

floor.² Then, from 1962 to 1966, he worked as an operator in N16 on the first, then second floor.³ In 1966, he began working in waste recovery, which was located in a separate building away from the main plant.⁴ He spent the majority of his career as a mechanic in the powerhouse, a building separate from the main plant, where he worked from 1969 until his retirement in 1992.⁵

According to Crane, Truitt first identified Crane products in his 2010 deposition, which was taken in connection with an asbestos-exposure suit filed by William Neal, although he had testified in asbestos-exposure cases on several previous occasions. Before his deposition on July 20, 2010, to refresh his memory, Truitt prepared a list of products he recalled from working at the DuPont Seaford plant to, on which he identified Crane valves.⁶ Truitt testified that he recalled repairing leaking Crane valves by replacing old packing with new material.⁷ He identified another company as the manufacturer of the packing that was used inside of the valves.⁸ When asked whether he knew if the Crane valves contained asbestos, Truitt answered, “Yeah, I would say they did.”⁹ He then added, “I would

² *Id.* at 14: 14-16.

³ *Id.* at 14: 17; 15: 1-3.

⁴ *Id.* at 15: 4-11.

⁵ *Id.* at 15: 24; 16: 1-14.

⁶ Robert J. Truitt Dep. Tr., Jul. 20, 2010, Exhibit A.

⁷ *Id.* at 28:2-7.

⁸ *Id.* at 28:13-16.

⁹ *Id.* at 29:1-10.

say all this packing had Garlock in it.”¹⁰ Truitt explained that Crane valves were probably repaired every five years, more often if they were steam valves.¹¹ He acknowledged that other manufacturers also supplied valves to the powerhouse, but he could not say what percentage of the time he worked on Crane valves as opposed to other manufacturers’ valves.¹²

Truitt testified that the powerhouse, where he worked as a mechanic, was built in 1939.¹³ He identified several brands of pump manufacturers, but Crane was not one of them.¹⁴ He testified that the pumps would probably have been installed in the powerhouse in 1939, when it was built, and added, “I’d say most of the stuff in the powerhouse [was] from 1939, yes.”¹⁵ Furthermore, when asked about the maintenance history of the pumps, Truitt agreed that someone else would have worked on them before he ever did any repairs.¹⁶ When asked how he knew the valves were Crane valves instead of another manufacturer’s, Truitt answered, “I really don’t know. We had, 1939 we had everything up here.”¹⁷

Plaintiffs’ product identification witness, Edward Lavelle, was deposed on June 10, 2010 in connection with William Neal’s lawsuit. Lavelle testified that

¹⁰ *Id.* at 29: 12-13.

¹² *Id.* at 30: 8-12; 64: 14-17.

¹³ *Id.* at 25: 23.

¹⁴ *Id.* at 26: 18-23.

¹⁵ *Id.* at 39: 6-13.

¹⁶ *Id.* at 39: 21.

¹⁷ *Id.* at 30: 10-11.

Crane manufactured valves and pumps that were present at the DuPont Seaford plant.¹⁸ He explained that there were pumps located all over the facility, including in the powerhouse.¹⁹ Upon further examination, Lavelle said he could not say “off the top of [his] head” where the Crane pumps were located but did identify the fourth, fifth, and sixth floors.²⁰ Lavelle further testified that he could not recall that Crane made any asbestos materials that he used at the DuPont Seaford plant.²¹ Lavelle did not recall removing initial packing from a Crane valve.²² He also testified that someone from DuPont installed insulation on a new valve.²³

Crane has moved for summary judgment, arguing that Plaintiffs have not shown that Truitt was exposed to any asbestos-containing Crane products. Crane notes that the testimony relied upon by Plaintiffs identifies other companies as the sources of the asbestos-containing insulation, packing, and gaskets with which Truitt worked. Crane also points out that Truitt never testified that he worked with or around Crane pumps, or that he worked with or around any original asbestos-containing component of any Crane pump or valve. Crane further denies that it can be held liable under Delaware law for asbestos contained in products it did not manufacture, supply or specify. Finally, Crane contends that Plaintiffs have not

¹⁸ Edward Lavelle Dep. Tr., Jun. 10, 2010, at 52: 14-24.

¹⁹ *Id.* at 29: 9-18.

²⁰ *Id.* at 77: 9-19.

²¹ *Id.* at 53: 15-19.

²² *Id.* at 57: 16-21.

²³ *Id.* at 56: 5-6.

adduced any evidence in support of their claims for punitive damages or conspiracy.

In response, Plaintiffs argue that they have sufficient evidence of exposure to the original asbestos-containing products that were incorporated into or supplied with Crane valves and pumps. Moreover, Plaintiffs contend that Crane “designed its pumps in such a manner that asbestos-containing replacement parts would have to be used,”²⁴ and thus, Crane should be liable for Truitt’s exposures to asbestos-containing replacement parts and components utilized with its products.

