

Tank Rupture/Hazardous Materials Transportation Act: Federal Court Addresses Whether State Law Claims for Negligence/Strict Liability are Preempted



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The United States Court of Appeals for the Second Circuit (“Second Circuit”) addressed in an August 24th Opinion whether the federal Hazardous Materials Transportation Act (“HMTA”) preempted certain state tort law claims in relation to a tank explosion that caused serious injuries. See *Buono v. Tyco Fire Products, LP*, 2023 WL 5437812.

The state tort law claims involved alleged negligence and strict liability based on failure to warn of risks of a tank exploding from being overfilled.

Franklin Buono (“Buono”) worked at Oprandy’s Fire & Safety Inc. (“Oprandy’s”) in Middletown, New York. Oprandy’s is described as providing:

- Servicing, inspecting, and repairing fire extinguishers, compressed air tanks, and fire suppression systems.

Buono assisted a coworker in testing a “Kitchen Knight” fire-suppression system developed by a subsidiary of Tyco Fire Products, LP (“Tyco”).

A “balloon test” is used to test the integrity of the Kitchen Knight system. Compressed air is released through the system and if the balloon expands the pipes are intact. If not, the fire-suppression system has malfunctioned.

The test tank used by Buono is stated to be a United States Department of Transportation 4BW steel cylinder which was marked with the following text:

- DOT 4BW 225 M453.

Tyco sold the system through a subsidiary to Oprandy’s as a safety accessory for the Kitchen Knight system. During the test the tank ruptured and shrapnel hit several fire extinguishers which exploded and Buono lost one of his legs.

Buono brought common law claims for strict liability and negligence against Tyco alleging common-law claims for:

- Negligence based on manufacturing and design defect

- Breach of warranty
- Strict products liability
- Failure to warn

The case was removed from state court to the United States District Court for the Southern District of New York.

Tyco moved for summary judgment.

A principal argument put forth was that the HMTA preempts Buono's common-law claims.

The United States District Court granted Tyco's motion for summary judgment, holding that the HMTA: . . . unambiguously preempts any New York common law duties.

The lower court's ruling was based on its conclusion that:

- No dispute that the tank was qualified for use in transporting hazardous material in commerce under federal law (and that Buono's claims were "about" an enumerated subject).
- Buono's common-law claims for negligent failure to warn and strict liability based on a failure to warn would be imposed upon Tyco (these were duties beyond those required by federal law).

The Second Circuit affirmed, holding that the HMTA expressly preempts nonfederal laws about certain subjects related to the transportation of hazardous materials in commerce.

The Opinion notes that as relevant to this case:

- The HMTA preempts state laws that are:
- About the . . . marking of a container . . . that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce, and
- Not substantively the same as a provision of the HMTA or a regulation promulgated thereunder.

The Second Circuit found that both conditions were satisfied because:

- The tank was marked . . . as qualified for use in transporting hazardous materials (and Buono's common-law claims were about the marking of Tyco's tank).
- Buono's common-law claims could not be deemed substantively the same because they would impose duties beyond the HMTA and associated regulations.

The Second Circuit therefore held that the HMTA expressly preempted Buono's common-law claims.

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