



Mealey's® Litigation Report: Asbestos

Mealey's Litigation Report: Asbestos offers unsurpassed coverage of litigation arising from mesothelioma, asbestosis, lung cancer, and other asbestos-related diseases. It also includes coverage of litigation arising from exposure to asbestos fibers, including chrysotile, amosite, tremolite, and crocidolite.

Litigation Snapshot

Asbestos personal injury litigation morphed in the years since the Supreme Court famously referred to it as an "elephantine mass" that defies "customary judicial administration." The litigation bankrupted almost 100 companies, and the search for the next solvent defendant continues. Where once the cases revolved around those who worked with or at raw fibers suppliers or mining companies, the litigation now includes household exposure allegations and encompasses talc defendants, friction product companies, gasket, packing and insulation manufacturers and suppliers, employers, premises owners and others. The litigation continues to evolve, with challenges to "every exposure" experts and the science becoming ever more important alongside issues such as the "bare metal" defense and more traditional litigation issues.

Who Needs to Know

- » Attorneys who focus on personal injury
- » Corporate counsel and compliance officers
- » Insurers and their counsel
- » Judges and court staff across the entire U.S. federal judiciary
- » Professors, students, and library staff at every accredited law school in the U.S.

Areas of Coverage

- » State and federal verdicts
- » Settlements
- » Challenges to litigation experts
- » Discovery battles
- » Insurance coverage rulings
- » Legislation affecting the litigation
- » International litigation developments
- » Environmental claims
- » Class actions and MDL proceedings
- » Bankruptcy trusts
- » Market share liability
- » Statute of limitations
- » Successor liability
- » Duty to warn
- » Statutes of repose
- » Medical monitoring and mass medical screening
- » Workers' comp cases
- » Contingency fees

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Mealey's Litigation Report: Asbestos

Sample Newsletter and Section News

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 Cc:
 Subject: Mealey's Litigation Report: Asbestos, Jan. 20, 2016, Volume 30, Issue 24

Lexis® Legal News

MEALEY'S ASBESTOS

Take-Home Cases

North Dakota Top Court Rejects Employer Liability In Take-Home Asbestos Case

BISMARCK, N.D. — An employer is not liable for failing to warn household members of the dangers of asbestos, the North Dakota Supreme Court held Jan. 14 after finding that a widow lacks sufficient evidence of a special relationship between the employer and its employee's son or that the employer knew the risks (Deborah J. Palmer, surviving spouse of Gary J. Palmer, deceased v. 999 Quebec Inc. [f/k/a International Boiler Works Co.], et al., No. 2016 ND 17, N.D. Sup., 2016 N.D. LEXIS 17).

Replacement Parts

Manufacturer Urges Rejection Of Liability For Replacement Parts

PHILADELPHIA — Maritime law and the majority of states to address liability for third-party asbestos-containing replacement parts reject such a duty, a manufacturer told the Third Circuit U.S. Court of Appeals on Jan. 4 (Kenneth McAfee and Shirley McAfee v. Ingersoll Rand & Co., No. 15-2667, 3rd Cir.).

Statute of Repose

Judge: Statute Of Repose Frees Installer, Not Repairer, From Asbestos Case

CHICAGO — The statute of repose protects a company from liability for a boiler installed 30 years before a man's asbestos exposure, but his widow's claims against a company making repairs may go forward, a federal judge in Wisconsin held Jan. 6 (Beverly Ahnert, et al. v. Brand Insulation Inc., et al., No. 13-1456, E.D. Wis., 2016 U.S. Dist. LEXIS 427).

Causation

4th Circuit Affirms Defendants' Judgments In Asbestos Causation Challenge

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 Links to the topical section of Lexis Legal News.

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January 26, 2016
Officials: Mesothelioma Rates Continue To Rise In Canada
 OTTAWA — The rates of mesothelioma in Canada continue to rise both in terms of real numbers and as a percentage of the population, according to statistics recently released by Statistics Canada.

January 25, 2016
Colon Cancer Testimony Properly Admitted In Worker's Case, Court Says
 HARRISBURG, Pa. — A workers' compensation court properly admitted expert testimony linking asbestos exposure with a man's fatal colon cancer, a Pennsylvania court held in affirming an award of benefits Jan. 22 (Garrison Architects and Travelers Insurance Co. v. Workers' Compensation Appeal Board [Platetsky], No. 1095 C.D. 2015, Pa. Cmwlth. Ct., 2016 Pa. Commw. Unpub. LEXIS 72).

