FIFTH DIVISION
BROWN, C. J.,
MERCIER, P. J., and EPPS, J.

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November 3, 2026

In the Court of Appeals of Georgia

A26A0973. GEORGIA POWER COMPANY v. SINYARD et al.

BROWN, Chief Judge.

Georgia Power Company appeals from the trial court's order dismissing Ford Motor Company and Union Carbide Corporation as defendants and ruling that Georgia Power, as the only remaining defendant, is not entitled to have the jury apportion fault among other potential tortfeasors in this asbestos-mesothelioma case. Georgia Power also appeals from the denial of its motion to exclude expert testimony and the denial of its renewed motion for summary judgment. For the reasons that follow, we affirm.

This Court reviews "de novo a grant or denial of summary judgment, viewing the evidence and all reasonable conclusions and inferences drawn from it in the light

most favorable to the nonmovant." *Henry v. Griffin Chrysler Dodge Jeep Ram*, 362 Ga. App. 459, 460 (868 SE2d 827) (2022).

> Summary judgment is proper when there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law. The burden on the moving party may be discharged by pointing out by reference to the affidavits, depositions and other documents in the record that there is an absence of evidence to support the nonmoving party's case. If the movant meets this burden, the nonmovant cannot rest on [its] pleadings, but rather must point to specific evidence giving rise to a triable issue.

Id. at 460–61 (citations and punctuation omitted). See OCGA § 9-11-56(c), (e).

This case is now before this Court for a third time. The pertinent facts, as outlined in *Sinyard v. Ga. Power Co.*, 363 Ga. App. 195 (871 SE2d 45) (2022) ("*Sinyard I*"), are as follows. Kevin Sinyard was a pipefitter for more than 25 years and worked for more than 41 contractors, including Georgia Power Company, at various job sites across Georgia. Id. at 195–96.

> Sinyard performed work as an independent contractor for four Georgia Power plants—Scherer, Branch, McDonough and Vogtle—between 1979 and 1986. Sinyard was never directly employed by Georgia Power, and his work was not continuous during this time; instead, he would

> work for four to six weeks when needed, which was approximately once a year.
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> . . .
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> A representative for Georgia Power testified that Georgia Power has used asbestos gaskets, asbestos packing, and asbestos insulation in its plants since the 1930s and continued to stock asbestos products as late as 1992. The representative agreed that asbestos-containing materials existed in all of Georgia Power's plants during the period of Sinyard's employment.

Id. at 197–98(b)(i), (ii).

In 2014, Sinyard was diagnosed with malignant pleural mesothelioma. 363 Ga. App. at 195. In 2016, Sinyard and his wife filed a lawsuit against various defendants, including Georgia Power, Ford Motor Company, and Union Carbide Corporation, alleging negligence, premises liability, loss of consortium, and punitive damages, claiming that his disease was caused by exposure to asbestos while working at facilities owned by some of the defendants.[1] Id. at 202(e).

[1] After settlements and the grant of summary judgment to one defendant, four defendants remained in the case: Georgia Power, Ford, Union Carbide, and Georgia-Pacific LLC. The case was stayed with respect to Sinyard's claims against Georgia-Pacific in 2017, due to Chapter 11 bankruptcy proceedings.

In 2021, the Sinyards appealed from the grant of summary judgment to Ford, Georgia Power, and another defendant on other grounds. *Sinyard I*, 363 Ga. App. at 195. This Court reversed the grant of summary judgment to Ford and affirmed in part and reversed in part the grant of summary judgment to Georgia Power. Id. at 195, 203–05(1), 211–12(4), 217.

On remand from *Sinyard I*, Georgia Power, Ford, and Union Carbide Corporation (collectively "Defendants") moved to exclude the testimony of the Sinyards' causation expert, Dr. Jerrold Abraham, and two other expert witnesses, Christopher DePasquale and Dr. Steven Compton. Defendants also moved for summary judgment on the issue of causation based on the exclusion of Dr. Abraham's opinions.[2] In a single order, the trial court denied the motions to exclude Dr. Abraham's testimony, concluding, inter alia, that Dr. Abraham properly based his causation opinions on "reliable ranges of exposure" established by DePasquale and Dr. Compton. The trial court separately denied the motions to exclude testimony of DePasquale and Dr. Compton. Thereafter, the trial court concluded that, given its ruling on the admissibility of Dr. Abraham's opinions, disputed issues of material fact

[2] Georgia Power contended it was entitled to summary judgment on other grounds, which the trial court ultimately rejected.

remain as to causation and thus denied the motions for summary judgment. The court certified its orders for immediate review, and we granted Defendants' applications for interlocutory appeal but later dismissed the resulting appeals as having been improvidently granted

Following remittitur to the trial court, the Sinyards participated in mediation with Georgia Power, Ford, and Union Carbide. As a result of that mediation, the Sinyards settled their claims against Ford and Union Carbide, but their claims against Georgia Power remained pending. Ford, Union Carbide, and the Sinyards filed joint motions to dismiss Ford and Union Carbide and drop them as parties to the action in light of the settlements, with the result that Georgia Power would be the sole remaining defendant in the case. Georgia Power objected, asking the court to maintain the status of Ford and Union Carbide as nominal parties because dismissing them "could adversely affect substantial rights of Georgia Power to apportionment of fault and damages under OCGA § 51-12-33," or, alternatively, to apply the newly enacted provisions of OCGA § 51-12-15. The trial court granted the motions, dismissed Ford and Union Carbide, and ruled that Georgia Power is not entitled to apportionment of fault. Specifically, the trial court ruled that OCGA § 51-12-15 divides personal injury

trials into three procedural phases and grants a defendant a right, in the first phase, to introduce evidence that other defendants and non-parties may be at fault. The trial court determined, however, that the statute creates a new substantive right, so it cannot be applied retroactively. At the request of Georgia Power, the trial court certified its order for immediate review, and this Court subsequently granted Georgia Power's application for interlocutory review. Georgia Power appeals from this order and also enumerates as error the trial court's previous denial of its motions to exclude the testimony of the Sinyards' expert witnesses and the denial of its renewed motion for summary judgment.[3]

1. At the time the Sinyards filed their complaint, OCGA § 51-12-33(b) (2005) provided for the apportionment of fault when a lawsuit involved multiple defendants:

> *Where an action is brought against more than one person* for injury to person or property, the trier of fact, in its determination of the total amount of damages to be awarded, if any, shall . . . apportion its award of damages among the persons who are liable according to the percentage of fault of

[3] Because we have jurisdiction to address the trial court's order dismissing Union Carbide and Ford under OCGA § 5-6-34(b), we also have jurisdiction to address the orders denying Georgia Power's motion to exclude Dr. Abraham's testimony and its renewed motion for summary judgment under OCGA § 5-6-34(d). See *Gulfstream Aerospace Servs. Corp. v. U.S. Aviation Underwriters, Inc.*, 280 Ga. App. 747, 751 n.5 (635 SE2d 38) (2006); *Aetna Cas. & Surety Co. v. Cantrell*, 197 Ga. App. 672, 672–73(1) (399 SE2d 237) (1990).