Summary judgment is appropriate where the record presents no genuine issues of material fact and the moving party is entitled to judgment as a matter of law.²⁵ Initially, the burden is placed upon the moving party to demonstrate that its legal claims are supported by the undisputed facts.²⁶ If the proponent properly supports its claims, the burden “shifts to the non-moving party to demonstrate that there are material issues of fact for resolution by the ultimate fact-finder.”²⁷ Summary judgment will only be granted if, after viewing the evidence in the light most favorable to the non-moving party, no material factual disputes exist and judgment as a matter of law is appropriate.²⁸

²⁴ Pl.’s Mem. in Opp. to Def. Crane Co.’s Mot. for Summary Judgment at 8.

²⁵ Super. Ct. Civ. R. 56(c).

²⁶ *E.g., Storm v. NSL Rockland Place, LLC*, 898 A.2d 874, 879 (Del. Super. 2005).

²⁷ *Id.* at 880.

²⁸ *Id.* at 879-80.

The Court addressed similar arguments and facts this summer in summary judgment motions brought by Crane against Gerald Johnston and the surviving relatives of Joseph Turchen.²⁹ Johnston and Turchen were employees of the DuPont Experimental Station who alleged that they were exposed to asbestos by working with Crane pumps and valves at the Experimental Station. In both of those cases, Crane argued that (1) that the plaintiffs had failed to establish exposure to asbestos-containing Crane products, and (2) that Crane was not subject to a duty to warn under Delaware law regarding asbestos in products manufactured or supplied by a third party. In both cases, the Court agreed with Crane that it could not be held liable under Delaware law for asbestos in products manufactured or supplied by a third party, but it found that there was sufficient evidence of exposure to Crane products in both cases to create a genuine issue of material fact.³⁰

For the reasons explained in the Court's order in *Turchen*, Crane was not subject to a duty to warn of the dangers of asbestos contained in products it did not manufacture, supply, or specify. In the *Turchen* and *Johnston* cases, Crane was therefore entitled to partial summary judgment as to alleged exposures from third-parties' insulation, replacement valves, and replacement packing used with or

²⁹ *In re Asbestos Litig. (Johnston)*, C.A. No. 09C-07-128 ASB (Del. Super. July 14, 2011) (ORDER); *In re Asbestos Litig. (Turchen)*, C.A. No. 09C-11-059 (Del. Super. July 12, 2011) (ORDER).

³⁰ *Id.*

applied to its products at the Experimental Station. The facts and arguments presented in this case with regard to Crane's duty to warn of potential asbestos exposure through third-party products at the DuPont Seaford plant are indistinguishable from those presented in Turchen and Johnston. Accordingly, Crane is entitled to summary judgment as to alleged exposures from third parties' insulation, replacement valves, and replacement packing used with or applied to its products at the DuPont Seaford plant.

Crane also contends that it is entitled to summary judgment on Plaintiffs' exposure claim because they have not presented sufficient evidence of exposure to asbestos-containing products manufactured or supplied by Crane. Delaware's product nexus standard requires that, at the summary judgment stage, the plaintiff be able to "proffer some evidence that not only was a particular defendant's asbestos containing product present at the job site, but also that the plaintiff was in proximity to that product at the time it was being used."³¹ It is not sufficient for a plaintiff to establish "the mere presence of a defendant's asbestos-containing product at a large job site; rather, the plaintiff must also proffer evidence that he 'was in proximity to that product at the time it was being used.'"³² Similarly, the

³¹ *Nutt v. A.C. & S. Co.*, 517 A.2d 690, 692 (Del. Super. 1986).

Court will not “sustain a claim which rests upon speculation or conjecture or on testimony which could not meet the ‘time and place’ standard.”³³

Plaintiffs have alleged that Truitt was exposed to asbestos through repair work on Crane pumps and valves that were used throughout the DuPont Seaford plant. Although Truitt did not identify Crane as one of the manufacturers of pumps he worked with at the DuPont Seaford plant, Lavelle, who worked at the plant in the 1980s, did identify Crane as one of the pump manufacturers. However, Lavelle was also unable to place Crane pumps in the vicinity of where Truitt worked at the DuPont Seaford plant. The Court therefore finds there is no evidence in the record to support Plaintiffs’ allegations that Truitt was exposed to asbestos through Crane pumps.

The Court also finds there is no evidence in the record to support Plaintiffs’ allegations that Truitt was exposed to asbestos by replacing the packing inside valves manufactured by Crane. Although Truitt identified Crane as a manufacturer of valves in the powerhouse, he identified another company as the manufacturer of the replacement packing that was used to repair and/or maintain valves. Furthermore, Truitt never testified that he worked with original Crane valves or original Crane components. He testified that he believed that everything in the

³² *In re Asbestos Litig. (DuHadaway)*, C.A. No. 08C-08-285 ASB (Del. Super. Jan. 18, 2011) (quoting *Nutt v. A.C. & S. Co., Inc.*, 517 A.2d 690, 692 (Del. Super. 1986)); see also *In re Asbestos Litig.*, 509 A.2d 1116, 1117-18 (Del. Super. 1986).

³³ *In re Asbestos Litig.*, 509 A.2d 116, 1117-18 (Del. Super. 1986).

