

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

MARY CAMPBELL,

Plaintiff and Respondent,

v.

FORD MOTOR COMPANY,

Defendant and Appellant.

B221322

(Los Angeles County
Super. Ct. No. BC323721)

**ORDER MODIFYING OPINION
NO CHANGE IN JUDGMENT**

THE COURT:

It is ordered that the opinion filed herein on May 21, 2012, and certified for publication, be modified as follows:

1. On page 14, the first sentence of the first full paragraph reads:

“In our view, the issue before us is whether an employer has a duty to protect family members of employees from secondary exposure to asbestos used during the course of the employer’s business.[]”

It is replaced with the following sentence: “In our view, the issue before us is whether **a premises owner** has a duty to protect family members of **workers on its premises** from secondary exposure to asbestos used during the course of the **property owner’s** business.[]” (Footnote 5 remains without change.)

2. On page 16, the second sentence of the first full paragraph reads: “Even if it was foreseeable to Ford that its employees could be exposed to asbestos dust as a result of the work performed on its premises, the ‘closeness of the connection’ between Ford’s

conduct in having the work performed and the injury suffered *by an employee's family member* off of the premises is far more attenuated.[]”

It is replaced with the following sentence: “Even if it was foreseeable to Ford that **workers on its premises** could be exposed to asbestos dust as a result of the work performed on its premises, the ‘closeness of the connection’ between Ford’s conduct in having the work performed and the injury suffered *by a worker’s family member off of the premises* is far more attenuated.[]” (Footnote 6 remains without change.)

3. On page 17, the first sentence of the second full paragraph reads: “Here, even assuming a property owner can reasonably be expected to foresee the risk of latent disease to employees’ family members secondarily exposed to asbestos used on its premises, we must conclude strong public policy considerations counsel against imposing a duty of care on property owners for such secondary exposure.”

It is replaced with the following: “Here, even assuming a property owner can reasonably be expected to foresee the risk of latent disease to **a worker’s** family members secondarily exposed to asbestos used on its premises, we must conclude strong public policy considerations counsel against imposing a duty of care on property owners for such secondary exposure.”

4. On page 18, the second sentence of the first full paragraph reads:

As explained in *Oddone v. Superior Court* (2009) 179 Cal.App.4th 813, 822, the “principal difficulty with these factors is that it is hard to draw the line between those nonemployee persons to whom a duty is owed and those nonemployee persons to whom no duty is owed.

It should read:

As explained in *Oddone v. Superior Court* (2009) 179 Cal.App.4th 813, 822 **in a closely related context**, the “principal difficulty with these factors is that it is hard to draw the line between those nonemployee persons to whom a duty is owed and those nonemployee persons to whom no duty is owed.

5. On page 19, the first sentence of the second full paragraph reads: “We note that, in recent years, a number of other jurisdictions have confronted the issue of liability in secondary or ‘take-home’ exposure cases, and their rulings are generally split into two categories: (1) those focusing on the foreseeability of the harm to the plaintiff resulting from the employer’s failure to take protective measures (and finding a duty, and (2) those

that focus on the (absence of a) relationship between the employer and household member among other policy concerns.”

It is replaced with the following: “We note that, in recent years, a number of other jurisdictions have confronted the issue of liability in secondary or ‘take-home’ exposure cases, and their rulings are generally split into two categories: (1) those focusing on the foreseeability of the harm to the plaintiff resulting from the **premises owner’s or** employer’s failure to take protective measures (and finding a duty), and (2) those that focus on the (absence of a) relationship between the **premises owner/**employer and household member among other policy concerns.”

6. On page 20, the first sentence of the first full paragraph reads: “In sum, after considering the *Rowland* factors, as further clarified in *Cabral*, we conclude that an employer has no duty to protect family members of employees from secondary exposure to asbestos used during the course of the employer’s business.”

It is replaced with the following: “In sum, after considering the *Rowland* factors, as further clarified in *Cabral*, we conclude that **a property owner** has no duty to protect family members of **workers on its premises** from secondary exposure to asbestos used during the course of the **property owner’s** business.”

Respondent’s petition for rehearing is denied. The foregoing does not change the judgment.

PERLUSS, P. J.

WOODS, J.

ZELON, J.