> each person. Damages apportioned by the trier of fact as provided in this Code section shall be the liability of each person against whom they are awarded, shall not be a joint liability among the persons liable, and shall not be subject to any right of contribution.

(Emphasis supplied.) In *AU Medical Center v. Dale*, 373 Ga. App. 521 (908 SE2d 790) (2024), this Court interpreted the phrase "[w]here an action is brought against more than one person" to mean that apportionment is available only when more than one defendant remains in the case at trial. Id. at 530–32(1)(c). In other words, where—as here—all defendants except one have been dismissed before trial, then the trier of fact will not apportion fault under OCGA § 51-12-33(b). Georgia Power acknowledges that as a result of the trial court's dismissal order and our *AU Medical Center* decision, it is not entitled to apportionment under OCGA § 15-12-33(b).[4]

Nonetheless, Georgia Power maintains that it is entitled to apportion fault under a different statute, OCGA § 51-12-15(a), which became effective as part of Georgia's Tort Reform Act on April 21, 2025, and provides as follows:

[4] In a footnote, Georgia Power summarily argues that *AU Medical Center* was "wrongly decided as argued by the dissent and this Court should overrule it." We decline.

(a) In any action to recover damages for bodily injury or wrongful death, any party may elect ... to have fault and any award of damages determined at trial in the following manner:

(1) In the first phase of the trial, the trier of fact shall determine the fault of each defendant, and if the trier of fact finds that any defendant is at fault for the plaintiff's injuries or wrongful death, *the trier of fact shall further determine through an appropriate form of the verdict the percentage of fault of all persons or entities that contributed to such injuries or wrongful death as provided in Code Section 51-12-33*, prior to any determination of the total amount of damages to be awarded[.]...

(2) If the trier of fact finds in the first phase of the trial that any defendant is at fault for the plaintiff's injuries or wrongful death, the trial shall be recommenced immediately with the same judge and the same jury. In the second phase of the trial, the trier of fact shall determine all compensatory damages to be awarded to the plaintiff, if any, and the evidence and arguments of counsel shall be limited to this issue; and

(3) If the trier of fact finds in the second phase of the trial that any compensatory damages are to be awarded to the plaintiff, the trial may be recommenced immediately with the same judge and the same jury for such further proceedings as may be required, including, but not limited to, proceedings provided for in subsection (d) of Code Section 51-12-5.1 concerning punitive damages and proceedings to determine liability for, and the amount of, any attorney's fees, court costs, or expenses of litigation that may be awarded by the trier of fact as provided by law.

(Emphasis added.) Georgia Power asserts that the apportionment provisions of OCGA § 51-12-15 retrospectively apply in this case. As stated above, the trial court concluded that the statute creates a new substantive right and thus could not apply retroactively. "As the standard of review for a question of law on appeal is de novo," we review the trial court's ruling de novo. *Advantage Behav. Health Sys. v. Cleveland*, 350 Ga. App. 511, 517(2) (829 SE2d 763) (2019) (punctuation omitted).

"The presumption against retroactive legislation is deeply rooted in our jurisprudence, and embodies a legal doctrine older than our Republic. For that reason, courts usually insist upon some clear indication in the statutory text that a statute is to be applied retroactively before so applying it." *Howard v. Coffee Regional Med. Ctr., Inc.*, 377 Ga. App. 742, 748(2) (922 SE2d 890) (2025). Here, the legislature provided such a "clear indication" in the amendment enacting Georgia's 2025 Tort Reform Act:

> Sections 6 and 7 of this Act shall apply only with respect to causes of action arising on or after the effective date of this Act, and any prior causes of action shall be governed by prior law. It is the intention of the General Assembly that all other provisions of this Act shall apply to causes of action pending on the effective date of this Act, *unless such application would be unconstitutional.*

Ga. L. 2025, p.9 §9(b) (emphasis added). The Code section at issue is found in Subsection 8 and thus should be given retroactive effect unless our Constitution forbids it. See *Deal v. Coleman*, 294 Ga. 170, 174–75(1)(b) (751 SE2d 337) (2013). See also *Southern States Chem., Inc. v. Tampa Tank & Welding, Inc.*, 316 Ga. 701, 708(1) (888 SE2d 553) (2023) ("It is only when such a clear indication is present that we then consider whether retroactive application is unconstitutional[.]"). Accordingly, we must determine whether the retroactive application of OCGA § 51-12-15(a) is unconstitutional.

"The prohibition in Art. I, Sec. I, Par. X of the Georgia Constitution of 1983 against retroactive laws applies only to those laws which affect or impair substantive rights under prior law which have vested at the time the subsequent law takes effect." *Devore v. Liberty Mut. Ins. Co.*, 257 Ga. App. 7, 9 (570 SE2d 87) (2002). "That is, retrospective operation takes away or impairs vested rights acquired under existing laws or creates a new obligation, imposes a new duty, or attaches a new liability in respect to transactions or considerations already past." *Fowler Props., Inc. v. Dowland*, 282 Ga. 76, 77–78(1) (646 SE2d 197) (2007) (punctuation omitted). "Where an amendment to a statute changes procedure or rules of evidence, it does not affect or

impair vested substantive rights, and it is to be given retroactive effect absent the legislature's expressed contrary intention." *Devore*, 257 Ga. App. at 9. See also *Murphy v. Murphy*, 295 Ga. 376, 377 (761 SE2d 53) (2014) ("[O]ne has no vested rights in any course of procedure, and the presumption against a retrospective statutory construction does not apply to statutory enactments which affect only court procedure and practice, even when the alteration from the statutory change results in a disadvantage to a party."); *DaimlerChrysler Corp. v. Ferrante*, 281 Ga. 273, 274(1) (637 SE2d 659) (2006) ("Procedural law is that law which prescribes the methods of enforcement of rights, duties, and obligations." (punctuation omitted)).

