04.22.14

Weber Gallagher

Case Updates

Below are summaries of some recent developments and decisions in asbestos cases located in New Jersey, Pennsylvania and the Federal MDL 875. Please contact us if you have any questions about how this might affect your business.

Schott v. Viad Corp., EDPa. 09-63308: Defendant, Viad, granted motion for summary judgment based on insufficient production identification, finding that no reasonable jury could conclude from the evidence that Schott was exposed to asbestos from original or replacement gaskets, insulation or packing manufactured or supplied by GRC (Viad's predecessor), such that it was a substantial factor in the development of Schott's illness. (This case provides some clarification of the proof of exposure necessary in Federal MDL 875 cases.)

$7.2 Million Award in Mesothelioma Case: A Philadelphia County State Court jury recently awarded $7.2 million against nine defendants. The plaintiff was diagnosed with mesothelioma in 2010, dying six months later at the age of 62. The lone, non-settling defendant at trial argued that its product only contained chrysotile asbestos fibers, which an expert testified could not cause mesothelioma. The jury took only three hours to arrive at an award of $3.6 million on the Survival Act claim and $3.6 million on the wrongful death claim. (This is a significant jury verdict even for Philadelphia County.)

In Re: Garlock Sealing Technologies LLC, U.S. Bankruptcy Court, Western District of North Carolina, No. 10-13607: Plaintiffs' lawyers had manipulated evidence to get larger settlements from Garlock. Plaintiffs' lawyers have claimed on the one hand that Garlock was largely or solely to blame for plaintiffs'; injuries, but on the other hand have filed claims with bankrupt insulation manufacturers. As a result, Garlock has now filed lawsuits accusing four plaintiffs' firms of racketeering. (This case may have long-term effects on how plaintiffs submit claims to Asbestos Bankruptcy Trusts.)

General Refractories Company v. First State Ins. Co., et al., 2013 WL 4803522(EDPa) The plaintiff sued multiple carriers for a declaration of excess coverage. Pennsylvania law, which promotes the fair sharing of the burden of judgment, also holds that once multiple policies are triggered, the insureds are free to select the policy or policies under which it is to be indemnified. The Court further ruled that settled carriers are protected from contribution claims, but non-settled carriers do have the right to assert a claim for an apportioned share set-off. This case is an important clarification in the Federal MDL 875 on how to apportion responsibility when multiple policies are in effect for a defendant, asbestos manufacturer. (This case is an important clarification in the Federal MDL 875, on how to apportion responsibility when multiple policies are in effect for an asbestos manufacturer.)

For more information please contact Richard Ranieri at rranieri@wglaw.com or 973.242.2230 or Frederick Brown at fbrown@wglaw.com or 215.972.7902.