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2345-54

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RITA THAKORE and VATSAL THAKORE,)	
)	
Plaintiffs,)	
v.)	No. 05 C 5262
)	
UNIVERSAL MACHINE CO. OF)	Judge Gettleman
POTTSTOWN, INC.,)	
)	
Defendant.)	

**MOTION FOR JUDGMENT AS MATTER OF
LAW AT THE CLOSE OF PLAINTIFF'S EVIDENCE**

NOW COMES the Defendant, UNIVERSAL MACHINE COPMANY OF POTTSTOWN, INC., by its attorneys, Tressler LLP, pursuant to Federal Rule of Civil Procedure 50(a), hereby submits its Motion for Judgment as a Matter of Law:

1. That all of the evidence, when viewed in its aspects most favorable to the Plaintiff, so overwhelmingly favors the Defendant, Universal Machine Company of Pottstown, Inc., that no contrary verdict based on that evidence could ever stand.

2. That all of the evidence so taken fails to establish a *prima facie* case on the following:

Count I:

- a) The sliding friction force between the lip of the latch and the underside of the upper platen was, as designed, unreliable in holding up the upper platen;
- b) The grooves machined into the latch were inadequate for their intended purpose of reliably holding the upper platen up;
- c) The springs were inadequate in reliably holding the upper platen up;
- d) As designed, the heat seal press, when unguarded for foreseeable cleaning, was capable of holding energy that could injure the operator;

- e) The heat seal press lacked adequate warnings of the danger of cleaning the upper platen;
- f) The heat seal press lacked adequate instructions for cleaning the upper platen.

Count II:

- a) Designing a latching support system for the upper platen of the heat seal press that it should have known was unreliable;
- b) Designing a latching support system for the upper platen of the heat seal press that was out of compliance with the contract specifications;
- c) Failing to adequately understand the design of the latching support system for the heat seal press;
- d) Failing to adequately analyze the design of the latching support system for the heat seal press;
- e) Failing to adequately test the design of the latching support system for the heat seal press;
- f) Failing to provide proper instructions for cleaning the upper platen of the heat seal press;
- g) Failing to provide proper warnings for safely cleaning the upper platen of the heat seal press;
- h) Failing to provide all necessary special tools for safely cleaning the upper platen of the heat seal press in violation of the contract specifications;
- i) Providing improper heat resistant gloves for cleaning the upper platen of the heat seal press;

Based upon the evidence, Plaintiff has failed to establish one or more of the above necessary elements for a prima facie case.

3. Concurrently with this motion, Universal is filing a Memorandum in support of this Motion for Judgment As a Matter of Law.

WHEREFORE, the Defendant, UNIVERSAL MACHINE COMPANY OF POTTSTOWN, INC. prays that the Court enter an order granting its Motion for Judgment as a

Matter of Law or in the alternative prays the Court will strike those charging allegations of the Complaint that have not been proven by the evidence and for any other appropriate relief.

UNIVERSAL MACHINE COMPANY OF
POTTSTOWN, INC.

By: /s/ James K. Borgia
One of Its Attorneys

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