Examples of laws found by Georgia appellate courts to affect only procedure or remedy include the following: provisions of the Tort Reform Act of 2005 governing the qualification of expert witnesses and the admissibility of expert testimony in civil cases;[5] a statute making an award of interest automatic in child support proceedings when requested by the person owed child support;[6] a statutory amendment requiring

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[5] *Mason v. Home Depot U.S.A., Inc.*, 283 Ga. 271, 278–79(4) (658 SE2d 603) (2008) (provisions, as evidentiary rules, were procedural and thus application of the statute to plaintiffs' case did not violate the constitutional prohibition against retroactive laws).

[6] *Reid v. Reid*, 232 Ga. App. 304, 306 (502 SE2d 269) (1998) (concluding that statute at issue was "procedural or remedial" in nature, rather than substantive, because it "in no

those desiring to file suit for damages against a municipality to include certain specific information in the required ante litem notice, namely "'the specific amount of monetary damages being sought[.]'"[7]

Conversely, the following were found to affect substantive rights: a statute extinguishing the right to a jury trial in a paternity suit;[8] provisions of the asbestos claims statute requiring plaintiffs to produce prima facie evidence establishing that exposure to asbestos was a substantial contributing factor to their medical conditions;[9] a law imposing an additional duty and obligation to pay an opposing party's attorney fees following a rejected settlement offer when a final judgment does not meet a

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way alters a person's obligation to pay child support ... [but] only alters the manner in which an obligee owed child support can proceed to obtain interest ... on the unpaid child support payments").

[7] *Harrell v. City of Griffin*, 346 Ga. App. 635, 640(2)(b) (816 SE2d 738) (2018) (amendment to OCGA § 36-33-5 "merely refine[d] one aspect of the procedure for enforcing the rights [plaintiff] had arising out of her tort cause of action" and thus could be retrospectively applied).

[8] *Hargis v. Dep't of Human Res.*, 272 Ga. 617, 617–18 (533 SE2d 712) (2000) (The right to a jury trial is a substantive one, and thus the statute extinguishing the right to a jury trial in a paternity suit could not be applied retrospectively.).

[9] *Daimler Chrysler Corp. v. Ferrante*, 281 Ga. 273, 274(1) (637 SE2d 659) (2006) (provisions affected plaintiffs' substantive rights by imposing a greater evidentiary burden than was required under the law in effect at the time their actions were filed and could not retroactively be applied to their claims).

certain amount or is one of no liability;[10] a statute repealing the cause of action for alienation of affections;[11] and a statute abolishing the rule that a plaintiff could not recover against a tortfeasor damages for which minimum, mandatory no-fault compensation was available.[12] Additionally, in *F. H. Ross & Co. v. White*, 224 Ga. 324 (161 SE2d 857) (1968), the Georgia Supreme Court held that the "[t]he right of contribution between joint trespassers is a substantive right," and thus the statute *creating* such a right could not be applied retrospectively. Id. at 325(2). The distinctions drawn by these cases support the conclusion that the right of apportionment is a substantive right affecting a defendant's liability and a plaintiff's ability to collect.

In considering whether apportionment is procedural or substantive in nature, we also find it instructive that other state courts considering the issue have concluded that similar statutes are substantive for retroactivity purposes. See, e.g., *CNA Ins. Co. v. Ellis*, 148 P.3d 874, 878(I)(A) (Okla. 2006) (holding change of law from

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[10] *Fowler Props., Inc.*, 282 Ga. at 78(1).

[11] *Enger v. Erwin*, 245 Ga. 753, 754–55 (267 SE2d 25) (1980).

[12] *Glover v. Colbert*, 210 Ga. App. 666, 669 (437 SE2d 363) (1993).

apportionment of liability to sole liability of current insurer affected substantive rights of parties and could not be given retroactive effect); *Forsythe v. Valley Consol. Indus.*, 139 MichApp 211, 217 (361 NW2d 768) (1984) (statutory amendment that took away the right of the most recent employer to have its liability for compensation apportioned among prior employers in proportion to the time that the employee was employed in the service of each prior employer affected substantive rights and thus could only apply prospectively); *Aucoin v. State of Louisiana Through Dep't of Transp. & Dev.*, 712 So.2d 62, 67 (La. 1998) (where statutory amendment shifting to joint and several obligation from solidary liability "altered the existing rule" and resulted in changing the amount of damages recoverable, the change was clearly substantive and, as such, the amendment could have only prospective application).[13] Cf. *Roth v. Roth*, 571 SW2d 659, 672 (Mo. Ct. App. 1978) (Missouri Supreme Court ruling affecting apportionment of damages and the rights of recovery among joint tortfeasors was a change in substantive law and thus applied prospectively). Cf. *Keith v. U.S. Fid. & Guar. Co.*, 694 So. 2d 180, 183 (La. 1997) (revision to apportionment statute affecting "the quantification of employer fault" was procedural; the substantive right to

[13] *Aucoin* was subsequently overturned by legislation.

allocate fault was created previously with the introduction of comparative fault and revision at issue "simply delineates a method for enforcing that substantive right").

In contending that the apportionment provisions of OCGA § 51-12-15 are procedural in nature, Georgia Power asserts that OCGA § 51-12-15 "did not create Georgia's apportionment scheme, which was added to the law in 2005, and changes absolutely nothing about how fault is actually distributed." Rather, it "changes the timing for when fault determinations are made and requires apportionment in a trifurcated trial." Further, according to Georgia Power, "OCGA § 51-12-15 does not impair any party's or non-party's vested substantive rights" and "should be read *in pari materia* with its pre-existing and unaltered sister apportionment statute, OCGA § 51-12-33 (2005) and (2022)." (Punctuation omitted.) We agree with the assertion that OCGA § 51-12-15 is a procedural vehicle for the apportionment statute, OCGA § 51-12-33. See *Transcontinental Carriers, Inc. v. Bennett*, ___ Ga. App. ___(1) (___SE2d ___) (2026), A26A1643, slip op. at 3(1) (Ga. Ct. App. Sept. 9, 2026) (2026 WL 2653790). Despite arguing that OCGA § 51-12-15 does not create or alter any substantive rights and is simply a procedural statute, Georgia Power nonetheless contends that OCGA § 51-12-15 "is the most recent expression of the General

Assembly on ... the availability of apportionment," and thus it controls over OCGA § 51-12-33.

