

Resolution 9
Encouraging Consideration of the Standards for Operation of Screening Vans and Other Forms of Mass Screening for Asbestos-Related Conditions

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 use of screening vans by commercial enterprises to generate cases in situations where there is no clinical finding other than an x-ray consistent with an asbestos-related disease has led to the filing of unfounded or premature asbestos-related claims; and

WHEREAS, the screenings offered by these enterprises often do not comply with the standards promulgated by the Federal Drug Administration and other governmental and professional regulatory bodies; 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 resolution in February 2005 encouraging promulgation of state screening standards to ensure that:

- medical screenings for asbestos-related conditions are conducted and reported in accordance with relevant federal, state and local laws and regulations and with professional standards;
- the reading, evaluation, and reporting of such screenings are performed by a qualified physician or medical professional;
- the qualified medical professional, in rendering a diagnosis, shall have examined the screened individual either in person or through medically accepted telemedicine or electronic practices, reviewed a complete history of all relevant occupational exposures to asbestos, and considered the results of all diagnostic tests and other relevant medical information concerning the patient;
- all pulmonary function test reports are accompanied by the original tracings and all x-ray reports are accompanied by the original x-ray or x-rays in original form or transmitted in a manner judged to be reliable by qualified medical technology experts; and
- all medical diagnoses are made in accordance with the applicable standard of diagnostic care, and communicated to the screened individual within a reasonable period of time by the qualified physician or medical professional who rendered the diagnosis;

NOW, THEREFORE, BE IT RESOLVED that the Conference of Chief Justices urges appropriate governmental bodies to consider adoption of standards for the operation of screening vans and other forms of mass screening for asbestos-related conditions that are consistent with the recommendations of the American Bar Association and designed to protect both the health and legal rights of persons who may have been exposed to asbestos.

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