

REHNQUIST, C. J., concurring

SUPREME COURT OF THE UNITED STATES

No. 97-1704

ESTEBAN ORTIZ, ET AL., PETITIONERS v.
FIBREBOARD CORPORATION ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FIFTH CIRCUIT

[June 23, 1999]

CHIEF JUSTICE REHNQUIST, with whom JUSTICE SCALIA and JUSTICE KENNEDY join, concurring.

JUSTICE BREYER's dissenting opinion highlights in graphic detail the massive impact of asbestos-related claims on the federal courts. *Post*, at 1-3. Were I devising a system for handling these claims on a clean slate, I would agree entirely with that dissent, which in turn approves the near-heroic efforts of the District Court in this case to make the best of a bad situation. Under the present regime, transactional costs will surely consume more and more of a relatively static amount of money to pay these claims.

But we are not free to devise an ideal system for adjudicating these claims. Unless and until the Federal Rules of Civil Procedure are revised, the Court's opinion correctly states the existing law, and I join it. But the "elephantine mass of asbestos cases," *ante*, at 1, cries out for a legislative solution.