NON-INVOLVEMENT IN DESIGN OF END PRODUCT CAN HELP LIMIT EXPOSURE

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Decisions from courts across the country continue to serve as valuable reminders to component part manufacturers and raw material suppliers that their product liability exposure can often turn on the extent they participate in the integration of their product into the design of their customer's end product. In particular, those companies that make and sell off-the-shelf components or raw materials without becoming substantially involved with the end product's design frequently avoid liability.

But liability looms for those who substantially participate in the integration of their product or material into another company's end product that is later sold to consumers. The legal doctrine at issue is often referred to as the component part or raw material supplier doctrine. The American Law Institute's Third Restatement of Torts (Products Liability) says the doctrine can prevent liability for the supplier of a component (assuming the component is not defective in itself) as long as the supplier does not substantially participate in the component's integration into the end product's design.

In its comments and illustrations, the Restatement recognizes the doctrine's potential applicability to various components and materials, including valves, switches, chains, resins, and sand. In addition, cases in recent years have applied the doctrine to absolve the makers of welding electrodes used to bond the steel frames of high-rise buildings, inverters used in industrial machines, silicone used in breast implants, and adhesives and pigments used in various other applications.

Two recent cases from New Jersey and Florida applied the doctrine to favor, respectively, the maker of a truck chassis and the maker of an engine used in a lawnmower. In both cases, the doctrine applied because the component makers did not substantially participate in the integration of their component into the end product. In fact, in cases like these where the doctrine is successfully employed, a key factor frequently is that the component supplier does not, and does not purport to, maintain expertise in the engineering and safe design of the various end products into which its components are incorporated.

In contrast, a Minnesota court this year refused to exonerate motor supplier because of evidence that it worked closely with its customer, the manufacturer of the heat recovery ventilator into which the motor was incorporated. In particular, the motor

maker consulted repeatedly with the ventilator maker, participated in the end product's design, and recommended which motor to use. This exchange of advice and recommendations proved fatal for the maker of the component motor.

The take-away for companies that make and supply component parts and raw materials is simple: participation in the integration of your component product or material is inherently risky and may make all the difference in a product liability suit. If business concerns and market realities nevertheless demand a high level of involvement, then the risk must be understood, accounted for, and mitigated as much as possible. If, however, these business demands are less than meaningful, then component and raw material suppliers are perhaps best served by taking steps to ensure that their eager and well-intentioned sales, design, and engineering employees do not wander into this product liability trap. And in either case, these component and raw material suppliers should consider negotiating careful indemnification clauses in their agreements with their customers.