

Session C29: What's the Future of Asbestos Legislation?

**CAS Annual Meeting 2005
Baltimore, Maryland**

November 15, 2005

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Agenda

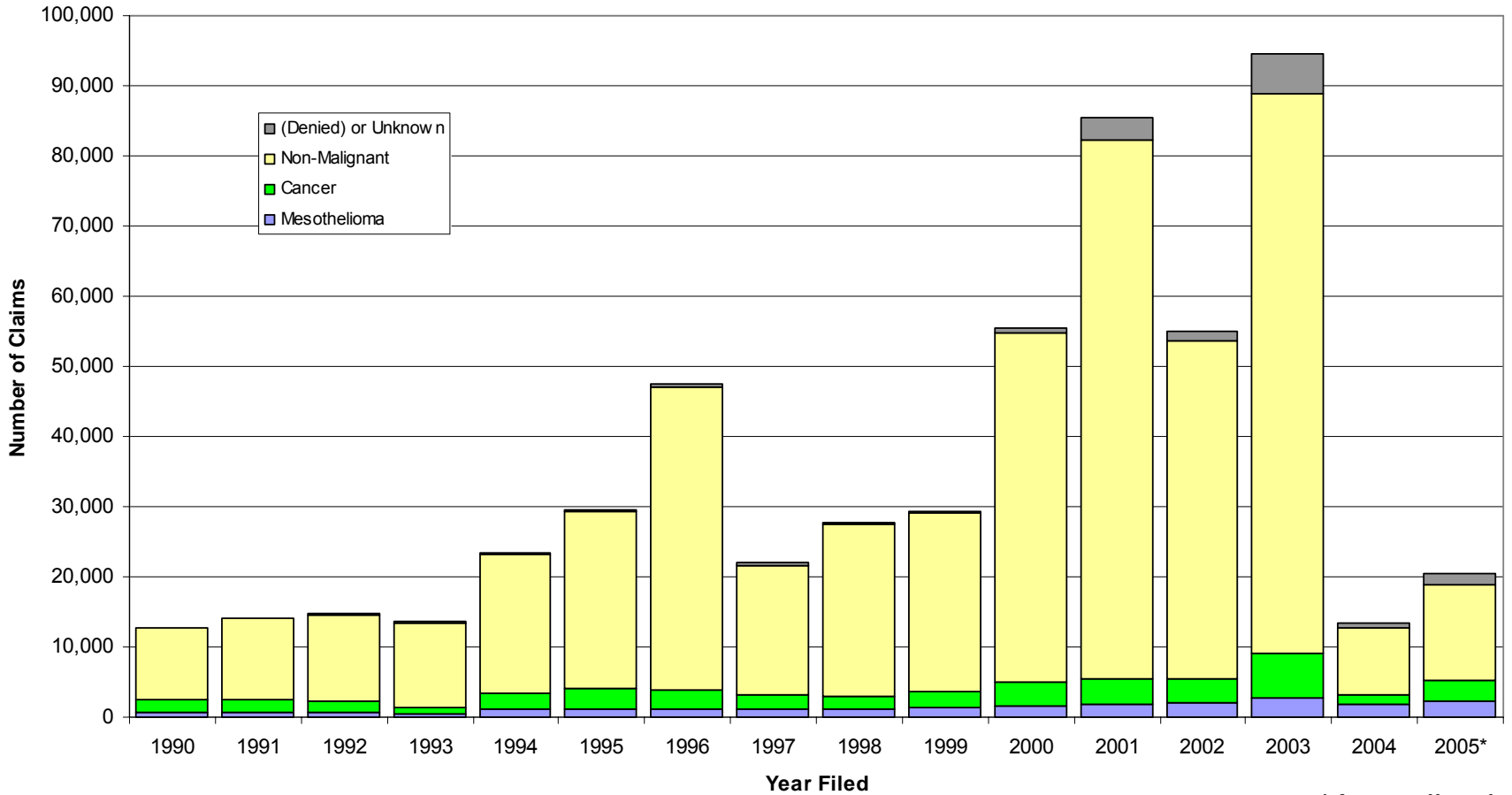
- Introductions (Sandy Santomenno)
- Concerns in the Current System (Jenni Biggs)
 - Overview critical issues
 - Update current statistics
- Potential Solutions
 - Federal efforts (Mary Seidel)
 - State efforts (Phil Goldberg)

CONCERNS IN THE CURRENT SYSTEM (1)

- Plaintiffs should demonstrate injury to file a claim
 - The number of claim filings increased dramatically
 - Per RAND, over 730,000 claims filed through 2002
 - 100,000 claims filed against the Manville Trust during 2003
 - Fewer than 10% of claims are malignant
 - Per RAND, $\frac{2}{3}$ to $\frac{3}{4}$ are unimpaired
- The right to seek recovery if/when an injury manifests should not be limited

