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California Asbestos & Product Liability Alert

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California Supreme Court Decision Victory for Equipment Manufacturers

The California Supreme Court's decision last week in the hotly-contested O'Neil v. Crane (2012)_Cal.4th_, case marked an important victory for product manufacturers. As plaintiffs' attorneys seek to bring more peripheral manufacturers into personal injury lawsuits based on asbestos and other chemical exposure, the Supreme Court strongly rebuked two primary theories of liability advocated by the plaintiff's bar.

Plaintiff's attorneys in a products liability case commonly argue that product manufacturers are liable under both strict liability and negligence theories, even when the manufacturer's finished product did not have any defects and the plaintiff's injury was caused by defects in another manufacturer's product. Using strong language, the Supreme Court emphatically found these claims meritless for manufacturers whose products did not actually harm a plaintiff. The only exceptions to this rule apply when (1) the manufacturer's product contributed substantially to the plaintiff's harm, or (2) the manufacturer participated substantially in creating a combined use that harmed the plaintiff.

In the case at bar, two manufacturers made valves and pumps for Navy warships in the 1940s. The valves and pipes themselves had no asbestos on them, but according to Navy regulations they incorporated asbestos-containing packaging and gaskets. Importantly, however, the valves and pipes did not require asbestos-containing gaskets or packaging to function properly. Furthermore, neither manufacturer designed or sold the packaging of gaskets used in their products; they purchased them from third parties.

The decedent first set foot on Navy warships in the 1960s, and by that time all asbestos-containing packaging and gaskets in the manufacturers' valves and pumps had been replaced during routine maintenance. The decedent developed mesothelioma in 2004—sixty years after he began working on the ships—and he died a year later. His family brought a wrongful death complaint against a host of defendants who allegedly supplied asbestos-containing products to the Navy, including the valve and pump manufacturers, claiming they were liable for both strict products liability and on negligence grounds. The Supreme Court disagreed, finding the valve and pump manufacturers free of liability because they had not installed the asbestos-containing products with which the decedent actually came into contact.

Regarding the strict products liability claim, the Supreme Court rejected two alternative arguments from the plaintiffs' attorney. First, as a rule, a manufacturer is not strictly liable if its product falls outside the "chain of distribution." Despite plaintiffs' assertions, the Supreme Court found the defendants' products outside the chain of distribution: the original asbestos-containing products had been replaced during the routine maintenance far before the plaintiff set foot on any Navy vessel, the defendants did not manufacture or sell the asbestos-containing packaging or gaskets, and the valves and pumps did not require asbestos-containing products to function properly.

The Court also rejected plaintiffs' related strict liability argument the manufacturers had a duty to warn the decedent about any hazards in the valves or pumps. The Court concluded that after sale of the completed product, manufacturers like the defendants had no duty to warn about dangers arising entirely from another manufacturer's product even if it is foreseeable the products might be used together. Because the danger arose solely out of the asbestos in the packaging and gaskets, which were replaced with a third-party's product before the decedent set foot on the ship, the manufacturers had no duty to warn about the possible future use of asbestos-containing component parts.

Finally, and importantly, the Court rejected the plaintiffs' negligence claim, holding as a matter of law the defendants owed absolutely no duty to the decedent. Among the factors the Court identified, two stand out for other manufacturers. First, there was an extremely tenuous connection between the manufacturers' conduct and the decedent's injury. The defendants did not manufacture, supply, or sell the asbestos products, the decedent did not work around the products until 20 years after construction of the boats, and he did not develop an injury until 40 years after the manufacturers provided the valves and pumps to the Navy. Second, product manufacturers like the defendants here did not and realistically could not exercise control over how a third-party handled replacement parts.

The O'Neil decision strongly positions products manufacturers facing personal injury, asbestos, and chemical exposure to avoid liability. As plaintiffs' attorneys seek defendants with ever more tenuous connections to a plaintiff's alleged injury, manufacturers whose products did not actually contain any defects can now mount effective defenses to both strict products liability and negligence claims. Burnham Brown's attorneys have extensive experience in asbestos and other product defect litigation, and can advise product manufacturers looking to take advantage of the Supreme Court's decision.

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