

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

SUPERIOR COURT

(FILED: July 18, 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. In this asbestos action,¹ Crane Co. (Defendant), Individually and as Successor to Chempump, Jenkins Bros., Weinman Pump Manufacturing Company, Pacific Steel Boiler Corporation, Thatcher Boiler, Chapman Valve Company, and Cochrane, brings a Motion in Limine (the Motion), seeking to preclude the actions or knowledge of asbestos trade associations, of which it is a member, from being imputed to it at trial. Defendant asserts that a member of a voluntary trade association cannot be held liable for the tortious actions or knowledge of the association absent evidence of consent or participation. Defendant argues that, in the instant case, evidence of the asbestos trade associations' actions and knowledge regarding the dangers of asbestos exposure is inadmissible because it cannot be shown that Defendant approved of or otherwise ratified the trade associations' conduct.

Rosie K. Sweredoski (Plaintiff), as Personal Representative of the Estate of Douglas A. Sweredoski (Sweredoski), and Individually Recognized as Surviving Spouse, opposes the Motion. She contends that Defendant misconstrues the purpose for which she intends to offer

¹ This Court's jurisdiction is pursuant to G.L. 1956 § 8-2-14.

evidence of the trade associations' knowledge of the dangers of asbestos exposure. Plaintiff contends that she intends to use such evidence to show that Defendant knew or should have known of the dangers of asbestos exposure at the time of marketing of its asbestos-containing steam valves. Plaintiff maintains she does not seek to hold Defendant liable for the actions of any trade association.

Because Plaintiff has asserted a failure-to-warn claim against Defendant, she must prove at trial that Defendant "had reason to know about [its steam valves'] dangerous propensities which caused [Sweredoski's] injuries." Thomas v. Amway Corp., 488 A.2d 716, 722 (R.I. 1985). Defendant need only warn of "reasonably foreseeable" dangers. Id. Such knowledge may be actual or constructive. Castrignano v. E.R. Squibb & Sons, Inc., 546 A.2d 775, 782 (R.I. 1988). Thus, "[l]iability will ensue . . . [when] a manufacturer fails to disclose dangers of which it [knew or] should have known if it had vigorously monitored available information." Id. at 783.

In the asbestos context, a plaintiff may demonstrate a manufacturer's knowledge of the dangers of its product using the documents of trade associations of which the manufacturer is a member. See George v. Celotex Corp., 914 F.2d 26, 29-30 (2nd Cir. 1990) (finding admissible a document describing the dangers of asbestos exposure produced years before the plaintiff's injury by an asbestos trade association of which the defendant was a member because "[t]he document was relevant . . . to show . . . what [the defendant] should have known [at the time of the plaintiff's injury] . . ."); Jackson v. Johns-Manville Sales Corp., 750 F.2d 1314, 1318-19 (5th Cir. 1985) (determining that trade association documents produced in 1935 were admissible to show the defendants' knowledge of the dangers of asbestos exposure at the time of the plaintiff's injury in 1953 because "[e]vidence that the defendants had such knowledge in 1935 clearly makes [the plaintiff's] allegations that the dangers of asbestos products were foreseeable in 1953

more probable than it would have been without such evidence”). Such documents “reflec[t] other industry members’ knowledge of asbestos dangers—dangers which [the defendant], as an industry member, should have known to exist” Carulo v. John Crane, Inc., 226 F.3d 4655 (2nd Cir. 2000); see Castrignano, 546 A.2d at 782 (requiring product manufacturers to be experts in their industries and “vigorously” monitor scientific developments). The evidence Plaintiff seeks to introduce in this case fits squarely within this analysis and, therefore, Defendant’s Motion is denied.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: Sweredoski v. Alfa Laval, Inc., et al.

CASE NO: PC 2011-1544

COURT: Providence County Superior Court

DATE DECISION FILED: July 18, 2013

JUSTICE/MAGISTRATE: Presiding Justice Alice Bridget Gibney

ATTORNEYS:

For Plaintiff: Robert J. Sweeney, Esq.

For Defendant: David A. Goldman, Esq.; Kendra A. Christensen, Esq.