Surge in Claim Filings

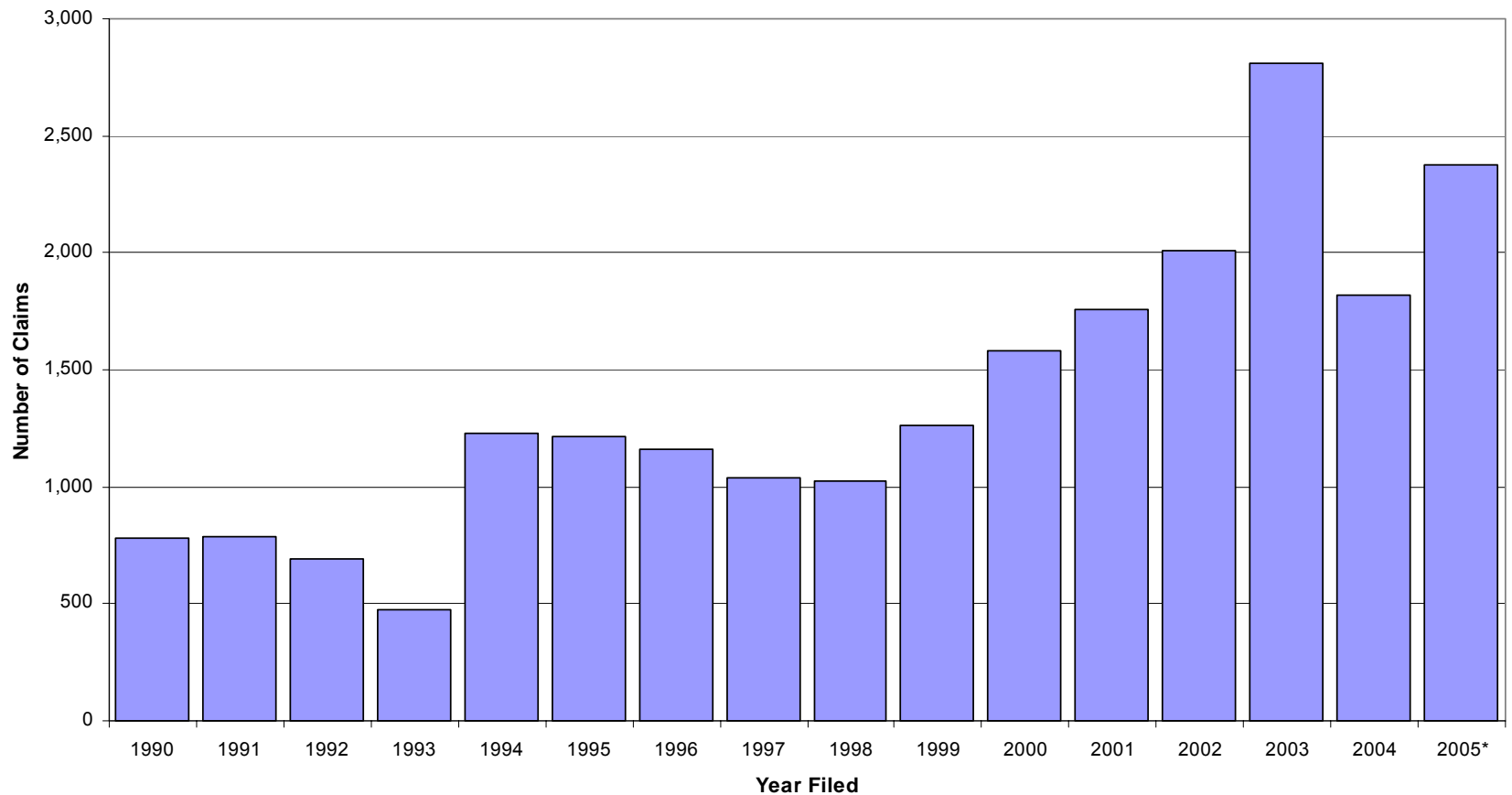
Manville Trust - Injury by Year Filed



*Annualized

Claim Filings - Mesothelioma

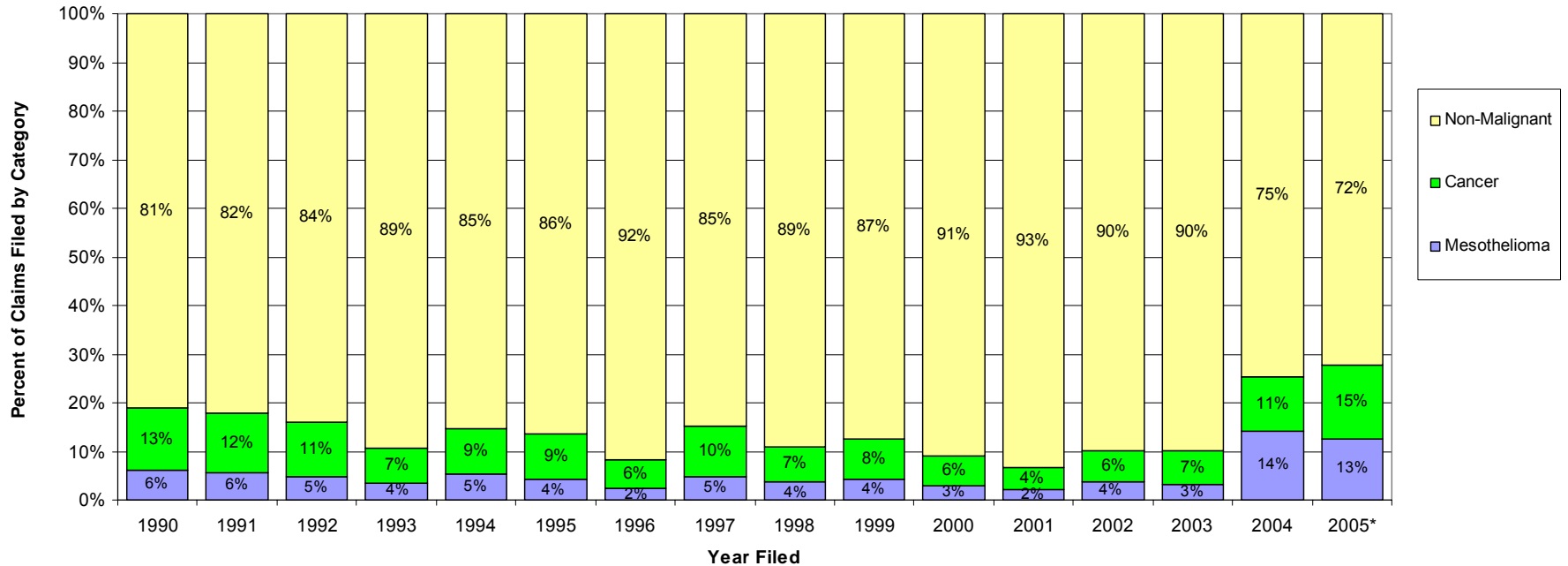
Manville Trust - Injury by Year Filed
Mesothelioma



