



weekend or every summer work day. He also could not specify whether Georgia-Pacific was the only brand of joint compound his father used.

3. In *Borg-Warner Corp. v. Flores*, the Texas Supreme Court held that a plaintiff in an asbestosis case can establish substantial-factor causation by presenting “[d]efendant-specific evidence relating to the approximate dose to which the plaintiff was exposed, coupled with evidence that the dose was a substantial factor in causing the asbestos-related disease.”<sup>1</sup> In meeting this standard, “proof of . . . frequency, regularity, and proximity [of exposure to a defendant’s asbestos-containing product] is necessary but not sufficient, as it provides none of the quantitative information necessary.”<sup>2</sup> Although the *Flores* court emphasized that “mathematical precision” is not required (nor generally achievable), it nonetheless found that mere evidence of “some exposure” to asbestos is insufficient.<sup>3</sup> In the absence of any evidence as to dose, a plaintiff proceeding under Texas law has not presented a triable question as to substantial-factor causation.<sup>4</sup> In subsequent decisions, Texas courts have applied the principles of *Flores* to mesothelioma cases.<sup>5</sup>

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<sup>1</sup> 232 S.W.3d 765, 773 (Tex. 2007).

<sup>2</sup> *Id.* at 772.

<sup>3</sup> *Id.* at 773

<sup>4</sup> *Id.* at 771-72.

<sup>5</sup> See, e.g., *Georgia-Pacific Corp. v. Stephens*, 239 S.W.3d 304 (Tex. App. 2007).

4. Upon review of the record, the Court agrees with Georgia-Pacific that Plaintiffs cannot satisfy the Texas substantial-factor causation standard under *Flores*. Although Plaintiffs have provided epidemiological studies regarding the release of friable asbestos associated with joint compounds generally, as well as a report authored by Dr. William Longo and others addressing the particular Ready Mix product at issue in this case, Plaintiffs have not constructed the necessary link between this data and any calculation of an estimated dose particular to Cruz. Because Cruz's deposition offers no specific information regarding how frequently he assisted his father in construction work, let alone how frequently he and his father used Georgia-Pacific Ready Mix as opposed to other products during that work, it offers no basis for a non-speculative approximation of dose attributable to Georgia-Pacific Ready Mix. Although *Flores* does not demand mathematical precision, it does require at least quantitative approximation of dose. Plaintiffs have not met that standard, and Georgia-Pacific's Motion for Summary Judgment must therefore be **GRANTED**.

**IT IS SO ORDERED.**

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**Peggy L. Ableman, Judge**

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cc: All counsel via File & Serve