

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

CLAUDIO ESTRADA

PLAINTIFF

v.

No. 4:07CV00267 JLH

NATIONAL DIAMOND CORP.

DEFENDANT/
THIRD PARTY PLAINTIFF

v.

CHEIL GRINDING WHEEL IND. CO., LTD.

THIRD PARTY DEFENDANT

UNION INSURANCE COMPANY

INTERVENOR

ORDER

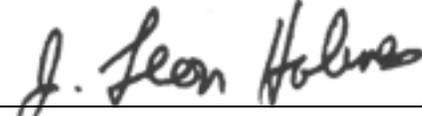
Claudio Estrada alleges that he was severely injured on March 15, 2005, while operating a saw manufactured by National Diamond Corp. According to the complaint, National Diamond Corp. was negligent in several respects, and its negligence proximately caused Estrada's damages. The complaint also alleges breach of express and implied warranties and that National Diamond Corp. is strictly liable because it manufactured and sold a defective product that was unreasonably dangerous.

The complaint was filed on March 22, 2007, and served on April 10, 2007. National Diamond Corp. answered on June 12, 2007. On September 14, 2007, National Diamond Corp. filed a motion for leave to file a third party complaint against Cheil Grinding Wheel Ind. Co., Ltd. That motion was granted on September 28, 2007. The third party complaint was filed on October 2, 2007. National Diamond Corp.'s affidavit of service shows that Cheil Grinding Wheel Ind. Co., Ltd., was served via the Hague Convention on Service Abroad of Judicial Documents on January 8, 2008. Nevertheless, Cheil Grinding Wheel Ind. Co., Ltd., has not appeared in this proceeding.

Estrada has now filed a motion to bifurcate and sever the third party action so that his case can go forward without further delay. National Diamond Corp. has objected to the motion to bifurcate and sever on the grounds of judicial economy. Because Estrada is entitled to go forward on his case without further delay, the Court will set a trial date and issue a scheduling order. If Cheil Grinding Wheel Ind. Co., Ltd., appears and National Diamond Corp.'s case against it can be ready for trial, the Court will try both cases together. However, if National Diamond Corp. and Cheil Grinding Wheel Ind. Co., Ltd., are not ready for trial on the third party complaint, the Court will sever the third party complaint from the complaint and try the cases separately.

Therefore, the motion to bifurcate and sever the third party action is denied at this time. Document #44. However, as stated above, the Court will set a trial date and issue a scheduling order. If the third party action cannot be tried in accordance with the scheduling order, the Court will sever the third party action and try it separately.

IT IS SO ORDERED this 16th day of October, 2008.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE