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## WLF Asks California Supreme Court to Review Evidence Threshold for Toxic Tort Cases

(*Phillips v. Honeywell Int'l Inc.*)

**“The lower court’s lax evidentiary threshold will have the unintended consequence of reducing the amount of compensation available for those legitimate claimants who can prove causation under more traditional standards.”**

**—Cory Andrews, WLF Senior Litigation Counsel**

WASHINGTON, DC—Washington Legal Foundation filed an *amicus curiae* letter brief with the Supreme Court of California yesterday supporting the petition for review in *Phillips v. Honeywell Int'l Inc.* In its letter, WLF stresses the need for the Court’s guidance on whether the “every exposure” theory of causation provided in expert testimony is admissible in California toxic tort cases.

This asbestos case rests on expert testimony that claims any exposure to asbestos over the course of a lifetime substantially contributes to the risk of disease. The Court of Appeal, and other lower California courts, have allowed plaintiffs to establish causation based on this “every exposure” theory. However, the state Supreme Court set a higher threshold for causation 23 years ago, and WLF urges the Court to take this opportunity to clarify the “substantial factor” test it set out then in *Rutherford v. Owens-Illinois, Inc.*

WLF’s letter brief further points out the discrepancy on this issue between California courts and other state and federal courts. The causation standard being challenged in this case has already been rejected by the Ninth and Sixth Circuits, along with several state supreme courts. WLF’s filing notes that this discrepancy promotes forum shopping:

If allowed to stand, the lower courts’ relaxed approach to causation will simply encourage more plaintiffs from across the country to pursue their asbestos claims in California. Such forum shopping serves no useful purpose, imposes unwelcome administrative burdens on the California courts, erodes the integrity of California’s civil-justice system, and is deeply unfair to litigants.

WLF respectfully requests the Supreme Court of California to clarify its substantial-factor test at a time when asbestos litigation accounts for a disproportionate number of lawsuits in the state.

*Celebrating its 40th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.*

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