*Annualized

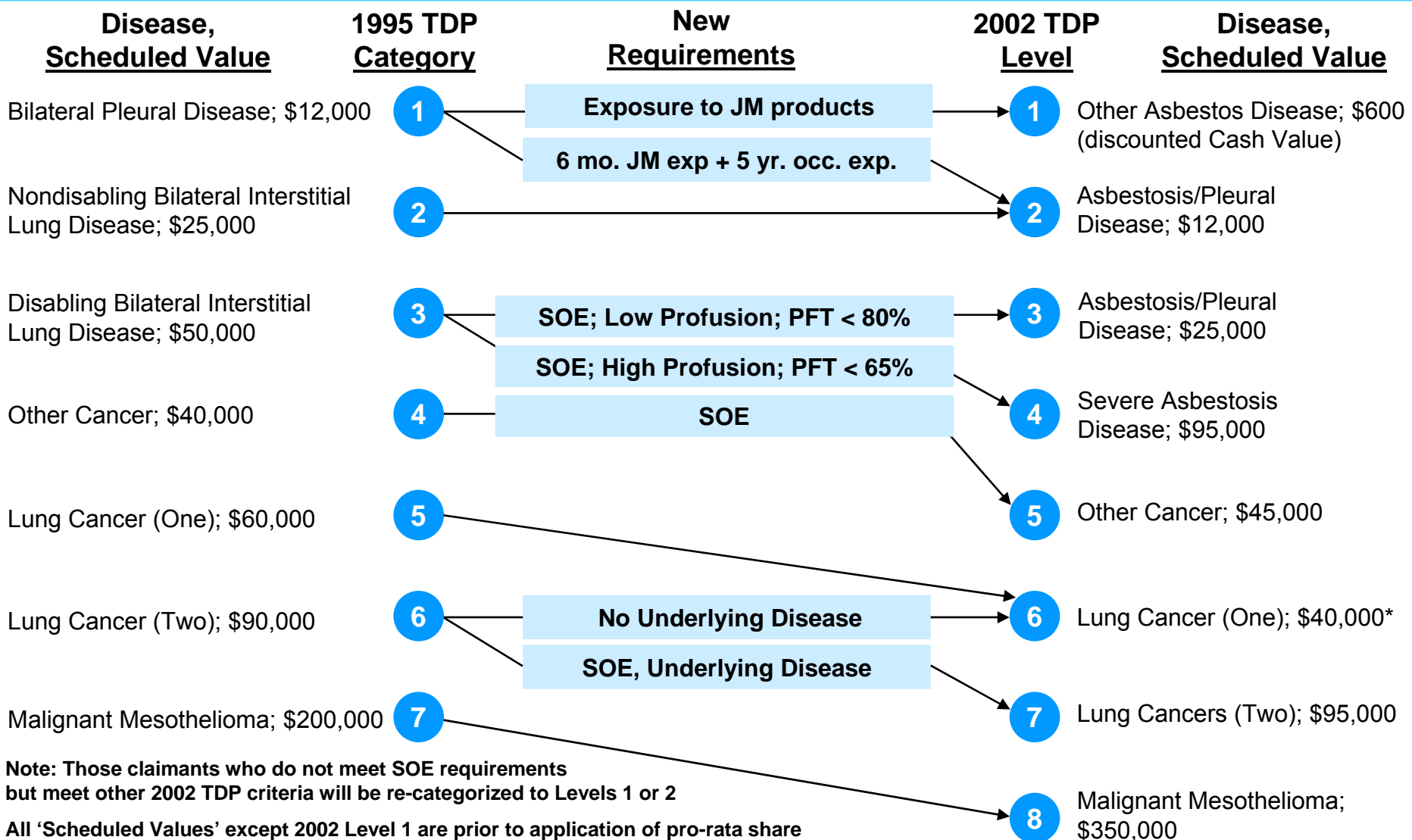
Change in Disease Mix

Manville Trust - Injury by Year Filed



*Annualized

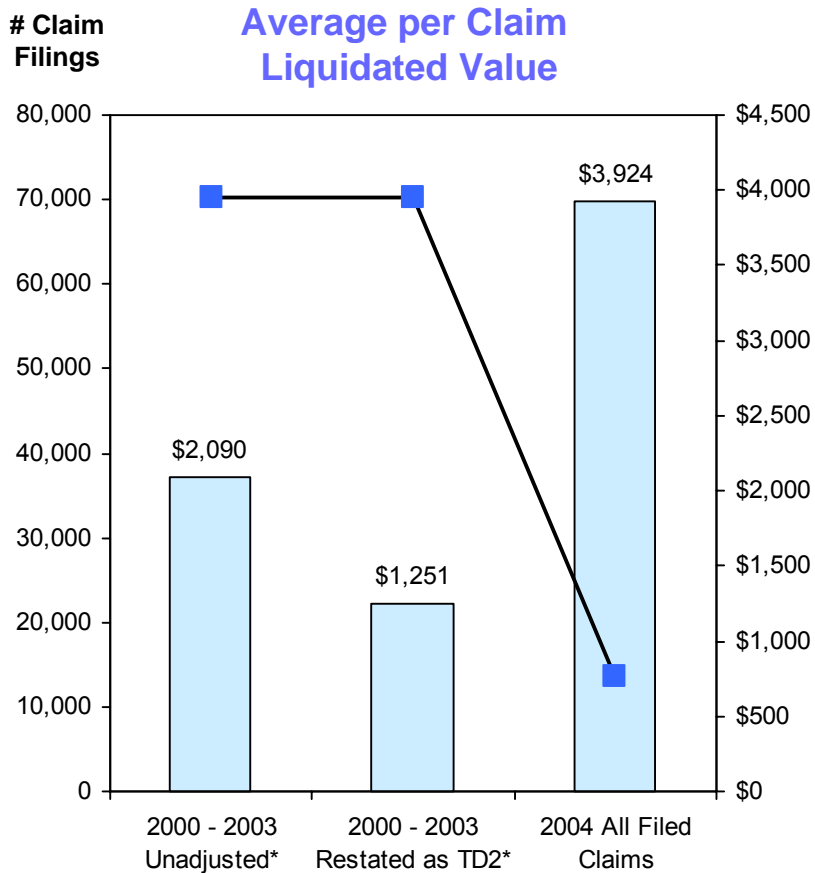
Changes in the Manville Trust Distribution Process – 1995 TDP to 2002 TDP



Note: Those claimants who do not meet SOE requirements but meet other 2002 TDP criteria will be re-categorized to Levels 1 or 2
All 'Scheduled Values' except 2002 Level 1 are prior to application of pro-rata share

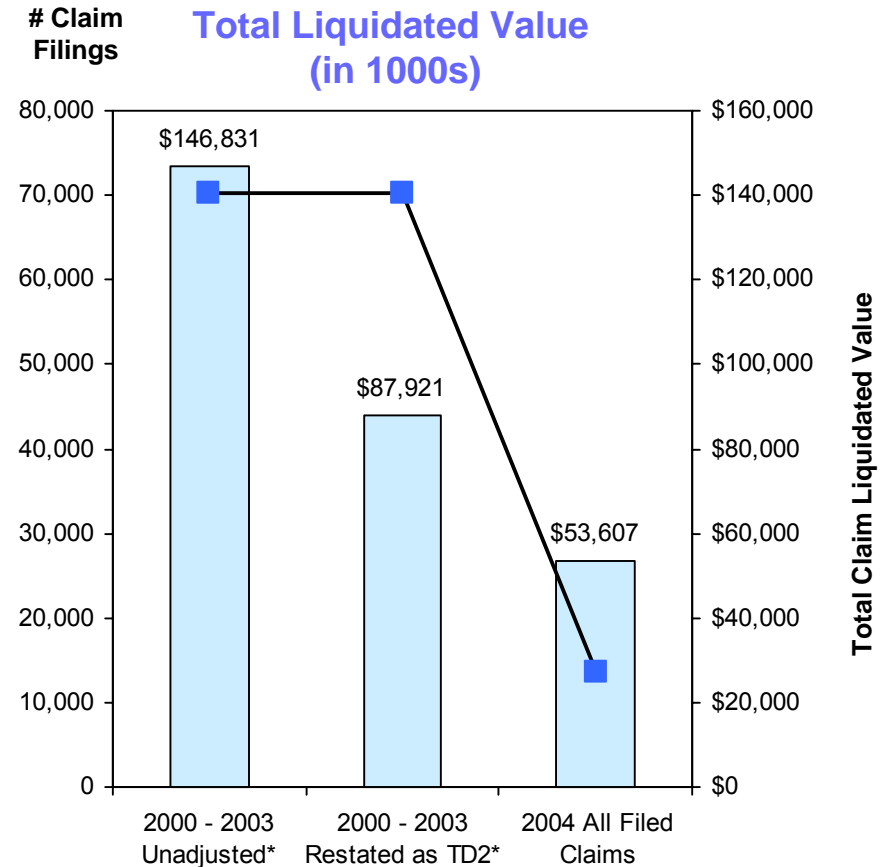
* Estimated average award (per CRMC)

