

Eric L. Yeo,
*United States v. Bestfoods: Narrowing Parent Corporation Liability under CERCLA for
the Twenty-First Century*

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Abstract by T. Cary Devorsetz and Clark LeBlanc

This Casenote explores the possible ramifications of *United States v. Bestfoods*, a recent United States Supreme Court case in which the Court delineated long-awaited standards for determining whether a parent corporation could be held liable for the actions of its subsidiary under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA). After reviewing the judicial interpretations of parent corporation liability under CERCLA pre-*Bestfoods*, the author examines the development of the facts leading to *Bestfoods*, as well as the lower court decisions in this case.

Next, the author describes and analyzes the Court's reasoning in *Bestfoods*. The Court held that a parent corporation may be indirectly liable under CERCLA pursuant to common law "veil-piercing" standards. It also ruled that a parent corporation can be held directly liable under CERCLA if it is shown that the parent maintained "actual control" over the activities of the subsidiary. But the Court adopted a narrower actual control test than that established by lower courts. In the Court's formulation, proof that the parent controlled the operation of the facility at issue, not just the subsidiary corporation that owned the facility, would be required to establish liability. The author contends that the clearer standard of *Bestfoods* will embolden the Environmental Protection Agency to sue potentially responsible parent corporations for CERCLA liability, and will lead to an increase in the number of parent corporations held liable for hazardous waste cleanups under the Act.