



For Immediate Release

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**PENNSYLVANIA SUPREME COURT URGED
TO REVISE PRODUCT LIABILITY RULE**
(Bugosh v. I.U. North America, Inc.)

The Washington Legal Foundation (WLF) filed a brief this week with the Supreme Court of Pennsylvania, urging it to reject Pennsylvania's current product liability rule that holds distributors strictly liable for injuries from products which they did not even manufacture. WLF's brief advocates the adoption of a revised rule used by most other states that would apply a negligence standard for assessing liability. A ruling in favor of IUNA would prevent distributors of goods, such as suppliers and retail stores, from being unfairly held liable for injuries caused by products manufactured by other entities.

In *Bugosh v. I.U. North America, Inc.* (IUNA), the plaintiff worked with asbestos-containing cement pipes over forty years ago and later developed lung disease. The pipes were distributed by IUNA's predecessor, an industrial supply house, which had no knowledge at that time of the extent of the risks associated with asbestos, and could not have acquired this knowledge because the manufacturer deliberately concealed it. Nevertheless, IUNA was sued and found liable for \$1.4 million. The lower court ruled that under current Pennsylvania law, the distributor can be held strictly liable for the injuries under Restatement (Second) of Torts, Product Liability, Section 402A.

On appeal, WLF's brief supported IUNA's argument that Pennsylvania should reject the strict liability standard, which was originally adopted to deal with manufacturing defects, and instead adopt a negligence standard found in Restatement (Third) of Torts, Product Liability, Section 2, as most other states have done. WLF argued that applying a negligence regime for claims based on defective design and failure to warn ensures that a distributor such as IUNA -- which played no role in the design or manufacture of asbestos-containing products and had no knowledge of their risks -- will not be unfairly left holding the bag for harms it did not create, simply because the manufacturer is unavailable to pay damages.

WLF's brief was filed with the *pro bono* assistance of Nancy Winkleman, Samuel W. Silver, and Stephen A. Fogdall of Schnader Harrison Segal & Lewis LLP in Philadelphia, PA.

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For further information, contact Paul Kamenar, WLF's Senior Executive Counsel at 202-588-0302. A copy of WLF's brief is available on its website at www.wlf.org.