STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC. **SUPERIOR COURT**

(FILED: October 21, 2013)

ROSIE K. SWEREDOSKI, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DOUGLAS A. SWEREDOSKI, AND INDIVIDUALLY RECOGNIZED AS SURVIVING SPOUSE	:	
	:	**C.A. No. PC-2011-1544**
v.	:	
ALFA LAVAL, INC., et al.	:	

DECISION

GIBNEY, P.J. Before the Court is Defendant Crane Co.'s (Crane) Motion for Leave to Renew Its Motion for Summary Judgment. In essence, Crane requests that this Court reconsider its March 7, 2013 Decision denying Crane's motion for summary judgment against Plaintiff Rosie K. Sweredoski (Plaintiff). Jurisdiction is pursuant to Super. R. Civ. P. 60(b) (Rule 60(b)). After reconsideration, this Court declines to alter its original ruling.

I

Facts & Travel

The Court detailed the facts alleged in its written Decision on Crane's original motion for summary judgment. See Sweredoski v. Alfa Laval, Inc., No. PC-11-1544, Mar. 7, 2013, Gibney, P.J. For context, however, the Court will recount the essential elements and background of the case.

Plaintiff's husband, Douglas A. Sweredoski (Sweredoski), died in January 2013 from asbestos-related lung disease. Sweredoski was exposed to asbestos while serving in the Navy during the 1960s. As part of his duties onboard the U.S.S. Independence (the Independence), he

routinely replaced asbestos-containing packing and gaskets in steam valves allegedly designed and manufactured by Crane. The parties do not dispute that Crane knew at the time it sold its valves to the Navy that the valves' proper functioning required regular removal and replacement of these asbestos-containing parts.

Plaintiff alleges that Crane knew or should have known of the dangers of asbestos exposure at the time Sweredoski served in the Navy, yet, despite such knowledge, Crane designed, manufactured, and sold its valves with asbestos-containing packing and gaskets. Plaintiff further alleges that Crane sold and expressly recommended the use of similar asbestos-containing replacement products to the Navy for its valves. As a result, Plaintiff has brought claims against Crane based on negligence, strict products liability, and breach of implied warranties of merchantability and fitness for a particular purpose.

As in its original motion for summary judgment, Crane again argues in its motion to renew that Plaintiff has put forth insufficient evidence to establish a causal link between Crane's products and Sweredoski's illness. As a basis for asking this Court to revisit its earlier denial of its motion for summary judgment, Crane directs the Court to several decisions of out-of-state courts which have granted summary judgment for defendants in asbestos litigation.

II

Standard of Review

The Superior Court Rules of Civil Procedure do not provide for a "motion for reconsideration" or a "motion for leave to renew" a prior motion. Instead, such motions are treated as motions for relief from judgment under Rule 60(b). Sch. Comm. of City of Cranston v. Bergin-Andrews, 984 A.2d 629, 649 (R.I. 2009). Rule 60(b) provides that a judgment may be vacated when, inter alia, it is "no longer equitable" or some "other reason justif[ies] relief from

the operation of the judgment." When necessary "to accomplish justice" in extraordinary circumstances, the courts may use Rule 60(b) as an equitable remedy to vacate a prior ruling. Bendix Corp. v. Norberg, 122 R.I. 155, 158, 404 A.2d 505, 506 (1979); Greco v. Safeco Ins. Co. of Am., 107 R.I. 195, 198, 266 A.2d 50, 51-52 (1970). In addition, post-judgment changes in decisional law may amount to sufficient inequity to warrant relief pursuant to Rule 60(b). Horne v. Flores, 557 U.S. 433, 487 (2009).

"Summary judgment is an extreme remedy that should be applied cautiously." Sjogren v. Metropolitan Prop. & Cas. Ins. Co., 703 A.2d 608, 610 (R.I. 1997). Pursuant to Super R. Civ. P. 56(c), a court may grant summary judgment only when, "viewing the facts and all reasonable inferences therefrom in the light most favorable to the non-moving party, the court determines that there are no issues of material fact in dispute, and the moving party is entitled to judgment as a matter of law." Delta Airlines, Inc. v. Neary, 785 A.2d 1123, 1126 (R.I. 2001). If, however, the reviewing court finds "any genuine issues of material fact or if the moving party cannot prevail as a matter of law," the summary judgment motion must be denied. Rodrigues v. Depasquale Bldg. & Realty Co., 926 A.2d 616, 622 (R.I. 2007).

