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CLIENT ALERT

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OHIO SUPREME COURT HOLDS PREMISES OWNERS NOT LIABLE FOR “TAKE HOME” ASBESTOS EXPOSURE

The Ohio Supreme Court recently ruled that a spouse could not recover for being exposed to asbestos that was unintentionally brought home from the workplace by her husband, effectively foreclosing so called “take home” asbestos claims against premises owners. See *Boley v. Goodyear Tire & Rubber Co.*, 125 Ohio St.3d 510, 2010-Ohio-2550. In *Boley*, the Court ruled that Ohio Revised Code § 2307.941(A)(1) shields premises owners from liability for asbestos exposure that occurs away from their property, even if the asbestos fibers that allegedly cause an injury originate on site.

R.C. § 2307.941(A)(1) states that:

(A) The following apply to all tort actions for asbestos claims brought against a premises owner to recover damages or other relief for exposure to asbestos on the premises owner’s property:

(1) A premises owner is not liable for any injury to any individual resulting from asbestos exposure *unless that individual’s alleged exposure occurred while the individual was at the premises owner’s property.*

R.C. § 2307.941(A)(1)(emphasis added).

The plaintiffs in *Boley* alleged that the decedent was exposed to asbestos while laundering her husband’s clothes. The decedent’s husband worked as a pipefitter at Goodyear and was allegedly exposed to asbestos over the course of his 10 year employment. Plaintiffs sued Goodyear and nearly 200 other defendants, claiming that Goodyear negligently caused the decedent’s injuries and death by allowing asbestos to be carried off its premises.

Goodyear moved for summary judgment arguing that R.C. § 2307.941(A)(1) precluded liability against it because the decedent was exposed to asbestos at her home and not on Goodyear’s property. The trial court agreed with Goodyear and granted its motion, a decision which the Court of Appeals affirmed.

In their appeal to the Ohio Supreme Court, Plaintiffs argued that R.C. § 2307.941(A) does not apply to “take home” exposure claims. They supported this argument by stating that the language of the statute only applies to claims for “exposure to asbestos *on the premises owner’s property.*” R.C. § 2307.941(A) (emphasis added). Because the decedent was not exposed to asbestos on Goodyear’s property, Plaintiffs argued that R.C. § 2307.941(A)(1) did not apply and therefore, did not preclude Plaintiffs’ negligence claim.

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The Supreme Court was not persuaded by Plaintiffs' arguments. Instead, the Court considered the statute in light of its legislative intent. The Court generally found that the legislature's intent in creating R.C. § 2307.941 was to limit liability for premises owners to those instances where asbestos exposure occurred on their property. More specifically, the Court found that the legislature intended the phrase "exposure to asbestos on the premises owner's property" found in R.C. § 2307.941(A) to refer to the *location of the asbestos* to which the person was exposed, not the location of the exposure. As a result, the Court held that R.C. § 2307.941(A)(1) bars tort liability for all asbestos claims (including "take home" exposure claims) against premises owners where the exposure *does not occur at the premises owner's property*.

While the ramifications of this decision have yet to be seen, such a direct decision will likely aid premises defendants in future asbestos suits. Not only does this case clearly absolve premises owners of liability for most secondary exposure claims, but it also provides a glimpse into the Ohio Supreme Court's interpretation of asbestos law.

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