

SUPREME COURT OF PENNSYLVANIA

Howard v. A.W. Chesterton Co.

621 Pa. 343 (2013) (Pa.) · Decided September 26, 2013

SUMMARY

The Pennsylvania Supreme Court vacated the Superior Court's decision and reversed the order denying summary judgment in an asbestos-exposure case after the plaintiffs conceded that the record did not establish sufficiently regular and frequent exposure to the defendants' products. The Court reaffirmed that the any-exposure theory cannot establish substantial-factor causation for dose-responsive diseases, that experts must consider dose and provide an individualized exposure assessment, and that de minimis exposure may be insufficient. The case was remanded for reinstatement of the common pleas court's summary judgment order.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Per Curiam; Chief Justice Castille; Justice Saylor; Justice Eakin; Justice Baer; Justice McCaffery
JURISDICTION	Pennsylvania
DECIDED	September 26, 2013
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Pennsylvania Supreme Court discretionary appeal from the Superior Court's reversal of summary judgment entered for asbestos-product defendants. The appellees conceded that the factual record did not establish sufficiently regular and frequent respirable-asbestos exposure from the appellants' products.
STANDARD OF REVIEW	De novo review of summary judgment and the legal sufficiency of evidence supporting substantial-factor causation.
PRECEDENTIAL VALUE	Published Pennsylvania Supreme Court decision; binding authority on the stated asbestos-causation and summary-judgment principles.
PARTIES	Manufacturers and distributors of asbestos-containing products, including A.W. Chesterton Co. and other defendants v. Co-executors of the estate of John C. Ravert

TOPICS

products liability

expert testimony

summary judgment

appellate procedure

standard of review

PRACTICE AREAS

products liability

asbestos litigation

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evidence

QUESTIONS PRESENTED

1. Whether the Superior Court should be reversed after the appellees conceded that the record failed to establish sufficiently regular and frequent exposure to respirable asbestos fibers from the appellants' products.
2. Whether, in dose-responsive disease cases, the any-exposure theory may establish substantial-factor causation.
3. Whether bare proof of de minimis exposure and expert testimony lacking a reasoned, individualized assessment of the plaintiff's or decedent's exposure history can defeat summary judgment.

HOLDINGS

1. The appellees' concession required vacatur of the Superior Court's opinion and reversal of its order, with reinstatement of the common pleas court's summary judgment order.
2. The theory that every exposure, no matter how small, is substantially causative may not be relied upon to establish substantial-factor causation for a dose-responsive disease.
3. Bare proof of some de minimis exposure to a defendant's product is insufficient to establish substantial-factor causation for a dose-responsive disease.
4. An expert addressing substantial-factor causation in a dose-responsive disease case must perform some reasoned, individualized assessment of the plaintiff's or decedent's exposure history and may not ignore dose.
5. Summary judgment is an available mechanism where only bare de minimis exposure can be shown and the expert's substantial-factor causation opinion rests on the any-exposure theory.

KEY QUOTATIONS

"The theory that each and every exposure, no matter how small, is substantially causative of disease may not be relied upon as a basis to establish substantial-factor causation for diseases that are dose-responsive." (at 608)

"Relative to the testimony of an expert witness addressing substantial-factor causation in a dose-responsive disease case, some reasoned, individualized assessment of a plaintiff's or decedent's exposure history is necessary." (at 608)

"Summary judgment is an available vehicle to address cases in which only bare de minimis exposure can be demonstrated and where the basis for the experts testimony concerning substantial-factor causation is the any-exposure theory." (at 608)

“Indeed, as explained in detail in the unanimous decision in Betz, the any-exposure opinion is simply unsupportable both as a matter law and science.” (at 609)

FACTUAL BACKGROUND

John C. Ravert alleged that exposure to asbestos-containing products manufactured or distributed by the appellants caused his mesothelioma. The common pleas court found that Ravert's testimony did not establish that he breathed asbestos dust from the appellants' products and rejected expert affidavits as an artificial attempt to contradict his observations. On appeal, the estate conceded that the record did not demonstrate sufficiently regular and frequent exposure to respirable asbestos fibers from the appellants' products and acknowledged that an any-exposure theory could not establish substantial-factor causation.

PROCEDURAL HISTORY

The common pleas court granted the defendants summary judgment, concluding that the decedent's deposition testimony did not establish that he inhaled asbestos dust from the defendants' products and that the expert affidavits improperly contradicted that testimony. The Superior Court reversed, reasoning that invisible asbestos dust and the expert affidavits could establish a material factual dispute and applying a diminished frequency, regularity, and proximity burden in mesothelioma litigation. After the appellees conceded that the record could not defeat summary judgment, the Supreme Court vacated the Superior Court's opinion, reversed its order, and remanded for reinstatement of the common pleas court's summary judgment order.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the Superior Court's opinion, reverse its order, and remand for reinstatement of the common pleas court's order granting summary judgment to the appellants.

CASES CITED

- Howard v. A.W. Chesterton Co., 31 A.3d 974, 979, 981, 983 (Pa. Super. Ct. 2011)
- Gregg v. V-J Auto Parts, Inc., 596 Pa. 274, 943 A.2d 216, 225-27 (2007)
- Betz v. Pneumo Abex, LLC, 615 Pa. 504, 44 A.3d 27, 55-58 (2012)