

Quiroz v. Alcoa Inc.

Full Citation: Quiroz v. Alcoa Inc., 416 P.3d 824 (Ariz. 2018).

Date Filed: May 11, 2018

Opinion's Author: Justice Gould

Joined By: Justices Brutinel, Timmer, Bolick, and Lopez.

Practitioners: For quick reference, please see the "Issue" and "Holding" sections.

Facts: The Defendants Reynolds Metal Company, Alcoa, Inc., and Reywest Development Company ("Reynolds") owned the plant where Ernest V. Quiroz's father worked. Ernest V. Quiroz died 29 years after his father stopped working at the plant. Quiroz's family ("Family") alleged Reynolds negligently caused Quiroz's death because Quiroz's father brought home asbestos fibers from work. The Family alleges Quiroz's exposure to the asbestos fibers for 18 years caused his mesothelioma which led to his passing.

Procedural History: The case is before the Arizona Supreme Court. At the trial level, the judge granted Reynolds' motion for summary judgment since Reynolds did not owe Quiroz a duty. The courts of appeals affirmed.¹

The Arizona Supreme Court granted review of the issues of whether an employer had a duty to family members of workers and if not, whether Arizona should adopt the duty framework contained in the Third Restatement.

Issue: Does an employer who used asbestos materials in its workplace before 1970 have a duty to protect the public from off-site contact with employees who may have been carrying asbestos fibers on their work clothes?

Holding: No. Reynolds owed no duty to the public or Quiroz for secondary asbestos exposure.

Disposition: The dismissal of the case on summary judgment was upheld because the employers did not owe Quiroz any duty.

Rule: An employer owes no duty to the public regarding secondary asbestos exposure.

Reasoning:

- **Duty.** A plaintiff has the burden to prove there was a duty.² The court previously held foreseeability should not be considered when determining if a duty existed.³ *Gipson* limited duty to special relationships and public policy relationships.⁴

¹ Quiroz v. ALCOA Inc., 382 P.3d 75 (Ariz. Ct. App. 2016).

² Quiroz v. ALCOA Inc., 416 P.3d 824, 827-28 (Ariz. 2018).

³ *Id.* at 827 (citing *Gipson v. Kasey*, 150 P.3d 228, 231 (Ariz. 2007)).

⁴ *Id.* at 829 (citing *Guerra v. State*, 384 P.3d 423, 425 (Ariz. 2015)).

- **Public Policy.** A public policy relationship is based off state or federal statutes and common law.⁵ The family did not provide a valid public policy to create a legal duty since there is not a corresponding statute.⁶ The court is highly reluctant to create a public policy duty absent a statute.⁷
- **Special Relationship.** There was no special relationship, contractual, landlord-invitee etc., duty between Quiroz and Reynolds.⁸
- **Adopting a framework that would impose a duty.** Arizona previously has chosen not to follow the Third Restatement's risk creation duty layout,⁹ which the Family urged the court to do.¹⁰ Only two jurisdictions have chosen to adopt it.¹¹ Adopting the Third Restatement would be a drastic change mainly because it creates a presumed duty to everyone always.¹² This presumed duty would eliminate duty as an element and greatly increase tort liability.¹³

⁵ *Id.* at 829 (citing *Gipson*, 150 P.3d at 233).

⁶ *Id.* at 831.

⁷ *Id.* at 830.

⁸ *Id.* at 831.

⁹ *Id.* at 837.

¹⁰ *Id.* at 836.

¹¹ *Id.* at 837.

¹² *Id.* at 840.

¹³ *Id.* at 841.