



## **COURT FINDS THAT A DRYWALL SUBCONTRACTOR IS STRICTLY LIABLE FOR ASBESTOS INJURIES**

In *Hernandezcueva v. E.F. Brady Co., Inc.*, the Court of Appeal, found that a drywall subcontractor who both supplied and installed the drywall “product” could be found strictly liable for the drywall that he purchased from a supplier and then installed at a residence. This decision is a blow to subcontractors who install all kinds of products because even if the subcontractor did “nothing wrong” but was in the “stream of commerce,” it could be exposed to significant damages if found to be a “seller” of the defective product installed. The Court of Appeal held that the trial court must consider whether “the service predominated” and “if the product sale was merely incidental to the service.”

While it would seem to most that there is a big difference between subcontractors and sellers of products, the line is often blurred in the courts. In this case, the court was guided by its findings that E. F. Brady had promoted the drywall product to secure the bid, passed 25% of the product cost on to the homeowner, and was in a position with the manufacturer to influence product safety.



Kimberly J. Wind  
657-622-4708  
[www.HartKingLaw.com](http://www.HartKingLaw.com)

Hart King Attorneys at Law - 4 Hutton Centre Drive, Suite 900 - Santa Ana CA 92707  
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