

Civil Justice Through the Courts
c/o Center for Justice & Democracy at New York Law School
New York Law School
185 West Broadway
New York, NY 10013

November 12, 2013

The Honorable John Boehner
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Speaker Boehner and Minority Leader Pelosi:

Re: Opposition to H.R. 982, the Furthering Asbestos Claim Transparency Act (FACT Act)

We are members of a law school clinic, Civil Justice Through the Courts, at New York Law School. This is a public policy clinic, the mission of which is to raise awareness about attacks on access to the civil justice system.

After studying this issue, we write today to express our opposition to H.R. 982, the “Furthering Asbestos Claim Transparency Act” (FACT Act). Contrary to its name, the Act works against “furthering asbestos claims” brought by those who have been harmed by asbestos exposure at some point in their lives. The effects of asbestos exposure are widespread and heartbreaking, including many forms of lethal cancers, such as mesothelioma. The trusts were specifically created under bankruptcy laws to ensure that these victims were compensated while allowing companies to continue operating. This bill would unnecessarily complicate and delay the process for deserving victims to obtain compensation for their claims.

The Act’s name suggests that its purpose is “transparency.” However, it allows asbestos companies to get any information from the asbestos trusts for any reason at any time. This would burden the trusts to a great extent. The result would be unfair delays for victims to obtain compensation for items like much-needed cancer treatments. Yet, the bill does not afford a similar platform for the claimants to get information from companies that could assist them in filing claims, like where or when their products were used. The bill therefore, is alarmingly one-sided and creates a drastic disadvantage for those filing claims.

In addition to complicating an already complicated process for claimants to receive needed compensation for medication, family support and numerous other things, the bill would deny victims their basic privacy rights. The Act would require the trusts to publicly disclose a great deal of private, confidential information of the claimants, and allow the companies to demand more information virtually at will.

After decades of denial and millions of victims, asbestos companies were allowed to rearrange their companies under bankruptcy laws and create trusts to provide victims with necessary compensation. Should the FACT Act pass, companies would be given another chance to deny responsibility and liability for the problems that they created.

Proponents of the FACT Act state that part of its purpose is to prevent fraudulent claims by individuals seeking to make some “easy” money. However, as the *New York Times* pointed out in June 2013, “there is no persuasive evidence of any significant fraud or abuse.” Congress’ response to an unproven problem should not establishing a process to impede or delay legitimate claims by the countless individuals who desperately need just compensation.

For decades, asbestos companies have avoided and denied responsibility for the millions of deaths and injuries caused by continued use of this lethal product. These companies should not be allowed to sidestep their responsibilities once again, and leave their victims abandoned. We ask you to support these victims and oppose the FACT Act.

Thank you for your time and consideration of our views on this matter. If you have any questions, feel free to contact Parul Nanavati, Parul.Nanavati@law.nyls.edu, or Zakary Woodruff, Zakary.Woodruff@law.nyls.edu.

Sincerely,

Law Student Clinic Members
Civil Justice Through the Courts
New York Law School