

On January 6, 2017, [Michael Lecinski](#) argued a successful Motion for Summary Judgment in front of Judge Robert H. Dierker in the 22<sup>nd</sup> Judicial Circuit of Missouri in the case of *Gunzell v. 84 Lumber* (1322-CC08728). Mr. Lecinski argued that the Plaintiff's response to the Defendant's Motion for Summary Judgment was not timely filed, and that the Plaintiff failed to present evidence of the Decedent's exposure to any asbestos attributable to products that were purchased at Defendant's store.

The Decedent worked for his brother's roofing company in the 1970's and he occasionally picked up supplies for the company at Defendant's store. He did not recall any details as to what specific roofing products he purchased from this store. Mr. Lecinski argued that without any specifics regarding the products, this case was similar to *Wagner v. Bondex International, Inc.* 368 S.W.3d 340 (Mo. App. W.D. 2012). In *Wagner*, the decedent worked with a company's ceiling tile, but no evidence was presented as to whether it was the asbestos-containing ceiling tile or non-asbestos-containing ceiling tile manufactured by that company. The Wagner Court held that the case was not submissible to a jury because an essential fact had to be inferred. Here, speculation and inferences would have been needed as well. It would have been necessary to speculate which specific roofing materials Decedent purchased from Defendant's store, then it would have been necessary to speculate that those materials even contained asbestos.

Plaintiff was only able to state that the Decedent worked with roofing products, such as roofing felt and shingles, and that he purchased some roofing materials from Defendant's store. Plaintiff had no evidence of a specific product or specific manufacturer's product being purchased from Defendant's store; consequently, Plaintiff did not have any evidence of any specific product that Decedent purchased from Defendant's store containing asbestos.

Judge Dierker granted Defendant's Motion for Summary Judgment as he did not believe there was sufficient product identification in regards to the products the Decedent purchased from Defendant's store.