



# ASBESTOS RESOURCE CENTER

## Asbestos Litigation

### Asbestos Lawsuits

#### **Waters v. W. R. Grace**

Thomas Waters filed for action seeking compensatory and punitive damages against several [asbestos](#) manufacturers, one of which being W. R. Grace and Company. Waters worked as a tile setter from the late 1950s until 1988. He alleged that he developed [asbestosis](#) as a result of exposure to Grace's products at various work sites.

In the first court, the decision required that Grace pay the compensatory damages but struck the punitive damages claim because Grace had to pay punitive damages in previous cases. When brought to an appeal, the second court ruled that Grace did have to pay the compensatory damages, and also ruled that the first court should not have taken out the punitive damages claim. The question was then raised, "Are successive claims of punitive damages against the same defendant fair?" Grace asked for leniency because it had already been punished for those damaged and warned the court about "overkill" and not advancing the spirit behind "punishment and deterrence".

The court recognizes that multiple punitive damages claims on the same defendant would put that company at a disadvantage. However, the court also held that the punishment for previous punitive damages should not affect successive ones. Grace was required to pay both the compensatory and punitive damages in the Waters case. The court would not grant leniency and put a limit on punitive damage claims just because the company would be repeatedly charged for the same claims by various plaintiffs because of the company's own negligence.

Another influence on [asbestos litigation](#) came from *Waters v. W. R. Grace*. The Supreme Court ruled that in punitive damage cases, the jury should hear evidence on negligence, compensatory damages, and liability for punitive damages in phase one of the trial. Then the same jury should determine the amount of punitive damages in phase two. Dividing litigation in this manner would always result in a jury being questioned about, and hearing evidence of, alleged willful and wanton conduct in the same phase of the trial in which the jury is required to assess compensatory damages.

