

TITLE: Delaware Supreme Court Overrules Its Prior Cases: Asbestos Household Exposure Claims Against Employers in Delaware Now Valid

CATEGORY: Toxic Tort/Environmental

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In *Ramsey v. Ga. S. Univ. Advanced Dev. Ctr. & Hollingsworth & Vose Co.*, 2018 Del. Lexis 302 (Del. June 27, 2018), the Delaware Supreme overruled prior cases holding that an employer did not owe a duty to the spouses of its employees to protect them from the hazards of asbestos taken home on its employees' clothes.

In *Ramsey*, product manufacturers sought to extend the Delaware Supreme Court's rulings in *Riedel v. ICI Americas, Inc.*, 968 A.2d 17 (Del. 2009) and *Price v. E.I. DuPont de Nemours & Co.*, 26 A.3d 162 (Del. 2011) which eliminated household exposure actions against employers under Delaware law. Not only did the Delaware Supreme Court find that product manufacturers owe a duty to household exposure plaintiffs, the Court reversed its prior rulings in *Riedel* and *Price*. As such, household exposure claims can now proceed against product manufacturers and employers:

We therefore overrule our prior cases, to the extent necessary, reverse the Superior Court's grants of summary judgment, and hold that a household member who regularly launders an employee's asbestos-covered clothing, like the plaintiff-spouse here, may sue her spouse's employer for its failure to provide warnings and safe laundering instructions. Consistent with our prior reasoning, however, the spouse cannot recover if the employer made adequate arrangements on-site to address the harms that may result from laundering asbestos-covered clothes, or gave the employee the information needed to protect himself or others who launder his clothes. In other words, the employer is in a safe harbor so long as it adequately addressed the harm at the workplace or gave its employee warnings and safe laundering instructions.

Ramsey, 2018 Del. Lexis 302, *8-9.

Importantly, the Court's ruling in *Ramsey* does not require that employers and manufacturers provide warnings directly to those who may be exposed to asbestos through laundering their family member's clothing. Rather, an employee must warn its employees of household exposure and product manufacturers, under the sophisticated purchaser doctrine, must provide warnings to the employers.¹

¹ While amicus briefs were filed, no amicus briefs were filed on behalf of any employers.

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Id. at *9.

But that does not mean that her claim can be fairly grounded in a requirement that the Manufacturers, or even the Employer, had a duty to warn her directly. To the extent that Mrs. Ramsey argues that the “reasonable precautions” required of the Manufacturers or the Employer included inquiring into employees’ household dynamics, determining who is responsible for doing the family laundry, and delivering to that person a personalized warning, we find that those steps are unreasonable and not required by law. Instead, the Manufacturers’ reasonable duty of care only required them to provide adequate warnings and safe laundering instructions to the Employer so it could provide this information to its employees in a manner tailored to their work circumstances and exposure to the Manufacturers’ asbestos products.

Id. at *42-43.

A. Implications of *Ramsey*

We anticipate that the *Ramsey* decision will result in the following:

1. Delaware employers, especially chemical manufacturers and refineries, can expect to see household exposure cases filed against them;
2. Employers and product manufacturers will be seeking to point to one and another as the liable parties;
3. Additional discovery, including written discovery and depositions, will be conducted on the issue of warnings provided by both employers and product manufacturers on the dangers of take home exposure;
4. Additional discovery, including written discovery and depositions, as to whether employers provided laundry services and showers.

Please do not hesitate to contact us with any questions.