

**Case Name:** Gloria Gail Kurns v. Railroad Friction Products Corp. et al.  
**Date Decided:** February 29th, 2012  
**Originally Filed in:** Pennsylvania (state)  
**Decided by:** Supreme Court (Federal)  
**Court:** Supreme Court of the United States  
**Judge:** Judge Thomas, Judge Roberts, Judge Scalia, Judge Kennedy, Judge Alito, Judge Kagan, Judge Sotomayor, Judge Ginsberg, Judge Breyer  
**Citation:** 2012 WL 631857

**Background:**

In 2007, George Corson ("Corson") and his wife brought state law products liability claims for injuries Corson sustained while working for defendant [Railroad](#) Friction Products Corp. ("RFPC"). Corson worked as a [welder](#) and [machinist](#) for RFPC from 1947 to 1974, where he installed brakeshoes on [locomotives](#) and stripped insulation from locomotive boilers. Many of the products Corson worked with contained [asbestos](#) fibers, and in 2005, Corson was diagnosed with malignant [mesothelioma](#). In the complaint, Corson alleged that the equipment he worked with was defectively designed because it contained asbestos, and that RFPC failed to warn him of the dangers of working with asbestos or properly instruct him regarding its safe use. Corson claimed his exposure to asbestos while working for RFPC caused him to contract mesothelioma. Following the institution of the suit in a [Pennsylvania](#) state court, Corson passed away and the suit was continued by his wife and the executrix of his estate, plaintiff Gloria Kurns ("Kurns"). RFPC removed the case to the United States District Court for the Eastern District of Pennsylvania and moved for summary judgment. RFPC argued that Kurns' state-law claims were pre-empted by the Locomotive Inspection Act ("LIA"), 49 U.S.C. Â§ 20701. The District Court granted RFPC's motion for summary judgment and the [Third Circuit](#) affirmed. The Supreme Court granted certiorari to determine whether Kurns' state law products liability claims for defective-design and failure-to-warn are pre-empted by the LIA.

**Issue:**

Does the LIA pre-empt state law products liability claims where a Plaintiff sustained injuries from the defective design of a product and the manufacturer's failure to warn of the defect?

**Overall Issues Discussed or Touched Upon in this Case:**

- *Locomotive Inspection Act*
- *Pre-Emption*
- *Summary Judgment - Defendant Legal Granted*

**Held:**

The LIA's equipment safety provisions require that locomotives, including their parts and appurtenances, be in "a proper condition and safe to operate without unnecessary danger of

personal injury." 49 U.S.C. Â§ 20701 The LIA applies to all common rail carriers and to manufacturers of products used on locomotives. If a company fails to comply with the provisions of the LIA, they can be held liable for harm resulting from non-compliance. The Supremacy Clause of the United States Constitution operates to invalidate a state law where Congress enacts a federal statute which covers the same subject matter as the state law. This is referred to as "field pre-emption." Here, the Court must determine whether Congress intended the equipment safety provisions of the LIA to pre-empt Kurns' state law claims for defective-design and failure-to-warn. To clarify the LIA's pre-emption of state law via the Supremacy Clause, the Court examined the controlling case of *Napier v. Atlantic Coast Line R. Co.* In *Napier*, a Plaintiff argued the LIA was designed "solely to prevent accidental injury in the operation of trains," and therefore should not pre-empt state regulations intended to protect railroad workers from sickness and disease. There, the Court rejected the Plaintiff's argument and held that the LIA pre-empted the state law via the Supremacy Clause. The *Napier* Court reasoned that although the LIA and the state law at issue had different regulatory purposes, field pre-emption applied because the subject matter of the regulations was the same; namely, the parts and appurtenances of locomotives. Kurns first argues that the LIA does not pre-empt its state law claims because the Federal Railroad Safety Act of 1970 ("FRSA"), 49 U.S.C. Â§ 20102 altered the LIA's pre-emptive scope. The FRSA grants the Secretary of Transportation authority to regulate railroad safety, but provides that states may continue to enforce state laws or regulations relating to railroad safety until the Secretary prescribes a federal regulation covering the same subject matter. Kurns contends that because the Secretary has not yet addressed the use of asbestos in locomotives, its state law claims are not pre-empted. The Court rejected Kurns' argument. It reasoned that the FRSA was enacted with the purpose of supplementing existing laws and regulations that were in effect before FRSA was enacted. It held because the LIA was already in effect when FRSA was enacted, its pre-emptive provisions were not altered by FRSA. Kurns then argues that the LIA does not pre-empt either of its state law claims because the language of the LIA addresses only those claims arising out of the "use of locomotives on a railroad line," and Corson was injured while performing repair and maintenance work. The Court rejected Kurns' argument citing *Napier*. It held that the subject matter of the state law claim is addressed by the LIA equipment safety provisions and thus pre-empted. It reasoned that although Corson was performing repair and maintenance work when he was injured, he was working on the parts and appurtenance of locomotives which places his claim squarely within the bounds of the LIA equipment safety provisions. Kurns next argues that even if its state law claim for defective-design is pre-empted, its claim for failure-to-warn should survive because the basis for liability is not the parts and appurtenances of locomotives, but the failure to provide adequate warnings regarding a product's risks. The Court rejected Kurns' argument reasoning the "gravamen," or basis of Kurns' failure-to-warn claim is still that Corson sustained injuries from exposure to asbestos contained in the parts of locomotives. It noted that manufacturer liability for failure to warn has a substantial effect on the parts and appurtenances of locomotives because the threat of

liability will influence choices regarding design and marketing of certain products. The Court held that the relationship between liability for failure-to-warn claims and the parts and appurtenances of locomotives was sufficient to subject Kurns' failure-to-warn claim to pre-emption by the LIA. Kurns also argues that because the LIA did not apply to manufacturers of defective products at the time Corson was injured, its provisions should not pre-empt its state law claims. The Court rejected this argument as well reasoning that *Napier* defined the field pre-empted by the LIA on the basis of the physical elements regulated - the parts and appurtenances of locomotives - not on the basis of the entity or actor subject to regulation. Finally, Kurns argues that while state regulations and legislation may be pre-empted by the LIA, state common law remains unaffected, and thus state imposed duties and standards of care for manufacturers of locomotive equipment control in this case. The Court also rejected this argument, reasoning enforcement of state common law duties and standards of care via damages awards are a "potent method of governing conduct and controlling policy." Because the enforcement of state common law through damages can be a powerful force for regulating the actions of railroads and manufacturers, the Court held that the LIA provisions for regulating these actors, pre-empt state common law as well. For the foregoing reasons, the Court held that Kurns' claims for defective-design and failure-to-warn are pre-empted by the LIA. SO ORDERED. Judge Thomas delivered the opinion of the Court, in which Judges Roberts, Scalia, Kennedy, Alito, and Kagan joined. Judge Kagan filed a concurring opinion. Judge Sotomayor filed an opinion concurring in part and dissenting in part, in which Judges Ginsberg and Breyer joined.

**Comments:**