III

Discussion

Crane originally moved for summary judgment on December 27, 2012, and this Court denied the motion on March 7, 2013. In moving this Court to reconsider that denial, Crane puts forth no new evidence, but rather urges the Court to reconsider its previous ruling in light of recent case law from several foreign jurisdictions.

A

Exposure to Asbestos from Crane Products

In renewing its motion for summary judgment, Crane contends that Sweredoski encountered asbestos, not from Crane's original asbestos-containing products, but instead from replacement packing and gaskets, which Crane did not supply. As a result, Crane argues that it cannot be held liable on any count because Plaintiff has failed to submit sufficient evidence to show a connection between Sweredoski's injuries and Crane's products that would support a verdict in her favor. The parties' evidence has not changed since the Court originally considered Crane's motion for summary judgment, nor has Rhode Island law. Consequently, Plaintiff's evidence remains sufficient to present triable issues of material fact on the question of liability.

Defendant correctly points out that "[a]s a threshold element of tort liability" under theories of negligence, strict products liability and breach of implied warranties, "a plaintiff must prove that the defendant sold a defective product." Scittarelli v. Providence Gas Co., 415 A.2d 1040, 1046 (R.I. 1980). Accordingly, the crux of Crane's argument is that Plaintiff has not submitted evidence showing that Sweredoski encountered Crane's—as opposed to another company's—asbestos-containing products. Fatal to Crane's motion, however, is the fact that Plaintiff has, in fact, submitted such evidence. To reiterate this Court's findings from the original summary judgment decision, Plaintiff has submitted the following evidence in opposition to Crane's motion:

1) Deposition testimony from a Crane representative and catalogs produced by Crane indicating that, during the relevant time period, Crane was in the business of selling asbestos-containing valves and replacement parts. Pantaleoni Dep., 72, 112-14, July 26, 2012; Crane Co. Catalog No. 53 at 473-75; Crane Co. Catalog No. 61 at 12-8.

2) An affidavit from a naval expert and deposition testimony from Sweredoski showing that Crane's valves were installed on the Independence at the time Sweredoski worked aboard the ship. Moore Aff. 2 ¶ 4; Sweredoski Dep., 41, Aug. 30, 2011; Sweredoski Dep., 137, Aug. 31, 2011.

3) An affidavit from a naval expert and informational materials produced by Crane showing that Crane's valves, as originally supplied to the Navy by Crane, contained asbestos. Moore Aff. 2 ¶ 4; Crane Co. Catalog No. 53 at 473-75; Crane Co. Catalog No. 61 at 12-8.

4) An affidavit, deposition testimony and materials produced by Crane indicating that Crane knew the asbestos-containing gaskets and packing in its valves would have to be regularly replaced with similar asbestos-containing components and showing that Crane endorsed and recommended the use of its own asbestos-containing replacement parts. Moore Aff. 2 ¶ 6; Pantaleoni Dep., 72, 112-14, July 26, 2012; Crane Co. Catalog No. 53 at 473-75; Crane Co. Catalog No. 61 at 12-8; Crane Co. Technical Manual, 10-18, Jan. 1958; Crane Co. Technical Drawing # 29765 at 1-5.

5) Deposition testimony from a Crane representative that Crane sold asbestos-containing replacement parts to the Navy. Pantaleoni Dep., 72, 111-12, July 26, 2012.

6) Deposition testimony from Sweredoski claiming that he serviced Crane's valves, including replacing packing and gaskets, while working on the Independence. Sweredoski Dep., 128-31, 135-40, Aug. 31, 2011.

In response, Crane has not contradicted Plaintiff's evidence in a manner that would leave no material issue of fact for jury determination. See Celotex Corp. v. Catrett, 477 U.S. 317, 331 (1986) (Brennan, J., dissenting) (noting that when the nonmoving party submits evidence demonstrating a triable issue of fact, summary judgment may still be appropriate if the moving

party submits affirmative evidence negating the nonmoving party's evidence); see also 10A Wright & Miller, Federal Practice and Procedure, Civil 3d § 2727 (2012). As a result, all the evidence presented in the case thus far, taken together and viewed in the light most favorable to Plaintiff, could support a reasonable inference that the Navy purchased asbestos-containing valves from Crane, put those valves on the Independence, purchased asbestos-containing replacement parts from Crane, put the replacement parts on the Independence, and Sweredoski encountered asbestos from either the original Crane valves or the Crane replacement parts, or both. Such an inferential chain would logically support verdicts in Plaintiff's favor on her products liability, negligence, and breach of warranty claims.[1] See Thomas v. Amway Corp., 488 A.2d 716, 722 (R.I. 1985) (noting that "probative circumstantial evidence that may create inferences of fact . . . which could prove the defect and the causal connection is entirely consonant with the theory of strict liability").

