

North Dakota High Court Rejects “Take-Home” Asbestos Claim

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In a case of first impression that may clarify the duty of care in secondary exposure claims in North Dakota, the state’s highest court rejected claims based on childhood exposure to asbestos brought home on an insulation worker’s clothing. See [Palmer v. 999 Quebec, Inc.](#), 2016 ND 17 (N.D. Jan. 14, 2016).

Plaintiff was the surviving spouse of Gary Palmer, who alleged his mesothelioma was caused by childhood exposure to dust that his father inadvertently brought home from his job installing asbestos insulation in the 1960s. Defendant, the former employer of Palmer’s father, argued it owed Palmer no duty of care because there was no special relationship between Defendant and Palmer, nor was Palmer’s injury foreseeable.

The North Dakota Supreme Court agreed with Defendant. It noted that negligence cases in the state historically “have focused on both foreseeability of the injury and the relationship of the parties in deciding whether a duty exists,” with more recent case law focusing on the relationship. *Id.* at ¶¶ 15–16. Here, the Court found Palmer had not shown either that Defendant knew of the hazards of secondary asbestos exposure at the time of the exposure or that he had a special relationship with Defendant. Therefore, the Court held, Palmer’s claims fell short regardless of whether the Court focused on foreseeability, relationship of the parties, or a combination of both.

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