

**SUPERIOR COURT
OF THE
STATE OF DELAWARE**

JOSEPH R. SLIGHTS, III
JUDGE

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**Re: *Carmen Stigliano v. Westinghouse, et al.*
C.A. No. 05C-06-263-ASB**

Dear Counsel:

The Court has reviewed the supplemental submissions of the parties in connection with the defendant's motion for summary judgment in the above-referenced action. As you know, the issue is whether a genuine issue of material fact exists with respect to plaintiff's exposure to an asbestos-containing product manufactured, sold or distributed by the defendant CBS Corporation, f/k/a Westinghouse Electric Corporation ("Westinhgouse"). Plaintiff alleges that the record on summary judgment supports an inference that he was exposed to Westinghouse 6010 welding rods which contained asbestos. In plaintiff's

supplemental submission, he advances the argument that he worked only with 6010 welding rods. The record, however, reveals that the plaintiff worked with other welding rods in addition to the 6010 rods.¹ Moreover, the record reveals that Westinghouse manufactured both asbestos-containing and non asbestos-containing welding rods during the relevant time period of plaintiff's alleged exposure. Plaintiff has not disputed this fact. When the record reveals that a defendant manufactured both asbestos-containing and non asbestos-containing versions of a product during the time period of alleged exposure, in the absence of evidence directly or circumstantially linking the plaintiff to the asbestos-containing product, the Court cannot draw the inference of exposure and summary judgment on product nexus must be granted.²

Based on the foregoing, Westinghouse's motion for summary judgment is **GRANTED.**

IT IS SO ORDERED.

Very truly yours,

Joseph R. Slights, III

JRS, III/sb

¹ See pages 14-16, 34-35, 109-11 of plaintiff's February 24, 1998 deposition.

² See *Lipsomb v. Champlain Cable Corp.*, 1988 WL 102966 (Del. Super.).