Moreover, even if this Court were to adopt it, the reasoning from the out-of-state case law on which Crane relies would not support granting summary judgment on the facts of this case. Unlike the facts in the case at bar, there was no evidence in the cases to which Crane cites indicating that those plaintiffs came into contact with asbestos-containing products manufactured or supplied by those defendants. See, e.g., Lindstrom v. A-C Product Liability Trust, 424 F.3d 488, 495 (6th Cir. 2005) (finding that there was "insufficient evidence" to connect the plaintiff to any of the defendant's products); O'Neil v. Crane Co., 266 P.3d 987, 991 (Cal. 2012) (noting that "[i]t is undisputed that the defendants never manufactured or sold any of the asbestos-containing materials to which plaintiff's decedent was exposed"); Niemann v. McDonnell

[1] For a more detailed discussion of how Plaintiff's evidence makes a prima facie case against Crane for strict products liability, negligence and breach of implied warranties, see this Court's original Decision on Crane's motion for summary judgment, Sweredoski v. Alfa Laval, Inc., No. PC-11-1544, Mar. 7, 2013, Gibney, P.J.

Douglas Corp., 721 F. Supp. 1019, 1029 (S.D. Ill. 1989) (noting that "the record is clear" that the plaintiff did not come into contact with asbestos-containing material provided by the defendant); Simonetta v. Viad Corp., 197 P.3d 127, 138 (Wash. 2008) (basing its holding on the "undisputed" fact that the defendant did not supply the asbestos encountered by the plaintiff).

On a motion for summary judgment, this Court cannot undertake to determine the credibility of Plaintiff's evidence or to resolve the questions of fact it presents. Palazzo v. Big G Supermarkets, 110 R.I. 242, 245, 292 A.2d 235, 237 (1972). Rather, this Court may "only determine whether there are any issues of fact to be resolved." Id. Consequently, Crane's motion for summary judgment must be denied. See Rodrigues, 926 A.2d at 622.

B

Liability for Third-Party Replacement Parts

In renewing its motion for summary judgment, Crane asks this Court to hold that, as a matter of law, a product seller cannot be held liable for asbestos from replacement components added to its product after the product has left the seller's control. In support of this proposition, Crane directs the Court to decisions from several foreign jurisdictions, which, as noted above, are inapplicable to the facts herein. Nonetheless, this Court will discuss the argument and supporting case law Crane presents in urging this Court to adopt its position.

1

Rhode Island Tort Law

At the outset, it is necessary to note that this Court need not—and, indeed, should not—adopt the rulings of foreign jurisdictions on the question of product liability for injuries caused by replacement parts supplied by a third party because well-settled Rhode Island law controls this issue. See, e.g., Thomas, 488 A.2d at 722; Ritter v. Narragansett Electric Co., 109 R.I. 176,

192, 283 A.2d 255, 263 (1971). Contrary to Rhode Island's tort law, a few of the decisions to which Crane has directed this Court have unqualifiedly ruled that a product seller cannot be held liable for injuries suffered as a result of a plaintiff's exposure to asbestos in the seller's product when that asbestos came from non-original, replacement components. See Lindstrom, 424 F.3d at 495;[2] Niemann, 721 F. Supp. at 1030; Simonetta, 197 P.3d at 138. These decisions have so held even when the seller's product was originally sold with asbestos-containing components and when the design of the product was such that the asbestos-containing components required regular replacement and the product performed optimally when those components were replaced with new asbestos-containing components. Id. In contrast, Rhode Island tort law requires a more fact-specific and nuanced analysis to determine whether liability in negligence or strict liability may attach for third-party replacement parts.

