

State Supreme Court: Employers Not Liable for 'Take-Home' COVID Cases

California employers cannot be held liable for the spread of COVID-19 cases by employees who contracted the disease on the job and spread it in their household, the California Supreme Court held on July 6.

In its unanimous decision, the court said that saddling employers with the duty of care beyond the workplace would impose a significant burden on California businesses, the court system and "the community at large."

The decision should put employers at ease, since during oral arguments the justices raised concerns about an "avalanche" of lawsuits should employers be held liable for these so-called "take-home" COVID cases.

The case

The case of *Corby Kuciemba, et al. vs. Victory Woodworks, Inc.*, involved an employee who contracted COVID-19 in the workplace and spread it to his wife, who was later hospitalized and at one point put on a ventilator to keep her alive.

The couple sued Victory Woodworks for negligence, premises liability and public nuisance. The federal court hearing the case sided with the employer, and the plaintiffs appealed the case to the Ninth Circuit Court of Appeals.

The Ninth Circuit, however, asked the California Supreme Court last year to determine if employers do have such a duty under state law.

In its ruling, the high court noted that courts in other states — namely Maryland, Wisconsin and Illinois — have sided with employers in similar cases.

The takeaway

While we are no longer in a pandemic, if the court had ruled that employers have a duty to protect non-employees from transmission, legal watchers say that it would have spurred people sickened in the early days of the pandemic to file suit.

Robert Dunn, a lawyer for the US Chamber of Commerce, told the court during oral arguments that if this case were allowed to proceed, it could apply more broadly to other contagious diseases, including the flu, from which thousands of Americans die every year.

The unanimous decision applies to similar cases that are currently pending and any prospective lawsuits that can still be filed under the two-year statute of limitations for negligence cases.

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