



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Container Decommissioning/Cleaning: Federal District Court (Pennsylvania) Addresses Whether the Hazardous Material Transportation Act Preempts Negligent Hiring/Supervision Causes of Action

Arkansas Environmental, Energy, and Water Law Blog

06/13/2016

Co-author: Bailey Knapp

The United States District Court in the Eastern District of Pennsylvania addressed whether the federal Hazardous Materials Transportation Act ("HMTA") preempts certain common law claims. See *Mawa, Inc. v. Univar USA Inc.*, 2016 WL 2910084.

The state common law causes of action included negligence, negligent hiring, negligent supervision and negligent failure to train.

Plaintiff, MAWA, Inc. ("MAWA") brought suit against Univar USA, Inc. ("Univar"), alleging that Univar did not follow proper cleaning procedures for containers holding hazardous chemicals, causing the container to expel hazardous chemicals damaging MAWA's property.

Defendant Univar filed a motion for judgment on the pleadings arguing the HMTA preempted these common law claims.

MAWA contended that its common law claims were not preempted by HMTA because the suit covered claims that occurred during post-transportation decommissioning of the containers, a task not covered by HMTA.

The court determined that the state common law claims were preempted by HMTA. It held 5125(b)(1) applies to MAWA's state common law claims because HMTA's requirements do not cease to apply during post-transportation phases. Further, the state common law was held to impose conditions beyond that required by HMTA.

MAWA also argued its claims were not preempted because it pled violations of HMTA that may be enforced through common law negligence. The court found that MAWA's complaint contained no mention of HMTA or any violation of federal duties.

Finally, MAWA argued that its claims were not preempted because they were based on Univar's failure to follow its internal operating procedure. It relied on a Third Circuit Court of Appeals decision. However, the court found the decision was inapplicable.

The court granted Univar's motion for judgment on the pleadings.

[A copy of the opinion can be downloaded here.](#)