

Trumbull v Adience, Inc.
2017 NY Slip Op 32651(U)
December 14, 2017
Supreme Court, New York County
Docket Number: 190084/2016
Judge: Lucy Billings
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 46

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RICHARD S. TRUMBULL and
MARGARET TRUMBULL,

Index No. 190084/2016

Plaintiffs

- against -

DECISION AND ORDER

ADIENCE, INC., f/k/a BMI, INC.,
et al.,

Defendants
-----X

LUCY BILLINGS, J.S.C.:

For the reasons more fully explained on the record December 14, 2017, the court grants the motion by defendant Grobet File Company of America, LLC, to dismiss the claims against Grobet File due to lack of personal jurisdiction. C.P.L.R. § 3211(a)(8). Plaintiff Richard Trumbull claims exposure to asbestos in the tongs, tape, and soldering pads his wife, plaintiff Margaret Trumbull, used in making jewelry in a studio in Maryland during 1973 to 1974 and in their homes in Ohio and New Jersey during 1975 to 1980. He claims that Grobet File is liable for his exposure to the asbestos in the tongs, tape, and soldering pads manufactured or sold by an entity named "Dixon," Aff. of Jason P. Weinstein Ex. 2, at 106, 1643, Ex. 3, at 33, 66, 195, to which the complaint alleges Grobet File is the "Successor in interest." Aff. of Alysa B. Koloms Ex B, at 18. Plaintiffs have never pleaded that Grobet File is liable for his exposure to the asbestos in any products manufactured or sold by Hammel,

Riglander & Co., nor even that he was exposed to Hammel, Riglander & Co. products.

I. JURISDICTION PURSUANT TO C.P.L.R. § 301

Grobet File establishes based on admissible state governmental documents that it is a limited liability company (LLC) organized in Illinois, with its principal place of business in New Jersey. Therefore Grobet File has met its prima facie burden to show lack of jurisdiction over the LLC pursuant to C.P.L.R. § 301, which plaintiffs do not rebut. BNSF Railway Co. v. Tyrrell, ___ U.S. ___, 137 S. Ct. 1549, ___ (2017); Daimler AG v. Bauman, 571 U.S. ___, 134 S. Ct. 746, 761-62 (2014); Magdalena v. Lins, 123 A.D.3d 600, 601 (1st Dep't 2014).

II. JURISDICTION PURSUANT TO C.P.L.R. § 302(a)

All the business transactions that plaintiffs allege between Margaret Trumbull and Grobet File are for jewelry making products other than the tongs, tape, and soldering pads that plaintiffs claim contain the asbestos to which Richard Trumbull was exposed. Plaintiffs show only that Margaret Trumbull purchased products from Dixon that may have contained asbestos, but show no connection between these purchases and New York. Nor do plaintiffs show any connection between any transaction involving products manufactured, distributed, or sold by Dixon and New York.

Since plaintiffs show no manufacture, distribution, or sale of a dangerous product to them by defendant Grobet File, plaintiffs show no such tortious conduct or injury from a Grobet

File product in New York, to confer jurisdiction over Grobet File pursuant to C.P.L.R. § 302(a). Although plaintiffs may allege that Richard Trumbull was injured from a Dixon product, for which Grobet File now may be liable, plaintiffs concede that no such injury occurred in New York and show no business transaction by Dixon whatsoever in New York, to confer jurisdiction pursuant to C.P.L.R. § 302(a). Bristol-Myers Squibb Co. v. Superior Court, ___ U.S. ___, 137 S. Ct. 1773, 1778 (2017); Daimler AG v. Bauman, 571 U.S. ___, 134 S. Ct. at 748-49; Paterno v. Laser Spine Inst., 24 N.Y.3d 370, 380-81 (2014); Stern v. Four Points by Sheraton Ann Arbor Hotel, 133 A.D.3d 514, 514-15 (1st Dep't 2015). Since plaintiffs have not pleaded exposure to Hammel, Riglander & Co. products, nor Grobet File's liability for Hammel, Riglander & Co. products, business transactions between Margaret Trumbull and Hammel, Riglander & Co. may not form a basis for jurisdiction.

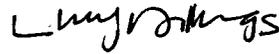
III. PLAINTIFFS' CROSS-MOTION FOR JURISDICTIONAL DISCLOSURE

Given the absence of any indication of a basis for jurisdiction pursuant to C.P.L.R. § 302(a), over Grobet File, or over the entity for whose liabilities plaintiffs claim Grobet File is responsible, the court denies plaintiffs' cross-motion to conduct disclosure to uncover such a basis for jurisdiction.

C.P.L.R. § 3211(d); Stern v. Four Points by Sheraton Ann Arbor Hotel, 133 A.D.3d at 515; Hardwick v. Auriemma, 116 A.D.3d 465, 468 (1st Dep't 2014); Copp v. Ramirez, 62 A.D.3d 23, 31-32 (1st Dep't 2009); Insurance Co. of N. Am. v. EMCOR Group, Inc., 9 A.D.3d 319, 320 (1st Dep't 2004). The disclosure plaintiffs

seek, Grobet File's sales, distribution, and financial transactions connected to its products to which Richard Trumbull was exposed, would be useless, since plaintiffs do not allege that those products contained and thus exposed him to asbestos.

DATED: December 14, 2017



LUCY BILLINGS, J.S.C.

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