IN THE SUPERIOR COURT OF THE STATE OF DELAWARE IN AND FOR NEW CASTLE COUNTY

IN RE: ASBESTOS LITIGATION

Limited to: Taska, Irene

C.A. No. 09C-03-197 ASB

UPON DEFENDANT CRANE CO.'S MOTION FOR SUMMARY JUDGMENT GRANTED

This 19th day of January, 2011, it appears to the Court that:

Plaintiff Irene Taska alleges that she was exposed to asbestos during her employment at Park City Hospital in Bridgeport, Connecticut from 1978 to 1993. During her deposition, Plaintiff did not identify any Crane products as a source of exposure. Her fiancé Martin Slabey, who also worked at the hospital, identified Crane pumps as equipment he repaired in his capacity as a maintenance worker. Two additional co-worker witnesses—David Raschke and Edward Wise, who worked with Slabey—also identified Crane valves as present in the hospital during Taska's employment.

Taska claims that her exposures to asbestos occurred during renovations in the hospital, and when she spent time in the boiler and maintenance rooms, where she frequently met or spent time with Slabey. Taska asserts that she was frequently around the hospital's boilers, electrical equipment, ceiling pipes, pumps, and valves, all of which she believed to be asbestos-containing. She also was in proximity to Slabey and his co-workers from the maintenance department as they worked on boilers, which were wrapped in insulation.

Although Slabey testified as to the presence of Crane pumps in the hospital, and specifically in proximity to Plaintiff, he did not identify the manufacturer of any external insulation or paste he saw used on the pumps. He also lacked knowledge of the pumps' maintenance histories, and did not identify Crane as the manufacturer of any gaskets he removed or replaced.

Product identification witness David Raschke also identified Crane pumps, as well as Jenkins valves. Raschke had participated in removing and replacing packing and gaskets from them, but was also unaware of the maintenance histories of the products he worked on. He identified Commercial Heating, not Crane, as a supplier of replacement gaskets, and did not know if Crane supplied any replacement gaskets or packing.

The final product identification witness, Slabey's co-worker Edward Wise, was a house engineer who spent much of his time in the boiler room. Wise recounted replacing packing in Westinghouse pumps, and repacking valves with Slabey. After some prompting questions by Plaintiff's counsel, Wise acknowledged the presence of Crane valves in the hospital, but could not testify as to the maintenance history of the Crane products or establish that the packing, insulation, or gaskets removed or replaced in the Crane valves were manufactured

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by Crane. He identified Chesterton as the manufacturer of the replacement packing.

Under Connecticut law, in an asbestos products liability case, a plaintiff is required to show that a particular defendant's product was used as the plaintiff's job site, and that the plaintiff was in proximity to that product at the time of use.¹ The plaintiff "must produce evidence sufficient to support an inference that [she] inhaled asbestos dust from the defendant's product."²

Even considering the record in the light most favorable to Plaintiff, the evidence fails to raise a factual question as to whether she inhaled asbestos dust from any Crane product. Neither the deposition testimony nor the evidence supplied by Plaintiff indicating that certain Crane products contained asbestos establishes that Taska was exposed to asbestos emanating from an original Crane component, or that she was exposed to asbestos from the original Crane-supplied gasket or packing of a pump or valve, or that Crane manufactured or supplied insulation, gaskets, packing, or any other asbestos-containing components removed from or replaced in the Crane valves and pumps in use at the hospital. As currently articulated, Connecticut's causation standard requires evidence that the plaintiff inhaled "dust *from the defendant's product.*"³ Although Plaintiff has laid out

¹ Cormier v. 3M Corp., 2005 WL 407641, at *2 (Conn. Super. Ct. Jan. 12, 2005).

² Id. (quoting Peerman v. Georgia-Pacific Corp., 35 F.2d 284, 287 (7th Cir. 1994)).

³ *Id.* (emphasis added).

Connecticut's existing products liability scheme, she has not raised any argument or authority supporting that Connecticut courts would impose liability upon a defendant for exposure to a product it did not manufacture, distribute, or sell.⁴

As Plaintiff has not presented evidence from which a jury could reasonably conclude that she was exposed to asbestos from any Crane product, Crane's Motion for Summary Judgment is hereby **GRANTED**.

IT IS SO ORDERED.

/s/ Peggy L. Ableman, Judge

Original to Prothonotary cc: All counsel via File & Serve

⁴ On this point, Crane has cited several recent cases from other jurisdictions refusing to impose liability upon defendants for alleged defects in post-sale added components, replacement parts, or other products for which the defendant was not part of the chain of distribution. Plaintiff's opposition does not distinguish or otherwise directly address these persuasive authorities. *See, e.g., Lindstrom v. A-C Prod. Liab. Trust,* 424 F.3d 488 (6th Cir. 2005); *Niemann v. McDonnell Douglas Corp.,* 721 F. Supp. 1019 (S.D. Ill. 1989); *Taylor v. Elliott Turbomachinery Co.,* 90 Cal. Rptr. 3d 414 (Ct. App. 2009); *Schaffner v. Aesys Techs., LLC,* Nos. 1901 & 1902 EDA (Pa. Super. Ct. Jan. 21, 2010) (non-precedential); *Braaten v. Saberhagen Holdings,* 198 P.3d 493 (Wa. 2008); *Simonetta v. Viad Corp,* 197 P.3d 127 (Wash. 2008).