a

Strict Products Liability

Rhode Island has adopted the strict product liability standard outlined in § 402A of the Restatement (Second) Torts. Ritter, 109 R.I. at 192. Under that standard, if a seller does not warn of "reasonably foreseeable" dangers associated with its product, "then the product is rendered defective." Thomas, 488 A.2d at 722; see also Restatement (Second) Torts § 402A, cmt. h (providing that when a seller "has reason to anticipate that danger may result from a particular use . . . [the seller] may be required to give adequate warning of the danger"). To make out a prima facie case for strict products liability, "the plaintiff has the burden of proving a

[2] Also in support of Crane's position are three district court cases applying the holding from Lindstrom, specifically Donn v. A.W. Chesterton Co., No. 10–00311, 2013 WL 2477049 (E.D. Pa. May 9, 2013); Hall v. A.W. Chesterton Co., No. 11–03400, 2013 WL 2477152 (E.D. Pa. May 7, 2013); and Payne v. A.W. Chesterton Co., No. 11–00820, 2013 WL 1880793 (E.D. Pa. Mar. 25, 2013).

defect in the design or manufacture that makes the product unsafe for its intended use." Thomas, 488 A.2d at 722. Accordingly, our Supreme Court has held that a product seller is liable when a plaintiff is injured while using the seller's product "in a way it was intended to be used [and] as a result of a defect in design . . . of which plaintiff was not aware." Ritter, 109 R.I. at 189. Because the proper functioning of the valves that Crane sold to the Navy required the routine replacement of packing and gaskets, removal and replacement of such components can fairly be classified as "use." See, e.g., Defazio v. Chesterton, 938 N.Y.S.2d 226, 226 (treating the removal and replacement of asbestos-containing components as "use" of valves); Simonetta, 197 P.3d at 140 (Stephens, J., dissenting).

Therefore, applying the above law to the facts of the case at bar, it is clear that whether asbestos exposure resulted from Crane's original components or from replacement components is not dispositive on the question of Crane's liability. See Restatement (Second) Torts § 402A, cmt. p (noting that "the mere fact that the product is [altered] will not in all cases relieve the seller of liability"). Rather, the pivotal issue under Rhode Island law is whether Crane intended the asbestos in its valves to be replaced with new asbestos and whether Crane had "reason to anticipate that danger may result from [that] particular use." Restatement (Second) Torts § 402A, cmt. h; see also Ritter, 109 R.I. at 189. There is evidence in this case to suggest that Crane not only knew that the asbestos in its valves would need to be replaced, but also that Crane actively encouraged its customers to replace the original asbestos with more asbestos. Thus, because Crane may be held liable for failing to warn users that its products could be dangerous when used as intended, Crane may be held liable for failing to warn Sweredoski of the dangers of replacing old packing and gaskets with new asbestos-containing parts. Ritter, 109 R.I. at 189; Restatement (Second) Torts § 402A, cmt. h.

Another way of analyzing Plaintiff's strict products liability claim is to view Crane's valves and the asbestos-containing gaskets and packing as separate component parts of an integrated whole. See Chicano v. General Electric, No. 03-5126, 2004 WL 2250990, at *3 (E.D. Pa. Oct. 5, 2004) (classifying turbines and the asbestos insulation used with them as separate component parts); Restatement (Third) Torts § 5, cmt. a (noting that valves are typically component parts). Under Rhode Island law, which follows § 5 of Restatement (Third) Torts, a "seller of a component part may be liable to the ultimate user, particularly when it has substantially participated in the integration of the component into the design of the final product." Buonanno v. Colmar Belting Co., 733 A.2d 712, 716 (R.I. 1999). In particular, a "component seller is required to provide instructions and warnings regarding risks associated with the use of the component product." Restatement (Third) Torts § 5, cmt. b.

