

Resolution 11
Encouraging Consideration of the Model Statute of Limitations for Asbestos Claims
Adopted by the American Bar Association

WHEREAS, the majority of asbestos-related cases have been filed in state courts; and

WHEREAS, it is anticipated that thousands of asbestos-related cases may be filed in state courts each year for at least the next decade; and

WHEREAS, the uncertainty among persons who may have been exposed to asbestos but who have not yet developed a disabling condition or malignant disease induces their counsel to file asbestos-related claims prematurely to avoid a statute-of-limitations bar; and

WHEREAS, the claims of thousands of individuals without a disabling condition or a malignancy clog state courts, encourage bundled settlements that may unfairly reward or penalize some claimants, and may bar settling claimants from obtaining the compensation to which they may have otherwise been entitled if they do become disabled or develop a malignancy; and

WHEREAS, the American Bar Association, after careful and balanced study by the Asbestos Task Force of the Torts Trial and Insurance Practice Section (TIPS), adopted a Model Statute of Limitations for Asbestos in February 2005 that proposes objective tests for courts and litigants to use to determine the accrual of a cause of action;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices urges the appropriate governmental bodies to consider adoption of the American Bar Association's Model Statute of Limitations for Asbestos Claims.

Adopted as proposed by the CCJ Civil Justice Committee at the 59th Annual Meeting on August 1, 2007.