

### **Asbestos – Example #1**

Plaintiff Jones worked at Company A for his entire career as a factory employee and equipment maintenance man. He was exposed to asbestos from contractors repairing or insulating overhead heating pipes, and he himself used asbestos for valve packing, asbestos cloth for occasional welding jobs, and asbestos gaskets on equipment he serviced. Having been diagnosed with asbestosis, he sues ten asbestos companies, settles with five before trial, all of whom receive joint tortfeasor releases, and he has recovered settlements from three bankrupt asbestos company estates.

Before filing suit Mr. Jones also settled with two asbestos gasket companies and received joint tortfeasor releases from both, and he did not join these companies in his suit. The Complaint alleges strict products liability against the ten companies he has sued, and the case proceeds to trial against the five remaining non-settling defendants.

### **Discuss:**

- (a) The ability under Act 17 of the non-settling defendants to establish the liability of each of the five settled defendants and the two non-parties who settled with the plaintiff pre-trial.
- (b) The jury's apportionment of liability among all settled and non-settled defendants, and settling non-parties, under Act 17.
- (c) The effect on the plaintiff's recovery of the settlements which he negotiated and obtained from the three bankrupt asbestos company estates.

## **Equipment – Example #2**

Plaintiff Smith is an employee of Company B, and she is required to use a large piece of equipment to cut and shape metal parts. Manufacturer C sold the equipment through Distributor D, which installed the equipment at Company B. In order to speed the production of metal parts, Company B had certain safety features removed from the equipment after its installation, namely a hand guard and two electric sensors which would automatically stop the machine if a body part or object was placed within a certain range of the shaping die and cutting blades. The plaintiff complained to her co-workers and the company about the removal of the safety features, saying it would increase her risk of serious injury, but was told by her supervisor that she had to use the equipment without these features or she would be replaced by someone else who would.

In the course of using the equipment after the safety features had been removed, Ms. Smith lost her right hand, which was traumatically amputated at the wrist as she reached into the machine to remove a jammed piece of metal. She sues Manufacturer C and Distributor D, and files a workmen's compensation claim against her employer, Company B.

### **Discuss:**

- (a) The effectiveness under Act 17 of an indemnification agreement which Distributor D has with Manufacturer C.
- (b) Whether the plaintiff's conduct entitles Manufacturer C to submit her culpability to the trier of fact under Act 17.
- (c) Under Act 17 can Manufacturer C introduce into evidence the contributory fault of the plaintiff's employer, Company B, for the plaintiff's injury? If so, will this reduce Manufacturer C's proportionate share of causal fault?

### **Auto Accident and Vehicle Crashworthiness – Example #3**

Plaintiff Brown is returning home from the grocery store on a rainy Saturday afternoon in her Ford Mustang. She is anxious to get home to fix dinner for her family, is exceeding the posted speed limit of 35 m.p.h. and is traveling at 60 m.p.h. when, rounding a very sharp curve, she experiences a tire blowout, loses control of her vehicle, and, seeking to regain control, swerves too sharply causing the passenger side of her car to slam into a tree. She suffers massive head and upper torso injuries from the impact.

Plaintiff Brown sues the auto manufacturer, Ford, on a strict liability crashworthiness claim, the tire manufacturer, B.F. Goodrich, in strict liability, as well as the township for its negligence in failing to properly grade the sharp curve in the road.

#### **Discuss:**

- (a) The apportionment of liability among the three defendants under Act 17.
- (b) The admissibility of evidence of plaintiff's conduct in her claims against Ford, B.F. Goodrich and the township.
- (c) How this case should be submitted to the jury to determine the liability of each of the parties.