

White and Williams Obtains Summary Judgment in Federal Court in Product Liability PCB Suit

April 13, 2017

On April 7, 2017, Massachusetts Federal Judge Denise J. Casper granted summary judgment in favor of White and Williams client Monsanto Company in litigation alleging polychlorinated biphenyl (PCB) contamination of the Westport Middle School from PCB-containing building products such as caulk and paint. Monsanto was the primary domestic manufacturer of PCBs until 1977. The USEPA banned the manufacture of PCBs in 1979. The decision will likely end three years of litigation involving Westport Middle School brought by the Baron & Budd law firm of Dallas, Texas. The decision could have far-reaching impact on similar litigation nationwide.

The Town of Westport claimed that PCBs, incorporated into caulk, paint and other products as a plasticizer, volatilized over time, creating unsafe PCB levels in the schools air and on surfaces, exposing students and staff to increased risks of cancer and numerous other diseases, and causing the school to be abandoned after millions of dollars in PCB remediation. Plaintiff sought over \$25 million in damages.

In granting summary judgment, the court held that as a matter of law: (1) PCBs are not defective because plaintiff submitted no evidence of a safe alternative design; (2) the risk that PCBs might endanger the lives of building inhabitants was not foreseeable as of the time the Westport Middle School was constructed in 1969; and (3) Monsanto had fulfilled its duty to warn by disclosing alleged health risks to caulk and paint manufacturers.

Monsanto was represented by Thomas Goutman, Rosemary Schnall, David Haase and Felix Yelin in our Philadelphia Office; Richard Campbell, Brandon Arber and Diana Chang in our Boston Office; and Christopher DiMuro in our Newark, New Jersey office

Attorneys

Christopher M. DiMuro

Felix S. Yelin

Practice Areas

Litigation

Product Liability