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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

JOHN DELOOF et al., Plaintiffs and Appellants, v. ACE HARDWARE CORP., et al., Defendants and Respondents.	B265886 (LASC No. JCCP 4674)

APPEAL from a judgment of the Superior Court of Los Angeles County, Emilie H. Elias, Judge. Affirmed.

The Arkin Law Firm, Sharon J. Arkin; Farrise Firm, and Simona A. Farrise, for Plaintiffs and appellants.

Lewis Brisbois Bisgaard & Smith, Jeffrey A. Miller, Ernest Slome, Brittany H. Bartold, Helen M. Luetto, and Arezoo Jamshidi for Defendant and Respondent W.W. Henry Company.

INTRODUCTION

On March 20, 2013, Janice DeLoof (decedent) died of mesothelioma, allegedly caused by her exposure to asbestos. Her husband and adult son (appellants) filed a wrongful death and survivorship complaint for damages against numerous defendants, including respondent W.W. Henry Company, an alleged manufacturer of asbestos-containing products. Respondent filed a motion for summary judgment, arguing that appellants had not and could not reasonably produce evidence showing exposure to an asbestos-containing product that it manufactured. The superior court granted the motion, after determining that respondent had met its initial burden of proof on summary judgment and that appellants had failed to show a triable issue with respect to exposure. Appellants contend the trial court erred in granting summary judgment, as respondent failed to meet its initial burden of proof. Alternatively, they contend they showed the existence of a triable issue of material fact. For the reasons set forth below, we affirm.

FACTUAL BACKGROUND & PROCEDURAL HISTORY

On September 30, 2013, decedent's husband, John DeLoof, individually and as successor-in-interest, and her adult son, Phillip Johnson, individually and as legal heir, filed a wrongful death and survivorship complaint for damages. The complaint alleged that decedent had died as a result of her exposure to asbestos fibers (1) during her work

for certain defendants on their premises (premises defendants), and (2) from using, handling, disturbing or being environmentally exposed to asbestos-containing products manufactured, sold, supplied or distributed by other defendants (product defendants). The Henry Company and respondent were named as product defendants.[1] The complaint listed the locations and dates where decedent was allegedly exposed to asbestos attributable to the wrongful conduct of the premises defendants. However, no asbestos-containing products attributable to the product defendants were listed. The complaint sought general damages in an amount in excess of $50,000, special damages, damages for fraud and conspiracy in an amount in excess of $50,000, punitive damages, prejudgment and postjudgment interest, and costs.

On February 11, 2014, respondent filed an answer, generally denying the allegations in the complaint and raising numerous affirmative defenses.

On March 13, 2014, appellants filed a case report pursuant to Los Angeles Superior Court (LASC) Asbestos

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[1] According to the complaint, respondent (W.W. Henry) is the predecessor or predecessor in product line of the Henry Company. According to respondent, it stopped manufacturing roofing products in 1981, and the Henry Company came into existence and began manufacturing such products that year. The Henry Company was not a party to the motion for summary judgment, and remains a defendant in the case.

General Orders, General Order No. 29 (Third Amended). In the case report, appellants stated that decedent was "occupationally and non-occupationally exposed to asbestos from various asbestos-containing products, materials and equipment during decedent's work as an art teacher and sculpt[or] through dates beginning on or about the early 1970s through no later than the early 1980s." The case report further stated that decedent was exposed to asbestos at her Fullerton residence (1) as a result of her work as a sculptor from the early 1970s through the early 1980s, and (2) from a home remodeling in approximately 1980. It identified the Henry Company and respondent as manufacturers of asbestos-containing products, including, but not limited to, plastic roof cement used at the Fullerton residence in approximately 1980. However, no specific product was identified. John DeLoof was identified as the only witness with information about decedent's exposure to asbestos-containing products. Finally, with respect to product identification for respondent, the case report referenced, but did not attach, (1) "[a]ll depositions and trial testimony of defendants' own respective employees or former employees in asbestos litigation matters, as well as the depositions of other defendants', in this and other jurisdictions"; (2) respondent's "responses to San Francisco Superior Court General Order No. 129 Standard Interrogatories -- Asbestos, including all exhibits thereto or referenced therein"; (3) its "responses to Los Angeles Superior Court General Order Standard Interrogatories,

including all exhibits thereto"; and (4) "[a]ll contents of this defendant's records and files."

