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IOWA SUPREME COURT CLIPS STATUTORY DEFENSE IN ASBESTOS LITIGATION

by Robert H. Wright

By a 4-3 vote, the Iowa Supreme Court narrowly construed a provision of an Iowa statute that limits a defendant's liability for claims involving exposure to asbestos-containing products made by others. In [Beverage v. Alcoa](#), No. 19-1852, 2022 WL 2182351 (June 17, 2022), the Supreme Court majority held that the Iowa Asbestos and Silica Claims Priorities Act did not bar the plaintiffs' claims against two defendants. In doing so, the majority parted ways with the District Court, which had granted summary judgment for those defendants, and the Court of Appeals, which had affirmed the judgment.

The Iowa Act states that a defendant in an asbestos action "shall not be liable for exposures from a product or component part made or sold by a third party." Iowa Code § 686B. In a [prior post](#), I noted the plaintiffs had argued the statute applied only to manufacturers. The District Court and Court of Appeals rejected that argument, holding instead that the statute, by its terms, applies to any "defendant."

The Iowa Supreme Court majority sided with plaintiffs. It reversed the judgment as to one of the defendants on the ground the defendant supplied asbestos-containing products and thus did not fall within the plain language of the statutory provision. All of the justices joined that part of the opinion. The majority also reversed the judgment as to a second defendant that did not make or sell any asbestos-containing products. The majority held the statutory provision barred only products liability claims and not the premises liability claim that had been alleged against that defendant. The three dissenting justices would have affirmed the judgment in favor of that defendant.

The differing conclusions of the majority and dissenting opinions flow primarily from their divergent application of statutory interpretation principles. The majority criticized the lower courts for applying a "granular" interpretation that proceeded "word by word." According to the majority, the determination of whether the statute was ambiguous did not necessarily rest on a close analysis of the text but instead required that courts consider the language in context. By contrast, the dissenting justices focused on the unambiguous text of the statute and considered that text dispositive.

The majority looked widely at tort reform for asbestos litigation and concluded that the statutory provision here was intended to codify the "bare metal defense." Under that defense at common law, a product manufacturer is not liable for injuries caused by asbestos-containing products made by others. The majority reasoned that such a defense at common law would have

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barred only products liability claims and not premises liability claims and so should have the same effect under the Act.

The dissenting justices responded that the Act, by its terms, applies broadly to all claims for damages “arising out of, based on, or related to the health effects of exposure to asbestos.” Iowa Statute § 686A.2(2). The dissent asked rhetorically: “How do our colleagues in the majority get around this plain language?” The dissent also noted that the phrase “bare-metal defense” appears nowhere in the statute or in the legislative debate, and thus should not limit the Act’s plain text.

The majority cited a common law rule that “statutes will not be construed as taking away common law rights existing at the time of enactment unless that result is imperatively required.” *Ford v. Venard*, 340 N.W.2d 270, 273 (Iowa 1983). But the dissent cited a provision of the Iowa Code that seems to state that the common law rule does not apply when construing the Code. See Iowa Code § 4.2.

The Iowa Supreme Court’s holding is not likely to influence the interpretation of other states’ statutes. As the Iowa Supreme Court noted, no other state legislation uses the same language to limit