



“Massachusetts courts have not answered the question of whether a manufacturer may be held liable for a plaintiff’s exposure to third-party asbestos replacement parts used with its equipment.”<sup>1</sup> Plaintiffs also argue that they have presented evidence of York specifying and/or recommending asbestos-containing replacement parts and therefore the component parts defense does not apply.<sup>2</sup>

The Massachusetts Superior Court examined this issue in *Dombrowski v. Alfa Laval, Inc.*<sup>3</sup> Contrary to Plaintiffs’ argument, a Massachusetts court has answered this question. The court set forth, “Massachusetts courts ‘have never held a manufacturer liable . . . for failure to warn of risks created solely in the use or misuse of the product of another manufacturer.’”<sup>4</sup> The court stated that finding a duty existed “would exceed all reasonable limits.”<sup>5</sup> Although Plaintiffs claim to have presented evidence of Defendant recommending asbestos-containing replacement parts, they did not offer any citation to the record for that assertion. Accordingly, the court can not find those facts exist without speculating. The court finds *Dombrowski* controlling and accordingly summary judgment is **GRANTED** as to parts added to Defendant’s products after sale.

For the reasons stated on the record at oral argument, the motion for summary judgment as to misrepresentation and conspiracy is **GRANTED** as unopposed.

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<sup>1</sup> Plaintiff’s Memorandum in Opposition to Defendant York International Corporation’s Motion for Summary Judgment, at 9-10.

<sup>2</sup> *Id.* at 10.

<sup>3</sup> Massachusetts Asbestos Docket Middlesex C.A. 08-1938 (Mass. Super. July 1, 2010) (Hely, J.).

<sup>4</sup> *Dombrowski*, C.A.08-1938, at 2 (quoting *Mitchell v. Sky Climber, Inc.*, 396 Mass. 629, 631 (Mass. 1986)).

<sup>5</sup> *Dombrowski*, C.A.08-1938, at 3.

**IT IS SO ORDERED.**

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John A. Parkins, Jr.  
Superior Court Judge

Dated: May 14, 2012

oc: Prothonotary  
cc: All counsel via e-file