The California Supreme Court sharply limited asbestos liability for valve and pump manufacturers (and their insurers) in O’Neil v. Crane Co., 2012 WL 88533 (Jan. 12, 2012). The court resolved conflicting appellate court decisions and, in so doing, joined Washington (Simonetta v Viad Corp., 165 Wn.2d 341 (2008)) and the 6th Circuit (Lindstrom v. A-C Product Liability Trust, 424 F.3d 48 (6th Cir. 2005)), in holding that valve and pump manufacturers have no duty to warn about the hazards associated with other manufacturers’ asbestos products, even though those products were incorporated into valves and pumps. The Supreme Court acknowledged that valve and pump manufacturers are “peripheral defendants” that are often sued because most of the target asbestos manufacturers are in bankruptcy.

O’Neil involved a common fact pattern. Plaintiff’s deceased husband served on board an aircraft carrier from 1965-1967. Two manufacturers, Crane Co. and Warren Pumps, provided valves and pumps for the ship during its construction in the 1940s. Navy specifications required asbestos packing and gaskets in the valves to withstand heat and pressure. However, the valves and pumps themselves did not need asbestos to function in normal conditions. In addition, the valves and pumps were covered with asbestos insulation, which had to be removed when the packing and gaskets were replaced. Plaintiff alleged that her deceased husband had been exposed to asbestos dust from the removal of worn packing and gaskets and the removal of asbestos insulation. The packing and gaskets replaced in the 1960s were not manufactured by Crane and Warren, and the original packing and gaskets were replaced many years before plaintiff’s husband was exposed. Plaintiff’s husband was diagnosed with mesothelioma in 2003 and died in 2004. Plaintiff sued various manufacturers of products allegedly causing her husband’s disease, including Crane and Warren.

The Supreme Court rejected plaintiff’s argument that Crane and Warren were strictly liable for failing to warn plaintiff’s husband about the hazards of asbestos in replacement packing, gaskets, and insulation. The Supreme Court held that the manufacturer only had a duty to warn of the hazards of its own products, not replacement parts and insulation applied to its products. The Supreme Court recognized that the situation might be different if the product required a hazardous component to operate and it was known that the component would need periodic replacement. However, the court left that issue for another day because the valves and pumps at issue did not require asbestos packing and gaskets to operate. So long as the product was only required to include asbestos components by the design specifications of the purchaser, the Supreme Court was unwilling to impose a duty to warn about the risks of asbestos exposure from the products of other manufacturers. Presumably this same principle will apply to power plants, oil refineries, and other users of industrial pumps and valves in high heat and pressure conditions, because the specifications for those pumps and valves would necessarily have required asbestos to withstand the conditions of use. The Supreme Court further noted that substitutes for asbestos in those situations were not developed until the 1960s.

The Supreme Court also rejected, as a matter of law, imposing a common law duty of care on pump and valve manufacturers. The court rejected plaintiff’s argument that the duty of care should be based on foreseeability, holding that imposing a duty of care with respect to other manufacturers’ products installed decades after the valve or pump was initially installed would not serve any of the policies underlying imposition of a duty of care.

Apart from the unlikely scenario where a plaintiff can prove exposure to asbestos from the first replacement of asbestos components (which would involve the original asbestos components incorporated in the valves and pumps at the time of installation), or can prove that the manufacturer provided replacement packing and gaskets (which would arguably be subject to a separate duty to warn), it will be very difficult for
asbestos plaintiffs to establish liability for valve and pump manufacturers. What remains to be seen is whether the new California Supreme Court decision has any impact on other states with large numbers of cases involving valve and pump manufacturers, including power plant cases. Presumably the defense bar will urge other states to follow California, which has traditionally been a leader in products liability law. Only time will tell if other states will reject liability for “peripheral defendants,” such as valve and pump manufacturers.

To discuss any questions you may have regarding the opinion discussed in this Alert, or how it may apply to your particular circumstances, please contact Charles E. Wheeler at cwheeler@cozen.com or 619.685.1754.