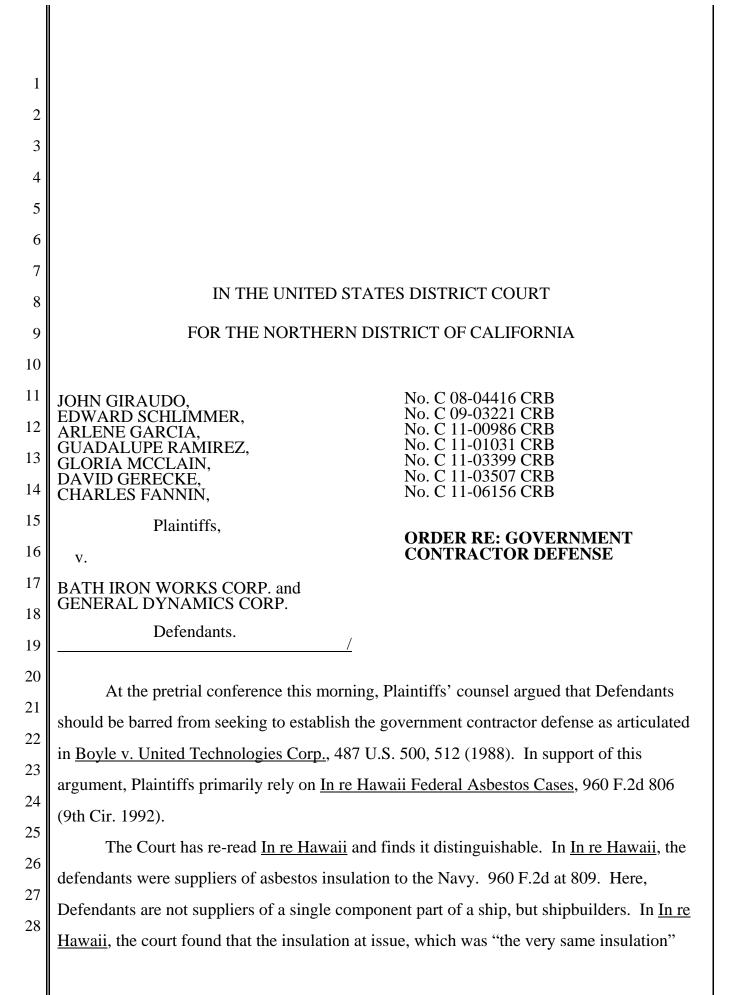
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United States District Court For the Northern District of California

sold to commercial buyers and was "not manufactured with the special needs of the military 1 in mind," had "not been developed on the basis of involved judgments made by the military 2 3 but in response to the broader needs and desires of end-users in the private sector." Id. at 811-12.¹ Here, Defendants claim to have evidence that they built the ships at issue–and used 4 the insulation they did–pursuit to the Navy's design.² This case is therefore more like Oxford 5 v. Foster Wheeler LLC, 177 Cal. App. 4th 700, 709 (2009) ("the boilers made by defendant 6 7 were designed pursuant to exceedingly detailed and precise military specifications that 8 required the use of asbestos in many instances"), than it is like In re Hawaii.

9 Accordingly, the Court holds that Defendants may seek to establish the government
10 contractor defense in Phase One of the upcoming trial.

IT IS SO ORDERED.

Dated: April 3, 2014

R. BREYER

UNITED STATES DISTRICT JUDGE

¹ The court further noted that the suppliers would have already accounted for the costs of ordinary tort liability. <u>Id.</u> at 811.

² The Court has no opinion as to whether Defendants can in fact establish the first two <u>Boyle</u> prongs. <u>See Boyle</u>, 487 U.S. at 512 ("(1) the United States approved reasonably precise specifications; [and] (2) the equipment conformed to those specifications."). That will be for a jury to decide.

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