

Supreme Court Redefines Scope of Asbestos Manufacturer's Liability under General Maritime Law

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On March 19, 2019, the United States Supreme Court redefined the scope of a manufacturer's liability under General Maritime Law for asbestos-related injuries caused by third-party integrated parts. In *Air & Liquid Sys. Corp v. Devries*, Case No. 17-1104, 2019 US LEXIS 2087 (03/19/2019), the Supreme Court held that a manufacturer has a duty to warn users when its product *requires* subsequent incorporation of another part—such as asbestos material—that the manufacturer knows is likely to render the integrated product dangerous for its intended use.

In *Devries*, two Navy veterans and their wives filed suit against manufacturers of certain equipment (*i.e.*, pumps, blowers, and turbines) that was used aboard Navy ships. The equipment required asbestos insulation or asbestos parts in order to properly function. However, the manufacturers did not always incorporate the asbestos parts into their products. Rather, the manufacturers provided much of the equipment without asbestos, or “bare metal,” to the Navy, who then independently added the asbestos to the equipment.

The plaintiffs alleged that they were exposed to asbestos on the Navy ships and consequently developed cancer. The plaintiffs argued that the equipment manufacturers were liable based on their negligent failure to warn users against the dangers of asbestos in the parts integrated into the equipment. According to the plaintiffs, had the manufacturers provided such warnings, then individuals working aboard the Navy ships could have worn protective masks to avoid exposure and injury.

In the district court, the equipment manufacturers moved for summary judgment on the plaintiff's claims and argued that they should not be liable for injuries caused by parts subsequently added by third parties, a defense known as the “bare-metal defense.” The district court granted the manufacturers' motions for summary judgment. However, the US Court of Appeals for the Third Circuit vacated and remanded the district court's judgment on the grounds that “a manufacturer of a bare-metal product may be held liable for a plaintiff's injuries suffered from later-added asbestos-containing materials' if the manufacturer could **foresee** that the product would be used with the later-added asbestos-containing materials.”

The Supreme Court affirmed the Third Circuit's ruling to vacate and remand. However, the Supreme Court rejected the Third Court's “foreseeability” approach as too broad and as exposing

manufacturers to massive liability and undue burden while over-warning users against too many potentially foreseeable dangers. Conversely, the Supreme Court rejected the equipment manufacturers' "bare-metal defense" on the grounds that the product manufacturer is generally more knowledgeable of the risks associated with required, integrated parts and, therefore, is in a better position to warn users from dangers of the product. In reaching its holding, the Supreme Court noted that requiring manufacturers to warn against dangers of integrated parts "is especially appropriate in the maritime context" since the General Maritime Law affords special protections to those exposed in their employment to the unique hazards of the sea.

Accordingly, the Supreme Court held that "[i]n the maritime context, a product manufacturer has a duty to warn when (1) its product **requires** incorporation of a part, (2) the manufacturer knows or has reason to know that the integrated product is likely to be dangerous for its intended uses, and (3) the manufacturer has no reason to believe that the product's users will realize that danger." In other words, a manufacturer has a duty to warn users when its product requires the integration of a likely dangerous part in order for the product to properly function for its intended use.

The Supreme Court's decision in *Devries* may expand the scope of maritime products liability and increases the obligations of manufacturers of maritime equipment to warn against the dangers of asbestos or other dangerous parts incorporated by third parties and required for the equipment's use. The *Devries* opinion leaves some questions as to the future of US products liability law, including whether a duty to warn of integrated parts should apply to non-maritime cases where the special protections afforded to mariners are not extended.

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