

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

SANFORD CLAIR, Plaintiff, RUTH)	No. ED99246
NISHIDA, ALISON TUCKER AND)	
NICHOLAS WHITE, Individually and as)	Appeal from the Circuit Court
Representative of THE ESTATE OF MARK))	of St. Louis County
WHITE, DECEASED, Appellants,)	
vs.)	Hon. Barbara W. Wallace
MONSANTO COMPANY, Defendant, and)	
PHARMACIA CORP., Respondent.)	Filed: July 23, 2013

Ruth Nishida, Alison Tucker, and Nicholas White, Individually and as Representatives of the Estate of Mark White (“Plaintiffs”), appeal from the trial court’s grant of summary judgment in favor of Pharmacia Corporation (“Pharmacia”). Plaintiffs contend the trial court erred in granting summary judgment with respect to Plaintiffs’ cause of action brought under California law for design defect because: (1) the post-use disposal of polychlorinated biphenyls (“PCBs”) was foreseeable; and (2) the foreseeable and intended uses of Pharmacia’s “open use” PCBs resulted in releases into the environment, which, in turn, resulted in an increase in Plaintiffs’ risk of developing Non-Hodgkin’s Lymphoma. Plaintiffs further contend the trial court erred in granting summary judgment with respect to negligence because Plaintiffs established Pharmacia owed a duty of reasonable care.

REVERSED AND REMANDED.

Division Three holds: The trial court erred in granting summary judgment with respect to Plaintiffs’ cause of action for negligence brought under California law because Plaintiffs established Pharmacia owed a duty of reasonable care. The trial court erred in granting summary judgment with respect to Plaintiffs’ cause of action for design defect brought under California law because Pharmacia could be held strictly liable for injuries caused by PCBs in the environment resulting from some unintended uses. Further, Plaintiffs showed there were genuine issues of material fact regarding whether post-use disposal of PCBs was foreseeable and whether exposure to PCBs caused their injuries. The trial court erred in granting summary judgment with respect to Plaintiffs’ cause of action for design defect brought under California law because Plaintiffs showed there was a genuine issue of material fact regarding whether Plaintiffs’ injuries were caused by foreseeable and intended uses of open-use PCB-containing products.

Opinion by: Robert G. Dowd, Jr., P.J.
Roy L. Richter, J. and Angela T. Quigless, J., concur.

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