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N.Y. Court Allows Claims to Proceed, Rejects Component Parts Argument

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BUFFALO, N.Y. — A New York trial court has denied summary judgment to a defendant who claimed that it could not be held liable for dangers associated with component parts later affixed to its products, determining that there was no New York precedent on point. *Webb, et al. v. A.O. Smith Water Products Inc., et al.*, No. 2008/9199 (N.Y. Sup. Ct., Erie Cty.).

In the Jan. 25 opinion, the New York Supreme Court for Erie County agreed with the plaintiffs that Crane Co.'s products were built in a way that would require the use of exterior insulation and, therefore, asbestos exposure as a result of using the products was a foreseeable risk.

"[I]t is not clear whether Crane issued any warnings about its products that admittedly contained asbestos gaskets, packing and discs, or whether it was aware that asbestos-containing materials would be applied by its customers to the exterior of its pumps and valves," the court said.

Crane Co. moved for summary judgment, contending that it could not be held responsible for products that it did not manufacture or supply.

The plaintiffs, however, opposed the motion, maintaining that Crane Co. owed a duty to warn Elmer Eugene Coon that installing and removing external insulation from Crane Co.'s pumps and valves could result in asbestos exposure.

However, the defendant says that there is no evidence that it supplied or specified what insulation materials should be used on its products. Crane Co. also argues that its equipment was not designed in a way that would require asbestos-containing gaskets, packing or insulation.

The trial court, however, disagreed. In its opinion and order, it said that Crane Co. was required to make a prima facie showing that its products could not have contributed to Coon's illness.

"Crane has failed to come forward with evidence that the pumps and valves it supplied to the places where plaintiffs claim decedent was exposed did not have asbestos-containing components, or that it provided any warnings concerning the use, maintenance or repair of those products that did have asbestos-containing components," the court said. "Indeed, Crane has conceded in its Answers to Interrogatories that some of its valves had asbestos gaskets, packing or discs, which alone raises a triable question of fact. Finally, Crane has failed in the first instance to establish that its products could not have contributed to decedent's injuries and death."

The court also declined to follow the lead of Washington, California and — most recently — Pennsylvania appellate courts that held a manufacturer cannot be held liable for products it did not manufacture or supply. Instead, the trial court ruled, "it is well established in New York law that '[a] manufacturer has a duty to warn against latent dangers resulting from foreseeable uses of its products of which it knew or should have known.'" [*Simonetta v. Viad Corp.*, 197 P.3d 127 (Wash. 2008); *Braaten v. Saberhagen Holdings*, 198 P.3d 493 (Wash. 2008); *Taylor v. Elliott Turbomachinery Co.*, 171 Cal.App.4th 564 (2009); *Schaffner, et al. v. Aesys Technologies, et al.*, No. 1901 EDA 2008; No. 1902 EDA 2008 (Pa. Super. Ct.)].

Counsel for the plaintiffs are Richard M. White and Seth A. Dymond of Belluck & Fox in New York.

Crane Co. is represented by Angela DiGiglio and Michael E. Waller of K&L Gates in Newark, N.J.

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