

## Articles or In the News

### “Take-Home” Asbestos Case Dismissed by Illinois Federal Court

By Carter E. Strang

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In *Neumann v. Borg-Warner Morse TEC LLC, et al.* (No. 15 C 10507), the U.S. District Court, Northern District of Illinois, Eastern Division dismissed a case brought by Doris Jane Neumann alleging that her mesothelioma was caused by “take-home” exposure to asbestos from her son’s clothing that she washed.

The asbestos-containing products at issue were friction paper and other materials supplied or manufactured by the defendants and used by plaintiff’s son in his occupation as a gas station attendant and mechanic from 1970 to 1974.

Plaintiff alleged that defendants were negligent, breaching their duty to exercise ordinary care to avoid injury to the end users of their products.

The district court looked to Illinois state court decisions to properly apply Illinois law on “take-home” claims. In doing so, it noted a split in Illinois state appellate courts on whether a duty is owed to “take-home” plaintiffs and that the Illinois Supreme Court had declined to address the issue.

In light of the split of authority, the district court applied federal common law, which states that when faced with “two opposing and equally plausible interpretations of state law,” the interpretation that restricts rather than expands liability is to be followed. Plaintiff’s claims would expand liability and, thus, were dismissed.

Whether a duty is owed to a “take-home” asbestos plaintiff remains an open question in Illinois and many other jurisdictions, including in California where it is currently before the California Supreme Court.

For an in-depth summary of “take-home” rulings in all jurisdictions, see [“Take-Home Asbestos Claims: The Evolving Litigation Landscape, 6th Annual Jurisdictional Update,”](#) by [Carter Strang](#), [Karen Ross](#), and [Madeline Dennis](#) of Tucker Ellis LLP, published in *Columns-Asbestos*, HarrisMartin, November 2015.



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