The Impact of the Manville 2002 TDP on Expected Claim Payments



*Average annual payments

Line graph = Average claim filings



*Average annual payments

Line graph = Average claim filings

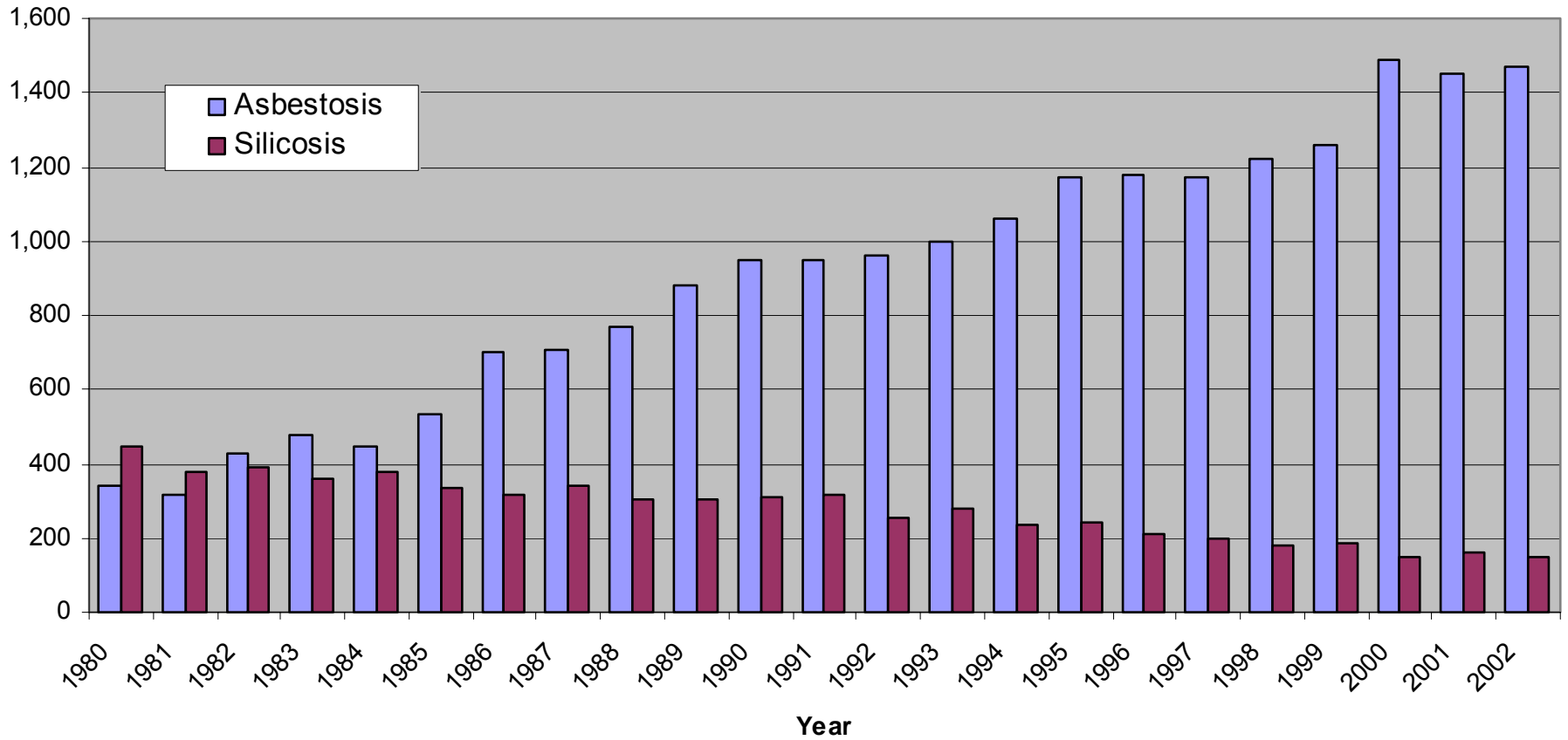
The Vast Majority of Claimants are Unimpaired; Claims from Mass Screenings are Potentially Fraudulent

- National Tire Workers Litigation Project – 1986
 - Group 1: 64% positive; Group 2: 95% positive
 - Re-evaluated 439 cases: only 3.6% positive
- Johns Hopkins study in Academic Radiology - 2004
 - Re-evaluated ~500 films used as legal basis for claims
 - Originally >90% positive drops to <5% positive
- 2/16-18/2005 Silica MDL Daubert Hearings – U.S. District Court Judge Jack / Corpus Christi, TX
 - >50% of 10K MDL claimants previously filed asbestos claims
 - Doctors testified they weren't qualified to make diagnoses; didn't authorize silica diagnoses
 - Judge Jack concluded, "These diagnoses were driven by neither health nor justice: they were manufactured for money."

Further Scrutiny of Potentially Fraudulent Claims

- A federal grand jury in New York is investigating
- U.S. Representatives Joe Barton (R-Tex) and Ed Whitfield (R-Ky) of the House Energy and Commerce Committee requested information from several physicians (8/2/2005 letter)
 - 11/2/2005 subpoenas issued to four physicians
- Bankruptcy trusts suspending acceptance of claims from certain medical screening companies and physicians
 - Celotex – July 2005
 - Manville – September 2005
 - Eagle Picher – October 2005
- U.S. Chamber of Commerce study expected by year-end 2005

