

<p>PROFEX SZAKNYELVI VIZSGA</p> <p>C1 (felsőfok) – angol nyelv Írásban teljesítendő Beszédértés</p>		<p>vizsgázó sorszáma:</p> <p style="text-align: center;">□□□□</p> <p>dátum: MINTATESZT</p>
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Kérjük, hogy jól gondolja meg a választát, mivel bármilyen válaszmódosítás esetén válasza érvénytelen.*

MEGOLDÓKULCS

1. szöveg

Fairchild v Glenhaven Funeral Services Limited

The judgment involved three appeals to the House of Lords on the issue of causation that were joined due to the similar factual circumstances of three claimants suffering from mesothelioma.

One of the claimants, Mr Matthews, was in the employment of multiple employers over the course of his working life, some for a period of years, and others for a period of weeks. Each of his employers admitted to being in breach of their duty not to expose Mr Matthews to asbestos dust, however, he was in fact exposed to such dust. Mr Matthews subsequently contracted mesothelioma.

The facts of this case highlight the inherent difficulty in determining which employer exposed the claimant to the asbestos dust that caused the progression of the disease and, furthermore, which employer was to be liable for causing the injury suffered.


The House of Lords addressed the appeal by the claimants from the decision of the Court of Appeal, by considering whether, in the special circumstances of such a case, principle, authority or policy required or justified a modified approach to proof of causation.

Although the House of Lords delivered a unanimous judgment, there were two lines of reasoning involved.

The majority reasoning considered the principles behind the causation test itself, being notions of justice. They decided that in these types of special cases, the circumstances call for a departure from the mechanical application of the causation principles. Lords Bingham, Hoffman and Rodgers each laid down rules for application of this special principle to other cases.

Lord Bingham considered that a claimant may succeed if:

1. the claimant was employed at different times and for differing periods by both employer A and employer B; and
2. employers A and B were both subject to a duty to take reasonable care or to take all practicable measures to prevent the claimant inhaling asbestos dust because of the known risk that asbestos dust (if inhaled) might cause a mesothelioma; and
3. both Employer A and B were in breach of that duty in relation to the claimant during the periods of the claimant's employment by each of them, with the result that during both periods the claimant inhaled excessive quantities of asbestos dust;
4. the claimant is found to be suffering from a mesothelioma; and
5. any cause of the claimant's mesothelioma other than the inhalation of asbestos dust at work can be effectively discounted; yet
6. the claimant cannot (because of the current limits of human science) prove, on the balance of probabilities, that his mesothelioma was the result of his inhaling asbestos dust during his employment by A or during his employment by B or during his employment by both A and B taken together.

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Lord Hutton differed from the majority's line of reasoning, in that he considered the departure from causation could be explained on the basis that proof of causation was a matter which could be inferred from the facts.

The interests of employer defendants and their insurers may be adversely affected if the principles of Fairchild are applied in Australia. In addition to the decision's impact on employers, Fairchild creates unpredictability in being able to determine and advise on whether negligence causing damage has occurred.

The decision affects:

- health and pharmaceutical companies who may be potentially liable for a side effect of a generic product that is sold by several manufacturers;
- hospitals which supply blood for transfusion, for example in relation to hepatitis B;
- employers whose employees are exposed to biological agents that cause indivisible diseases such as Lyme disease, tetanus and tuberculosis.

<http://www.findlaw.com.au/articles/1287/fairchild-v-glenhaven-funeral-services-ltd.aspx> (601 szó)

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1. szöveg – feladatlap

I. Karikázza be az egyedüli helyes válasz betűjelét a hallott szöveg alapján! Az elsőt példaként megoldottuk. Elérhető pontszám: 5 pont

0. The judgment involved

A three appeals to the House of Lords.

B two appeals to the House of Lords.

C three appeals to the Court of Appeal.

D two appeals to the Privy Council.

1. The appeals were joined, because

A they all concerned the issue of causation.

B the three defendants were suffering mesothelioma.

C the factual circumstances were similar.

D there had been a factual mistake.

2. Mr Matthews

A was employed for several years by each of his employers.

B was in the employment of multiple employers over the course of his working life.

C was exposed to asbestos dust by five employers.

D contracted mesothelioma while working for his second employer.

3. The House of Lords addressed the appeal

A by determining which employer exposed the claimant to the asbestos dust that caused the disease.

B by determining which employer was not to be liable for causing the injury suffered.

C by considering whether the special circumstances justified a modified approach to proof of causation.

D by considering the two different theories of causation.

4. The judgment of the House of Lords

A was unanimous.

B was very short, consisting only of two lines.

C relied on a unanimous reasoning.

D meant a definite change in causation principles with regard to all types of cases for the future.


5. Lord Bingham considered that a claimant may only succeed if:

A either Employer A or B were in breach of their duty not to expose the employee to asbestos dust.

B the claimant suffers from some kind of illness.

C the illness was wholly caused by the inhalation of asbestos dust at work.

D the claimant cannot prove beyond reasonable doubt that his mesothelioma was the result of his inhaling asbestos dust during his employment by A or by B or by both.

