



For Immediate Release

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**KENTUCKY SUPREME COURT URGED TO
LIMIT COMPANIES FROM ASBESTOS LIABILITY**
(Rehm v. Navistar International Corp.)

The Washington Legal Foundation (WLF) joined with a dozen leading industry and insurance trade organizations in urging the Kentucky Supreme Court to affirm a lower court ruling rejecting attempts to circumvent Kentucky workers' compensation program.

In *Rehm v. Navistar*, the plaintiff was an employee of a company in the business of installing industrial conveyor systems and machinery. That company was hired as a subcontractor over the years by some 15 different companies to install such equipment at their facilities. The plaintiff claims he was exposed to asbestos at those premises and contracted malignant mesothelioma. Under Kentucky law, a contractor becomes a statutory employer, and thus, is immune from tort liability, if the work it subcontracted is a "regular or recurrent" part of the work or trade of the contractor. In that circumstance, injured employees are compensated under the state's workers' compensation program and cannot sue the companies separately under tort liability.

The trial court and court of appeals agreed that the companies were considered statutory employers and thus, could not be sued. As described in the WLF-supported brief filed with the Kentucky Supreme Court last week, workers' compensation laws were designed to provide a substitute for -- not a supplement to -- the tort system in the field of workplace injury. Otherwise, to impose costs of workers' compensation on companies, and to expose them to risks and costs of the tort system when they hire subcontractors, would force employers to pay twice for the same liability. Any inadequacies of the system should be addressed by the state legislature, not by judges.

WLF teamed up with the Kentucky Chamber of Commerce, the U.S. Chamber of Commerce, the Associated Industries of Kentucky, Greater Louisville, Inc., Coalition For Litigation Justice, Inc., UWC-Strategic Services on Unemployment & Workers' Compensation, American Insurance Association, National Association of Mutual Insurance Companies, Property Casualty Insurers Association of America, American Chemistry Council, American Tort Reform Association, and the National Federation of Independent Business Legal Foundation. Besides Navistar, the subcontractors supported by the brief include Philip Morris USA, Inc., Brown & Williamson Tobacco, Lorillard, Inc., Reynolds Metals Company, Ford Motor Company, General Electric, Allied Chemical Corp., Colgate-Palmolive Company, Brown-Forman Corp., Rohm & Haas, Goodrich Corp., E.I. DuPont De Nemours, American Standard, and Kentucky Utilities.

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For information, contact Paul Kamenar, WLF's Senior Executive Counsel, at 202-588-0302. The WLF-supported brief is posted on WLF's website at www.wlf.org.