



## News & Updates

### **ACTION INVOLVING COMMON LAW MARITIME CLAIMS REMANDED TO STATE COURT**

The plaintiff commenced this action in Missouri State Court, alleging that the decedent developed and died from mesothelioma as a result of his work as a ship repairman at the Newport News Shipping and Drydock Company. Vessel defendant Exxon Mobil Corporation removed the action to federal court, asserting that the “case was removable under the federal Longshore and Harbor Workers’ Compensation Act, 33 U.S.C. § 905 and that removal was based on federal question jurisdiction and admiralty jurisdiction, citing 28 U.S.C. §§ 1331, 1333.”

The plaintiff moved to remand the case and for attorney’s fees for the motion. The court granted the remand, finding that the case was grounded in Missouri common law, there was no law cited that created a federal cause of action, and that a case with more of a general maritime nature that requests common law remedies does not provided a basis for federal jurisdiction. As held by the court: “Federal courts have long supported a plaintiff’s right to choose a forum, state or federal, in common-law maritime actions. Here, Plaintiff’s *in personam* action, initially brought in state court, seeks common law remedies. The Court cannot disturb Plaintiff’s prerogative to pursue her action in state court.”

In denying the plaintiff’s request for attorney’s fees, the court stated: “In light of the circumstances of this case, the Court finds Defendant’s removal to federal court was objectively reasonable. There are no unusual circumstances to find otherwise. Therefore, the Court will not award attorney’s fees.”

Read the full decision here.

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

[Asbestos Case Tracker - Missouri Decision - April 13, 2015.pdf](#)

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