6%
Flint Law Firm, LLC	10	32	25	-21.9%
Subtotal of Top 10 Lung Cancer Plaintiff Firms 2018	765	683	743	8.8%
Grand Total of All Lung Cancer Claims	1,221	1,123	1,098	-2.2%

DEFENDANT COMPANY NAMINGS ANALYSIS

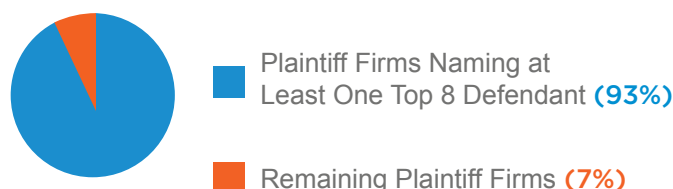
The average number of defendant company entity namings per complaint remained fairly consistent with past years. The number has fallen only slightly from 67 in 2016, 66 in 2017, to 64 in 2018. In general, lung cancer and non-malignant lawsuits tend to name more than this average, while mesothelioma plaintiffs name slightly fewer than average. The most frequently named defendant was named by more than 80% of plaintiff firms filing in 2018.

There are currently eight defendants (based on final successor namings) that are named on more than 50% of 2018 complaints. At least one of these eight is named on 97% of all 2018 lawsuits, and at least one has been named by 93% of all plaintiff firms filing. In fact, only 11 plaintiff firms did not name one of these eight defendants last year. These firms had fewer lawsuits and tended to name far fewer than average defendants.

COMPLAINTS NAMING 2018 TOP 8 DEFENDANTS



PLAINTIFF FIRMS NAMING 2018 TOP 8 DEFENDANTS



PERSONAL JURISDICTION UPDATE

Throughout 2018, KCIC has continued to monitor the effects of personal jurisdiction rulings on where cases may be filed. One metric to measure this is a comparison of a plaintiff's state of residency with the state in which their lawsuit is filed. For complaints with residency information available, the percentage of resident filings remained fairly constant in 2018, only decreasing slightly between 2017 to 2018, from about 50% to approximately 47%. By this metric, there has not been much change, so far, in venues chosen for filing.

2018 ILLINOIS FILINGS BY STATE OF PLAINTIFF RESIDENCY

Residents of certain states (e.g. Illinois, Maryland, and New York) tend to file in-state more often than residents of other states. There are also many states (e.g. Florida, Texas, and Arkansas) where the vast majority of plaintiffs file out of state. If you look at all non-resident filings across the country, 61% were filed in Illinois — the most popular venue for tourist filings. Specifically, only 7% of 2018 complaints filed in Illinois were by Illinois residents, even though almost all plaintiffs residing in Illinois also file there. The remaining 93% of filings in Illinois were by non-residents.

State of Residency	Percent
Texas	7.2%
Illinois	6.7%
Florida	6.6%
Ohio	6.2%
All Other Resident States	73.3%

2018 GORI JULIAN FILINGS BY STATE OF PLAINTIFF RESIDENCY

Looking at Gori Julian's filings, there is a similar trend. While the firm filed claims in nine different states, the plaintiffs on these complaints resided in 46 different states. Gori Julian filed 86% of its 2018 lawsuits in Illinois, even though the majority of those plaintiffs do not live there.

State of Residency	Filed in Resident State	Filed in Illinois	Filed Elsewhere (Non-Resident)
Florida	7.5%	70.0%	22.5%
California	3.7%	92.6%	3.7%
Texas	0.0%	92.6%	7.4%
Arkansas	0.0%	92.3%	7.7%
Wisconsin	0.0%	100.0%	0.0%
Illinois	100.0%	100.0%	0.0%
All Other Resident States	9.1%	85.9%	5.0%

2018 SIMMONS HANLY CONROY FILINGS BY STATE OF PLAINTIFF RESIDENCY

For Simmons Hanly Conroy, 80% of complaints were filed in Illinois. Looking at Simmons by state of residency, California plaintiffs tended to file in California (58%) and Illinois plaintiffs overwhelmingly filed in Illinois (96%). In contrast, all of the firm's plaintiffs (100%) residing in Ohio or Michigan filed in Illinois instead of their resident state.

State of Residency	Filed in Resident State	Filed in Illinois	Filed Elsewhere (Non-Resident)
California	58.3%	38.9%	2.8%
Illinois	96.2%	96.2%	3.8%
Texas	0.0%	80.8%	19.2%
Ohio	0.0%	100.0%	0.0%
Florida	20.0%	70.0%	10.0%
Michigan	0.0%	100.0%	0.0%
All Other Resident States	8.5%	82.6%	8.9%

Another metric for looking at the effects of personal jurisdiction rulings is how many plaintiff firms now have cases in states where they have not previously filed. In 2018, Gori Julian continued to expand its filings to new jurisdictions, while its percentage of filings in Illinois or Missouri decreased slightly. When plaintiff firms expand to new venues like this, it is generally by only a small number of lawsuits in the new state.

