

Scott Seaman: Honeywell Asbestos Liability Case involves a “Bread and Butter” Proposition

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[Scott M. Seaman](#), a Chicago-based partner and co-chair of the [Insurance & Reinsurance services group](#) at Hinshaw & Culbertson LLP, was quoted in the article, “Honeywell Case Tests NJ Policyholders’ Asbestos Liability,” published by *Law360* on December 14, 2016.

The article discusses an insurance coverage case before the New Jersey’s high court. At issue is whether Honeywell International Inc. has to help cover the costs tied to asbestos-related injury suits that were filed after insurers started excluding asbestos coverage. Under a prior New Jersey Supreme Court decision *Owens-Illinois*, if a policyholder consciously decides not to buy available insurance for a particular risk, it must cover a portion of the liability for claims arising during that time period. If, however, there is no insurance available for purchase, the unavailability exception applies and the policyholder has no coverage obligations. The Supreme Court now must decide whether the unavailability exception can still apply where the policyholder continued to sell a risky product despite not being able to buy relevant insurance coverage.

Seaman said that a pro rata allocation scheme, whereby each of a company’s insurers is liable for a proportional amount of a loss based on the length of time the insurer’s policies were in effect and the degree of risk assumed, and the practice of allocating liability to the policyholder for uninsured periods “go together like bread and butter.” “The insurers are hoping that the New Jersey Supreme Court will use this decision to make clear that allocation to the insured is not limited to periods where insurance is available,” he added.

Read the full article, “[Honeywell Case Tests NJ Policyholders’ Asbestos Liability](#).” ([subscription required](#))

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