



News & Updates

FEDERAL COURT PRECLUDES PLAINTIFF AIRCRAFT EXPERT UNDER DAUBERT AND GRANTS SUMMARY JUDGMENT

In this case, the plaintiffs pursued an action claiming that the decedent, while working as an aircraft electrician for the U.S. Air Force between 1952 and 1961, was exposed to various electrical component parts. Several electrical component part defendants moved for summary judgment claiming that the plaintiffs did not meet the threshold exposure standard under California law. In opposing the motion, the plaintiffs relied on the expert testimony of Mark Thomson, an experienced pilot and civilian aviation mechanic and custodian of one of the world's largest aviation libraries in the United States. Generally, Mr. Thomson offered testimony in part that claimed the decedent was exposed to asbestos during the plane's operation through vibration and abrasion of asbestos components.

The court ruled that Mr. Thomson was not a qualified expert: "Upon review of the Plaintiffs' supplemental briefing, Thomson Daubert Mem., however, the Court rules that his testimony is not admissible. Thomson is simply not a qualified expert under Fed. R. Evid. 702. 'Rule 702 grants the district judge the discretionary authority, reviewable for its abuse, to determine reliability in light of the particular facts and circumstances of the particular case.' *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137, 158, 119 S. Ct. 1167, 143 L. Ed. 2d 238 (1999). In considering the factors set forth in *Daubert v. Merrell Dow Pharms.*, 509 U.S. 579, 113 S. Ct. 2786, 125 L. Ed. 2d 469 (1993), Thomson's testimony, while relevant, falls short of the reliability standards required under Rule 702."

With respect to other defendants, the court also precluded Mr. Thomson's testimony on the grounds that he provided no insight as to the particular defendants' products: "The same *Daubert* gatekeeping considerations discussed above apply to the use of Thomson's testimony here, but analyzing Thomson's qualifications and methodology is of little use in deciding Schneider and Eaton's motions. His statement provides virtually no useful insight into Square D or Cutler-Hammer products." The court ultimately concluded that in absence of Thomson's opinions, the evidence presented by the plaintiffs did not meet the threshold standard in California to create an issue of fact and granted summary judgment to the moving defendants.

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

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Files

[Asbestos Case Tracker - CA Decision - April 10, 2015.pdf](#)

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