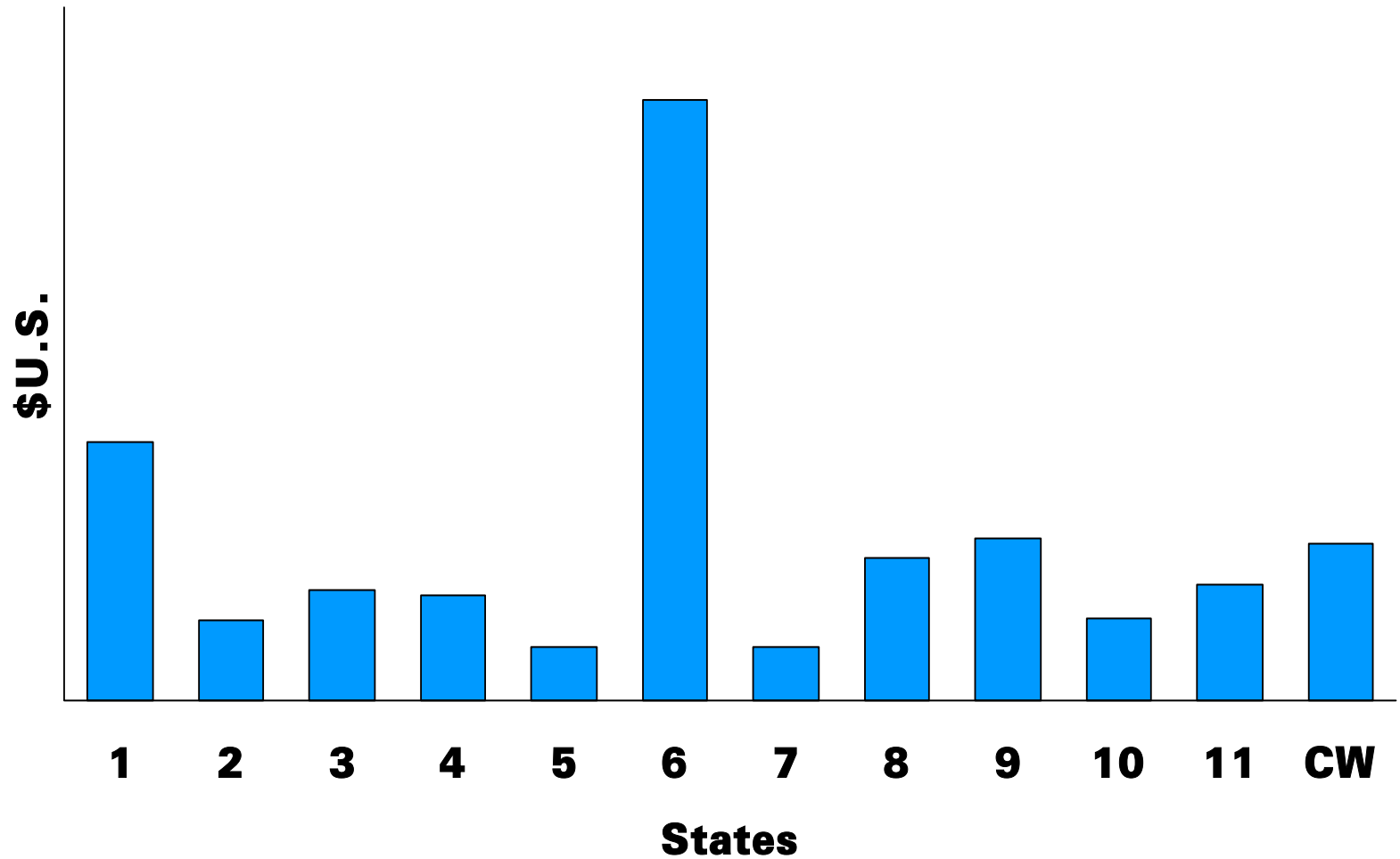
CDC – Asbestosis v. Silicosis Deaths



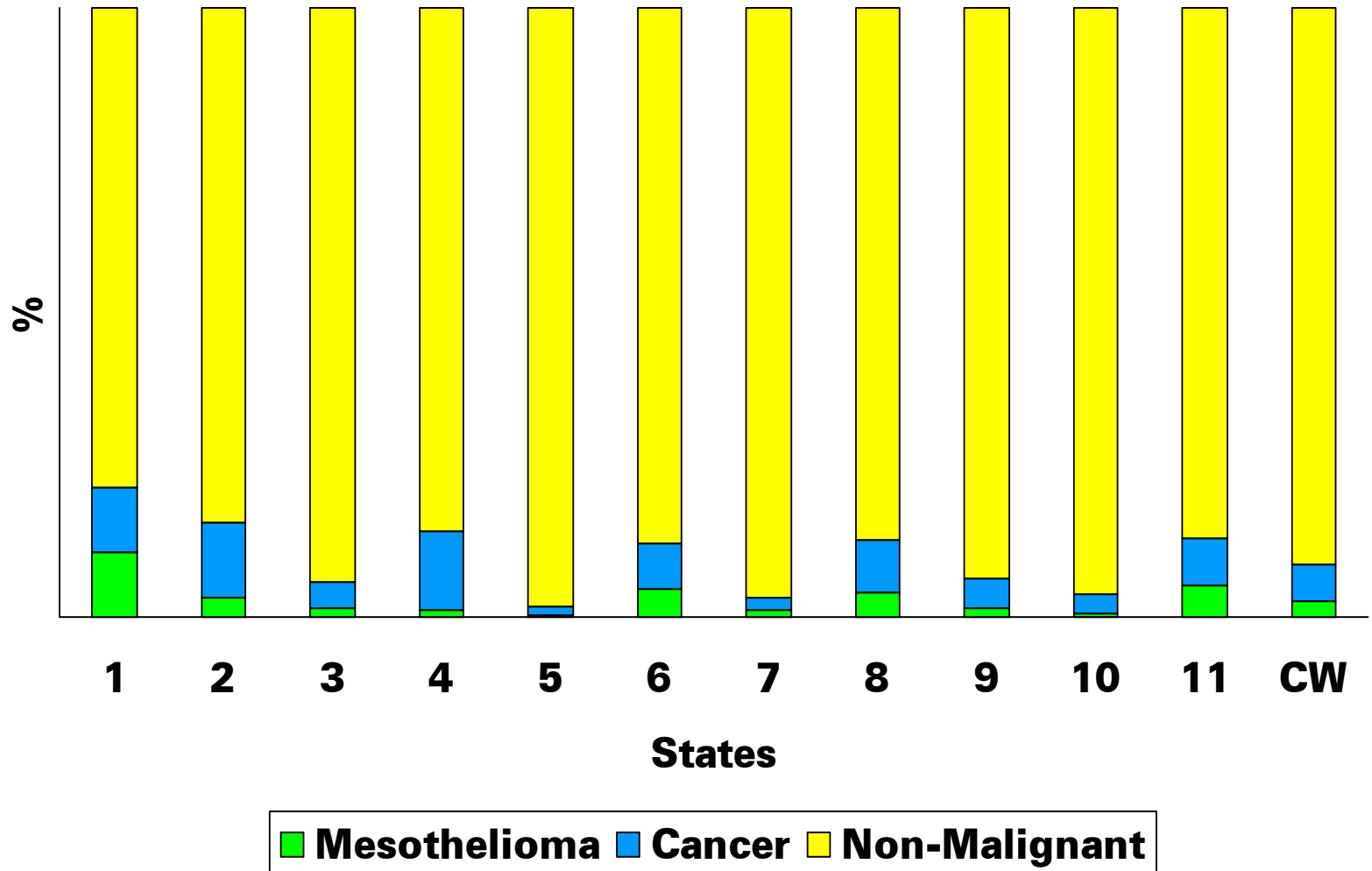
CONCERNS IN THE CURRENT SYSTEM (2)

