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

IN RE ASBESTOS LITIGATION:	)	
	)	
RALPH CURTIS WOLFE and	)	
JANICE WOLFE	)	C.A. No. N10C-08-258 ASB
	)	
Limited to: Crane Co.	)	

MEMORANDUM OPINION

Appearances:

Michael L. Sensor, Esquire
Perry & Sensor
Wilmington, Delaware
Counsel for Plaintiffs Ralph Curtis Wolfe and Janice Wolfe

Francis C. Gondek, Esquire
Nicholas E. Skiles, Esquire
Wilmington, Delaware
Counsel for Defendant Crane Co.

JOHN A. PARKINS, JR., JUDGE

Plaintiff, Ralph Curtis Wolfe, worked at Zidell Industries in Portland, Oregon from 1970-1973. Zidell disassembled World War II navy ships and reconditioned parts including valves. Plaintiff alleges asbestos exposure from Defendant's valves. Defendant, Crane Co. individually and as successor to Chapman Valve Co., moves for summary judgment on product nexus grounds and asserts the "component parts defense" as grounds for not owing a duty to Plaintiff for asbestos-containing parts added to their products after market. Based on the reasoning below, the court finds Plaintiff has not made a *prima facie* case for product nexus with an original asbestos-containing part manufactured by Defendant and Defendant is not liable for the asbestos-containing component parts added to its products after sale under Oregon law. Therefore, summary judgment is **GRANTED.**

FACTS

Plaintiff, Ralph Curtis Wolfe, worked at Zidell Industries in Portland, Oregon from 1970-1973. The company dissembled World War II navy ships and reconditioned parts including valves for resale. Zidell had facilities on the east and west sides of a river. The ships were disassembled on the west bank and parts were moved to the east bank for refurbishing. Plaintiff worked at the east bank facility.

Plaintiff cleaned and refurbished valves for resale. The reconditioning process was dusty and could have exposed assemblymen to asbestos. Plaintiff recalls cleaning gaskets from the valves and pulled packing from Defendant's

valves. He did not know the name of the manufacturer of the old gaskets he removed or the replacement gaskets he installed. He also did not know the manufacturer of the packing he removed, but did recall Johns Manville provided the replacement packing. He did not know the maintenance history of any of the valves or whether any of the components on which he worked were original to the valves.

Plaintiffs identified Jack Piatt—who did not know Plaintiff—as a product identification witness. He worked for Zidell starting in 1969 and into 1970, a period which overlapped Plaintiff's employment for a few months. Mr. Piatt participated in the breaking down of the ships and categorizing and storage of parts. When a customer put in an order for a part, the part was taken out of storage and sent to an assemblyman, such as Plaintiff, for reconditioning. Mr. Piatt identified Crane, Powell, and Chapman as manufacturers of the valves on which he worked at Zidell.

Plaintiffs point to some documentation that indicates at least some of Defendant's valves contained asbestos, and Defendant admits as much in its discovery responses. Plaintiffs point to a document discussing valves and fittings produced by Crane in 1960, years after the ships in question were commissioned. Plaintiffs also offer other documents with diagrams of Crane valves. The record, however, contains no evidence of the specific types of valves on which Plaintiff worked. Plaintiff does not direct the court to any document in which Defendant requires or recommends asbestos containing replacement parts for the valves on which Plaintiff worked.

STANDARD OF REVIEW

In considering a motion for summary judgment the court views the facts in the light most favorable to the nonmoving party and will only grant summary judgment when "the moving party has demonstrated that there are no material issues of fact in dispute and that the moving party is entitled to judgment as a matter of law."[1] The question of whether a legal duty exists "is a question of law for the Court to determine."[2]

PRODUCT NEXUS ANALYSIS

The parties appear to agree as to the product identification standard in Oregon. They each direct the court to *Griffin v. Allis-Chalmers Corporation Product Liability Trust.*[3] The *Griffin* court explained, "[t]o survive a motion for summary judgment in a products liability and negligence case involving asbestos, a plaintiff needs to establish the presence of the *defendant's asbestos* in the plaintiff's workplace; that fact is sufficient to create a jury question as to whether the presence of that asbestos played a role in the occurrence of the plaintiff's injuries."[4]

Viewing the evidence in the light most favorable to Plaintiffs, a reasonable jury could infer that Plaintiff worked on Defendant's valves.

---

[1] *Bantum v. New Castle County Co-Tech Educ. Ass'n*, 21 A.3d 44, 48 (Del. 2011) (citations omitted).
[2] *Riedel v. ICI Americas Inc.*, 968 A.2d, 17, 20 (Del. 2009) (citing *New Haverford P'ship v. Stroot*, 772 A.2d 792, 798 (Del. 2001)); *see Simonetta v. Viad Corp.*, 197 P.3d 127, 131 (Wash. 2008) (en banc).
[3] 246 P3d. 483 (Or. App. 2010).
[4] *Id.* at 485 (citations and internal quotations omitted) (emphasis added).

However, there is no evidence in the record to support a finding that "Defendant's asbestos" was in Plaintiff's workplace. Plaintiff did not know whether any of the valves on which he worked contained original asbestos-containing components. There is no evidence as to the type of valves on which Plaintiff actually worked and, most importantly, there is no evidence that Defendant's valve's original asbestos-containing parts were present in Plaintiff's work area. In fact, logic suggests that the original valve gaskets and packings were not in the valves which Plaintiff refurbished. Plaintiff worked on the valves in the 1970's, but the ships from which the valves came were in service 30 years earlier during World War II. A reasonable jury could not find that Plaintiff used Defendant's original asbestos-containing parts without that finding being based purely on speculation. Therefore, summary judgment is **GRANTED** on product nexus grounds.

DUTY ANALYSIS[5]

The court recently ruled on this issue under Oregon law in this case. The court held "under Oregon law Defendant does not owe a duty Plaintiff for asbestos-containing parts used with or added to its products after sale."[6] That legal determination applies equally to this Defendant. Accordingly, summary judgment is **GRANTED** on the issue of whether Defendant owes a duty to

[5] Litigants often refer to this as the "component part defense." The court views this as a challenge to Plaintiff's prima facie case to prove duty.

[6] *In Re Asbestos Litig. Wolfe*, C.A. N10C-08-258 ASB, at 12 (Del. Super. Feb. 29, 2012) (Parkins, J.); *see id.* at 5-11 (discussing the modern trend on this issue).

Plaintiff for non-original, asbestos-containing parts added to its products after sale.

CONCLUSION

The court finds under Oregon law Defendant does not owe a duty Plaintiff for asbestos-containing parts used with or added to its products after sale and Plaintiff was not exposed to original asbestos-containing parts of Defendant's products. Accordingly, Defendant's motion for summary judgment is **GRANTED**.

IT IS SO ORDERED.

Dated: March 12, 2012

Judge John A. Parkins, Jr.