



# Toxic Torts – Unveiling the legal maze

by

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## Abstract

The hazardous substances that cause dangerous to the individual's property are called toxic torts. Which refer the legal clients arising from exposure such cases typically involve multiple scientific and legal issues as well as significant implications for environmental protection, public health and corporate accountability. When the victims are expose to toxic substances Toxic Tort litigation seeks to hold responsible parties accountable for their actions and obtain compensation. When the exposure the toxic substance and harm suffer by the plaintiff one of the key challenge in Toxic Tort litigation is establishing causation between them. To demonstrate the link between the exposure and the resulting injuries are illness it requires the expert testimony and extensive scientific evidence and epidemiological studies to demonstrate. Obviously Toxic Tort cases involve many defendants' employees, distributors, and government agencies are equally liable harm caused by the Toxic substances. The things which are involving exposure and the common type of toxic tort cases includes are lead benzene pesticides toxic waste and asbestos which are the environmental pollutants. This wide range of substances cause health issues including cancer neurological disorders, birth defects including respiratory diseases. The victims not only suffer from physical injuries but also face diminished quality of life economic losses and emotional distress due to the exposure of toxic torts.

The litigation also involves multidistrict litigation (MDL) class action law suits are mass torts. Where multiple plaintiff's with similar claims consolidate into a single proceedings under toxic tort. To allow for efficient resolution of large scale toxic exposure cases this complex litigation mechanisms are useful to grab an opportunity to seek justice and compensation for their injuries.

Toxic tort litigation serves brooder societal interest by promoting deterrence and avoiding future harm and promoting accountability. For neglect or reckless conduct by holding corporations and other entities accountable, these toxic tort law suits encourage strict regulations and improved environmental stewardship with safer practices. Public awareness campaigns policy reforms and community outreach efforts aims in protecting public health and preventing public health from toxic torts to maid the litigation successful. Finally it is emphases that Toxic tort litigation plays a vital role in addressing public health legal and scientific challenges linked with exposure of hazarder substances.

Toxic Tort law suit contributes the protection of individual rights public welfare and environmental safety.

## **MANUSCRIPT**

A Toxic tort is caused when a negligent actor or corporation intentionally or negligently causes harm to an individual to be exposed to dangerous toxins, such as asbestos, chemicals oil or mold. In this particular subset of personal injury law; people are most commonly exposed to toxic chemicals from pharmaceutical products, consumer products from the environment, both in the home and at work place. Due to the exposure of pharmaceutical drugs and toxic substances due to work many toxic tort litigations are being raised nowadays. Mostly in the course of employment the toxic torts occurred.

In the course of employment toxic torts commonly occur. Employers have a duty to provide safe working conditions for their employees to a dangerous toxic. For example if the employees are provided with the safest equipment while working with hazards' chemicals. So-called "Occupational toxic tort" cases differ from worker's compensation claim are made against the employer, while the toxic tort to be brought upon the third parties'

The dangerous toxin if released directly into the environment the people at large can be injured at a stretch. It is the duty to be followed continuously to handle store and dispose under the supervision of federal and state environmental regulations corporations in emit ion of toxics and if the failure to do so severe and serious health consequences to be faced in the society. Sometimes due to negligence or intentional release of unwanted dangerous toxins into air and water are major basic issues.

### **The Toxic Torts which gives rise to claims -**

- The asbestos sheets which are used for shelter in homes, school, work place and playgrounds.
- Toxic template.
- Petrochemicals and Oils
- Pesticides and chemicals used in the industries.
- Dangerous medical equipments

Dangerous side effects last for years together if an individual is exposed to toxic substance directly infertility brain damage, cancers, respiratory problems lung infections birth defects organ damage are some of the side effects which are caused due to the direct exposure of toxic substances. If anyone at work place or in the community are experiencing such effects are symptoms of an injury should immediately seek the legal advice to be justified.

### **Specific and General causation.**

In Toxic tort causes, courts usually apply a negligence standard rather than strict liability.