"Substantial participation [in the component's integration] can take various forms," including "deciding which component best serves the requirements of the integrated product." Restatement (Third) Torts § 5, cmt. e. Here, there is evidence suggesting that Crane played a significant role in convincing its customers to use asbestos-containing replacement parts by originally supplying the valves with asbestos. Crane's original integration of asbestos in its valves would seem to strongly indicate to customers that asbestos "best serves the requirements" of the valves. Id. In addition, Crane may have been able to foresee that users of its valves would continue replacing the packing and gaskets with asbestos, as there is evidence to suggest that Crane fervently recommended that asbestos be used in those replacement parts. Id.; but cf. Buonanno, 733 A.2d at 718 (finding no liability where the seller could not reasonably have anticipated that its customers would put its product to a dangerous use and where there was no evidence that the product was dangerous when it left the seller's control). Because, as explained

above, removing and replacing components was an intended use of Crane's valves, Crane may be held liable under Rhode Island law for failure to adequately warn of the risks associated with that use. Id.

b

Negligence

Under Rhode Island law, it is possible that even a plaintiff who had been exposed only to asbestos from replacement parts could make out a prima facie case for negligence. The negligence standard in Rhode Island is that "the defendant knew, or had reason to know, of a defective design" and that the defendant's product "proximately caused the injury." Thomas, 488 A.2d at 721-22 (emphasis added). Although exposure to original versus replacement parts may affect the plaintiff's ability to show proximate causation, there is no absolute requirement under the law of this state that a plaintiff demonstrate exposure to original component parts in order to make out a claim for negligence. See id. Because "the determination of proximate cause . . . is a question of fact that should not be decided by summary judgment," this Court's ruling on Crane's motion would not be entirely controlled by whether or not Plaintiff had produced evidence showing that Sweredoski was exposed to Crane's asbestos. Splendorio v. Bilray Demolition Co., 682 A.2d 461, 467 (R.I. 1996).

2

Tort Law of Other Jurisdictions

Even if Rhode Island law were not clear on the issue of liability for third-party replacement parts, this Court is not persuaded by the out-of-state decisions on which Crane relies. To begin with, several of these court opinions stop short of absolving sellers of all liability when their original asbestos-containing components have been maintained with

replacements from another seller. In O'Neil v. Crane Co., for example, the Supreme Court of California clearly held that "a product manufacturer may not be held liable in strict liability or negligence for harm caused by another manufacturer's product unless the defendant's own product contributed substantially to the harm, or the defendant participated substantially in creating a harmful combined use of the products." 266 P.3d at 991 (emphasis added). The Supreme Judicial Court of Massachusetts has likewise held that one who "advises prospective users concerning the use of its own product must provide complete and accurate warnings concerning dangers inherent in that product." Mitchell v. Sky Climber, Inc., 396 Mass. 629, 631 (1986). The Massachusetts court did, however, refuse to impose a "duty on a manufacturer to [warn] of a possible risk created solely by an act of another that would not be . . . a foreseeable use . . . of the manufacturer's own product." Id. at 632 (emphasis added). In the case at bar, as explained in detail above, there is evidence to suggest that Crane took substantial, deliberate steps to ensure, and could therefore foresee, that the original asbestos-containing components in its products would be replaced with new asbestos-containing components. Thus, these particular cases simply do not support the argument that Crane advances before this Court.

Moreover, several of the other out-of-state opinions relied on by Crane are distinguishable from the case at bar on their facts. In Lindstrom, for example, summary judgment for each of the defendants was based not on the fact that the plaintiff was exposed to asbestos from third-party replacement parts, but on the plaintiff's lack of evidence suggesting either that he had come into contact with the defendants' products at all or that the defendants originally sold their products with asbestos or encouraged the post-sale use of asbestos with their products. 424 F.3d at 495-98. Crane also relies heavily on Abate v. AAF-McQuay, Inc., No. CV106006228S, 2013 WL 1494375, at *1 (Conn. Super. Mar. 22, 2013), in which the court

granted summary judgment for the defendant because the defendant never sold products that contained asbestos, nor did the defendant encourage the use of asbestos with its products. The case at bar differs substantially from the facts of Lindstrom and Abate because there is evidence to suggest that the products Crane sold to the Navy, which Sweredoski ultimately encountered, did contain asbestos when they left Crane's control and that Crane did encourage the use of asbestos-containing replacement components.

The only other appellate—and therefore precedent-setting—cases with somewhat analogous facts that truly support Crane's argument are the Washington Supreme Court's companion decisions in Simonetta and Braaten v. Saberhagen Holdings, 198 P.3d 493 (Wash. 2008). However, the Washington court's holding—that sellers have no duty to warn users of the dangers of exposure to asbestos even when the seller can reasonably foresee that the user would apply asbestos to their products—is out of step with the tort law of most jurisdictions in the nation. See Simonetta, 197 P.3d at 138; Braaten, 198 P.3d at 504. As the First Circuit has noted, "the failure to warn of hazards associated with foreseeable uses of a product is itself [actionable] negligence." Laaperi v. Sears, Roebuck & Co., Inc., 787 F.2d 726, 729 (1st Cir. 1986).