As already explained, the prior version of OCGA § 51-12-33 applies to this case, and under this Court's binding precedent, Georgia Power is not entitled to apportion fault under OCGA § 51-12-33(b) (2005).[14] See *AU Medical Center*, 373 Ga. App. at 532(1)(c). To the extent OCGA § 51-12-15 alters whether Georgia Power is entitled to apportionment, as Georgia Power argues, it is not merely "enforc[ing] existing obligations, or confirm[ing] existing rights." *Fowler Props., Inc.*, 282 Ga. at 78(1). Rather, it alters substantive rights, and as such, retrospective application of OCGA § 51-12-15 to this case does not comport with the Georgia Constitution. See *White*, 224 Ga. at 325(2).

2. Georgia Power contends that the trial court erred in denying its motion to exclude the specific causation testimony of Dr. Jerrold Abraham, the Sinyards' expert, under *Scapa Dryer Fabrics v. Knight*, 299 Ga. 286 (788 SE2d 421) (2016). It also contends that DePasquale's and Compton's opinions are inadmissible as unreliable.

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[14] The 2022 revision to the statute is not retroactive and only applies to cases filed after May 13, 2022. See Ga. L. 2022, p. 802, §§ 2-3. See, e.g., *Southern Oil Refinery, LLC v. Price*, 372 Ga. App. 427, 428(1) n.2 (903 SE2d 693) (2024), disapproved on other grounds, *AU Med. Ctr.*, 373 Ga. App. at 521. The Sinyards filed suit in 2016.

Admissibility of Expert Testimony

"OCGA § 24-7-702 ("Rule 702") governs the admissibility of expert testimony and requires that the trial court act as gatekeeper to ensure the relevance and reliability of expert testimony." *Kershaw v. Princeton Properties Mgmt.*, 348 Ga. App. 779, 782 (824 SE2d 668) (2019) (physical precedent only) (punctuation omitted). Under Rule 702, the trial court has broad discretion to admit or exclude expert testimony. *Miller v. Golden Peanut Co.*, 317 Ga. 22, 30(2) (891 SE2d 776) (2023). See also *Smith v. CSX Transp.*, 343 Ga. App. 508, 510(1) (806 SE2d 890) (2017) ("the determination of whether a witness is qualified to render an opinion as an expert is a legal determination for the trial court and will not be disturbed absent a manifest abuse of discretion") (punctuation omitted). "The proffering party bears the burden of presenting evidence of reliability in order to meet the standards of [Rule 702]." *Hart v. Phung*, 364 Ga. App. 399, 406(1) (876 SE2d 1) (2022) (punctuation omitted). Rule 702 provides:

> A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise, if:
> (1) The expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;

(2) The testimony is based upon sufficient facts or data;
(3) The testimony is the product of reliable principles and methods; and
(4) The expert has reliably applied the principles and methods to the facts of the case.

OCGA § 24-7-702(b).

Causation

"Causation is an essential element of a toxic tort case." *Butler v. Union Carbide Corp.*, 310 Ga. App. 21, 30(2) (712 SE2d 537) (2011). In such a case, "the plaintiff must prove both general causation, that a substance is capable of causing a particular injury or condition, and specific causation, that a substance made a meaningful contribution to a particular individual's injury." *Wadley v. Mother Murphy's Laboratories*, 357 Ga. App. 259, 263(1) (850 SE2d 490) (2020) (punctuation omitted). Specific causation is at issue in these appeals.

"Where, as here, the case involves a 'specialized medical' question, expert testimony is required to establish causation." *Kershaw*, 348 Ga. App. at 782. See also *Butler*, 310 Ga. App. at 30(2). Thus, "[a]bsent reliable expert testimony that exposure to [asbestos in a Georgia Power facility] contributed to the development of [Sinyard's] mesothelioma, there is insufficient evidence to create a jury issue as to causation."

Butler, 310 Ga. App. at 30(2). More specifically, to prove causation in an asbestos-mesothelioma case, a plaintiff must "show that exposure to asbestos [at the premises or in the products in question] was a contributing factor in bringing about his mesothelioma." *Scapa*, 299 Ga. at 290 (punctuation omitted). While the contribution to the resulting injury need not be "substantial," to show legal causation, a "de minimis" contribution is not enough. Id. Thus, a plaintiff must show that the exposure to asbestos by the defendant "made a meaningful contribution" to his mesothelioma.

In *Scapa*, our Supreme Court held that the trial court abused its discretion in admitting the testimony of Dr. Jerrold Abraham—Sinyard's expert at issue here—because his testimony did not fit the legal standard for causation in a toxic tort case. In that case, the plaintiff sued a textile manufacturer claiming that it negligently exposed him to asbestos while he worked at one of its facilities and thereby caused his mesothelioma. 299 Ga. at 286–87. Dr. Abraham opined that, "if [the plaintiff] actually was exposed to asbestos while working at the [manufacturer's] facility, that exposure was a cause of his mesothelioma, regardless of the precise extent of the exposure." Id. at 287. Dr. Abraham reasoned that "[b]ecause each and every exposure to respirable

asbestos in excess of the background contributes to the cumulative exposure, ... each exposure in excess of the background is a contributing cause of the resulting mesothelioma, regardless of the extent of each exposure." Id. at 288. The manufacturer appealed the jury's verdict against it, contending that the trial court erred in admitting Dr. Abraham's testimony because his theory of cumulative exposure was not reliable and did not comport with the legal requirements for causation. Id.

The Supreme Court agreed with the latter argument, explaining:

> By his testimony, Dr. Abraham essentially told the jury that it was unnecessary to resolve the extent of exposure at [the manufacturer's] facility—if the jury determined that [the plaintiff] was exposed at the facility to *any* asbestos beyond background, that exposure contributed to his cumulative exposure, and according to Dr. Abraham, it was, therefore, a contributing cause of the mesothelioma.

299 Ga. at 291. The Court qualified its holding by clarifying that expert testimony premised upon a cumulative exposure theory could be relevant to causation under Georgia law if "coupled ... with reliable data sufficient to show that the exposure in question were more than de minimis[.]" Id. at 291–92. More specifically, and pertinent to the instant case,

> if an expert coupled his reliance on the cumulative exposure theory with reliable data sufficient to show that the exposure in question were more than de minimis—and if the expert qualified his ultimate opinion as to causation, conditioning it upon there having been more than a de minimis exposure—the opinion then might "fit" the pertinent causation inquiry, notwithstanding that the extent of exposure is disputed. In that instance, the jury would have to resolve the extent of the exposure, and if the jury accepted that the exposure was as significant as the data of the expert suggested, it then could accept his opinion as to causation.