Another potential new development in relation to personal jurisdiction rulings is the same plaintiff filing multiple lawsuits for the same claim. Generally these lawsuits are in different states and name different defendants based on the location of the filing and where the various defendants do business. Presumably, this is due to plaintiffs being cognizant of personal jurisdiction rulings and taking strides to file in appropriate jurisdictions. While this has not yet become common practice, it could increase the number of individual lawsuits filed, should it become more widespread in the future. KCIC will continue to monitor the data for this activity.

BANKRUPTCY TRUSTS UPDATE

Many of the original asbestos defendants have declared bankruptcy and now pay out claims through post-bankruptcy trusts. Asbestos trust filing statistics show these trusts can receive many times the number of claims filed in the tort system — totaling as many as 18,000 claims per year for certain trusts. Unlike in the tort system, the majority of claims filed with these trusts are non-malignant claims. It is likely that lower evidentiary standards and transactional costs translate into sharply higher volumes of claims for the trusts.

Since the Garlock decision, more attention has been brought to how bankruptcies affect solvent defendants left in the litigation and how plaintiffs are recovering from both the tort system and the trusts. There continues to be ongoing legislation, case management orders, and discovery attempts surrounding the trusts. This year's report includes an update of prior analysis on the effects of bankruptcy trust transparency (BTT) legislation.

A growing number of states have turned their attention to BTT legislation. The purpose of this legislation is to create a more transparent trust claim submission process by requiring plaintiffs to share certain information in the tort system regarding their trust filing history and, sometimes, mandating certain time restrictions for such filings.

Since KCIC's last report, three new states have passed BTT legislation, bringing the total count to 16 states nationwide. The newest states are Kansas, Michigan, and North Carolina.

BTT LEGISLATION SINCE 2017 ASBESTOS REPORT

State	Reference Number	Effective Date
Kansas	House Bill 2457	7/1/2018
North Carolina	Senate Bill 470	6/12/2018
Michigan	House Bill 5456	4/2/2018

Each of these new statutes requires plaintiffs to provide a submission listing all personal injury claims they have made or anticipate making against a trust. They also state that plaintiffs must consent to discovery of trust information, getting it into evidence early in the tort system. Michigan and Kansas also allow courts to sanction plaintiffs that do not comply with all requirements.

Last year's report looked at Ohio, where BTT legislation went into effect in 2013, to see what effect (if any) the legislation may be having on filings. At that time, Ohio filings overall, as well as Ohio mesothelioma filings, had decreased at a higher rate than the national trend since 2013. This trend did continue for mesothelioma filings in 2018 – with Ohio mesothelioma filings decreasing 11% from 2017 to 2018. However, overall Ohio filings decreased 9% in 2018, compared to the 11% decrease in national filings.

For 2018, KCIC took a preliminary look at Michigan, a state with newer legislation but also with a more significant number of filings than other states with BTT legislation. Michigan saw a notable decrease in asbestos filings in 2018. The state as a whole saw 29% fewer filings than in 2017, and Wayne County, a top jurisdiction there, saw a 47% decrease. Further, only 65% of Michigan filings were by residents filing in-state in 2018, compared to 73% in 2017 – indicating that a higher percentage of Michigan plaintiffs chose to file elsewhere last year. While the new BTT legislation is recent and not likely to be the only factor behind these changes in filing patterns, it will be interesting to track how such legislation may affect asbestos litigation in the future.

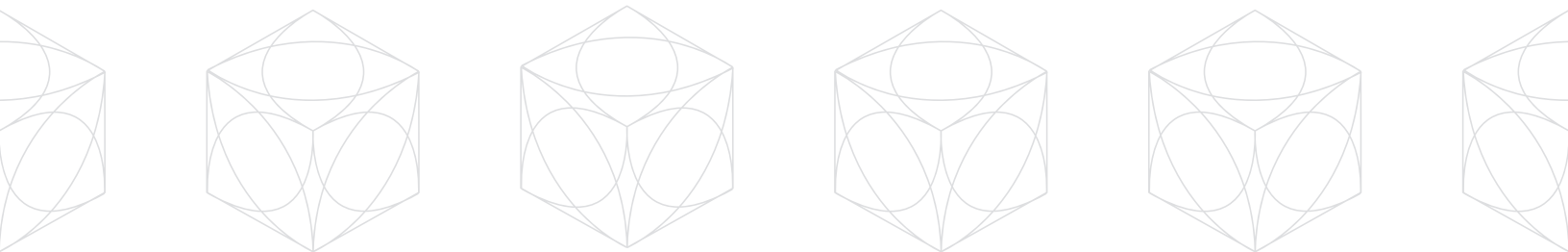
TALC LITIGATION

There have been a number of large, high-profile verdicts in recent years against talc manufacturers (some later overturned on appeal). Because of the amount of publicity surrounding these cases, talc litigation has become a hot topic. Further, because talc use in this country has been so widespread, the potentially exposed population is enormous. This litigation is still relatively new compared to the asbestos litigation that has been ongoing for decades, and there are still many questions regarding the science behind these claims. The question of causation for various disease types, as well as the relationship (if any) between talc and asbestos, is still being researched and adjudicated. Meanwhile, talc-related filings are on the rise — the majority of which are for ovarian cancer and mesothelioma. While many of these cases only allege exposure to cosmetic talc, there is also a growing number of complaints with traditional asbestos exposures, which now include alleged exposure to talc.