January 25, 2016
Man's Work With Cast-Iron Pipe Falls Short In Asbestos Case, Judge Says
 NEW YORK — Testimony that a man worked with a defendant's cast-iron pipes does not suffice to keep a company in an asbestos action, a federal judge in New York held Jan. 21 (Cheyanne Holzworth, et al. v. Alfa Laval Inc., et al., No. 12-6088, S.D. N.Y., 2016 U.S. Dist. LEXIS 7185).

January 22, 2016
California Court Affirms Punitive Damage Verdict Awarded After Retrial
 SAN FRANCISCO — A judge did not err in excluding an expert nor in retrying punitive damages before a new jury after the first one failed to reach a verdict, a California appeals court held Jan. 21 in upholding the almost \$4 million asbestos verdict (Patricia Casey v. Kaiser Gypsum Company Inc., No. A133062, Calif. App., 1st Dist.).

January 22, 2016
11th Circuit Appeal Challenges Expert, Causation, Duty To Household Members
 ATLANTA — A power company on Jan. 19 asked the 11th Circuit U.S. Court of Appeals to throw out a \$3 million asbestos verdict against it, saying it owed no duty to household members while also challenging causation and expert witnesses (Melissa Ann Bobo and Sharon Jean Cox, as co-personal representatives of the estate of Barbara Bobo v. Tennessee Valley Authority, No. 15-15271, 11th Cir.).

January 21, 2016
Reinsurer Must Indemnify Insurer For Expenses, New York Federal Judge Says
 ALBANY, N.Y. — A reinsurer must indemnify an insurer for settlement expenses incurred in settling asbestos bodily injury claims filed against an insured because the follow-the-settlement doctrine applies and the insurer's billings are clearly within the scope of coverage under the reinsurance certificates, a New York federal judge said Jan. 20 (Utica Mutual Insurance Co. v. Clearwater Insurance Co., No. 13-1178, N.D. N.Y., 2016 U.S. Dist. LEXIS 6219).

January 20, 2016
Asbestos Premises Defendant Tells 4th Circuit It Adequately Supported Removal
 RICHMOND, Va. — A former office removal requires only plausible evidence of a colorable defense, and a former Navy asbestos procedures suffices, a premises owner told the Fourth Circuit U.S. Court Charles B. Brinkman and Louise K. Brinkman v. John Crane Inc., et al., No. 15-1752, 4th Cir.).

ARTICLE HEADLINE
 Links to the full article, related stories, related documents and comments section.

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4th Circuit Affirms Defendants' Judgments In Asbestos Causation Challenge

Mealey's January 20, 2016, 11:02 AM (ET) — RICHMOND, Va. — A judge did not err in applying the frequency, regularity and proximity test in an asbestos case against four defendants or in finding that it lacked personal jurisdiction over a fifth defendant, a Fourth Circuit U.S. Court of Appeals panel held Jan. 5 (Lisa Covington, et al. v. MCC Int., et al., No. 14-2055, 4th Cir.).

(Opinion available. Document #31-18120-001Z.)

Lisa Covington filed suit in the Baltimore County Circuit Court in November 2009 against more than 60 companies whose conduct allegedly exposed Ota Games to asbestos, leading to the death from lung cancer.

Shipyard Exposures

Games allegedly worked at various shipyards in Baltimore as a broom and shovel laborer and later as a welder.

The action was removed to the U.S. District Court for the District of Maryland, where defendants MCC Int., Wallace & Gale Settlement Trust, SB Decking Inc., General Electric Co. and Wayne Manufacturing Co., a now-defunct wholly owned subsidiary of Heppner Brothers Inc., prevailed on summary judgment motions.

Covington appealed.

A panel of the Fourth Circuit affirmed.

Causation Standard

The panel said Covington had not met Lohman v. Pittsburgh Corning Corp. (782 F.2d 1196, 1182 (4th Cir. 1986)) frequency, regularity and proximity test for bringing negligence claims under Maryland law against MCC, Wallace & Gale, SB Decking or GE.

Further, the District Court properly found insufficient evidence that Wayne was subject to personal jurisdiction, the panel said.

Judges Robert S. King, Dennis W. Shields and Stephanie D. Thacker participated in the original and panel decisions.

Ends Chapter 11 Case Of Flintkote Affiliate

Delaware federal bankruptcy judge on Jan. 19 closed the Chapter 11 case of The Flintkote which has merged into Flintkote as part of the companies' reorganization and no longer re: The Flintkote Co., No. 04-11300, D. Del. Bkcy.).

Ice Insufficient To Keep Asbestos Case In Federal Court

