



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**ERNEST QUIROZ v. ALCOA INC.  
CV-16-0248-PR**

**PARTIES AND COUNSEL:**

*Petitioner:* Ernest V. Quiroz, Jr. and Mary Quiroz

*Respondent:* Alcoa, Inc., as successor to Reynolds Metal Company

**FACTS:**

When Dr. Ernest V. Quiroz, Jr. was a child, his father, Ernest V. Quiroz, Sr., worked for Reynolds Metal Company. (Reynolds was later purchased by Alcoa, Inc.) Dr. Quiroz lived in his father's house from 1952 to 1966 and spent summers and holidays there from 1966 to 1970. While Ernest Sr. worked for Reynolds, he was exposed to asbestos dust from various products and he wore his dusty work clothes home. In 2013, Dr. Quiroz was diagnosed with mesothelioma, a form of cancer frequently associated with asbestos exposure. He died in 2014.

Before his death, Dr. Quiroz filed this lawsuit, alleging that Reynolds was negligent because it knew the dangers of asbestos by at least September 1963 and it failed to warn or protect its workers from asbestos and did not prevent them from carrying asbestos dust home on their clothing. The trial court found that Reynolds could not be liable to Dr. Quiroz for negligence because it did not owe him a duty of care, an essential element of a negligence claim.

The court of appeals affirmed. It held that a duty can "arise from the relationship between the parties or, alternatively, from public policy considerations." *Quiroz v. Alcoa, Inc.*, 240 Ariz. 445, 447 ¶ 8, 382 P.3d 75, 77-78 (App. 2016) (citations omitted). The court stated that Dr. Quiroz did not argue he had a special relationship with Reynolds, and it held that neither a statute nor common law created a duty. It also held that Reynolds's position as a landowner did not create a duty because Dr. Quiroz was not injured on Reynolds's property.

The court also rejected Dr. Quiroz's argument that Reynolds owed him a duty of care under the Restatement (Third) of Torts: Liability for Physical Harm §§ 7, 54 (Am. Law Inst. 2010). It held that prior Arizona cases had "previously declined to adopt the general duty of care" outlined in the Restatement. *Quiroz*, 240 Ariz. at 447 ¶ 13, 382 P.3d at 77-78. Because it concluded that Reynolds did not owe a duty of care to Dr. Quiroz, the court affirmed the grant of summary judgment to the company.

**ISSUES:**

1. Did Reynolds (now Alcoa) owe a duty of care to protect Dr. Quiroz from the risk of injury created by its use of asbestos on its premises?

2. Should the Court adopt the approach to duty, including with respect to possessors of land, as reflected in the Restatement (Third) of Torts?

**DEFINITIONS:**

Section 7 of the Restatement (Third) of Torts creates a general duty of care, and it provides: “An actor ordinarily has a duty to exercise reasonable care when the actor’s conduct creates a risk of physical harm.”

“Negligence” is defined as:

1. The failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation; any conduct that falls below the legal standard established to protect others against unreasonable risk of harm, except for conduct that is intentionally, wantonly, or willfully disregarding of others’ rights; the doing of what a reasonable and prudent person would not do under the particular circumstances, or the failure to do what such a person would do under the circumstances. • The elements necessary to recover damages for negligence are (1) the existence of a duty on the part of the defendant to protect the plaintiff from the injury complained of, and (2) an injury to the plaintiff from the defendant’s failure.

2. A tort grounded in this failure, usually expressed in terms of the following elements: duty, breach of duty, causation, and damages.

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