Appellants also filed a response to defendants' Standard Interrogatory No. 32, which sought information about decedent's alleged exposure to asbestos (pursuant to LASC Asbestos General Order No. 14). In their response, appellants stated that decedent was exposed to an asbestos-containing product manufactured by another defendant (Donald Durham Company) while making sculptures as (1) a student from 1974 through 1982, (2) a part-time art instructor at a community college from 1975 until 2000, (3) an art instructor at a continuing education center from 1980 through 1990, (4) a part-time instructor at Fullerton College from 1982 through 2000, and (5) a self-employed sculptor working from her Fullerton residence from the late 1970s through the early 1980s. Appellants also stated that decedent was exposed to asbestos during a home remodeling of the Fullerton residence in 1980. "Decedent assisted in, and was in plaintiff, JOHN DELOOF's, presence when he performed these home remodeling projects. . . . As a result decedent was exposed to various asbestos and asbestos-containing products [manufactured] by . . . HENRY COMPANY, including Henry 204 Plastic Roof Cement." Neither respondent nor its products were mentioned.

On June 17, 2014, appellants submitted a written response to respondent's special interrogatory which asked appellants to state all facts supporting their contention that decedent was exposed to asbestos-containing products

manufactured by respondent. Appellants stated: "Beginning in the early 1980s, plaintiff, JOHN DELOOF, in decedent's presence and decedent herself installed, scrapped and removed asbestos-containing roofing mastic manufactured by defendant, W.W. HENRY COMPANY, while [they] lived at [the Fullerton residence]. The installation, scraping, and removal of defendant's asbestos-containing product released respirable asbestos fibers into the ambient air that decedent then breathed, resulting in decedent acquiring an asbestos-related illness." Appellants repeated these statements in their response to form interrogatories propounded by respondent. In neither response did appellants identify respondent's "asbestos-containing product" or the number and dates of exposure to the product.

John DeLoof was deposed in August 20, 2014. During his deposition, John stated he was not familiar with respondent. However, he associated it with "Henry roof compounds." John had purchased approximately three cans of a "Henry's roof compound product" and had used the product on the roof, including on the ceiling vents and chimney flashings, four to five times between the 1970s and 1990s. He described the Henry product as a black "heavy viscous compound," not a powder, and packaged in a blue metal can. John could not recall what "type of product" it was, or whether he purchased the same product each time. He had no knowledge whether the Henry products contained asbestos.

Every time John worked on the roof, he would remove preexisting Henry roof compound. Usually, it was a small amount, "pea-sized" and "insignificant." However, on one occasion in 1976 or 1977, he had to remove a substantial amount of Henry product that he had previously applied. It would come off in "chunks." In addition, he observed "jet black" dust from "withered Henry's compound."

John stated that decedent was never up on the roof assisting him when he used a Henry product. Nor could he recall decedent ever personally using a Henry product. After he used a Henry product, John would get some on his hands and work clothes. He used paint thinner and rags to remove the product. Although he never watched decedent launder his work clothes, she would do so as part of her regular household work routine. John could not recall if decedent used paint thinner on any clothes, but it was customary for decedent to shake them before laundering them.

John also stated that in 2005, he hired someone to perform roofing work because "I didn't want to get myself and my clothes all dirty again." He acknowledged that a can of Henry roofing product was found in his garage and given to his attorney when the instant litigation started in 2013. John could not recall whether the product in that can was the same product he had previously used. Nor could he recall when and where he purchased the can. There was a "remote" possibility that the can of Henry product had been left over by the outside contractor.