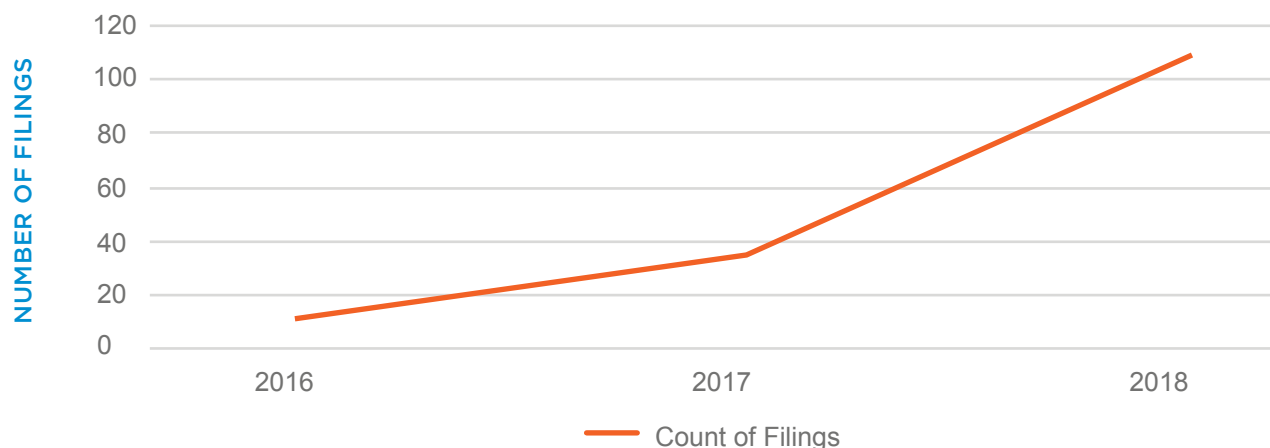
Cosmetic Talc-Only Exposures: The number of cases where the plaintiff only alleges exposure to cosmetic talc is rising. These plaintiffs are generally females alleging ovarian cancer and/or mesothelioma caused by use of cosmetic talc. These cases are particularly high risk to talc defendants because plaintiffs tend to be younger than those in traditional asbestos-related cases, and there are fewer co-defendants participating in the defense.

The ovarian cancer cases are numerous – over 8,000 complaints have been centralized in the New Jersey MDL alone. Generally, these complaints allege that the talc itself led to the ovarian cancer, whereas the mesothelioma and lung cancer complaints have alleged that asbestos within the talc is to blame for the disease. Very recently, certain ovarian cancer cases have alleged the talc contained asbestos, which lead to the ovarian cancer. The incidence of ovarian cancer in the U.S. is significantly higher than that of mesothelioma, so the effect of this argument on the asbestos litigation could be quite extensive. These cases are being aggressively litigated with scientific experts playing a large role; each side has wins and losses and many verdicts are still on appeal.

As stated in the introduction, this report excludes complaints that only name cosmetic talc exposures when reporting on asbestos filings. However, there has been a growing number of mesothelioma plaintiffs alleging talc exposures without alleging traditional or occupational asbestos exposures. These filings have increased over the past years, from 11 in 2016, to 36 in 2017, and 114 in 2018. The majority of these mesothelioma filings (just under 60%) were filed in Middlesex, N.J., and top plaintiff firms include Simon Greenstone Panatier, Levy Konigsberg, and Weitz & Luxenberg.



