

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**TOMMY P. RIVET, ET AL.**

**CIVIL ACTION NO: 22-CV-2584**

**VERSUS**

**JUDGE DARREL JAMES PAPILLION**

**HUNTINGTON INGALLS,  
INC., ET AL.**

**MAGISTRATE JUDGE EVA J.  
DOSSIER**

**ORDER AND REASONS**

Before the Court is a motion styled “Motions for Summary Judgment that Tommy Rivet Had Mesothelioma, that Tommy Rivet’s Mesothelioma Was Caused by Asbestos, and that Mesothelioma Caused Tommy Rivet’s Death” filed by Plaintiffs Janet Rivet and Kayla Rivet (“Plaintiffs”). R. Doc. 167. Defendants, Eagle, Inc. (“Eagle”) and Travelers Indemnity Company (“Traveler’s”), in its capacity as the alleged insurer of The McCarty Corporation (“McCarty”), filed a memorandum in opposition to Plaintiffs’ motion. R. Doc. 248. While these defendants state that they take no position regarding Plaintiffs’ assertions that Mr. Rivet had mesothelioma that caused his death, or that his mesothelioma was caused by asbestos, they contend the source and origin of the asbestos that caused Mr. Rivet’s mesothelioma are unresolved questions of fact, and thus, they oppose any finding that Mr. Rivet’s mesothelioma was caused by Eagle or McCarty. For the foregoing reasons, Plaintiffs’ motion is **GRANTED**.

**BACKGROUND**

In May 2022, Tommy Rivet (“Mr. Rivet”) was diagnosed with mesothelioma that he allegedly developed from exposure to asbestos through his father, Libby Rivet, Sr. and his brother, Libby Rivet, Jr., as a result of their employment at Avondale Shipyard. R. Doc. 1-2 at ¶¶ 3, 4, 22. On July 6, 2022, Mr. Rivet filed suit in Orleans Parish’s Civil District Court against Avondale and a number of companies that allegedly manufactured, sold, and/or distributed asbestos-containing

products. R. Doc. 1–2. On August 9, 2022, Avondale removed Plaintiffs’ civil action to this Court. R. Doc. 1. On January 27, 2023, Mr. Rivet died, and Mr. Rivet’s wife and daughter filed an Amended Complaint substituting themselves as Plaintiffs. R. Doc. 71. Thereafter, Plaintiffs filed the instant motion. R. Doc. 167.

## LAW AND ANALYSIS

Summary judgment is appropriate when the evidence before the Court shows “that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” FED. R. CIV. P. 56(a). The party seeking summary judgment has the initial burden of showing the absence of a genuine issue of material fact by pointing out the record contains no support for the non-moving party’s claim. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323, 106 S. Ct. 2548 (quoting FED. R. CIV. P. 56(c)). Thereafter, if the nonmovant is unable to identify anything in the record to support its claim, summary judgment is appropriate. *Stahl v. Novartis Pharms. Corp.*, 283 F.3d 254, 263 (5th Cir. 2002).


Plaintiffs attach to their motion substantial evidence that would allow reasonable jurors to find by a preponderance of the evidence that Mr. Rivet had mesothelioma that was caused by exposure to asbestos and that his mesothelioma led to his death. *See* R. Doc. 167-5 at 3, 167-6 at 2; 167-7 at 6-8; and 167-8 at 5-6. No Defendant, including those who have filed a memorandum in opposition to Plaintiff’s motion, has offered evidence to refute Plaintiffs’ evidence or otherwise establish a genuine issue of fact regarding whether Mr. Rivet had mesothelioma that was caused by exposure to asbestos and that his mesothelioma led to his death. The Court, therefore, finds that summary judgment is appropriate. The Court notes, however, that its ruling makes no judgment as to the source of the asbestos exposure that caused Mr. Rivet’s mesothelioma, nor does this ruling prevent any Defendant in this matter from contesting the source of the asbestos that caused Mr.

Rivet's mesothelioma. *See Legendre v. La. Ins. Guar. Ass'n*, No. 22-CV-1767, 2024 WL 1556842, at \*2 (E.D. La. Apr. 10, 2024).

**CONCLUSION**

For the foregoing reasons, **IT IS ORDERED** that Plaintiffs' "Motions for Summary Judgment that Tommy Rivet Had Mesothelioma, that Tommy Rivet's Mesothelioma Was Caused by Asbestos, and that Mesothelioma Caused Tommy Rivet's Death" (Record Document 167) is **GRANTED**.

New Orleans, Louisiana, this 2nd day of May 2024.

  
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**DARREL JAMES PAPILLION**  
**UNITED STATES DISTRICT JUDGE**