On January 28, 2015, respondent filed a motion for summary judgment, arguing that appellants have "no evidence, nor can they reasonably obtain evidence to establish causation." Respondent argued that appellants' responses to discovery requests and John's testimony failed to identify any specific exposure to an asbestos-containing product manufactured by respondent. Although appellants initially stated that decedent personally used and was present when John installed, scrapped or removed a Henry "roofing mastic," John admitted in his deposition that decedent was never present when he used a Henry product, and that he had no personal knowledge that decedent ever used a Henry product. Thus, respondent argued, there was no evidence that decedent was ever exposed to an asbestos-containing product it manufactured.

Respondent also argued that appellants' anticipated new exposure theory -- that decedent was exposed to asbestos from laundering her husband's clothes -- was unavailing. The factual basis for the theory was not disclosed until John's deposition, and John testified he was unaware whether decedent removed any asbestos-containing product from his clothes before laundering them. Even assuming some Henry product remained on the work clothes, respondent contended the declaration of Kyle Dotson, an industrial hygienist, established that even if the product contained asbestos, neither John nor decedent would have been exposed to asbestos fibers from John's removal of the old Henry product.

In the attached Dotson declaration, Dotson stated he had been a certified industrial hygienist since 1987, with over 30 years of experience in industrial hygiene. Industrial hygiene seeks to anticipate, recognize, evaluate and control health risks from chemical, biological and physical hazards in the workplace, such as asbestos. Dotson stated that he had supplemented his "formal education, training and professional experience by extensive literature reviews of asbestos-related industrial hygiene scientific literature, including reviews of the historical scientific state of art knowledge of the hazards of asbestos." Dotson reviewed the materials in this case, including John's deposition testimony, and for the purposes of his analysis, "assumed that any testimony concerning Henry brand products that Mr. DeLoof testified to is attributable to [respondent] the W.W. Henry Company." Dotson opined that "roofing compounds that did contain asbestos did not pose any health risk, or any significant possibility of inhalation of asbestos fibers, due to the fact that the asbestos fibers in these products were encapsulated in materials that would render such fibers generally incapable of subsequent release into the air. . . . Even if the [Henry] product contained asbestos, which is unconfirmed, the fibers, if any, would be encapsulated in the matrix material that would render such fibers generally incapable of release into the air." He further opined that "any release [of asbestos] associated with either Mr. DeLoof or Decedent's activities involving Henry roofing compounds, if any whatsoever, would have been less than

the cumulative exposure that [they] would expect to experience simply living in the natural ambient environment of the United States." He concluded that "it is my professional opinion to a reasonable degree of scientific certainty that neither Mr. DeLoof, nor Decedent was exposed to asbestos from any Henry roofing compounds as described and/or attributable to The W.W. Henry Company."[2]

Appellants opposed the motion for summary judgment, arguing that respondent had not met its initial burden of showing that decedent was not exposed to asbestos-

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[2] The trial court sustained appellants' evidentiary objections to those portions of Dotson's declaration in which he opined, among other things, that "roofing compounds are specifically excluded from EPA and OSHA asbestos regulations because these materials are encapsulated, non-friable, non-hazardous and incapable of increasing a person's risk of an asbestos related disease as a result of product usage."

The trial court did not address respondent's request for judicial notice of: (1) a federal case, *Asbestos Information Association v. Reich* (5th Cir. 1997) 117 F.3d 891, in which the appellate court affirmed a challenge to proposed OSHA regulations, finding the uncontradicted evidence showed asbestos fibers cannot escape from roofing sealants and become airborne; and (2) OSHA Regulations at 29 Code of Federal Regulations parts 1915 and 1926, amended in compliance with the above case, showing that asbestos-containing roofing compounds are excluded from regulations related to warning labels and workplace practice requirements.

containing product(s) manufactured by respondent. Specifically, John testified he used only Henry roofing compounds. He further testified that in 1976 or 1977, dust from scrapping off old Henry product ended up on his clothing, and decedent would shake the clothing before laundering it. According to appellants, this testimony supported a conclusion that decedent was exposed to asbestos from a Henry product. Appellants noted that respondent had provided no evidence that "the Henry's product at issue does not contain asbestos."[3] Appellants never mentioned respondent's responses to discovery requests in other cases. Finally, appellants argued, Dotson's testimony that Henry roofing products would not increase exposure to asbestos due to its chemical composition was