Id. at 291–92.

Admissibility of Christopher DePasquale's Testimony

(a) *DePasquale's Opinions.* Christopher DePasquale is a certified industrial hygienist, an asbestos inspector, and asbestos management planner and has conducted industrial hygiene, asbestos management, and indoor air quality studies. DePasquale's opinion reviews various industrial hygiene studies regarding asbestos and how those studies apply to Sinyard's asbestos exposure. According to DePasquale, he was retained in order to prepare a report summarizing Sinyard's exposures to asbestos based on his review of various materials and documents provided to him by Sinyard's

counsel, including a review of Sinyard's depositions.[15] DePasquale provided "ranges of exposures as it relates to certain work practices" nonspecific to any particular premises or defendant. When asked to describe his method for arriving at the exposure ranges, DePasquale elaborated:

> I've tried to gain an understanding of Mr. Sinyard's career, his opportunities to be exposed to asbestos. I've attempted to review the literature, both published and unpublished, as it relates to exposures relevant to Mr. Sinyard's career, trying to identify similar exposure groups, and then applying that data to Mr. Sinyard.

In most instances, DePasquale took "descriptions of similar work that Mr. Sinyard did that is reported in the literature ... basically summarizing that reported literature and giving a range of exposures based on that literature."[16] DePasquale offered *ranges* of exposure because "that's the appropriate way ... based on the existing literature, and certainly with the acknowledgment that there may be variations, for example, in environmental conditions, methodologies with regard to how Mr. Sinyard may have

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[15] In reviewing Sinyard's depositions, DePasquale "was attempting to gain an understanding of Mr. Sinyard's occupational, nonoccupational, [and] potential take-home exposures relating to asbestos over the course of his lifetime[.]"

[16] "Range" specifically refers to a range of asbestos fibers and is measured in a "fiber per CC measurement."

done the work." Based on these ranges, it was DePasquale's opinion that the tasks/exposures would have increased Sinyard's risk for the development of mesothelioma.

(b) *Analysis.* Georgia Power contends that DePasquale's "fictional ranges of exposure" are "divorced from any specific facts of Sinyard's case." A review of DePasquale's report and testimony flatly contradicts this. And, Georgia Power's argument that DePasquale's opinion must be entirely excluded because he failed to consider *every* possible variable in estimating every range of exposure is without merit. "An expert has great liberty in determining the basis of his opinions. As a general rule, the factual basis of an expert opinion goes to the credibility of the testimony, not the admissibility, and it is up to the opposing party to examine the factual basis for the opinion in cross-examination." *Emory Univ. v. Willcox*, 355 Ga. App. 542, 545(2) (844 SE2d 889) (2020) (citations and punctuation omitted). Here, "De[P]asquale has used data as close as possible based on the information available, a technique that other courts ... have endorsed for exposure reconstruction assessments." *Michel v. Ford Motor Co.*, No. CV 18-4738, 2019 WL 118008, at *8(III) (E.D. La. Jan. 7, 2019) (rejecting similar arguments attacking the reliability and factual basis of DePasquale's

opinions in an asbestos-mesothelioma case). Such issues can be fully explored on cross-examination. See *Old Republic Nat. Title Ins. Co. v. RM Kids, LLC*, 337 Ga. App. 638, 646–47(4) (788 SE2d 542) (2016) (affirming trial court's order denying motion to exclude expert testimony allegedly not based on reliable data or recognized methodology where the expert was properly qualified and the facts relied upon were within the bounds of evidence; questions about whether there was sufficient knowledge upon which to base an opinion went to the weight and credibility of the testimony, not its admissibility).

To the extent Georgia Power contends that DePasquale's opinions should be excluded because his ranges of exposure are untethered from the alleged exposures at specific premises, this argument is likewise without merit. DePasquale estimated "ranges of exposures as it relates to certain work practices," which Sinyard would have performed as a pipefitter at sites owned by both Ford and Georgia Power. It is unclear, and Georgia Power does not elucidate, how this renders DePasquale's methodology unreliable or shows that he failed to apply his methodology reliably to the facts of the case. See OCGA § 24-7-702(b). "The trial court's broad discretion afforded [it] considerable leeway in deciding how to assess the reliability of

[DePasquale's] opinion." *Emory Univ.*, 355 Ga. App. at 544–45(2). The trial court did not abuse its "broad discretion" in denying the motion to exclude DePasquale's opinion evidence.

Admissibility of Dr. Compton's Testimony

(a) *Dr. Compton's Opinions.* Dr. Compton is a microscopist and physicist. According to his testimony, he reviewed an extensive amount of materials related to this case, including Sinyard's testimony. It was Dr. Compton's opinion that many of the tasks Sinyard described performing as a pipefitter, as well as the tasks described involving the drywall mix product, would have released asbestos fibers into the air, and further that "the concentrations that have been reported in studies evaluating those types of activities report airborne fiber concentrations that are, generally speaking, orders of magnitude above ambient levels that were reported by the Agency for Toxic Substances and Disease Registry."[17] Dr. Compton was prepared to offer ranges of exposure to asbestos fibers based on each of the activities or products Sinyard described. His opinions related to the exposures for specific activities but did

[17] According to Dr. Compton, the Agency for Toxic Substances and Disease Registry publishes results which "describe average [ambient asbestos] concentrations from both rural and urban areas across the U. S."

not calculate cumulative asbestos exposure or dose at any particular work site. He did not examine the specific gaskets, packing materials, or products handled by Sinyard nor did he visit the specific sites where Sinyard worked. Dr. Compton clarified that he was "relying on prior testing that I've performed on those types of materials, as well as the facts of the case; whether it's testimony of the witnesses or any of the supporting documents," including corporate records disclosed by Georgia Power. Dr. Compton previously had performed tests "that would be relevant to what [Sinyard] described, but nothing that was designed specifically to evaluate anything he did as opposed to any other individual who was performing that kind of work." He had personally studied and/or tested gaskets and insulating materials. In reaching his conclusions, Dr. Compton also relied on various studies and research.