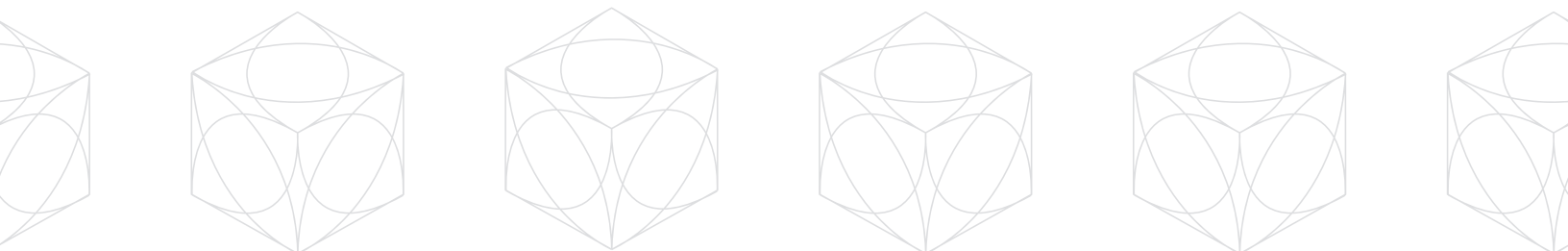
MESOTHELIOMA COSMETIC-TALC FILINGS BY YEAR



A more targeted approach is being taken in cosmetic-talc exposure cases, which name far fewer defendants on each complaint — approximately 15 individual namings per mesothelioma complaint compared to the average 64 namings per asbestos complaint. These defendants are mostly manufacturers or suppliers of talc, but retailers are beginning to be named as well. Because there are fewer defendants, it is easier to focus on and enforce personal jurisdiction rulings from the Bristol Myers Squibb decision. For this reason, many complaints are filed in locations where defendants do business. Other top venues for these lawsuits include the MDL in St. Louis, Mo., and federal courts in New Jersey. In New Jersey, Judge Wolfson issued an order in Civil Action No. 3:16-md-273 8-FLW-LHG allowing for refiling of state court cases in the consolidated federal proceedings, in order to avoid such jurisdictional challenges. Middlesex is also the venue where the \$117 million Lanzo verdict (now on appeal) occurred in April 2018. Afterwards, the volume of this type of mesothelioma filing in Middlesex increased over 140%, from fewer than 30 filings to more than 70.

Asbestos and Talc Combined Exposures: Another type of talc case is an asbestos-related complaint that also includes alleged talc exposure. This has become more frequent as more talc cases are in the news. Between 2017 and 2018, an increase of 68% occurred (from approximately 250 in 2017 to over 400 in 2018). An increase in the number of previously filed asbestos cases getting amended to add allegations of talc exposures has been observed, as well.

These complaints claim non-occupational exposure to talc allegedly containing asbestos, along with other more typical non-talc occupational asbestos-related exposures. Unlike the “cosmetic talc only” complaints, the vast majority of these “asbestos and talc” complaints were filed by the typical asbestos plaintiff firms in the same jurisdictions, such as the Gori Julian firm in Madison County, Ill. In most cases, this type of complaint is a mesothelioma case, though Gori Julian also has lung cancer cases filed in St. Clair County, Ill., and St. Louis. More plaintiffs on these complaints are female than in traditional asbestos complaints, though the lung cancer cases have typically still been male.



FORECAST ANALYSIS

Historically, epidemiology and labor statistics have been used as a model for estimating asbestos personal injury filings. While the models themselves estimate the number of people who will be diagnosed with an asbestos-related disease, such as mesothelioma, they can be used in conjunction with filing data to estimate the number of related personal-injury lawsuits that will be filed in the future. In recent years, it has become evident that the number of people diagnosed with and filing mesothelioma claims is not trailing off at the rate that historic studies predicted.

The mesothelioma incidence rates from the most recent data available from the Surveillance, Epidemiology, and End Results (“SEER”) Program of the National Institute of Health are presented in the following table. These incidence rates are given per 100,000 people and are age-adjusted to the U.S. population in the year 2000. From 2000 through 2015 (the latest year with SEER incidence data available), there has been a slight downward trend in the incidence of mesothelioma by year. When looking at the data, it is clear that this decrease is driven by a decrease in the male mesothelioma incidence, while the female incidence has remained relatively steady.

SEER INCIDENCE RATE PER 100,000 (ALL RACES)

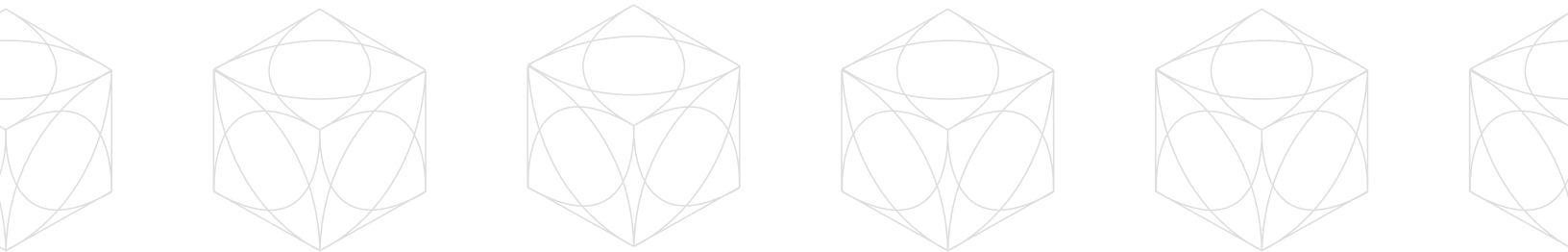
Diagnosis Year	Both Sexes	Males	Females
2000	1.08	2.11	0.34
2001	1.06	1.98	0.41
2002	1.03	1.95	0.38
2003	0.96	1.74	0.40
2004	1.11	2.05	0.45
2005	1.05	1.95	0.43
2006	0.97	1.65	0.46
2007	0.98	1.77	0.43
2008	0.96	1.81	0.35
2009	0.99	1.83	0.39
2010	1.00	1.83	0.41
2011	0.96	1.72	0.40
2012	0.95	1.68	0.41
2013	0.83	1.50	0.35
2014	0.92	1.60	0.42
2015	0.88	1.65	0.32
Average Annual Incidence Change	-0.01	-0.03	0.00

In order to compare this information to KCIC’s filing data, the number of diagnoses was calculated by taking the SEER incidence rate and multiplying it by the U.S. Census Bureau population estimates and gender breakdown as of July 1, 2018. Then, the SEER number of mesothelioma diagnoses (SEER Incidence) was compared to the number of mesothelioma filings in KCIC’s complaint data (Observed Diagnoses), in order to determine a propensity to sue by diagnosis year.