For negligence, this means that the plaintiff has to prove that the defendant owed him a duty, that he breached that duty, the defendant was both the cause in fact and the proximate cause of his injuries and that the defendant caused a legally recognized harm.

The strict liability standard is used when liability is incurred for causing harm to someone (to “life, limb or property”) and the plaintiff doesn’t need to prove negligence or intent. This is generally for situation seen as so inherently dangerous that the plaintiff work is already done.

Courts will apply the strict liability standard to toxic tort cases if they feel the polluter was partaking in something abnormally dangerous.

Normally, however, plaintiffs have to prove general negligence standards, which include causation. This is exceptionally difficult, given that multiple risk factors.

The basic elements of duty breach causation and damages must be proved in an tort of law suit by the plaintiff at earlier stages law suit success rate was very low due to the incapacity of plaintiff to prove the elements of the case due to lack of tough regulations. Several laws were imposed in 1970’s and 80’s to prevent pollution and forced pollutants to take the responsibility for the loss cost including clean water act comprehensive environmental response compensation and liability act. To cover actions relating to a variety of substances in the usage of chemicals and hazarder substances and by products covered under the statutes under the toxic tort since the past several decades in usage of cigarettes and breast implants. In recent tobacco cases the plaintiff’s advocates are trying to learn from mass toxic torts and are trying to apply new litigations in these environmental torts. Plaintiffs are facing many challenges in mounting positive litigation a latency period of long time between exposure and injury the plaintiffs advocates are enable to prove the causation and advocates in these issues faces many problems in the case management and involvement of large number of plaintiffs. There are also many issues involve in this toxic tort actions such as ranging from client solicitation ethical issues settlement and fee.

The broad language of the environmental statutory “canon” created a wide range of new rides and causes of action basing on the theories of environmental harm which have triggered judicial approach over and over step on Article III limitations.

The court has derived the standing doctrine from article III requirement of controversy. Standing doctrine is a controversial doctrine and has been criticized as worse. Some experts argued that article III standing is an excuse for the courts for reaching the goal from the cases which are unveiling and unable to decide and sometimes the time on blind eye to stand when they wish to reach the merits.

The three main important components in Article III are injury infect, causation and redressability. The injury must be always imminent concrete actual are particularized. If the harm is physical or economic then the injury may be concrete and such injury to one’s interest in viewing the endangered animals.

Redressability requires the court to find that the injury would be redressed by a favorable decision. Causation is type to redressability and lack of causation and results no redressability. The plaintiff may seek the desire procedure to be performed and even if the procedure is followed against the plaintiff’s wished. Generally the court finds the causation when the injury is fairly traceable and the conduct of the defendant, but what is the standard of fairly traceable is considered as unclear. In some cases the court may apply casual nexus test the unclear role of state sovereignty in addition may extent to the causation prong. Article III has been is criticized as causation enquiry “An uncertain in application and unpredictable in result”. The causation is generally easy to establish the alleged to be the direct result of defendant’s action while cases that claim a harm basing on the defendants failure to engage the third party to fail on the causation prong.

For example the dispute occur in *Comer vs. Murphy USA* in which the residents of Mississippi and land owners filed suit under various law doctrines including public new sense and claiming injuries from green house gases

emission that Exacerbated the effects of Hurry Katrina. The courts have incorporated the factual inquires for deterring causation.

Another case relating to clean water act the third circuit has vacated a judgment because the plaintiff did not vary with the defendant's expert and permitted the violations which has no observable impact.

In toxic tort cases the extracts may depend on epidemiological evidence which relies heavily on mathematical on computer modeling or statistical analysis which determines the risk and contribution. Putting in a view of human health the danger causing to human health is very difficult to show the direct medical causation are any particular toxin causing the effect. Particularly in environmental cases there are number of fields to support different types of clients. And these may include ecology and hydrology meteorology which depends upon the statistical and modeling methods to predict risks based on observed co-relations.