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[3] Appellants proffered the expert declaration of Dr. William E. Longo, who opined that "the Henry's product that Mr. DeLoof worked with contained asbestos." However, the trial court sustained respondent's evidentiary objections to this opinion, based in part on respondent's assertion that it had "ceased its roofing [product] line in 1981 when Henry Company came into existence." The court also sustained objections to (1) a January 5, 2014 test showing asbestos in the can of Henry's Roof Patch Cement No. 204, found in the garage of the Fullerton residence and given to appellants' law firm when the instant ligation started (2013), and (2) the deposition testimony from another lawsuit of Ariel Lender, designated by the Henry Company as its person most knowledgeable, stating asbestos was included in Henry products until 2004. Appellants do not assign error to these rulings on appeal.

inadmissible, as he cited no study to support his opinion. Appellants also argued that even if respondent had met its initial burden of proof, there were triable issues of fact for the same reasons set forth above.

In reply, respondent argued that appellants had presented no evidence showing that John was exposed to asbestos from any product it manufactured during his roofing work or that decedent was exposed at a later time. Respondent further argued that Dotson's expert testimony established that even if the roofing product contained asbestos, the asbestos fibers would not become respirable and airborne. Respondent contended that Dotson's opinion was admissible, as appellants cited no authority requiring Dotson to list the multiple studies he referred to and relied upon in reaching his expert opinion.

On May 19, 2015, the trial court granted respondent's motion for summary judgment. It determined that respondent had met its initial burden because appellants' factually devoid responses to discovery requests created an inference that decedent was not exposed to an asbestos-containing product manufactured by respondent. The court noted that appellants failed to provide specific facts about the laundering theory of exposure and to identify the specific W.W. Henry product(s) allegedly used. It ruled that appellants failed to establish a triable issue of fact, because (1) John DeLoof failed to identify a W.W. Henry product allegedly used, (2) he could not say when he purchased or used the Henry Roof Patch Cement No. 204 found in the

garage, i.e., he could not say that decedent was exposed to that product via washing his work clothes, (3) there was no evidence that the Henry Roof Patch Cement No. 204 (or a similar formulation) was made by respondent, and (4) appellants failed to produce an expert declaration concerning causation.[4]

Judgment in favor of respondent and against appellants was entered June 3, 2015. Appellants timely appealed.

DISCUSSION

Appellants contend the trial court erred in granting respondent's motion for summary judgment. Generally, "the party moving for summary judgment bears an initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact; if he carries his burden of production, he causes a shift, and the opposing party is then subjected to a burden of production of his own to make a prima facie showing of the existence of a triable issue of material fact." (*Aguilar v. Atlantic Richfield Co*. (2001) 25 Cal.4th 826, 850 (*Aguilar*).) "[I]f a defendant moves for summary judgment against . . . a plaintiff [who has the burden of proof by a preponderance of the evidence

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[4] The court also noted that with respect to the can of Roof Patch Cement No. 204, there was no evidence it was made by respondent, as respondent "ceased doing business in 1981, and Henry Company began making the roofing products at that time."

at trial], he may present evidence that would require such a trier of fact *not* to find any underlying material fact more likely than not. In the alternative, he may simply point out --he is not required to present evidence [citation]-- that the plaintiff does not possess, and cannot reasonably obtain, evidence that would allow such a trier of fact to find any underlying material fact more likely than not." (*Id*. at p. 845.) "After the defendant meets its threshold burden, the burden shifts to the plaintiff to present evidence showing that a triable issue of one or more material facts exists as to that cause of action or affirmative defense. [Citations.] The plaintiff may not simply rely on the allegations of its pleadings but, instead, must set forth the specific facts showing the existence of a triable issue of material fact. [Citation.] A triable issue of material fact exists if, and only if, the evidence reasonably permits the trier of fact to find the contested fact in favor of the plaintiff in accordance with the applicable standard of proof. [Citations.]" (*Collin v. CalPortland Co.* (2014) 228 Cal.App.4th 582, 588 (*Collin*).) In ruling on the motion, the trial court views the evidence and inferences therefrom in the light most favorable to the opposing party. (*Aguilar*, *supra*, 25 Cal.4th at p. 843; *Saelzler v. Advanced Group 400* (2001) 25 Cal.4th 763, 768 (*Saelzler*).)

