

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BARBARA THORNE; BRENDA MARONDE;) Case No. 14-02460 SC
CELESTIA SIMS-MAYER; and BECKY)
PRICE,) ORDER RE BATH IRON WORKS'
) MOTION TO DISMISS
)
Plaintiffs,)
)
v.)
)
BATH IRON WORKS CORP.; and FOSTER)
WHEELER LLC)
)
Defendants.)
)
)
)
)
)
)
)

Now before the Court is Defendant Bath Iron Works' ("Bath") motion to dismiss. ECF No. 14 ("MTD"). Bath's motion relies on Judge Eduardo Robreno's decision in Mack v. General Electric Co., 896 F. Supp. 2d 333 (E.D. Pa. 2012) and an unpublished summary judgment order from the Central District of California, McIndoe v. Crane Co., CV 12-09639-RGK (SSx), ECF No. 258 ("McIndoe SJ Order"), in support of their argument that a naval vessel is not a "product" for the purposes of strict products liability. As Bath notes, McIndoe is presently on appeal, and the Ninth Circuit will be

1 squarely presented with the question of whether a naval vessel is a
2 "product." See ECF No. 18 ("Reply") at 2 n.2; see also McIndoe v.
3 Huntington Ingalls Inc., No. 13-56762 (9th Cir.).

4 Therefore, in the interest of conserving judicial resources,
5 the Court STAYS the case pending the decision in McIndoe, and
6 VACATES the hearing on the motion to dismiss currently scheduled
7 for Friday, August 22, 2014. Within fourteen (14) days of the
8 Ninth Circuit's decision in McIndoe, the parties shall file notice
9 of the decision with the Court. With that notice the parties shall
10 file a joint status report outlining their future plans with
11 respect to the motion to dismiss. If necessary, the Court will
12 issue an order scheduling supplemental briefing on the motion.

13 If the parties do not file notice and a joint status report
14 following the decision in McIndoe, the stay will be lifted, and the
15 Court will decide the motion to dismiss.

16
17
18 IT IS SO ORDERED.

19
20 Dated: August 20, 2014


UNITED STATES DISTRICT JUDGE