In addition to the rules of law espoused by the highest courts of California and Massachusetts, discussed above, federal and state trial and appellate courts in numerous jurisdictions have found that defendants can be held liable on facts similar to those in the case at bar, namely where the defendant has sold a product with particular, hazardous component parts and could foresee that users would replace those parts with similarly hazardous components. See, e.g., Shuras v. Integrated Project Services, Inc., 190 F. Supp. 2d 194, 198 (D. Mass. 2002) (holding that "a manufacturer has a duty . . . to design a product to eliminate avoidable dangers [and to] assess both the manner and the environment in which consumers will use the product");

Sage v. Fairchild-Swearingen Corp., 70 N.Y.2d 579, 587 (1987) (holding that the fact that the product "actually involved in the [plaintiff's] accident was a replacement and not the original is not dispositive because in fabricating and installing a new part, . . . [the consumers] did no more than perpetuate defendant's bad design, as defendant . . . foresaw they might").

Most notably, several jurisdictions faced with facts very similar to those in the case at bar have found that the defendant may be held liable for the plaintiff's exposure to asbestos from replacement parts. New York state courts, for example, have held that "a manufacturer's liability for third-party component parts must be determined by the degree to which injury from the component parts is foreseeable to the manufacturer." Dummit v. A.W. Chesterton, 960 N.Y.S.2d 51, 51 (2012) (citing Berkowitz v. A.C. & S., Inc., 733 N.Y.S.2d 410, 412 (2001)); see also Defazio, 938 N.Y.S.2d at 226 (following the reasoning of Berkowitz). In these cases, as in the case at bar, the courts found evidence to suggest that the defendant knew that a dangerous component was necessary for the functioning of its product and that consumers were likely to use such a dangerous component, supplied by a third party, with the defendant's own product. Id. Accordingly, these courts denied summary judgment for the defendant. Id. Several federal district courts have adopted similar reasoning. See, e.g., Sether v. Agco Corp., No. 07-809-GPM, 2008 WL 1701172, at *3 (S.D. Ill. Mar. 28, 2008) (rejecting the defendant's argument of no duty to warn where the defendant sold turbines with no asbestos insulation, but knew that consumers would have to add asbestos insulation in order to use the turbines); Curry v. American Standard, No. 7:08-CV-10228, 2010 U.S. Dist. LEXIS 142496, at *5 (S.D.N.Y. Dec. 7, 2010) (following Berkowitz and holding that "where [the defendant] meant its products to be used with [third-party] asbestos-containing components or knew that its products would be used with such components, [the defendant] remains potentially liable").

Thus, the weight of jurisprudence across the country, including in Rhode Island, suggests that a defendant cannot categorically avoid liability for a plaintiff's injuries for the sole reason that those injuries were directly caused by exposure to a third party's replacement parts. Rather, other factors—such as the defendant's ability to foresee harm resulting from the use of its product in conjunction with third-party replacement parts, as well as the defendant's role in inducing the consumer to use the dangerous third-party components—must be taken into consideration to determine whether the defendant owed a legal duty to the plaintiff. As a result, even if there were no evidence that Sweredoski encountered asbestos from gaskets and packing supplied by Crane, this Court would not necessarily rule that Crane could not be held liable.

IV

Conclusion

The Court has reconsidered its original denial of Crane's motion for summary judgment in light of the recent out-of-state case law presented, and the Court again finds that Plaintiff has demonstrated material questions of fact suitable for jury determination. Accordingly, relief from this Court's original judgment is not warranted under Rule 60(b), and Crane's Motion for Leave to Renew Its Motion for Summary Judgment is denied. Counsel shall prepare an appropriate order for entry.

RHODE ISLAND SUPERIOR COURT
Decision Addendum Sheet

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CASE NO:	**PC-2011-1544**
COURT:	**Providence County Superior Court**
DATE DECISION FILED:	**October 21, 2013**
JUSTICE/MAGISTRATE:	**Gibney, P.J.**
ATTORNEYS:	
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For Defendant:	**David A. Goldman, Esq.** **Kendra A. Christensen, Esq.**