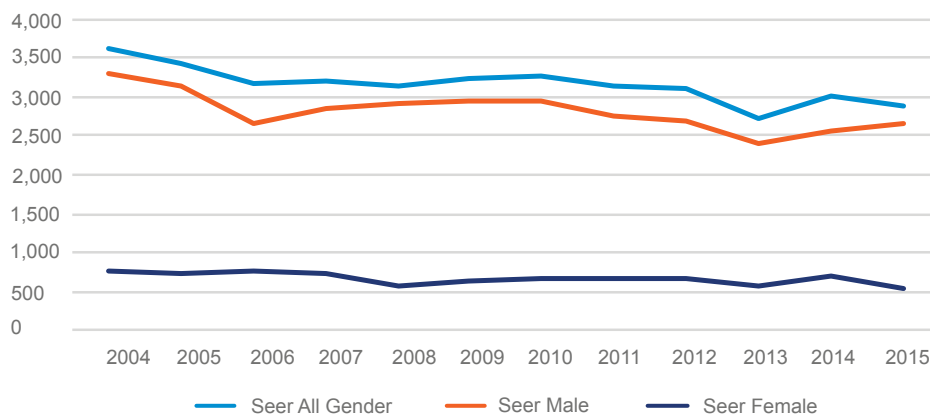
For forecasting purposes, the propensity to sue is used to denote the likelihood that a person diagnosed with mesothelioma will file a personal injury lawsuit. The average amount of time between a person being diagnosed with mesothelioma and a person filing a lawsuit is approximately 237 days. The average lag is slightly higher (283 days) for women and slightly lower (226 days) for men, but is low enough to conclude that most of the lawsuits for diagnoses through at least 2017 have been filed.

COMPARISON OF SEER INCIDENCE RATE AND MESOTHELIOMA FILING DATA

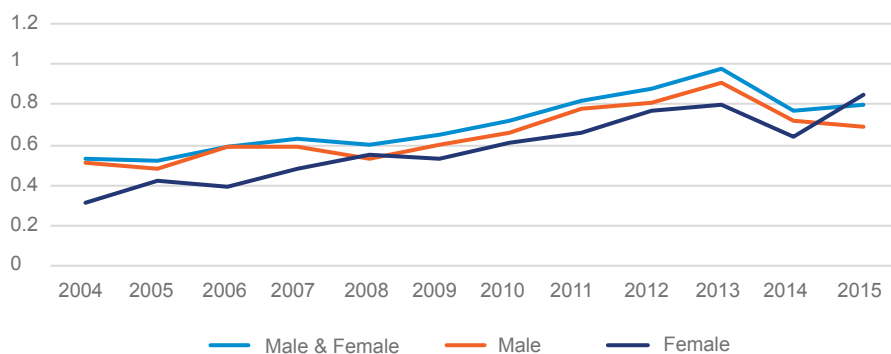
Diagnosis Year	All Genders			Male			Female		
	SEER Incidence	Observed Diagnoses	Propensity to Sue	SEER Incidence	Observed Diagnoses	Propensity to Sue	SEER Incidence	Observed Diagnoses	Propensity to Sue
2004	3,632	1,923	53.0%	3,300	1,687	51.1%	748	236	31.6%
2005	3,435	1,804	52.5%	3,139	1,501	47.8%	715	303	42.4%
2006	3,174	1,876	59.1%	2,656	1,575	59.3%	765	301	39.4%
2007	3,206	2,035	63.5%	2,849	1,689	59.3%	715	346	48.4%
2008	3,141	1,875	59.7%	2,913	1,554	53.3%	582	321	55.2%
2009	3,239	2,099	64.8%	2,946	1,756	59.6%	648	343	52.9%
2010	3,272	2,360	72.1%	2,946	1,943	66.0%	681	417	61.2%
2011	3,141	2,585	82.3%	2,769	2,148	77.6%	665	437	65.7%
2012	3,108	2,716	87.4%	2,704	2,192	81.1%	681	524	76.9%
2013	2,715	2,668	98.3%	2,414	2,203	91.2%	582	465	79.9%
2014	3,010	2,307	76.6%	2,575	1,860	72.2%	698	447	64.0%
2015	2,879	2,290	79.5%	2,656	1,838	69.2%	532	452	85.0%
2016	No Data	2,165		No Data	1,757		No Data	408	
2017	No Data	2,049		No Data	1,625		No Data	424	
2018	No Data	1,179		No Data	966		No Data	213	