- Each claim should stand on its own merit
 - Restrictions on mass consolidations
- Venue should be controlled
 - Avoid forum shopping in “magic jurisdictions”

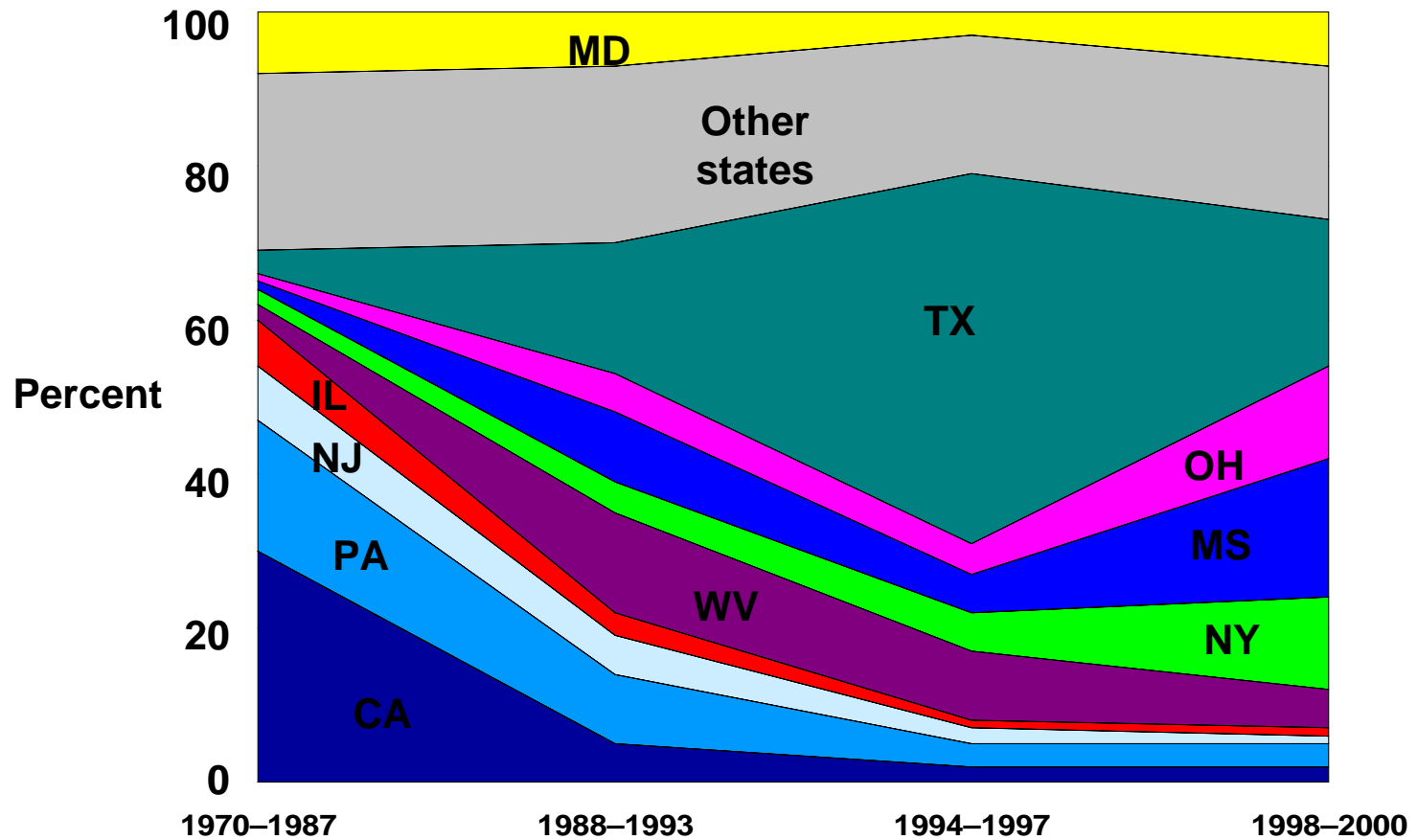
Observations – Average Settlements by State



Observations – Disease Mix by State



Evidence of Forum Shopping



Source: RAND, January 2003

CONCERNS IN THE CURRENT SYSTEM (3)

