

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 :  
v. :  
ALFA LAVAL, INC., et al. :

C.A. No. PC 2011-1544

DECISION

GIBNEY, P.J. In this asbestos action,<sup>1</sup> 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 exclude evidence relating to Defendant’s alleged continuing or post-sale duty to warn. Defendant contends that, in Rhode Island, it cannot be held liable under a post-sale duty to warn theory as a matter of law. Defendant asserts that introduction of evidence relating to such a duty, therefore, would be prejudicial and could confuse the trier of fact.

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 maintains that she has not asserted a claim for a continuing or post-sale duty to warn against Defendant. Instead, Plaintiff argues, she intends to prove that the dangers of asbestos exposure were foreseeable and knowable to Defendant at the time it marketed the asbestos-

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<sup>1</sup> This Court’s jurisdiction is pursuant to G.L. 1956 § 8-2-14.

containing steam valves that ultimately reached Sweredoski. Plaintiff thus objects to Defendant's Motion, contending that Defendant's alleged post-sale duty to warn is not at issue in this case.

It is true that our Supreme Court has not formally imposed on product manufacturers a post-sale duty to warn. However, it is well-settled in this state that a duty to warn applies to product manufacturers at the time of marketing. See Raimbeault v. Takeuchi Mfg. (U.S.), Ltd., 722 A.2d 1056, 1063-64 (R.I. 2001); Scittarelli v. Providence Gas Co., 415 A.2d 1040, 1043 (R.I. 1980). To prove a breach of this duty, a plaintiff must show that a manufacturer "had reason to know about [its] product's dangerous propensities which caused plaintiff's injuries." Thomas v. Amway Corp., 488 A.2d 716, 722 (R.I. 1985). "Liability will ensue . . . [when] a manufacturer fails to disclose dangers of which it [knew or] should have known if it had vigorously monitored available information." Castrignano v. E.R. Squibb & Sons, Inc., 546 A.2d 775, 783 (R.I. 1988).

In Rhode Island, the motion in limine is "not intended to be a dispositive motion[, but is] . . . used . . . primarily to prevent the proponent of potentially prejudicial matter from displaying it to the jury . . . in any manner until the trial court has ruled upon its admissibility in the context of the trial itself." BHG, Inc. v. F.A.F., Inc., 784 A.2d 884, 886 (R.I. 2001) (quoting Ferguson v. Marshall Contractors, Inc., 745 A.2d 147, 150-51 (R.I. 2000)); see 75 Am. Jur. 2d Trial § 39 at 253 (noting that motions in limine are used to resolve pre-trial evidentiary disputes, not dispositive issues). Plaintiff avers that she intends to introduce at trial only evidence showing that Defendant knew or should have known of the dangers of asbestos exposure at the time of marketing of its asbestos-containing steam valves. Such evidence comports with the requirements of our State's failure-to-warn jurisprudence. See Raimbeault, 722 A.2d at 1063-64; Castrignano, 546 A.2d at 783; Thomas, 488 A.2d at 722. Thus, Defendant's alleged post-sale

duty to warn is not at issue. Because no evidentiary dispute is presented by Defendant's Motion, the Motion will not be addressed further and is denied. See BHG, Inc., 784 A.2d at 886.



**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.