

Gardere Attorney Explores Rulings Limiting Asbestos-Related Exposure Litigation

Date: 08-29-2008 03:08 PM CET

Category: [Politics, Law & Society](#)

Press release from: [Gardere Wynne Sewell LLP](#)

Agency: **Androvett Legal Media & Marketing**

HOUSTON – Even though the price tag on asbestos-related household exposure litigation has been significantly reduced in recent years, Texas courts only recently addressed the issue of business owners’ responsibility to the families of employees in household exposure cases.

Diana Larson, a partner at Gardere Wynne Sewell LLP, has co-authored a new Washington Legal Foundation legal background paper, “Texas Courts Embrace The National Trend On Household Asbestos Exposure,” looking at the key appellate rulings that have seemingly cut short the expansion of household exposure cases.

“In these cases, plaintiffs have sought to expand a company’s asbestos-related exposure liability to spouses or family members of their employees or contractors who may have been exposed to asbestos while on the job, despite the lack of a direct link to the family members,” says Ms. Larson. “The basis of their cases is the argument that the potential for injury to family members should have been foreseeable, and as such the responsibility for their exposure to secondhand contaminants, such as asbestos, which were brought home on the clothing of the workers, should rest with the employer.”

However, the Appeals Court’s decisions in *Alcoa Inc. v. Behringer* and *Exxon Mobil Corp. v. Altimore*, found that the risk of harm to a household member of a worker was not foreseeable and that secondhand exposure is not sufficient to impose liability.

“Although the Texas Supreme Court has yet to rule on these issues, these cases represent a denial of the plaintiffs’ bar’s attempt to expand the scope of duty and open a Pandora’s Box of increased costs of asbestos litigation,” notes Ms. Larson. “Such an expansion would have only served to help expand the boundaries of litigation, potentially subjecting premises owners to limitless liability, far beyond the workers and their spouses.”

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Gardere Wynne Sewell LLP, an AmLaw 200 firm, was founded in 1909 and is one of the Southwest’s largest full-service law firms. With offices in Austin, Dallas, Houston and Mexico City, Gardere provides legal services to private and public companies and individuals in areas of energy, litigation, corporate, tax, environmental, labor and employment, intellectual property and financial services.

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