

USDC-MA Applies Massachusetts' Causation Standard in Granting Asbestos Defendant Summary Judgment

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The United States District Court for the District of Massachusetts recently granted defendant Mack Trucks Inc. summary judgment in an asbestos-related injury action brought by Bruce Wright (and his wife) for injuries sustained from his alleged exposure to asbestos from clutches, brakes, and gaskets in Mack trucks. *Wright v. Cummins Inc., et al.*, (C.A. 23-cv-10496-MJJ). In doing so, the Court examined the asbestos causation standard under Massachusetts law, focusing on its product identification and exposure elements specifically—two critical factors with which defendants in the asbestos litigation often grapple.

As held by the Massachusetts Appellate Court nearly 15 years ago in *Morin v. AutoZone Ne., Inc.*, 79 Mass. App. Ct. 39, 42 (2011), to satisfy their causation burden an asbestos-plaintiff must show that: i) plaintiff encountered the defendant's asbestos-containing product ("product identification"); ii) plaintiff was exposed to the asbestos contained therefrom ("exposure"); and iii) the exposure was a substantial contributing factor of plaintiff's injury ("substantial factor"). Applying this enduring standard to each of the claimed exposures involving Mack, the *Wright* Court cogently assessed Mr. Wright's product identification and exposure evidence along with Mack's evidence that it manufactured both asbestos and non-asbestos versions of the offending product types during the relevant time period.

Ultimately, as explained below, the Court concluded that Plaintiffs failed to present sufficient evidence that Mr. Wright encountered *asbestos-containing* Mack clutches and brakes, thus failing to satisfy the "product identification" requirement; while, as to Mack gaskets, Plaintiff's evidence failed to establish the exposure prong.

Product Identification

While the Court concluded that Plaintiffs' evidence tended to show that Mr. Wright worked with Mack clutches and brakes at various times as a mechanic from 1986 to 1998, it assessed this showing in the context of Mack's counterevidence establishing that it also made non-asbestos versions of the same products during the same time period. In doing so, the Court found that Plaintiffs' evidence failed to establish beyond speculation that Mr. Wright worked with the asbestos versions of Mack's clutches and brakes as is required to withstand a summary judgment challenge, noting that Massachusetts' causation standard required Plaintiffs to present sufficient evidence from which a fact finder could reasonably infer that Mr. Wright was exposed to Mack's asbestos-containing version.

Clutches

The evidence showed that Mack indeed used asbestos-containing clutches in its trucks and that Mr. Wright first worked with Mack clutches in 1990. However, it further showed that Mack clutches became asbestos-free by 1982—more than seven years before Mr. Wright first encountered them. Considering this, the Court reasoned that the mere fact that Mack trucks previously used asbestos clutches was an insufficient basis upon which to

establish that it was reasonably probable, *not just possible*, that Mr. Wright worked on the asbestos versions of Mack clutches.

Brakes

Similarly, the evidence showed that Mr. Wright first worked with new Mack brakes in 1990 and that Mack used asbestos-free brakes in its highway trucks by 1986 and in its new Mack trucks by the end of 1989. The Court concluded that where the evidence established that Mack discontinued the use of asbestos in its brakes years, or even several months, before Mr. Wright worked with them, Plaintiffs could not establish beyond insufficient conjecture that the new Mack brakes on which Mr. Wright worked were Mack's asbestos version of the product.

Exposure

Unlike with clutches and brakes, the Court concluded that Plaintiffs' evidence tended to show that Mr. Wright indeed encountered asbestos-containing Mack engine gaskets as a mechanic in 1986. Mack was, nonetheless, entitled to summary judgment because Plaintiffs failed to produce sufficient evidence establishing any significant asbestos exposure therefrom beyond *de minimis* if Mr. Wright was exposed to asbestos at all.

Plaintiffs produced evidence showing that Mr. Wright installed Mack asbestos-containing gaskets in 1986. However, he only did so on *two* occasions. Given the limited number of Mack gasket installations Mr. Wright performed, coupled with his failure to present evidence of exposure to asbestos from the installation of the gaskets—including his admission that the installation of a new gasket was not a dusty process—the Court concluded that Plaintiffs failed to “produce evidence of a degree of exposure greater than ‘insignificant or *de minimis*.’” *Morin*, 79 Mass. App. Ct. at 43 (quoting *Welch v. Keen Corp.*, 31 Mass. App. Ct. 157, 162 (1991)).

Conclusion

The USDC-MA's recent *Wright* ruling reinforces—at least at the Federal level—the mandates of Massachusetts' asbestos causation standard and, in particular, its product identification and exposure elements beyond mere recollection of a defendant's name and product type. Indeed, as the dates of asbestos plaintiffs' alleged exposure progress towards time periods in which defendants' products no longer used asbestos components, *Wright* serves as an important reminder that: i) plaintiffs' product identification burden cannot be established through speculation; and ii) *de minimis* exposures do not establish substantial causation.