

White and Williams Secures Affirmation of Partial Summary Judgment with Bare Metal Defense

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On April 21, 2017, the Delaware Supreme Court affirmed the grant of partial summary judgment in favor of a major automotive manufacturer in a mesothelioma case.

Among other claims, the plaintiffs' complaint alleged that the automotive manufacturer was negligent in failing to warn the deceased of the dangers posed by the use of its asbestos-containing products, as well as the use of asbestos-containing products manufactured by other companies, which were later installed on its vehicles. Prior to trial, the Superior Court granted the automotive manufacturer's partial summary judgment, holding that a manufacturer does not have a duty to warn about products manufactured by other companies. After a three week trial, a jury returned a defense verdict, finding that the automotive manufacturer was not negligent for failing to warn as to its own products.

Plaintiffs appealed to the Delaware Supreme Court, challenging the Superior Court's grant of partial summary judgment, which recognized and applied the "bare metal defense." After briefing and oral argument, the Delaware Supreme Court affirmed the trial court's ruling, finding no need to decide whether the application of the bare metal defense is appropriate, since the ruling was harmless in light of the jury's finding that the automotive manufacturer was not negligent for failing to warn about the dangers associated with the use of its own original and replacement component parts. The Court found that if the automotive manufacturer has no duty to warn about its own asbestos-containing parts, then there would be no duty to warn about the alleged danger associated with asbestos-containing parts manufactured by third parties.

Since the Delaware Supreme Court declined to decide the underlying issue, it is anticipated that trial courts, applying Delaware substantive law, will continue to recognize and apply the bare metal defense.

Christian Singewald and Rochelle Gumapac represented the automotive manufacturer in this matter.