The first argument is that there might toxic torts may appear to be a divergent in practice and have no actual doctrinal different for the causation of the cases related to environment. Environmental suits are rooted in statutes which provide broader bases that are available in common law. Environmental cases don't arise under a statute. Public new sense is a common traditional tort and may rise with a particular standing problems basing on generalized claims of harm. Yet toxic tort claims the rarely faced the same standing barriers as environmental claims.

The second argument is structural and Article III ensures the separation of powers that is proper Adversarial presentation: in order to support adjudication. However the two eyes standing barrier also cuts against the structural limits of the constitution sometimes the court may also dismiss the clients which are to narrow.

The highly detailed factual analysis which are accompanied are standing enquires may be incorrect in the early stages of crime. Sometimes several problems were arising in determining the issues standing. For example the highly technical factual issues unaided where the judges are not equipped to handle. The ongoing research and various pollutants are welfare and human health and technical and scientific developments which shows the causation impacts analysis.

New data which is adopted universally after the discovery and which reaches scientific consensus judges and juries who are benefited in fact finding process with Daubert Hearings and other supported procedures which are to ensure the facts which are presented in the courts reflects expertise and scientific methods as accurately as judicial process allows.

Recently movies such as A Civil Action and Erin Brockovich are make the public aware how to file litigation and to compacted people injured by toxic torts. These movies foot fourth some litigation to think but they are Hollywood movies and they have happy ending in reality plaintiff's face many challenges in litigating and get claim.

Professor Denard and Attorney mork Gottlibe of the tobacco products liability discuss the possibility of tobacco companies for protection under the bankruptcy code in an effort to avoid the judgment by the court in Engle vs. R.J Renolts tobacco company the jury imposed 145 Billion Dollars as punitive damages award against the tobacco industry. The tobacco companies rises the cigarette prices in order to overcome the fine but it was concluded that one or more tobacco companies may be forced to file for bankruptcy protection.

In toxic torts there will be no complete justification done to the victims till date. It is a long process to be considered by the courts going to the facts and justifying the victims mere compensation doesn't sometimes justify the toxic tort which the mere negligence and recklessness of human attitudes. The precautionary

principle is always the best man rather than the polluter pay principle. More particularly in toxic torts the judicial dynamisms should always play a vital role apart from all the obligations politically economically and psychologically. When huge amounts hazarder substances are handled by the industrialists certain precautionary measures to be also be implemented forcibly be followed by the workers are the employees.

The precautionary measures are to be strictly followed by the employees in the hazards' waste management's hazards' material packing hazards' material transport hazards' material usage should be followed by the workers with the specific guidelines by the occupier. If such rules are neglected there will be a huge loss environment where many life's relay upon. The regular inspection upon the factories and industries should be a strict rules followed by the authorities there should be a clean report approved by the authorities in the inspection so that the percentage of toxic tort may decline. No wrong in the development of technology but the survival is more important rather than the development. The accountability of industrialists is more important towards the society.

Despite of tuff environmental laws framed to prevent the release the toxic substances into the environment and the injuries caused by the exposure to toxic substance is the source of litigation for future. Concluding this in mind the SYMPOSIUM sort to provide a forum for discussion about the problems that comes out of the litigation and the lessons to be experienced from the past litigation.

### **Conclusion:**

In order to protect the individual or communities in order effects of the exposure to harmful substances certain equitable remedies are to be followed in the complex nature of toxic torts which underscores the critical need for robust regulations proactive preventive measures and equitable remedies. To summarize the toxic tort litigation it serves as crucial mechanism for holding responsible parties accountable for the harm caused by the exposure to hazard's substances. The plaintiff can seek justice of compensation for their companies' diligent legal advocacy and scientific or reasonable evidence.

However the evolving landscape of toxic tort demands the continued vigilance in monitoring the environmental hazards and implementing reusable preventive measures and emphasizing the policies that prioritize the public health the environmental sustainability. Finally we can stave hard towards the safer and healthier future by fostering the collaboration among the state holders and promoting transparency in regulatory processes.