We review an order granting summary judgment or summary adjudication de novo. (*Aguilar*, *supra*, 25 Cal.4th at p. 860.) "Although we independently review the grant of summary judgment [citation], our inquiry is subject to two

constraints. First, we assess the propriety of summary judgment in light of the contentions raised in [appellant's] opening brief. [Citation.] Second, to determine whether there is a triable issue, we review the evidence submitted in connection with summary judgment, with the exception of evidence to which objections have been appropriately sustained. [Citations.]" (*Food Safety Net Services v. Eco Safe Systems USA, Inc*. (2012) 209 Cal.App.4th 1118, 1124.) With respect to the trial court's final rulings on evidentiary objections, we review them under an abuse of discretion standard. (*Carnes v. Superior Court* (2005) 126 Cal.App.4th 688, 694; accord, *Public Utilities Com. v. Superior Court* (2010) 181 Cal.App.4th 364, 376.)

Appellants contend respondent did not satisfy its threshold burden on summary judgment, arguing that respondent failed to show that appellants did not have and could not reasonably obtain evidence of decedent's exposure to an asbestos-containing product manufactured by respondent. "In the context of a cause of action for asbestos-related latent injuries, the plaintiff must first establish some threshold exposure to the defendant's defective asbestos-containing products." (*Rutherford v. Owens-Illinois, Inc*. (1997) 16 Cal.4th 953, 982, italics omitted.) "If there has been no exposure, the plaintiff cannot demonstrate that the defendant caused his or her injuries." (*Collin*, *supra*, 228 Cal.App.4th at p. 589.)

In its motion for summary judgment, respondent relied on (1) appellants' factually devoid responses to

comprehensive discovery requests and (2) Dotson's declaration to meet its initial burden of showing lack of exposure/causation. With respect to the former, as our Supreme Court has stated, a defendant may meet his initial burden by simply pointing out "that the plaintiff does not possess, and cannot reasonably obtain, evidence that would allow such a trier of fact to find [causation] more likely than not." (*Aguilar*, *supra*, 25 Cal.4th at p. 845.) Thus, "[e]vidence that the defendant propounded sufficiently comprehensive discovery requests and that the plaintiff provided factually insufficient responses can raise an inference that the plaintiff cannot prove causation." (*Collin*, *supra*, 228 Cal.App.4th at p. 589, citing *Casey v. Perini Corp.* (2012) 206 Cal.App.4th 1222, 1231 (*Casey*).) *Collin* and *Casey* are instructive. In *Collin*, plaintiff Collin alleged he developed mesothelioma after being exposed to an asbestos-containing joint compound manufactured by Kaiser Gypsum from 1954 through 1995. The sole product identification witness, Collin, testified he saw and was exposed to dust from premixed Kaiser Gypsum joint compound numerous times over several years. However, he could not identify any specific year. Moreover, he "did not know the complete name of any Kaiser Gypsum joint compound product that he encountered. Other than the word 'Kaiser,' he could not remember any logos, symbols or wording on any of the cartons of Kaiser Gypsum products he saw." (*Collins*, at p. 594.) Finally, he had no idea whether any of the Kaiser Gypsum joint compound that he encountered contained

asbestos. (*Id.* at pp. 585, 590, 593-594.) As there was undisputed evidence that Kaiser Gypsum had stopped manufacturing an asbestos-containing premixed joint compound in early 1976 and had briefly sold an asbestos-free joint compound from 1974 to 1976, the appellate court concluded that "Kaiser Gypsum met its initial burden of production by making a prima facie showing that plaintiff does not have, and cannot obtain, evidence necessary to show exposure to an asbestos-containing Kaiser Gypsum joint compound." (*Id.* at p. 594.)

