

*Appellate Decisions of Interest*

*Parker v. Mobil Oil Corp.*

Court of Appeals of New York (October 17, 2006)

Guiding Principle: Medical or scientific expert testimony on causation in a toxic tort case must be based on more than general, subjective and conclusory assertions.

Brief summary of the facts: The plaintiff, Eric Parker, sued Mobil Oil Corporation, claiming that exposure to benzene in gasoline caused him to develop acute myelogenous leukemia. Parker had worked as a gasoline station attendant for 17 years and had been exposed to benzene through inhalation of gasoline fumes and through dermal contact with gasoline. Benzene is a known carcinogen.

Before the completion of discovery in the case, Mobil Oil moved to preclude Parker's expert testimony on the issue of medical causation. Mobil Oil argued that the expert testimony was scientifically unreliable. Mobil Oil submitted the expert affidavits of an epidemiologist and toxicologist to establish that there was no causal relationship between the plaintiff's exposure to benzene in gasoline and his leukemia.

In opposition to Mobil's motion, Parker submitted the reports of two experts: the first, a board-certified physician in occupational medicine and fellow of the American College of Epidemiology, and the second, a physician who was an expert in toxicology and epidemiology.

The first of plaintiff's medical experts noted that several studies had found an increased risk of leukemia in petroleum refinery workers and concluded that to a reasonable degree of medical certainty Parker contracted his leukemia as a result of his occupational exposure to benzene. The second expert stated that Parker had greater levels of exposure to benzene than the workers in the refinery studies. Neither of Parker's experts quantified his exposure to benzene from gasoline. Moreover, neither expert cited any studies linking acute myelogenous leukemia to exposure in gasoline.

Ruling of the court: The Court of Appeals, the highest court in the New York Court system, precluded plaintiff's experts from rendering their medical and/or scientific opinions and dismissed the plaintiff's complaint.

Reasoning: The plaintiff's experts, although highly qualified in their respective fields, failed to demonstrate that exposure to benzene as a component of gasoline caused Parker's leukemia. The general, subjective and conclusory assertion that Parker had far more exposure to benzene than the refinery workers in the epidemiological studies was insufficient to establish causation. It neither stated the level of the refinery workers' exposure, nor specified how Parker's exposure exceeded it. Thus, the experts' opinions lacked epidemiologic evidence to support the plaintiff's claim. The experts failed to establish the relationship between exposure to benzene as a component of gasoline and Parker's leukemia.

*This decision of interest is not an official citation, and should not be cited as such, nor is it intended to provide any legal advice. For the full text of the uncorrected decision, visit <http://www.courts.state.ny.us/reporter/>.*