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Donald Swain, Jr. et al. v. Alfa Laval, Inc. et al.

CV126026585S

**SUPERIOR COURT OF CONNECTICUT, JUDICIAL DISTRICT OF FAIRFIELD
AT BRIDGEPORT**

2015 Conn. Super. LEXIS 246

February 3, 2015, Decided

February 3, 2015, Filed

NOTICE: THIS DECISION IS UNREPORTED AND MAY BE SUBJECT TO FURTHER APPELLATE REVIEW. COUNSEL IS CAUTIONED TO MAKE AN INDEPENDENT DETERMINATION OF THE STATUS OF THIS CASE.

JUDGES: [*1] Barbara N. Bellis, J.

OPINION BY: Barbara N. Bellis

OPINION

MEMORANDUM OF DECISION RE MOTION FOR SUMMARY JUDGMENT (163.00) AND OBJECTION (211.00)

The defendant argues that there is no genuine issue of material fact and that after extensive discovery, there is no evidence that the plaintiff, Donald Swain, Jr., was exposed to asbestos by a product designed, manufactured, distributed, or sold by the defendant. In support of its motion, the defendant argues it cannot be held liable for another manufacturer's defective product. Through this

argument, the defendant attempts to disprove one theory of liability which the plaintiffs have not even alleged, that Donald Swain, Jr.'s injuries stem from after-applied insulation and after gasket and packing placed into the stream of commerce by other manufacturers. Given the broad allegations in the complaint, that "the defendants, through their agents and employees, mined, processed, manufactured, designed, tested and/or packaged various asbestos-containing products, and supplied, distributed, delivered, marketed and/or sold said asbestos-containing products to the employer(s) of the plaintiff or to others working at the various jobsites in Connecticut where the plaintiff [*2] was employed, or to third persons who, in turn, delivered and sold such products and materials to such employers or to others working at such jobsites for use of employees, including the plaintiff, the defendant's argument does not make it quite clear that it is entitled to judgment as a matter of law. The defendant has improperly attempted to shift the burden to the plaintiff. Accordingly, the motion is denied.

BELLIS, J.