INCIDENCE OF MESOTHELIOMA



MESOTHELIOMA PROPENSITY TO SUE



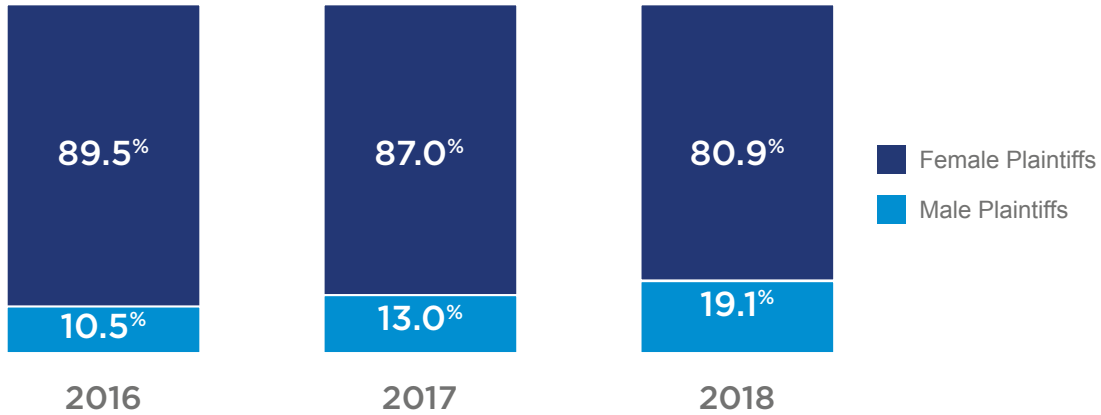
In the 10 years between 2005 and 2015, propensity to sue has increased dramatically, from 53% in 2005 to 80% in 2015 across all genders. This increase is even more pronounced when looking at female-only propensity to sue, which increased from 42% to 85% over the same period. It is also interesting to note that in the last few years, specifically, the female propensity to sue has trended upward, while the male propensity to sue has declined. During this same period, the incidence of mesothelioma across all genders decreased from 1.11% per 100,000 people to .88% per 100,000 — a change of .21%. **So while overall mesothelioma incidence is decreasing, the propensity to sue — especially for females — is increasing.**

ALTERNATIVE EXPOSURE TYPES

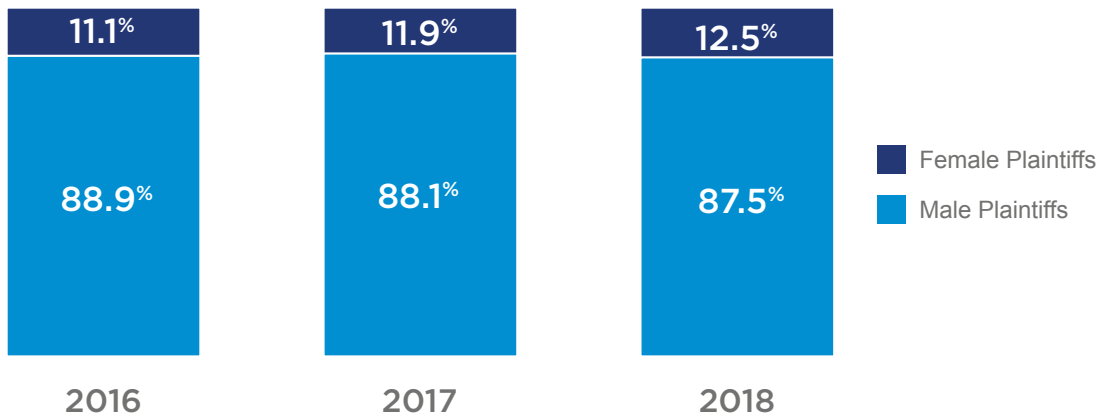
Exposure type is one factor that has contributed to the continuation of asbestos filings. Original forecasting models did not account for alternate or non-traditional routes of asbestos exposure in their evaluation of disease risk. Specifically, these studies did not consider secondary or non-occupational exposures. This report includes an analysis of the trends observed for such non-traditional exposure types.

Secondary Exposures: One of the most common alternative exposures is secondary exposures, defined here as when a plaintiff is exposed through another party. For example, a wife is exposed while she is laundering her husband's clothes. Over the past two years, the percentage of claims that allege some kind of secondary exposure (with or without other primary exposures) has remained fairly constant at around 23% to 25%. This population of plaintiffs is mostly female — close to 70% of female lawsuits allege secondary exposure, while only about 16% of male plaintiffs allege any secondary exposure. When looking at lawsuits alleging secondary exposures only, the numbers are far lower and the gender gap is even more pronounced. Only 1% of total filings by male plaintiffs solely allege secondary exposure, whereas 19% of total filings by female plaintiffs allege only secondary exposures. For secondary-only exposure claims, female plaintiffs outnumber male plaintiffs by a ratio of four to one, compared to combination and primary exposure claims, where male plaintiffs outnumber females nine to one.