(b) *Analysis.* Georgia Power asserts that Dr. Compton's "opinions rely entirely on studies and simulations conducted in a laboratory for litigation purposes" and "do not reliably apply any scientific principles and methods to the facts of the case." (Punctuation omitted.) Georgia Power also takes issue with the fact that none of the studies Dr. Compton relies on "were conducted specifically for Sinyard's case or under the conditions and circumstances experienced by Sinyard," and that he had

not visited any of Sinyard's work sites, performed air sampling at the work sites, or tested the specific products used by Sinyard. As explained above in reference to DePasquale's testimony, "the factual basis of an expert opinion goes to the credibility of the testimony, not the admissibility, and it is up to the opposing party to examine the factual basis for the opinion in cross-examination." *Emory Univ.*, 355 Ga. App. at 545(2) (punctuation omitted). See also *Ovation Condo. Assn. v. Cox*, 374 Ga. App. 681, 694(1)(c)(ii) (913 SE2d 819) (2025) (plaintiff's expert in industrial hygiene "need not have personally visited [the plaintiff's] unit or personally inspected the generator to have a sufficient factual basis for his opinion"). Additionally, such arguments regarding the reliability of Dr. Compton's methodologies have been rejected by other courts. See, e.g., *Young v. John Crane, Inc.*, No. CV 21-4493, 2024 WL 5453786, at *1 (E.D. Pa. June 10, 2024); *Wells v. BNSF Ry. Co.*, No. CV-21-97-GF-BMM, 2023 WL 8006615, at *3(E) (D. Mont. Nov. 17, 2023); *Barabin v. Scapa Dryer Fabrics*, No. C07-1454JLR, 2018 WL 840147, at *11(III)(A)(3) (W.D. Wash. Feb. 12, 2018).

Admissibility of Dr. Abraham's Opinions

(a) *Opinions.* Dr. Abraham, a pathologist, whose "main focus . . . has been occupational diseases related to things people inhale or are otherwise exposed to" and

who has been involved in asbestos-related research for 50 years, relied on the cumulative exposure theory, as he did in *Scapa*. He deposed that "any exposure [Sinyard] had that was not part of his ambient exposure, in other words, something that would be more than he otherwise would have had, would become counted as part of his cumulative exposure." Dr. Abraham clarified that "another word for background is sometimes called de minimis." Thus, any exposure that is part of Sinyard's cumulative exposure would be a contributing factor in the development of Sinyard's mesothelioma because Dr. Abraham has "no way to separate out one part from another from his cumulative exposure," and "there is no known safe threshold of asbestos exposure when it comes to being able to cause mesothelioma." According to Dr. Abraham, "that's the definition of cumulative asbestos exposure. It would include whatever exposure he had from that, unless it's zero. ... Unless it's zero, it becomes part of the exposure that Mr. Sinyard had, and but for that exposure his cumulative exposure would have been less[.]"

> I would say my opinion is based on the cumulative exposure, and all of those descriptions [in the letter from Sinyard's counsel] described substantial asbestos exposures, and become part of the cumulative exposures. Not that I used a separate [methodology] for each of those. It was just I looked at each of them, and if there had been one that was

> questionable whether someone had asbestos exposure, or it said there was no asbestos exposure, I would have excluded that and not made that part of the cumulative exposure.

Dr. Abraham confirmed he did not apportion an amount of causal effect between the various exposures described by Sinyard. However, Dr. Abraham deposed that the materials provided to him by Sinyard's counsel were sufficient to form his opinions with regard to causation and that

> those were such extensive detail, more than I have received in all but maybe a few out of thousands and thousands of cases I have ever been asked to review. ... And it certainly would be more than sufficient for anybody taking an occupational history to conclude that those descriptions support the conclusions that he had ... *substantial* asbestos exposure from ... each of those ones that are separately described[.]

(Emphasis supplied.)

(i) *Dr. Abraham's reliance on other expert testimony.* During Dr. Abraham's first deposition, when asked whether he relied on DePasquale's report to support his opinions in this case, Dr. Abraham responded:

> I'm not sure how to interpret that. Certainly I'm relying on it in the sense that Mr. DePasquale had gone into a lot more detail from an industrial hygiene point of view ... estimating ... low and high limits of

> possible examples [of] exposure from different experiences that Mr. Sinyard described. So to that extent, if that comes up I have that information now and I'm incorporating awareness of that into any opinions I give.

Dr. Abraham elaborated: "My understanding is that it's legally required in Georgia to support opinions about causation to have more quantitative estimates of exposure, so in that sense [DePasquale's report] backs up my conclusion[.]" According to his testimony in a later deposition, Dr. Abraham did not calculate or come up with quantitative exposure ranges for Sinyard. Rather, the ranges of exposures Dr. Abraham used were provided by DePasquale in his report. According to Dr. Abraham, he reviewed DePasquale's February 17, 2021 report prior to his deposition on February 23 and 24, 2021.[18]

(ii) *Hypothetical exposures.* The Sinyards' counsel presented Dr. Abraham with hypothetical ranges of exposure during his February 2021 deposition. Dr. Abraham agreed that each of the activities presented in the hypotheticals alone were sufficiently

[18] The trial court concluded that Dr. Abraham's opinions are sufficient under *Scapa* in conjunction with the opinions of Dr. Compton and DePasquale. We first note that Dr. Compton and DePasquale's reports were provided after Dr. Abraham's reports. Importantly, there is no indication from Dr. Abraham's reports or deposition testimony that he relied on, or was provided with, the opinions of Dr. Compton.

meaningful to contribute to the development of Sinyard's mesothelioma. Dr. Abraham considered each of the asbestos exposures described by Sinyard to have meaningfully contributed to causing his mesothelioma. When presented with the midpoint from the range of asbestos exposure provided by DePasquale associated with these tasks, Dr. Abraham agreed that "each of those slides showed by simple mathematical calculation that the exposures would be far above the background he otherwise received," and each was more than de minimus. In his later deposition, Dr. Abraham agreed he had not confirmed whether or not the hypothetical information did in fact correspond to Sinyard's actual exposures, stating:

> That's why these are hypotheticals. These are just to teach the jury what kinds of exposures would result if these were the concentrations over a period of time. It wasn't based on my measurements of the exposures. These were the ranges of exposures hypothesized, and these were the calculations of the exposures that would result.

Dr. Abraham repeated that he "thought [the hypothetical slides] were more for teaching," and that his opinions were not based on the hypotheticals presented to him during his deposition.

(b) *Analysis.* As stated above, Georgia Power asserts that Dr. Abraham's opinions must be excluded, as in *Scapa*, because they are not relevant to legal causation and not based on a reliable methodology. More specifically, Georgia Power argues that the trial court erred in permitting Dr. Abraham to offer materially identical "cumulative exposure" opinions in this case and "bootstrap" hypothetical exposure ranges from other experts' testimony he did not even have when he formed his opinions.

