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WESTERN DISTRICT OF WASHINGTON - UNDER MARITIME LAW, EXPERT OPINION ON LIKELIHOOD OF EXPOSURE TO ORIGINAL ASBESTOS ALONE STILL INSUFFICIENT TO ESTABLISH CAUSAL CONNECTION (MAR. 2, 2015)

In this case, the defendant, Lockheed, moved for reconsideration of the prior decision from the U.S. District Court for the Western District of Washington that there was sufficient evidence establishing a causal link between original asbestos allegedly installed by Lockheed and decedent John McCrossin's asbestos exposure. In accordance with five decisions out of the Eastern District of Pennsylvania, the court recognized that under maritime law an expert affidavit alone of likely exposure to original asbestos is insufficient to establish a causal connection.

However, the court went on to also hold that circumstantial evidence, in addition to an expert affidavit, is sufficient: "Here, the plaintiff relies on more than just Captain Burger's testimony to show that Mr. McCrossin was exposed to asbestos installed by Lockheed. First, the plaintiff relies also on Lockheed's own experts Captain Charles Wasson and Captain Wesley Hewitt whose testimonies, taken together, purportedly show that 362,000 pounds of asbestos materials were originally installed on the Trenton and that most of these materials remained on the Trenton during the overhaul Second, the plaintiff relies also on hygiene and medical experts, Mr. William Ewing and Dr. Carl Brodtkin, respectively Finally, this court has already concluded that the plaintiff has produced sufficient evidence that asbestos was originally installed in the precise location and equipment Mr. McCrossin described working in and with." Based on this additional evidence, the court denied Lockheed's motion for reconsideration, stating: "[E]ven if testimony based on personal knowledge were required under maritime law to defeat a summary judgment motion, the court should conclude that the plaintiff has satisfied this burden under the circumstances. The jury is entitled to consider and weigh both the plaintiff's and Lockheed's evidence as to whether Mr. McCrossin was, in fact, exposed to asbestos originally installed by Lockheed."

[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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Files

[Asbestos Case Tracker - March 3, 2015.pdf](#)

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