

**SUPERIOR COURT
OF THE
STATE OF DELAWARE**

JOSEPH R. SLIGHTS, III
JUDGE

NEW CASTLE COUNTY COURTHOUSE
500 NORTH KING STREET
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WILMINGTON, DE 19801
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November 21, 2006

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Re: *Stigliano v. Nosroc Corporation*
C.A. No. 05C-06-263-ASB
Alfred Croce v. Nosroc Corporation
C.A. No. 03C-09-003-ASB

Dear Counsel:

The plaintiffs in the above-referenced matters have requested clarification of the Court's October 26, 2006 letter opinion in which the Court determined that plaintiffs may no longer utilize witnesses designated only as "at large witnesses" to respond to defense motions for summary judgment based on product nexus. Specifically, the plaintiffs have requested clarification as to whether a witness designated as something other than an "at large witness," but perhaps not as a "product nexus witness," might be utilized to respond to a defense motion for summary judgment on product nexus. The short answer to this inquiry is "no."

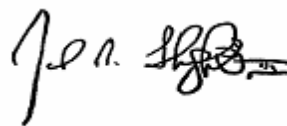
The Court's intent when issuing its October 26, 2006 letter opinion was to require the plaintiffs specifically to identify any and all factual witnesses that might establish, in any manner, that the plaintiff was exposed to an asbestos-containing product manufactured, distributed, sold by, or used on the property of, a particular defendant. Summary judgment is not meant to be an exercise in which the defendant must put all of his cards on the table in order to allow a plaintiff to determine if his hand is adequate or if he needs to open a new pack of cards to re-stack the deck. Rather, the Court's rules of civil procedure provide the plaintiffs with an opportunity in discovery to develop the factual evidence needed to support his legal claim(s) and to identify that evidence in response to properly propounded discovery requests. Once the period for discovery is closed, the defendant is then entitled to test the sufficiency of the plaintiff's evidence with confidence that the record is fixed.

In the context of the asbestos litigation, with an ever-expanding universe of fact witnesses that have been identified over several years, a defendant must be put on notice of the specific witnesses that will be called upon to establish product nexus against that defendant. The most efficient way to accomplish this goal is to require the plaintiff to identify and designate specifically as a "product nexus" witness any witness who will be utilized at trial to establish product nexus. If a witness will be utilized for multiple purposes, including product nexus, that witness should be identified according to each topic that witness will address at trial in accordance with the specific designations previously established by the Court and the parties.

I trust this clarifies the Court's prior ruling.

IT IS SO ORDERED.

Very truly yours,

A handwritten signature in black ink, appearing to read "Joseph R. Slights, III". The signature is written in a cursive style with a horizontal line at the end.

Joseph R. Slights, III

JRS, III/sb