In *Casey*, the appellate court found that the defendant met its initial burden of proof on summary judgment based on plaintiffs' factually devoid responses to comprehensive discovery requests. There, Casey developed mesothelioma, allegedly as a result of occupational exposure to asbestos. (*Casey*, *supra*, 206 Cal.App.4th at p. 1225.) Casey testified he worked alongside or in close proximity to laborers employed by Perini. The Perini workers would disturb debris that Casey assumed was asbestos-laden. However, "Casey admitted that he did not know what materials contained asbestos and what materials did not." Moreover, he was unable to recall the name of any products used at the jobsites. (*Id.* at p. 1229.) Plaintiffs' response to standard interrogatories was similar and likewise deficient. "It contain[ed] little more than general allegations against Perini and d[id] not state specific facts showing that Casey was actually exposed to asbestos and/or asbestos-containing products due to Perini's activities. Rather, this answer

assume[d], without any evidentiary support, that the dust and debris allegedly disturbed by Perini workers contained asbestos." (*Id*. at p. 1230, italics omitted.)

Here, John DeLoof could not identify the brand name or trade name of any W.W. Henry product ("a roofing mastic") he allegedly used on the roof. Nor could he recall what "type of product" it was, or whether he purchased the same product each time. A can of Henry Plastic Cement No. 204 was found in the garage in 2013, and may have been used on the roof in 2005. However, John could not recall whether he used the same product on prior occasions. Moreover, no evidence showed that the product was manufactured by respondent, rather than the Henry Company. In addition, although appellants' response to respondent's standard interrogatories alleged that the "roofing mastic" contained asbestos, there was no evidentiary support for that allegation in the record. John admitted he had no knowledge whether any "Henry's product" he used contained asbestos.

Nor do the references in the case report to respondent's responses filed in other cases assist appellants. As noted above, in response to an interrogatory asking appellants to identify the asbestos-containing product to which decedent was exposed, appellants stated that product identification documents for respondent included: (1) "[a]ll depositions and trial testimony of defendants' own respective employees or former employees in asbestos litigation matters, as well as the depositions of other defendants', in this and other

jurisdictions"; (2) respondent's "responses to San Francisco Superior Court General Order No. 129 Standard Interrogatories -- Asbestos, including all exhibits thereto or referenced therein"; (3) its "responses to Los Angeles Superior Court General Order Standard Interrogatories, including all exhibits thereto"; and (4) "[a]ll contents of this defendant's records and files." Nothing is alleged about any asbestos-containing product manufactured by respondent. Moreover, no deposition testimony, responses or "records or files" identifying such a product is in the record. For a jury to find that John used an asbestos-containing roofing mastic manufactured by respondent based on this evidence would require speculation. But "'proof of causation cannot be based on mere speculation, conjecture and inferences drawn from other inferences to reach a conclusion unsupported by any real evidence.'" (*Saelzler*, *supra*, 25 Cal.4th at p. 775; accord, *Bowman v. Wyatt* (2010) 186 Cal.App.4th 286, 314; *Padilla v. Rodas* (2008) 160 Cal.App.4th 742, 752.)[5]

To meet its initial burden of showing lack of causation, respondent also relied on Dotson's expert testimony. Dotson opined that even assuming John DeLoof used an asbestos-

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[5] Appellants contend the trial court improperly relied upon a fact (that W.W. Henry stopped making roofing compounds in 1981) first set forth in respondent's reply. Our analysis does not rely on that fact. (See *Collin*, *supra*, 228 Cal.App.4th at p. 588 [trial court's stated reasons for granting summary judgment not binding on us because we review its ruling, not its rationale].)

containing product manufactured by respondent, "any release [of asbestos] associated with either Mr. DeLoof or Decedent's activities involving Henry roofing compounds, if any whatsoever, would have been less than the cumulative exposure that [they] would expect to experience simply living in the natural ambient environment of the United States." Indeed, it was his "professional opinion to a reasonable degree of scientific certainty that neither Mr. DeLoof, nor Decedent was exposed to asbestos from any Henry roofing compounds as described and/or attributable to The W.W. Henry Company" since the asbestos fibers in the roofing compound were "encapsulated in materials that would render such fibers generally incapable of subsequent release into the air."