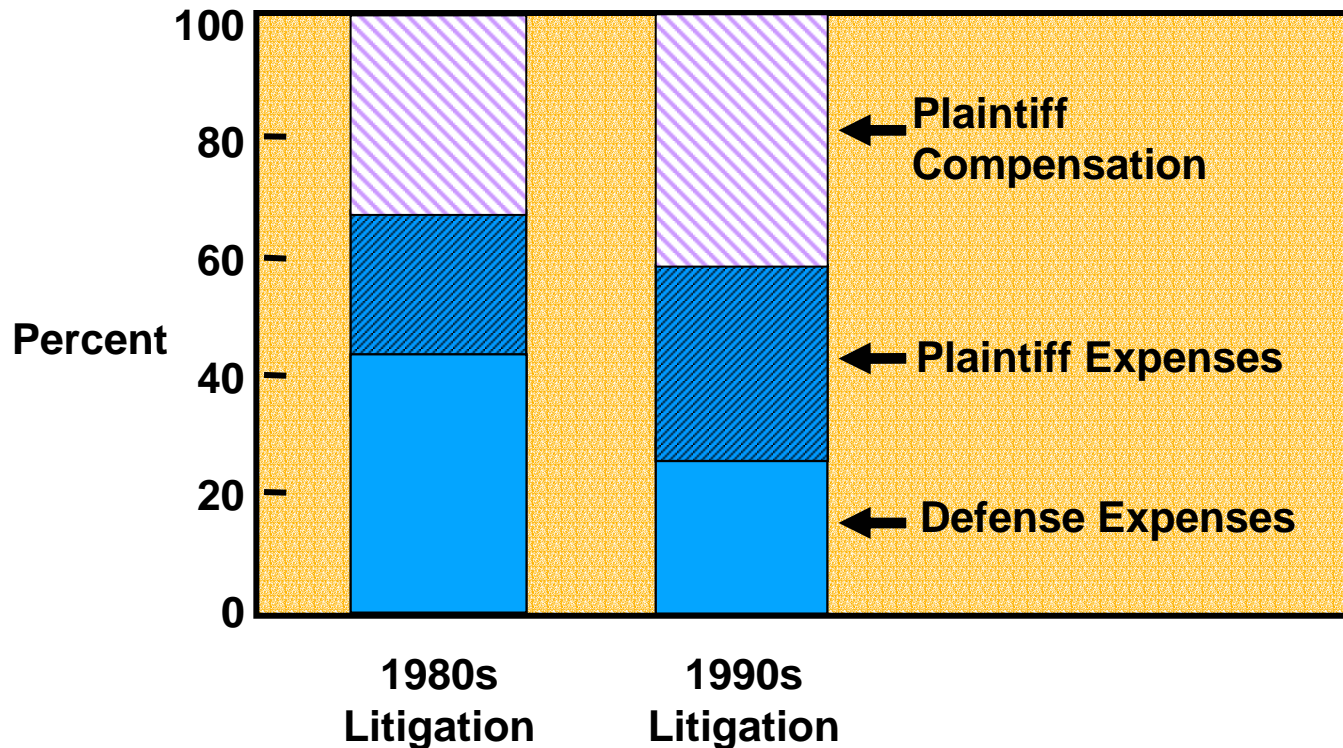
- Individual claim costs have increased dramatically
- Frictional costs are high. Per RAND, a low percentage of total payments have reached the claimants.
 - 31% - defense transaction costs
 - 29% - plaintiff attorney fees and legal costs
 - 42% - to claimants
- Resources are limited
 - RAND estimates \$70 billion paid through 2002
 - Bankruptcies
 - Costs have increased for insurers/reinsurers
- Future sick may not be compensated

Individual Claim Costs Have Increased

- Mean verdicts to plaintiffs increased dramatically from 1998 to 2001 (RAND)
 - Mesothelioma: ~\$2M to ~\$6.5M
 - Other cancer: ~\$1M to ~\$2.5M
 - Asbestosis: ~\$2.5M to ~\$5M
- Damages paid by many individual defendants also increased dramatically, reflecting
 - increase in plaintiff awards
 - higher shares for remaining defendants

Frictional Costs in the System are High

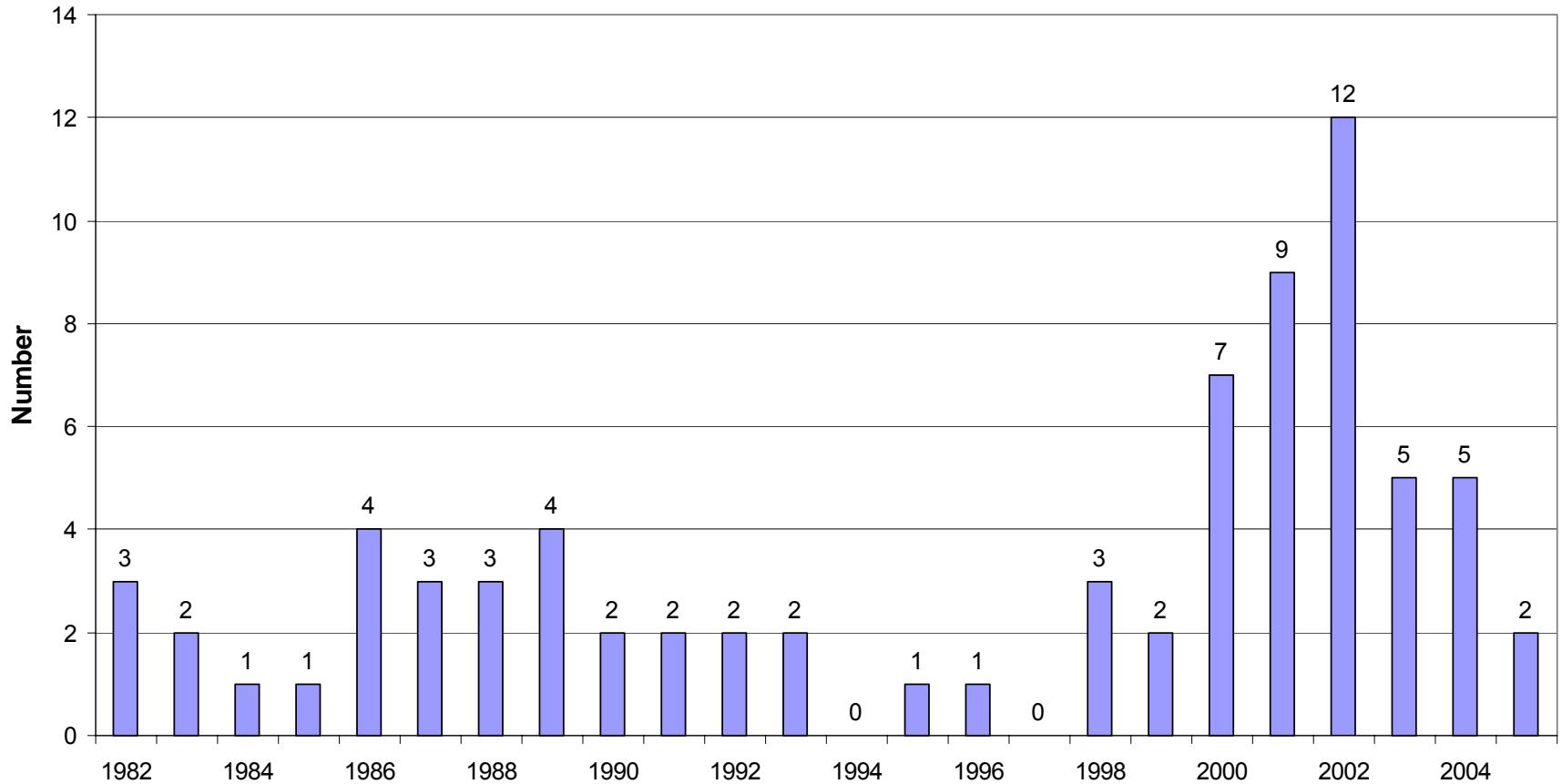
- According to RAND, transaction costs have consumed more than half of total spending



Bankruptcy of Defendants

- Currently approximately 77 bankruptcies of companies with asbestos-related problems (American Academy of Actuaries)
- New bankruptcies may:
 - Increase costs for remaining defendants
 - Several defendants cited higher settlement demands as a cause of bankruptcy
 - Cause need for additional defendants
 - Approximately 300 asbestos defendants in early 1980s
 - Estimates of ~2,000 published a few years ago
 - RAND estimates over 8,400 today
 - Firms in current list of defendants span 75 of 83 possible 2-digit SIC industry codes

