



News & Updates

NEXUS BETWEEN DECEDENT AND NASH PUMPS ABOARD USS IOWA FOUND TO BE INSUFFICIENT IN GRANTING OF SUMMARY JUDGMENT

In this NYCAL case, it was alleged that the decedent, John Pendolino, developed and died from mesothelioma as a result of his asbestos exposure while serving as a machinist's helper in the U.S. Navy while aboard the USS Iowa from 1941-42. The defendant, Nash Engineering Company, moved for summary judgment, arguing that no Nash product was identified as the source of the decedent's injury. The decedent testified prior to his death, but did not identify Nash pumps. The plaintiff, in opposing summary judgment, submitted a 2005 affidavit from Charles Watson, a retired Navy engineer, which stated that the USS Iowa, USS New Jersey, and three other ships all would have used the same pumps, and a 1982 report from American Systems Engineering that provided that Nash pumps were aboard the USS New Jersey.

The court found the plaintiff's reliance on the submitted documents to be misplaced, and in granting summary judgment, stated: "The Watson affidavit was prepared almost 10 years ago, most likely in connection with another case. It constitutes uncross-examined hearsay, and specifically discusses Viking pumps rather than Nash pumps. Also, while Mr. Watson avers that the Navy records he reviewed in reaching his conclusions were annexed to his affidavit as exhibits, such records have not been submitted herein. The engineering report is even less persuasive. The mere fact that Nash pumps may have been present aboard the USS New Jersey in 1982 does not, even in light of plaintiffs' other submissions, establish that they were also installed on the USS Iowa forty years earlier. Finally, there is nothing to show that such pumps would have been insulated or that they utilized asbestos-containing components."

Read the full decision here.

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

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Files

Asbestos Case Tracker - April 14, 2015.pdf

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