



Calif. Employer Liability for Asbestos Can Extend to Workers' Households, *SHRM*, ft. Lauren Ziegler

Lauren Ziegler, Attorney in Kaufman Dolowich & Voluck's San Francisco office, was quoted in Lisa Nagele-Piazza's article published by SRHM on December 13th, 2016.

Employers may be liable for asbestos-related illnesses that a worker's household members developed after being exposed to microscopic fibers on the worker's clothing and equipment, according to the California Supreme Court.

A former railway employee's wife died from an illness that was allegedly caused by prolonged exposure to asbestos on her husband's clothing.

In the resulting negligence claim, the state high court was ultimately asked to decide if an employer owes a duty of care to prevent secondary or "take-home" exposure to asbestos.

From a legal standpoint, the question of duty is significant because no liability can be imposed on a defendant under a negligence theory if the defendant does not owe a duty to the plaintiff," explained Lauren Ziegler, an attorney with Kaufman Dolowich & Voluck in San Francisco.

However, not everyone who comes into contact with a worker's asbestos-laden clothing is owed a duty of care by the employer.

"It appears that the court found a workable limit by recognizing a duty owed by an employer or property owner to prevent take-home asbestos that extends only to members of the worker's household," Ziegler said.

The California Supreme Court opted not to limit employer liability to workers' immediate family members. It said that the legal or biological relationship between the parties wasn't the reason for the ruling, rather "the general foreseeability of harm turns on the regularity and intimacy of physical proximity ... between the asbestos worker and a potential plaintiff."

"It is important to note from an employment law standpoint that, although this decision has imposed a duty on employers to its employees' cohabitants, the holding is confined to the asbestos litigation realm," Ziegler said.