



## HIGH COURT OF AUSTRALIA

Manager, Public Information

2 September 2009

LEIGHTON CONTRACTORS PTY LTD v BRIAN ALLAN FOX & ORS  
CALLIDEN INSURANCE LTD v BRIAN ALLAN FOX & ORS  
[2009] HCA 35

There is no common law duty requiring a principal contractor to provide to a subcontractor training in the safe methods of carrying out the subcontractor's specialised task, the High Court held today.

Leighton Contractors Pty Ltd was the principal contractor for the Hilton hotel construction project in Sydney. Leighton had contracted with Downview Pty Ltd to carry out the concreting for certain works on the construction site. Downview subcontracted the concrete pumping to Quentin Still and Jason Cook, who engaged Brian Fox and Warren Stewart in connection with the pumping for a concrete pour on 7 March 2003. Once the concrete pour had been completed, Mr Still, Mr Stewart and Mr Fox started to clean the concrete delivery pipes. This involved blowing an object through the pipes with compressed air. They moved the end pipe into position over a waste bin but did not secure it to the bin. The pipe whiplashed away from the waste bin and struck Mr Fox, significantly injuring him.

Mr Fox filed negligence claims against Leighton, Downview and Warren Stewart Pty Ltd (which had employed Warren Stewart) in the New South Wales District Court. The primary judge found that the accident was caused by the negligent conduct of Mr Still and Mr Stewart, but that there had been no relevant breach of duty by either Leighton or Downview. She gave judgment against Warren Stewart Pty Ltd, and ordered the company to pay damages of \$472,561.95 to Mr Fox. Warren Stewart Pty Ltd has since been de-registered.

The Court of Appeal of the Supreme Court of New South Wales allowed Mr Fox's appeal against the dismissal of his claims against Leighton and Downview, and ordered each of them to pay damages to Mr Fox of \$472,562. The High Court granted Leighton and Downview special leave to appeal, and after Downview was de-registered, granted leave to substitute Downview's insurer, Calliden Insurance Ltd, for Downview.

The High Court held that Leighton was not subject to a duty of care requiring that it provide training to subcontractors in the safe methods of carrying out the subcontractor's specialised work. It found that Downview had engaged a competent independent contractor to do the concrete pumping and that it was not subject to a duty of care requiring that it provide safety training to that contractor. The Court of Appeal's finding that Leighton and Downview were liable to pay damages to Mr Fox could not be sustained.

The High Court allowed each appeal and set aside orders made by the Court of Appeal. The Court ordered that Mr Fox's appeals to the Court of Appeal should be dismissed.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*