



## News & Updates

### **FEDERAL COURT, EASTERN DISTRICT WISCONSIN - MESOTHELIOMA CLAIM BARRED BASED ON ISSUE PRECLUSION (FEB. 3, 2015)**

In this MDL asbestos case, plaintiff brought an action claiming he had asbestosis. CBS and General Electric moved for summary judgment in the Eastern District of Pennsylvania, which motion was unopposed. At the time the motion was brought, plaintiff had been diagnosed with mesothelioma but such claim had not yet been added to the lawsuit (although disclosed in discovery responses). After the summary judgment motion was granted, plaintiff's estate commenced another lawsuit in which his estate sought to pursue the mesothelioma claim.

The Federal Court for the Eastern District of Wisconsin dismissed the claim based on issue preclusion, stating: "In the final analysis, the underlying policies weigh in favor of preclusion. The purpose of claim preclusion 'provides an effective and useful means to 'relieve parties of the cost and vexation of multiple lawsuits, conserve judicial resources, and, by preventing inconsistent decisions, encourage reliance on adjudication.' The single cause of action rule seeks to deter multiple lawsuits out of the same incident, and neither the discovery or accrual rules create an exceptional circumstance in this case. Beverly Ahnert knew of Daniel's mesothelioma diagnosis on January 4, 2011, and Daniel died on July 7, 2012. CBS and General Electric filed their summary judgment motions on October 8, 2012. The unopposed motions were granted in December of 2012. Beverly Ahnert could have asserted the malignancy claims in the Pennsylvania action before the court ruled that there was 'no genuine issue of material fact of whether plaintiffs' asbestos-related injuries were caused by products manufactured, supplied, or distributed by these defendants.'"

[Click here for a copy of this decision.](#)

If you have questions about how this case may impact your business, please contact:

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Or another member of Goldberg Segalla's Toxic Torts Practice Groups

#### **Files**

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