

in this case argues anything other than established precedent to support its respective position. Moreover, JUSTICE HECHT's position seems to have been adopted by only a small minority of American jurisdictions.¹ I am especially reluctant to abandon settled law which is consistent with the majority American view without thorough briefing from the parties and other interested persons.

Thomas R. Phillips
Chief Justice

Opinion delivered: December 20, 2001

¹ Most states that have considered this issue have decided or assumed that "others" in section 414 includes a subcontractor's employees. See *Everette v. Alyeska Pipeline Serv. Co.*, 614 P.2d 1341, 1347 (Alaska 1980); *Lewis v. N.J. Riebe Enters., Inc.*, 825 P.2d 5, 9 (Ariz. 1992); *Elkins v. Arkla, Inc.*, 849 S.W.2d 489, 490 (Ark. 1993); *Ahl v. Stone Southwest*, 666 So.2d 922, 924-25 (Fla. Dist. Ct. App. 1995); *Lyon v. Morphey*, 678 N.E.2d 1306, 1310 (Mass. 1997); *Plummer v. Bechtel Constr. Co.*, 489 N.W.2d 66 (Mich. 1992); *Beckman v. Butte-Silver Bow County*, 1 P.3d 348, 355 (Mont. 2000); *Parrish v. Omaha Pub. Power Dist.*, 496 N.W.2d 902, 912 (Neb. 1993); *Valdez v. Cillessen & Son, Inc.*, 734 P.2d 1258, 1261 (N.M. 1987); *Rogstad v. Dakota Gasification Co.*, 623 N.W.2d 382, 386, 389 (N.D. 2001); *Byrd v. Merwin*, 317 A.2d 280, 282 (Pa. 1974); *Ashby v. Northwester Pub. Serv. Co.*, 490 N.W.2d 286, 290 (S.D. 1992); *Thompson v. Jess*, 979 P.2d 322, 326 (Utah 1999); *Kelly v. Howard S. Wright Constr. Co.*, 582 P.2d 500, 505 (Wash. 1978); *Summers v. Crown Constr. Co.*, 453 F.2d 998, 1000 (4th Cir. 1972) (applying West Virginia law).