Appellants contend Dotson's opinions lacked foundation because, inter alia, he failed to cite any specific study. We disagree. Dotson was a certified industrial hygienist with over 30 years of experience. He had supplemented his "formal education, training and professional experience by extensive literature reviews of asbestos-related industrial hygiene scientific literature, including reviews of the historical scientific state of the art knowledge of the hazards of asbestos." As our Supreme Court recently explained, "experts may relate information acquired through their training and experience, even though that information may have been derived from conversations with others, lectures, study of learned treatises, etc. . . . A physician is not required to personally replicate all medical

experiments dating back to the time of Galen in order to relate generally accepted medical knowledge that will assist the jury in deciding the case at hand. An expert's testimony as to information generally accepted in the expert's area, or supported by his own experience, may usually be admitted to provide specialized context the jury will need to resolve an issue. When giving such testimony, the expert often relates relevant principles or generalized information rather than reciting specific statements made by others." (*People v. Sanchez* (2016) 63 Cal.4th 665, 675.) Thus, Dotson could properly rely upon his review of multiple studies, without listing those studies. His extensive review of scientific literature provided a sufficient foundation for his opinions about asbestos exposure from roofing compounds and mastics. Moreover, appellants were not precluded from challenging his opinion, for example, with their own expert testimony that other studies did not reach the same conclusion. In short, respondent could rely on Dotson's expert testimony to establish the nonexistence of causation.

Appellants contend that Dotson's opinion that asbestos fibers would not be released during removal of old roofing compounds cannot be reconciled with John DeLoof's testimony that jet black dust was released when he removed old "withered Henry's compound." Citing *Hernandez v. Amcord, Inc.* (2013) 215 Cal.App.4th 659 (*Hernandez*) and *Izell v. Union Carbide Corp.* (2014) 231 Cal.App.4th 962 (*Izell*), they argue that "evidence of exposure to dust from an asbestos-containing product is, in and of itself, sufficient to

establish prima facie evidence of exposure." Appellants' reliance on *Hernandez* and *Izell* is misplaced, as neither addressed expert testimony about exposure to roofing compounds. In *Hernandez*, the appellate court reversed a judgment of nonsuit against the plaintiff. The plaintiff had presented testimony that an asbestos-containing product, Riverside gun plastic cement, was packaged in 94-pound bags. To open a bag, the decedent would cut it in the middle, which created visible dust around his face and clothing. The court held this testimony was sufficient to show exposure. (*Hernandez*, *supra*, at p. 674.) In *Izell*, the appellate court affirmed a jury verdict against a defendant who had supplied asbestos used in several products, finding substantial evidence supported the jury's finding on causation. Evidence had been presented that the decedent, a home builder, had been present when his workers sanded dried asbestos-containing joint compound and he had inhaled the resulting dust. (*Izell,* at pp. 967-969.) In neither case was the court asked to address whether the evidence presented contradicted or undermined expert testimony that the dust to which decedent was exposed did not contain cognizable amounts of respirable asbestos.

Moreover, John's testimony that his work removing old roofing compound created dust does not, standing alone, contradict Dotson's declaration that such removal would not release encapsulated asbestos fibers in the compound. Absent expert testimony which appellants did not produce, Dotson's testimony on this point remains unrefuted. In sum,

respondent met its initial burden, and shifted the burden to appellants to make a prima facie showing of the existence of a triable issue of material fact as to causation.

Appellants contend that John DeLoof's deposition testimony raised triable issues of material fact regarding exposure/causation. As we have already considered that evidence in determining that respondent satisfied its initial burden, we conclude the evidence is also insufficient to raise a triable issue of material fact as to exposure. Aside from DeLoof's testimony, appellants produced no admissible evidence purporting to show a triable issue of material fact, such as judicial admissions by respondent. In sum, because there was no factual basis for appellants' general assertion of causation, "'the conclusion is unavoidable that summary judgment was properly granted.'" (*Saelzler*, *supra*, 25 Cal.4th at p. 775.)

DISPOSITION

The judgment is affirmed. Respondent is entitled to its costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

MANELLA, J.

We concur:

EPSTEIN, P. J.

COLLINS, J.