In *Scapa*, our Supreme Court noted that

> in one case, a court admitted the causation testimony of Dr. Abraham himself, in large part because Dr. Abraham had based his opinion not only upon a theory of any exposure or cumulative exposure, but also upon a review of the evidence of the extent of exposure, as well as a review of studies showing that such exposures present an increased risk of developing mesothelioma. See *Anderson v. Ford Motor Co.*, No. 2:06-CV-741 TS, 2014 WL 806102 (D. Utah 2014).

299 Ga. at 292–93. In *Anderson*, Dr. Abraham espoused opinions similar to those in the instant case including the following: each of the exposures identified "individually, increased [the plaintiff's] risk for developing asbestos-related disease"; "to a reasonable degree of medical certainty, ... each individual exposure described ...

substantially contributed to the causation of [the plaintiff's] mesothelioma"; there is no known safe asbestos exposure above background; and all of the plaintiff's asbestos exposures above background should be considered a contributing factor in the development of his mesothelioma. *Anderson* at *2–3(I). In denying the defendants' motion to exclude Dr. Abraham's testimony, the district court concluded that Dr. Abraham's opinion was based on the plaintiff's testimony in combination with other scientific evidence and that under Federal Rule of Evidence 703, Dr. Abraham could have based his opinion concerning fiber release levels on facts or data of which he has been made aware. Id. at *4(II).

Importantly, in this case and in contrast to his testimony in *Scapa*, Dr. Abraham testified that the descriptions provided by Sinyard support the conclusion that he had substantial asbestos exposure from each of those exposures that are separately described and that any exposure that was *more than de minimis* counted toward Sinyard's cumulative exposure and was thus a contributing factor to the development of Sinyard's mesothelioma. See also *Walls v. Ford Motor Co.*, No. 1:20-CV-98, 2022 WL 3282585, at *8(III)(B) (M.D.N.C. Aug. 11, 2022) (admitting experts' testimony where the plaintiff's experts "explicitly testify that [d]efendants' products caused [the

plaintiff's] mesothelioma because each exposure (1) contributed to his total dose and (2) *was sufficient on its own to cause mesothelioma*") (emphasis supplied). Further, as in *Anderson*, and in line with the Supreme Court's directive in *Scapa*, Dr. Abraham can and has based his opinions on facts or data of which he has been made aware, including DePasquale's ranges of exposures "show[ing] that the exposure[s] in question were more than de minimis."[19] *Scapa*, 299 Ga. at 291. See OCGA § 24-7-703; Milich, Ga. Rules Of Evidence § 15:12 ("[t]he term 'data' is intended to encompass the reliable opinions of other experts"). In this case, the trial court acted well within its "substantial discretion" in concluding that Dr. Abraham employed a reliable methodology and in denying the motions to exclude his opinions.[20] *Cash v. LG Electronics*, 342 Ga. App. 735, 737(1) (804 SE2d 713) (2017). Compare *Krik v. Crane Co.*, 76 FSupp. 3d 747, 752–53 (N.D. Ill. 2014) (excluding testimony of the plaintiff's causation expert based on the "any exposure" theory where the plaintiff "d[id] not

[19] It also is worth noting that the Supreme Court was reviewing Dr. Abraham's trial testimony in a post-verdict appeal and not in the context of the trial court's pre-trial denial of a motion to exclude the expert's testimony as in this case.

[20] Because the trial court did not abuse its discretion in denying the motion to exclude the Sinyards' experts, there is no merit to Georgia Power's contention that it is entitled to summary judgment based on the absence of admissible evidence of causation.

offer any expert testimony as to how much asbestos exposure he experienced and whether that dosage of exposure was sufficient to cause his ... cancer").

3. Lastly, Georgia Power contends that the trial court erred in denying its renewed motion for summary judgment because Sinyard had equal knowledge of the risks of asbestos exposure. Specifically, Georgia Power contends that the trial court erred in relying on pre-2013 evidence law in holding expert testimony on the ultimate issue of knowledge could not be used at summary judgment and thus failed to credit the Sinyards' state-of-the-art expert David Rosner's "unrebutted testimony" that the hazards of asbestos were widely known in the industrial community by 1978, well before Sinyard began working at Georgia Power facilities. According to Georgia Power, Rosner's testimony shows that the industrial community, including Sinyard's employers had, at minimum, constructive knowledge of the dangers of asbestos before he worked at Georgia Power plants, which defeats premises liability.

In *Sinyard I*, this Court reversed the trial court's grant of summary judgment to Georgia Power based on the trial court's conclusion that Sinyard had equal knowledge of the risks of exposure to asbestos at the time. 363 Ga. App. at 205–08(2)(a). We concluded "the record is clear that Georgia Power knew at the time

that asbestos material was present throughout its plants and that even brief exposure was harmful to human health," and then extensively set forth Georgia Power's knowledge of the risks of asbestos. Id. at 198–99(b)(iii), 206(2)(a). As to Sinyard's knowledge, we held that a genuine dispute of material fact remained as to whether he had actual or constructive knowledge of the specific risks caused by exposure to asbestos when he worked at Georgia Power: there was evidence that in 1978, when he was an apprentice, Sinyard was taught how to recognize asbestos and that he was supposed to wet down and wear a paper mask while he worked. Id. at 206–07(2)(a). However, Sinyard testified he had never worn a respirator mask or protective suits nor had he ever had formal training from the union or at his job sites about how to safely handle asbestos or about the specific health hazards posed by even minimal exposure to asbestos dust. Id. We also addressed Georgia Power's argument that "Sinyard had actual or constructive knowledge of the specific risks posed by asbestos exposure because the national organization of his pipefitters union published articles in a newsletter about the dangers of asbestos as early as the 1970s." Id. at 207(2)(a). In rejecting the argument, we partially reasoned:

> [T]here is some evidence that the contractors that Sinyard performed work under did not know about the specific risks of asbestos at the

> relevant time[.] West[, Sinyard's direct supervisor with his union,] testified that the pipefitters were generally unaware of such risks, and none of the contractors provided respirators or other protections to those working in the presence of asbestos.

Id. We could not "conclude as a matter of law that the existence of a handful of articles in a national union newsletter gave Sinyard or his direct employers sufficient notice of the specific dangers posed by asbestos." Id.

