



News & Updates

PLAINTIFFS' CONCESSION TO NOT PURSUE NAVY EXPOSURE RESULTS IN REMAND UNDER FEDERAL OFFICER REMOVAL STATUTE

In this case, the plaintiffs claimed that the decedent was exposed to asbestos in connection with force draft blowers manufactured by Carrier Corporation and another defendant while in the Navy on board the USS Edson. The plaintiffs moved to remand after Carrier removed the case based on federal officer jurisdiction under 28 U.S.C. 1442(a)(1). In granting the motion to remand, the court accepted the plaintiffs' argument that despite the exposure, they expressly disclaimed any intention to pursue damages in connection with any Navy exposure: "In their Petition, the Haydens expressly limited their claims to exclude any causes of action for exposure while Thomas Hayden was 'enlisted or serving in the United States Navy aboard ship, in port, or in any federal enclave.' (Rec. Doc. 1-1 at p. 7). The disclaimer at issue disavows the pursuit of damages that may have resulted from asbestos exposure during Thomas Hayden's time in the Navy. Carrier's only asserted ground for removal is the May 28th deposition testimony pertaining to Mr. Hayden's potential exposure while working around 'forced draft blowers' on the USS EDSON. However, the Petition explicitly denies a cause of action based on these facts. Moreover, the Haydens reaffirmed, in their motion, that they are not pursuing any claims against defendants for exposure during Thomas Hayden's service in the military, but only for exposure that occurred while he worked at 'refineries and other land-based industrial sites' around Louisiana. (Rec. Doc. 6-2 at p. 2). The Court sees no reason to disbelieve the Haydens' explicit renunciation of any claims arising from Thomas Hayden's military service."

Read the full decision [here](#).

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

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Files

[Asbestos Case Tracker - Louisiana, August 11, 2015.pdf](#)

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