

names of all defendants sued is prejudicial because many of these defendants have been dismissed from the case. Moreover, Plaintiff contends, the Complaint should not be read during the opening statement because Defendant has failed to identify any inconsistent statements in the Complaint.

It is true that admitted allegations averred in a complaint may constitute judicially binding facts. See L.T. Huddon, Inc. v. Swarovski Am. Ltd., 510 A.2d 158, 159 (R.I. 1986). Further, “pleadings in a pending case which are still active claims are . . . appropriate as evidence of inconsistency which may be used to impeach credibility.” Bengston v. Hines, 457 A.2d 247, 250 (R.I. 1983); see 88 C.J.S. Trial § 160 at 158 (noting that where “the pleadings are a part of the record in the case . . . either party may have the full benefit of any statements or admissions contained in the pleadings of the opposite party . . . insofar as they are admissions against interest”).

However, “[t]he function of the opening statement . . . is not to introduce actual evidence to the jury.” Avarista v. Aloisio, 672 A.2d 887, 892 (R.I. 1996); see 75 Am. Jur. 2d Trial § 429 at 654 (recognizing that “[o]pening statements are not evidence and should not be considered as such”). “Rather . . . ‘the proper function of an opening statement is to apprise the jury with reasonable succinctness what the issues are in the case that is about to be heard and what evidence [the litigants] expect to produce at trial in support of their respective positions.’” Aloisio, 672 A.2d at 892 (quoting State v. Byrnes, 433 A.2d 658, 664 (R.I. 1981)); see 75 Am. Jur. 2d Trial § 429 at 653-54. Reading admitted allegations as facts to the jury during the opening statement would expose the jury to more than an explanation of the general nature of the action and could confuse the issues presented during the trial. See Mullen v. Devenney, 183 N.W. 350, 352 (Minn. 1921) (holding that the parties could not read the pleadings during the

opening statement because it would confuse the issues and detract from evidence presented during trial); see 88 C.J.S. Trial § 263 at 264. The purposes proffered by Defendant in support of reading the Complaint during the opening statement, moreover, are better served during the course of trial, when the full panoply of trial tools is available to the parties. See Strong v. Williams, 460 P.2d 90, 91-92 (Mont. 1969) (finding that the trial court's refusal to allow the defendant to read the complaint during the opening statement was harmless error because the defendant could accomplish his stated goals during cross-examination). Accordingly, for the above reasons, 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.

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