

ME 498/599 Final Assignment SQ 11

Mr. Jones v. GoMobile, Brakebestos, and Brakes R Us, et al.

Due during final class periods Tuesday May 31 and Thursday June 2, 2011

Mr. Jones is a 70-year-old retired brake mechanic. He is suffering from mesothelioma, a vigorous and usually fatal cancer of the pleural cavity that is most commonly associated with exposure to asbestos. He's expected to live only for a few more months. He and his family have brought a product liability suit against GoMobile, Brakebestos, and Brakes R Us for damages they claim resulted from his occupational exposure to asbestos from automotive friction products.

Mr. Jones spent the last 35 years of his career (from 1970 to 2005) working at Brakes R Us, a shop in Seattle that does general auto and truck service work. Part of Mr. Jones' duties at that shop involved brake repair procedures, including "brake jobs" on cars and light trucks. He estimates that over his career there, he would perform 2 to 4 brake jobs per week in the garage. Brakes R Us had a special contract to repair GoMobile vehicles, which were manufactured in Detroit. The OEM brakes on GoMobile vehicles were supplied by Brakebestos. Brakebestos brake linings were made with Chrysotile asbestos until approximately 1991, when non-asbestos brake linings were introduced. My Jones estimates about half of the brake jobs he completed were performed on GoMobile vehicles using Brakebestos brake linings.

Prior to working as a vehicle mechanic, Mr. Jones was in the Navy for 6 years, and was a boiler technician, working in the holds and engine rooms of Navy ships, servicing boilers and piping that were often covered by asbestos insulation. Prior to that, Mr. Jones did remodeling for a family friend for six years between graduating from high school and joining the Navy. During that time he did considerable drywall repair, which used products that contained asbestos.

Mr. Jones had no particular health problems that he was aware of, but he was a lifelong smoker, having smoked a pack a day since he was 16.

Based on this information (and more that may supplement it over the next week or so), take the position of the plaintiff or one of the defendants in a potential product liability lawsuit. Develop a detailed position on behalf of your client (Mr. Jones, GoMobile, Brakebestos, or Brakes R Us). Consider yourself to be an expert witness. Develop your position and posture a convincing argument on behalf of your client. Detail why your client is not at fault (or in the case of the plaintiff, why your client deserves compensation) and why the defendant(s) are at fault. Your opinions should include a discussion about the actual cause of reported harm and how that relates to your client's actions and the actions of other parties in the suit.

Substantiate your position by doing careful research as to the cause of asbestos injuries in general, the relationship between such injuries and the actions of vehicle manufacturers, automotive friction product manufacturers, and brake shops/ mechanics. A strong and impassioned but scientifically savvy response is expected, with technical details that may include past health studies, exposure considerations, regulatory changes over time, industry

practices, and state-of-the-art arguments. Look to include company documents that may reveal the culpability of other parties in the suit and/or the lack of culpability of your client.

The final product will be a written report, due on June 2, and an oral presentation/debate between the parties in which you will be present and will defend your position. The oral portion will take place across both May 31 and June 2.

The assignment of which side you will “represent” will be made on May 12 in class. We will try to accommodate your desires, but may have to make adjustments so that there is a reasonable distribution of students representing each party. The class will be divided into four parts and each person will share a portion of the oral argument and presentation, but each of you is responsible for a written report that stands alone. The oral presentation will obviously require some out-of-class coordination with your group.

The written position paper is to be an individual effort that should be approximately 5 to 7 pages of written text. Document your sources. Clearly state your opinions and the basis for your opinions. In addition to your text, you may substantiate your position with photos, diagrams, calculations, analysis, and excerpts from standards or other references that support your opinions. You should write the opinions as if you are the technical expert, hired by one of the parties. Use the skills and knowledge gained from the class to discuss relevant information, which may include discussion of:

- Design defect
- Manufacturing defect
- Operational safety
- Safety engineering
- Fault tree analysis
- Maintenance
- Training
- Risk
- Instructions
- Warnings
- Standards
- State of the art
- Guarding
- Employee responsibility
- Employer responsibility
- Manufacturer responsibility
- Forseeability
- Common sense
- Etc.

During the final class periods, please be prepared to turn in the written document (on June 2) and to “argue” your case in front of the class (as part of a plaintiff or defense team). We would like each of you to participate equally in the verbal presentation. The plaintiff side will go first, presenting their technical position, followed by the defendants. A rebuttal will be allowed for each side as well.