

## Products Liability Law Daily Wrap Up, INDUSTRY NEWS—COMPLAINTS—ASBESTOS—N.D. Cal.: Complaint alleges worker’s injuries and death were caused by exposure to asbestos/asbestos-containing products at work, (May 30, 2014)

By Susan Lasser, J.D.

A complaint brought by the daughters of a worker whose injuries and death they allege was caused by worksite exposure to asbestos through his working with asbestos-containing products was filed this week in California. The complaint alleges that Foster Wheeler Corporation and Bath Iron Works Corporation, and both corporations’ “alternate entities” are liable for the daughters’ claims (*Thorne v. Bath Iron Works Corp.*, May 28, 2014)

**Background and allegations.** Andrew Price’s daughters (and heirs)—Barbara Thorne, Brenda Maronde, Celestia Sims-Mayer, and Becky Price—brought suit in a federal district court in California, seeking damages relating to the death of their father from lung disease caused by asbestos exposure.

The complaint alleges that Andrew Price (Price) sustained an asbestos-related lung disease and death caused by the inhalation of asbestos fibers released during the handling of asbestos-containing products at his jobsites. It specifically asserts that the decedent had experienced repeated exposure to asbestos-containing products manufactured, distributed, and/or sold by Foster Wheeler and Bath Iron Works (including their “alternate entities”) and supplied to, installed and/or maintained by the companies at the jobsites where Price worked. This exposure took place “over a period of years” and was caused from the “release of toxic asbestos fibers” and Price’s subsequent inhalation of those asbestos fibers, “resulting in cumulative, progressive, incurable lung diseases.” The complaint distinguishes that the occurrences of exposure were not dependent on the worksite, but rather on “the fact that asbestos-containing products, when handled in the manner in which they were intended, released harmful asbestos fibers which when inhaled by [Price], caused serious lung disease.”

**Causes of action.** The daughters plead four causes of action against the defendant companies and their “alternate entities”: negligence (survival), products liability (survival), negligence (wrongful death), and products liability (wrongful death). Their allegations include the assertion that the defendants knew or should have known that the asbestos and asbestos-containing products they supplied would break, would crumble, or otherwise would be damaged during the shipping process. Additionally, the defendants allegedly knew or should have known that the products at issue would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft, and/or other applications. Further the defendants allegedly had knowledge (or should have known) that the products would be unpacked, prepared, sawed, drilled, chipped, hammered, scraped, sanded, broken, removed, maintained, ripped out, and other manipulations, resulting in the release of airborne asbestos fibers. Through such foreseeable use and/or handling, the daughters claim, “exposed persons,” including their father, would use or be in proximity to and exposed to those asbestos fibers, which contaminated the packaging, products, environment, and clothing of persons working in proximity to the products. The daughters’ claims incorporate by reference these assertions set forth in their first claim for negligence (survival).

**Damages.** The complaint seeks judgment and damages from each defendant and their alternate entities in the form of general damages; damages for fraud; loss of income, wages, and earning potential; and medical and related expenses, as well as the cost of the lawsuit. The daughters also seek punitive damages, but only against Foster Wheeler LLC (fka Foster Wheeler Corporation).

The case number is 4:14-cv-02460-KAW.

Attorneys: David R. Donadio (Brayton Purcell LLP) for Barbara Thorne

Companies: Bath Iron Works Corp.; Foster Wheeler LLC

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