



California Law Update

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CALIFORNIA SUPREME COURT CONCLUDES THAT THE SOPHISTICATED USER DEFENSE APPLIES IN CALIFORNIA

In a decision published today, the California Supreme Court held " A manufacture is not liable to a sophisticated user of its product for failure to warn of a risk, harm or danger, if the sophisticated user knew or should have known of that risk, harm or danger." In so ruling the court explained " the defense applies equally to strict liability and negligent failure to warn cases." Importantly, the court stated " The duty to warn is measured by what is generally known or should be known to the class of sophisticated users, rather than by the individual plaintiff's subjective knowledge." The court noted " [T]he rationale supporting the defense is that ' the failure to provide warnings about risks already known to a sophisticated purchaser usually is not a proximate cause of harm resulting from those risks suffered by the buyer's employees or downstream purchasers'. (citation omitted) This is because the user's knowledge of the dangers is the equivalent of prior notice."

In addition, the court ruled that the sophisticated user test is an objective one and that the relevant time for determining user sophistication for purposes of this exception to a manufacturer's duty to warn is when the sophisticated user is injured or should have known of the risk. In this context, the court emphasized " Legal duties must be based on objective general predictions of the anticipated user population's knowledge, not case by case hindsight examinations of the particular plaintiff's subjective state of mind." Accordingly, " The timeline focuses on the general population of sophisticated users and conforms to the defense's purpose to eliminate any duty to warn when the expected user population is generally aware of the risk at issue."

ANALYSIS

Important to the court's decision was its reliance, in part, on State and Federal Hazard Communication regulations,(MSDSs), and an employer's statutory obligation to " tell employees where they can find MSDS's, how to read them, how to detect the presence of dangerous materials, and how to protect against possible health hazards from those materials." (Cal. Code Regs., tit. 8, sec. 5194, subd. (h) (2) (C), (D), (E), (F).) Thus, in circumstances where the employer is experienced in the industrial field at issue, as long as the product manufacturer's MSDS is based on current scientific knowledge, occupational exposure claims should decline. Similarly, if the injured party is found to be sophisticated because of education and training in the field, the defense should be applicable. However, it must be noted the issue of whether the subject defense could be negated by a showing that a sophisticated user's misuse of the product was foreseeable was left undecided.

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