

Environmental / Toxic Tort Newsletter

New Jersey Supreme Court Eliminates Statute of Limitations Defense in Spill Act Contribution Claims

In *Morristown Associates v. Grant Oil Co.*, the New Jersey Supreme Court was unanimous in ruling that defendants can no longer assert a Statute of Limitations as a defense to claims for contribution under the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11, et seq. (the “Spill Act”). Previously, the courts had applied the general six-year statute of limitations for property damage claims to any claims for contribution under the “Spill Act.”

Pennsylvania Appellate Court Unanimously Rejects Asbestos Verdict on Liability and Damages

In *Nelson v. Airco Welders Supply*, a \$14.5 million verdict was thrown out. The unanimous Court found clear prejudicial error in telling the jury during closing arguments at trial to award a specific number for non-economic damages. Additionally, it ordered a new trial on liability, not just on damages, because one of the plaintiff’s experts, Dr. Daniel DuPont, offered contradictory testimony regarding the “any breath” theory.

Garlock Bankruptcy Objection by Asbestos Plaintiffs Rejected by Court, Again

Judge Hodges, in response to a motion to reopen the *Garlock Sealing Technologies* Bankruptcy Court estimation record, concluded that none of the arguments raised by motion filed by the committee representing asbestos claimants would change his ultimate decision. Judge Hodges stated that he found no misconduct, injustice or any new evidence that would change his prior estimation of *Garlock’s* liability at \$125 million (\$1 billion less than the plaintiffs wanted).

Pennsylvania Supreme Court Upholds Defendants Move of Asbestos Cases Out of Philadelphia to Rural County

In *Stettler v. Allied Signal*, the Pennsylvania Supreme Court refused to hear an appeal of the Appellate Court order transferring multiple Philadelphia County asbestos cases to Northampton County. The one-page order reconfirmed that these cases did not belong in Philadelphia, because Northampton County was where the alleged asbestos exposure occurred.

Federal Court (MDL 875) Applies Pennsylvania State Law to Grant Summary Judgment for Insufficient Product Identification

In *Palmer v. Heidelberg USA, Inc.*, the presiding Federal MDL 875 Judge (for the National Federal Asbestos Docket) granted the defendant’s Motion for Summary Judgment due to insufficient product identification, finding that the plaintiff’s asbestos exposure amounted to only a handful of times, over the course of 15 years, and that the evidence was insufficient under the Pennsylvania State Law to establish that the plaintiff’s exposure to this asbestos was a substantial factor in the development of his mesothelioma.

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