



News & Updates

TENNESSEE COURT PERMITS CAUSATION OPINIONS ON EXPOSURE TO ASBESTOS, DIESEL FUMES, AND SECONDHAND SMOKE IN THROAT CANCER CASE BASED ON DIFFERENTIAL DIAGNOSIS APPROACH

In this FELA case, the plaintiff claimed the decedent was exposed to asbestos, diesel fumes, and secondhand smoke in the workplace as a mechanic, and subsequently developed throat cancer. The plaintiff offered three experts who gave opinions that all three types of exposures caused the decedent's throat cancer. Although the experts did not quantify the decedent's exposures, they used a differential diagnosis approach to reach their conclusions.

The Supreme Court of Tennessee upheld this approach under Tennessee law, stating: "As with these cases, the exposures to asbestos, ETS, and diesel exhaust that Mr. Russell encountered at work were not quantified, but Mrs. Russell's medical experts concluded, using differential diagnoses, that the level of exposure was enough to cause his cancer. The various statements and depositions of employees of Illinois Central considered by the plaintiff's experts provided a qualitative assessment of the presence of and exposure to these carcinogens in the maintenance shops. The experts also considered Mr. Russell's social and medical history. From this body of evidence, Drs. Frank, McClean, and Kelsey considered all relevant potential causes of Mr. Russell's cancer and eliminated alternative causes. This is a process that produces a reliable opinion."

The court ultimately upheld the jury award of \$4.2 million, rejecting arguments on statute of limitations, certain evidentiary rulings, and the plaintiff's alleged violation of certain pretrial rulings.

Read the full decision [here](#).

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

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