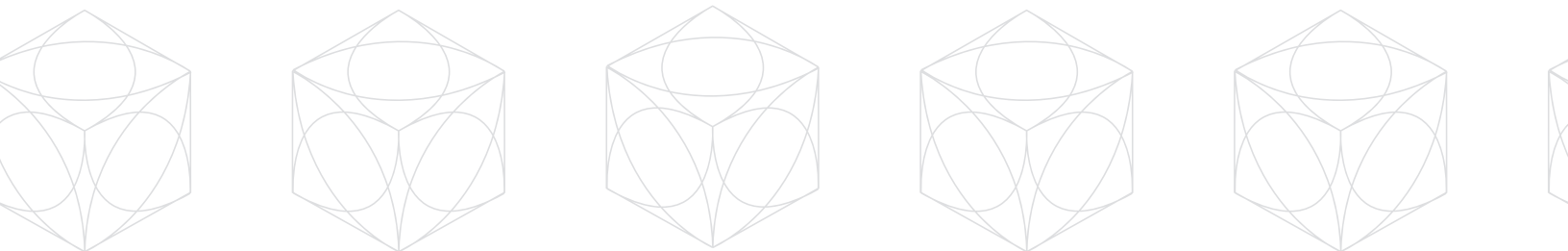
SECONDARY EXPOSURE BY GENDER 2016-2018



PRIMARY EXPOSURE BY GENDER 2016-2018



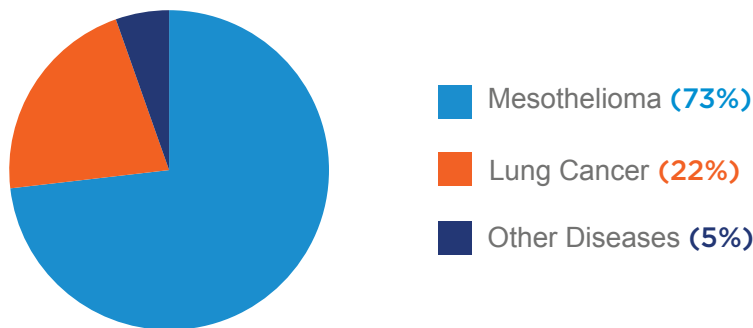
Baltimore, Md., remains the top jurisdiction alleging secondary exposure for all claimants, and Peter Angelos’s firm remains the top filer, even with a substantial decrease in filings last year. However, in 2018, Madison County, Ill., passed Baltimore, Md., as the top jurisdiction among female claimants alleging secondary exposure only. When looking at mesothelioma only, Maune Raichle is at the top of the list for secondary exposures, and 85% of Maune Raichle’s secondary mesothelioma claimants are female — much higher than the national average for female mesothelioma claims.



2018 NON-OCCUPATIONAL FILINGS BY DISEASE

Non-Occupational Exposures:

Another alternative exposure type is non-occupational exposure, defined here as a plaintiff being directly exposed but not through their occupation. An example is a plaintiff who was exposed while performing brake maintenance on their car at home. The percentage of plaintiffs filing lawsuits alleging some non-occupational exposure (with or without additional occupational exposures) has increased over the past years from 29% to 35%. Over 73% of complaints with non-occupational exposures are mesothelioma claims, while 21% are lung cancer.

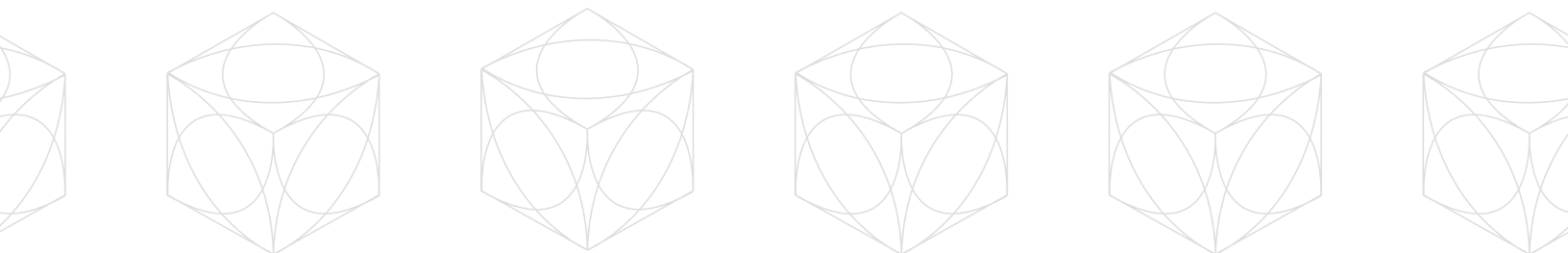


Between 2017 and 2018, the percentage of females alleging non-occupational exposure increased from 38% to 46% and for males increased from 28% to 33%. The concentration of females within the non-occupational population also increased from 19% of non-occupational claims being female in 2017 to 20% being female in 2018.

Out of the top 15 jurisdictions for asbestos filings in 2018, Madison County, St. Louis, Mo., Cook County, Ill., Los Angeles, Calif., and Middlesex, N.J., all had non-occupational exposures alleged on more than 50% of complaints.