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*II. Egészítse ki a mondatokat a hallott szöveg alapján! Minden üres helyre maximum négy szót írjon!
Az elsőt példaként megoldottuk. (Elérhető pontszám: 5 pont)*

Lord Hutton considered the departure from causation could be explained on the basis that **(0) proof of causation** was a matter which could be **(1) inferred from the facts**.

The interests of employer defendants and their insurers may be **(2) adversely affected** if the principles of Fairchild are applied in Australia. In addition, Fairchild creates unpredictability in being able to determine whether **(3) negligence (causing damage)** has occurred.

The decision affects pharmaceutical companies who may be potentially liable for a side effect of a generic product that is **(4) sold by (several) manufacturers**; hospitals which supply blood for transfusion; and employers whose employees are **(5) exposed to** biological agents that cause indivisible diseases.

PROFEX SZAKNYELVI VIZSGA

C1 (felsőfok) – angol nyelv
Írásban teljesítendő
Beszédértés



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2. szöveg

Interview with a criminal defense attorney**Why did you choose criminal law?**

I have always been compelled to pull for the underdog. During law school, I became interested in criminal law and procedure. I believe that our justice system, despite all its imperfections, is the best system in the world. I believe that everyone should be afforded due process and equal protection under the law.

Do people ever challenge you on your decision to represent the accused, some of whom may be guilty? How do you respond?

I ask them: "If you put yourself or your loved one in the place of someone wrongfully accused, wouldn't you want effective representation?"

Have you ever worked as a prosecutor, or have you always been a defense attorney?

I have been a defense attorney for 21 of the 22 years of my career. I spent one year prosecuting misdemeanors.

Tell us about a case that was a turning point in your career:

During my brief stint as a prosecutor, I realized that a police officer had testified falsely in a motion to suppress hearing. Rather than having the Judge rule against the defendant, I moved to dismiss the case in open court. The defense attorney would never have known that the police officer had lied. I realized from that day forward how much power lies in the hands of the State and how much potential there is for an abuse of power.

Tell us about a case that you are particularly proud of:

I had a client charged with felony murder, drug possession and armed robbery and aggravated assault. My client and his co-defendant had gone to the victim's house to sell the victim and his friend some drugs.

My client was unarmed and did not know that his co-defendant was armed. The co-defendant got into an altercation with the victim and ended up firing his gun and killing the victim. Both my client and his co-defendant fled the scene and were apprehended several days later.

Both my client and his co-defendant were charged with felony murder as a result of the shooting. After a week-long jury trial, my client was found not guilty of all counts, including murder. He was convicted of the drug charge.

In your opinion, is the criminal justice system fair to the defendant?

The justice system is definitely inequitable. Those who are unable to afford counsel are oftentimes forced to rely on public defenders who lack the time and the resources to effectively represent their clients.

Is there a particular type of case that you especially enjoy working on? Why?

I particularly enjoy working on cases in which there has been an unlawful search or seizure. These cases present a unique challenge, as well as an opportunity to confront unjust police practices.

How do you see your role as a defense attorney in the criminal justice system?

My role as a defense attorney is an integral part of the criminal justice system. The justice system fails society if the accused is not zealously represented.

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How do you see your role in the attorney-client relationship?

My role is to advocate for the best outcome for the client, whether it be a contested trial or a negotiated resolution. My role is to advise my client of all possible scenarios so that they can make their own informed decision.

What advice do you most often give to your clients?

I tell my clients that ultimately they decide the course they want to take in resolving their case. I tell them that they must consider all options and conduct a risk-benefit analysis when making a decision whether to fight the charge or to negotiate a compromise resolution with the State.

(617 szó)

<http://www.cobbcriminallawyer.com/Interview-with-Jill-Stahlman.aspx>

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2. szöveg – feladatlap

I. Egészítse ki a mondatokat a hallott szöveg alapján! Minden üres helyre maximum három szót írjon! Az elsőt példaként megoldottuk. (Elérhető pontszám: 5 pont)

The interviewer is interviewing a **(0) criminal defense** attorney. The attorney believes that everyone should be afforded **(1) due process** and equal protection under the law. He has chosen to represent the accused, because someone **(2) wrongfully accused** should be given effective representation. During his career, he spent one year **(3) prosecuting misdemeanors**. The case that was a turning point in his career concerned a police officer who had **(4) testified falsely/lie**d in a motion to suppress hearing. Then he realized how much power lies in the hands of the State and how much potential there is for a/n **(5) abuse of power**.

II. A hallott szöveg alapján egészítse ki az alábbi táblázatot! Minden üres helynél maximum négy szót használhat. Az elsőt példaként megoldottuk. Elérhető pontszám: 5 pont

In a case that he is particularly proud of, his client was charged with:	<u>(0) felony murder</u> drug possession armed robbery <u>(1) (aggravated) assault</u>
Eventually his client was convicted of:	<u>(2) (the) drug charge/possession</u>
A particular type of case that he especially enjoys working on:	<u>(3) unlawful search or seizure/unlawful search (cases) /unlawful seizure (cases)</u>
His role in the attorney-client relationship:	to advocate for the best outcome for the client: whether it be a contested trial or a/an <u>(4) negotiated resolution</u>
Advice he most often gives to his clients:	consider all options and conduct a/n <u>(5) risk-benefit analysis</u> before deciding whether to fight the charge