Following *Sinyard I*, Rosner testified in his deposition that by 1978—when Sinyard began training in his union apprenticeship and four years before Sinyard began work at the Georgia Power facilities—it was "well established" that asbestos could cause diseases, that the danger of asbestos was a "big issue," and that "large companies" would have known about the dangers of asbestos.[21] Rosner agreed that a "person who wanted to be informed about the dangers of asbestos" could have been informed by 1978. But when asked about "Sinyard's employers" and whether it was his opinion "that by 1978 a company that hires workers who are going to be working with asbestos-containing products would be expected to know about the dangers of

[21] By its own admission, Georgia Power did not learn of the hazards of asbestos until the 1970s.

asbestos," Rosner answered: "No, I don't think that's the case at all." Rosner was unaware of the specifics of Sinyard's employment, what companies employed him, and whether he was directly employed by Georgia Power. Rosner was then asked, "in a situation where, say, you had a plant owner and that plant hired a contractor ... to do work with materials that contained asbestos, would that ... contracting company, would you expect them to know about the dangers of asbestos," and he responded: "Of course." It is unclear whether Rosner's answer refers to the knowledge of the "plant" or the contractor, and it is unclear what time period is being referred to.

Georgia Power points to Rosner's testimony as establishing that Sinyard's relevant employers (Combustion Engineering, Atlanta Steel, and Cleveland Consolidated) at least had constructive knowledge of the dangers of asbestos at the time Sinyard was working at the Georgia Power facilities.[22] According to Georgia Power, this "Court did not address the knowledge of Sinyard's employers [(whose knowledge is imputable to Sinyard)]; it only considered Sinyard's and his labor

[22] The remainder of the evidence pointed to by Georgia Power to support its argument is found in the appellate record for *Sinyard I*, and was available to this Court in deciding this same issue in that case.

union's knowledge." And, it additionally did not have the benefit of Rosner's testimony at the time of *Sinyard I*.

As we explained in *Sinyard I*:

> The "fundamental basis" for an owner or occupier's liability in premises-liability cases is the owner's superior knowledge of the hazard encountered by the plaintiff. So, to recover on a premises-liability claim, a plaintiff must show both that (1) the owner had actual or constructive knowledge of the hazard and (2) the plaintiff lacked knowledge of the hazard despite the exercise of ordinary care due to actions or conditions within the control of the owner/occupier.

363 Ga. App. at 205 (2) (a) (citation and punctuation omitted). Importantly, "[i]n assessing the relative knowledge of the parties, the question is whether they were accurately informed about the specific hazard or danger in question." Id. Moreover, we must keep in mind

> that it is the jury, not the court, which is the fact-finding body. It weighs the contradictory evidence and inferences, judges the credibility of witnesses, receives expert instructions, and draws the ultimate conclusion as to the facts. The very essence of its function is to select from among conflicting inferences and conclusions that which it considers most reasonable.

Donastorg v. Rainbow USA, Inc., 342 Ga. App. 215, 219(2) (802 SE2d 425) (2017). Whether a premises owner had "superior knowledge [of a hazard] is generally an issue for the jury." *Brownlee v. Winn-Dixie Atlanta, Inc.*, 240 Ga. App. 368, 370(2) (523 SE2d 596) (1999).

The evidence regarding Georgia Power's knowledge is unchanged since our decision in *Sinyard I*; the record is clear that Georgia Power knew about the specific dangers of asbestos exposure at the relevant times. 363 Ga. App. at 206(2)(a). As for the knowledge of Sinyard's relevant employers, whose knowledge is imputed to Sinyard,[23] Rosner's testimony is equivocal and, at times, unclear as to whether companies like Sinyard's employers should have known about asbestos hazards before or at the time Sinyard worked at the Georgia Power facilities.[24] Rather, in reading Rosner's deposition as a whole, it is clear that Rosner is opining on the knowledge of asbestos risks held by companies such as Georgia Power during the relevant time periods. Additionally, there is evidence in the record suggesting that Sinyard's

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[23] See *McKinney v. Regents of the Univ. Sys. of Ga.*, 284 Ga. App. 250, 253(1) (643 SE2d 736) (2007).

[24] We need not address Georgia Power's argument that the trial court erred in holding expert testimony on the ultimate issue could not be used at summary judgment because even considering Rosner's testimony, a genuine dispute of material fact remains.

employers lacked knowledge of the specific dangers of asbestos in the form of testimony from Sinyard's union supervisor that "the pipefitters were generally unaware of such risks, and none of the contractors provided respirators or other protections to those working in the presence of asbestos." Id. at 207(2)(a).

Georgia Power argues that its knowledge relative to Sinyard's employers is the same type of evidence this Court credited in *Sinyard I* to hold McKenney's, Sinyard's employer at Piedmont Hospital, had equal knowledge. In assessing Piedmont's knowledge when Sinyard worked there, we pointed out that

> unlike Georgia Power or Ford, there is no evidence that Piedmont had internal policies addressing the handling of and exposure to asbestos or that Piedmont trained its employees about safe handling of asbestos. Further, Sinyard has pointed to no evidence that Piedmont was aware of the procedures—such as the use of respirators and safe disposal—that should be used to safely work with asbestos.

Id. at 215–16(7). With regard to Sinyard's knowledge, "the undisputed evidence show[ed] that McKenney's, Sinyard's contracting employer, had knowledge equal to that of Piedmont regarding the presence of asbestos and its dangers at the time of Sinyard's employment at Piedmont." Id. at 216(7) (emphasis added). We pointed to extensive testimony from the McKenney's representative regarding its decades-long

knowledge of the specific risks of asbestos exposure and its procedures for protecting its workers. Id. The same "undisputed" evidence is not present here regarding Sinyard's employers during his time at Georgia Power facilities. Compare *McKinney v. Regents of Univ. Sys. of Ga.*, 284 Ga. App. 250, 253(1) (643 SE2d 736) (2007) (affirming grant of summary judgment to premises owner where plaintiff's supervisor admitted that he was informed of the existence and location of the power line; once plaintiff's employer had actual knowledge of the hazard, premises owner's duty to warn was discharged). In sum, viewing the evidence and inferences that can be drawn from it in the light most favorable to the Sinyards, there remains, as in *Sinyard I*, a genuine issue of material fact whether Georgia Power had superior knowledge of the specific dangers here. Accordingly, the trial court was correct in denying summary judgment to Georgia Power on this basis.

Judgment affirmed. Mercier, P. J., and Epps, J., concur.