NON-OCCUPATIONAL FILINGS BY JURISDICTION

Jurisdiction	% of 2017 Filings	% of 2018 Filings
Madison County, IL	56.1%	64.4%
New York, NY	6.5%	5.8%
Baltimore City, MD	0.6%	1.1%
St. Clair County, IL	12.6%	9.3%
Philadelphia, PA	23.2%	20.3%
St. Louis, MO	43.1%	65.2%
Cook County, IL	71.3%	78.1%
Wayne County, MI	1.0%	3.8%
Kanawha, WV	26.6%	31.3%
New Castle, DE	39.7%	37.4%
Los Angeles, CA	47.0%	57.0%
Middlesex, NJ	46.5%	50.5%
Allegheny, PA	8.9%	5.0%
Middlesex, MA	18.9%	17.0%
Orleans, LA	12.2%	20.4%
All Jurisdictions	29.3%	35.3%



NON-OCCUPATIONAL FILINGS BY PLAINTIFF FIRM

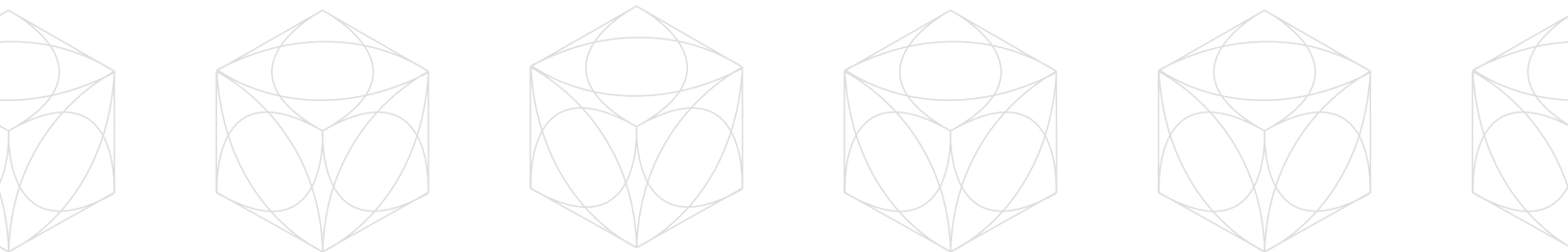
Additionally, eight of the top 15 plaintiff firms had non-occupational exposures alleged on more than 50% of complaints. Interestingly, firms like Simmons Hanly Conroy and Maune Raichle Hartley French & Mudd had far higher percentages of non-occupational claims in their Madison County filings than did Gori Julian.

While there have been slight increases in both secondary and non-occupational exposures, especially in female plaintiffs, the majority of these lawsuits also allege some kind of primary, occupational exposures. The increase in lawsuits only alleging non-occupational or secondary exposures is not enough to explain the rate at which this litigation continues.

Plaintiff Firm	% of 2017 Filings	% of 2018 Filings
Gori Julian & Associates, PC	6.5%	4.7%
Weitz & Luxenberg, PC	16.0%	18.0%
Simmons Hanly Conroy	65.4%	74.7%
Law Offices of Peter G. Angelos, PC	0.0%	1.0%
Maune Raichle Hartley French & Mudd	78.3%	82.1%
Cooney & Conway	78.7%	86.2%
SWMW Law, LLC	84.6%	83.8%
Goldberg Persky & White, PC	10.8%	10.3%
Belluck & Fox, LLP	17.2%	16.5%
Brayton Purcell	56.5%	53.4%
Shrader & Associates, LLP	74.6%	82.7%
Brookman Rosenberg Brown and Sandler	4.2%	0.0%
Flint Law Firm, LLC	59.6%	67.3%
Motley Rice, LLC	16.0%	34.0%
Mazur & Kittel, PLLC	0.0%	0.0%
Napoli Shkolnik, PLLC	43.0%	51.1%
All Plaintiff Firms	29.3%	36.1%

2018 ASBESTOS REPORT CONCLUSION

In many ways, 2018 was business as usual for asbestos litigation: the same top plaintiff firms filing in the same top jurisdictions against the same top defendants. While some specific jurisdictions and firms saw some fluctuations, the general filing patterns and trends are largely the same. But, it has not been entirely business as usual. The potential effects of talc-related filings are just emerging. More states are enacting case management orders and BTT legislation to gain greater transparency around exposure/filings against bankrupt companies. At the same time, the Department of Justice has begun to pay attention to these trusts and how they operate. KCIC will continue to keep an eye on how these emerging factors affect this litigation going forward.





ABOUT KCIC

KCIC is a technology and consulting firm that helps companies manage their product liabilities by providing a full range of financial, strategic and operational services. Bringing decades of industry knowledge and technical expertise, KCIC leads the industry not only in claims administration, but also in corporate policyholder insurance policy analysis and archaeology, liability forecasting, insurer billing and allocation, credit analysis, expert reporting, and a variety of other custom solutions.

KCIC's technology and service are at the forefront of the industry. Its claims administration system, the Ligado Platform, brings everyone together on one platform. All information can be efficiently and accurately shared through its secure online system.

KCIC does its best work when partnering with clients to combine leading-edge technology and consulting expertise to create innovative solutions. The combination of experience and technical capability provides clients a full understanding of their liability data and insurance coverage, and allows them to make better, more strategic decisions for their business.

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