



News & Updates

WESTERN DISTRICT OF WASHINGTON - APPLYING ADMIRALTY LAW, COURT GRANTS SUMMARY JUDGMENT FOR LACK OF PROOF THAT PRODUCT CONTAINED ASBESTOS (MAR. 3, 2015)

In this case, the plaintiff claimed that the decedent, Alan McMann, was exposed to asbestos-containing non-skid materials as a bystander that were applied to the deck of the USS Firedrake. Defendant SB Decking, the alleged manufacturer of the non-skid material, moved for summary judgment on the ground that plaintiff did not prove that the non-skid material applied in the decedent's presence actually contained asbestos. The court initially analyzed the locality and connections tests, concluding that Admiralty Law applied. On the causation issue, the court concluded that while there may have been asbestos-containing non-skid material applied to different parts of the ship, there was no evidence that the decedent was present when that material was applied or that the material actually applied in his presence also contained asbestos.

The court reasoned: "McMann's evidence shows, at most, that SB Decking's product was on the premises of Mr. McMann's workplace. McMann asserts that he was exposed to dust while the Firedrake's main deck non-skid was replaced in a dry dock. But, McMann fails to provide evidence showing that this particular non-skid contained asbestos. See Dkt. 117. The non-skid that SB Decking supplied that actually contained asbestos is only shown to have occupied a part of the ship which Mr. McMann never entered. Dkt. 66, Ex. B at 24. That non-skid was not replaced during any time material to Mr. McMann's employment and Mr. McMann does not claim he was exposed to a dust cloud of that toxic non-skid. McMann has not shown any exposure to asbestos from SB Decking's products, nor did McMann show that any of SB Decking's products were a substantial factor in causing his illness."

[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 5, 2015 - Western District Washington.pdf](#)

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