Number of Asbestos Related Bankruptcies per Year

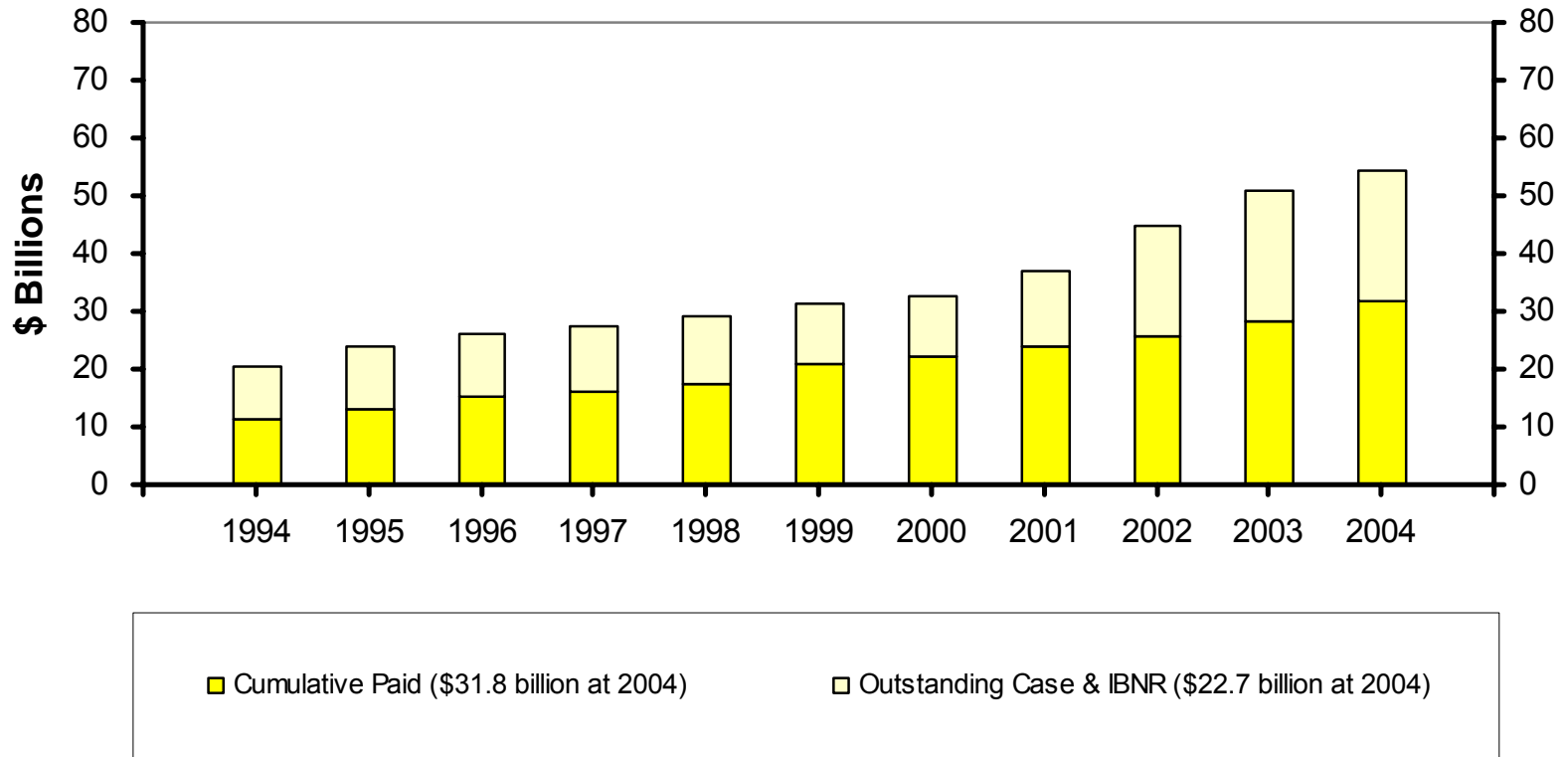


Note: Graph excludes a bankruptcy in 1976.

Costs Have Increased for Insurers/Reinsurers

- Higher costs for existing defendants
- Additional costs for new defendants
- Additional coverage accessed
 - Higher layers than previously anticipated
 - Roll-forward of coverage blocks to later years
 - Reclassification of products claims as non-products claims
 - Identification of premises owners' exposures
 - Inclination of some state courts to maximize coverage

U.S. P/C Industry – Asbestos Net Asbestos Loss & ALAE



Net Asbestos Reserve Development

Top 10 A&E Insurers¹

	St Paul/ Travelers	Hartford	ACE	CNA	Nationwide	Allstate
Net Asbestos Reserve 12/31/2000	1,102	428	631	636	737	640
Paid 2001-2004	2,131	985	464	464	496	376
Net Asbestos Reserve 12/31/2004	3,858	2,188	1,754	1,686	1,218	1,461
Increase since 12/31/2000	4,887	2,745	1,588	1,514	977	1,197
% Increase Relative to 12/31/2000	444%	641%	252%	238%	133%	187%
	Berkshire Hathaway	Liberty Mutual	Chubb	White Mountains	All Other	Total
Net Asbestos Reserve 12/31/2000	628	796	205	200	4,151	10,154
Paid 2001-2004	175	623	343	195	2,764	9,016
Net Asbestos Reserve 12/31/2004	1,023	1,083	902	669	6,785	22,627
Increase since 12/31/2000	570	911	1,039	664	5,397	21,489
% Increase Relative to 12/31/2000	91%	114%	506%	332%	130%	212%

¹Ranked by 2004 Net A&E Reserves

Jennifer L. Biggs

Ms. Biggs is a co-author of Tillinghast's study regarding the \$200 billion asbestos "universe." She is a consulting actuary with the Tillinghast business of Towers Perrin in its St. Louis office. She is a principal of the firm.

Ms. Biggs leads firm's asbestos practice and coordinates research and development activities. She has quantified the potential asbestos liabilities for numerous insurers and reinsurers as well as corporate asbestos defendants.

Under her direction as Chairperson, the American Academy of Actuaries Mass Tort Work Group created a Public Policy Monograph: Overview of Asbestos Issues and Trends, which was released in December 2001. Ms. Biggs is a frequent speaker and has testified before the United States Senate Committee on the Judiciary and the National Conference of Insurance Legislators (NCOIL) regarding asbestos issues.

Ms. Biggs is a Fellow of the Casualty Actuarial Society and a Member of the American Academy of Actuaries. She graduated with college honors from Washington University in St. Louis with a B.A. in mathematics and a business minor.

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