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GAIL ELIZABETH WALASHEK, Individually and as successor-in-interest to THE ESTATE OF MICHAEL WALASHEK and THE ESTATE OF CHRISTOPHER LINDEN, et al., Plaintiffs, v. ASBESTOS CORPORATION LIMITED, et al., Defendants.

Case No.: 14cv1567 BTM(BGS)

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

2015 U.S. Dist. LEXIS 99712

July 23, 2015, Decided

July 23, 2015, Filed

COUNSEL: [*1] For Gail Elizabeth Walashek, individually and as successor-in-interest to the Estate of Michael Walashek and the Estate of Christopher Linden, Michelle Walashek, Keith Walashek, Laura Page, Christopher Linden, Plaintiffs: Jennifer L. Bartlett, LEAD ATTORNEY; Stuart J Purdy, LEAD ATTORNEY, Simon Greenstone Panatier Bartlett, Long Beach, CA.

For Aurora Pump Company, Defendant: Rod Jeffrey Cappy, LEAD ATTORNEY, Selman Breitman LLP, Los Angeles, CA.

For BW/IP International, Inc., (sued individually and as successor-in-interest to Byron Jackson Pump Company), Flowserve Corporation, (sued as successor-by-merger to Durco International), formerly known as The Duriron Company, Inc., Defendants: Madeleine Amadea Groseclose, Foley & Mansfield, PLLP, Los Angeles, CA.

For Cleaver Brooks, Inc., (sued individually and as successor-in-interest to Davis Engineering Company), formerly known as Aqua-Chem, Inc., doing business as Cleaver Brooks Division, Defendant: Shaun E. Swiger, Foley & Mansfield PLLP, Los Angeles, CA.

For Crown Cork & Seal Company, Inc., (sued individually and as successor-in-interest to Mundet Cork Company), Defendant: Arabelle Aportadera-Torres, LEAD ATTORNEY, Morris Polich & Purdy, [*2] Los Angeles, CA.

For Flowserve US, Inc., (sued as successor to Edward Valve, Inc. and as successor to BW/IP International, Inc. successor-in-interest to Byron Jackson Pump Company), Defendant: Anthony D Brosamle, LEAD ATTORNEY, Tucker Ellis & West LLP, Los Angeles, CA; Daniel James Kelly, LEAD ATTORNEY, Tucker Ellis LLP, San Francisco, CA.

For FMC Corporation, (sued individually and as successor-in-interest to Peerless Pump Company, Northern Pump Company fka Northern Fire Apparatus Company and Crosby Valve, Inc.), McNally Industries, LLC, (sued individually and as successor-in-interest to Northern Fire Apparatus Company), Sterling Fluid Systems (USA), LLC, formerly known as Peerless Pump Co., Defendants: Kevin D Jamison, Rochelle R Iletto, LEAD ATTORNEYS, Pond North, Los Angeles, CA; Russell R. Schatz, Jr., LEAD ATTORNEY, Pond North LLP, Los Angeles, CA.

For Foster Wheeler Energy Corporation, Defendant: Charles Park, LEAD ATTORNEY, Sara J. Savage, Hugo Parker, LLP, San Francisco, CA; David Blow, LEAD ATTORNEY, PRO HAC VICE, Sedgwick, LLP, Newark, NJ.

For Gardner Denver, Inc., Defendant: Charles Jenkins, LEAD ATTORNEY, Law Offices of Charles W. Jenkins, APC, Los Angeles, CA.

For IMO Industries, [*3] Inc., (sued individually and as successor-in-interest to Delaval Turbine, Inc. and also C.H. Wheeler Manufacturing Company), Defendant: Bobbie Rae Bailey, LEAD ATTORNEY, Leader and Berkon LLP, Los Angeles, CA.

For J.T. Thorpe & Son, Inc., Defendant: Alice K Loh, Reshma Bajaj, LEAD ATTORNEYS, Bassi Edlin Huie & Blum, San Francisco, CA.

For Lamons Gasket Company, (sued individually and as successor-by-merger to Lamons Metal Gasket Co.), Defendant: Vick K Mansourian, LEAD ATTORNEY, Perkins Coie LLP, Los Angeles, CA.

For Newco Valves, doing business as Newmans, Defendant: Ms. Stephanie M. Solomos, LEAD ATTORNEY, DeHay & Elliston LLP, Los Angeles, CA.

For Pfizer, Inc., Defendant: Justin E. Garratt, LEAD ATTORNEY, Tucker Ellis LLP, Los Angeles, CA.

For Velan Valve Corporation, Defendant: Glen R. Powell, LEAD ATTORNEY, Gordon & Rees, LLP, San Francisco, CA; Michael J Pietrykowski, LEAD ATTORNEY, Gordon & Rees LLP, Oakland, CA.

For Warren Pumps, LLC, Defendant: John F. Hughes, LEAD ATTORNEY, Law Offices of Gordon & Rees, LLP, San Francisco, CA; Richard R Ames, LEAD ATTORNEY, Gordon & Rees LLP, San Francisco, CA.

For Weir Valve & Controls USA, Inc., formerly known as Atwood & Morrill, Defendant: Mark [*4] S. Kannett, LEAD ATTORNEY, Becherer Kannett & Schweitzer, Emeryville, CA.

For The Goodyear Tire & Rubber Company, Defendant: Michael B. Giaquinto, LEAD ATTORNEY, Hawkins Parnell Tackston and Young LLP, Los Angeles, CA.

For Foster Wheeler LLC, Defendant: Charles Park,

LEAD ATTORNEY, Hugo Parker, LLP, San Francisco, CA; Edward R Hugo, LEAD ATTORNEY, Brydon Hugo & Parker, San Francisco, CA.

For Astra Flooring Company, Defendant: Francis D Pond, Kathleen B. Ebrahimi, Ketul D. Patel, Previn A Wick, LEAD ATTORNEYS, Pond North LLP, Los Angeles, CA.

For Fraser Boiler Service, Inc., Defendant: Kathleen B. Ebrahimi, Ketul D. Patel, Previn A Wick, LEAD ATTORNEYS, Pond North LLP, Los Angeles, CA.

For General Electric Company, Defendant: Derek S. Johnson, LEAD ATTORNEY, Walsworth Franklin Bevins & McCall, San Francisco, CA; Dylan Daniel Rudolph, LEAD ATTORNEY, Walsworth Franklin Bevins McCall LLP, San Francisco, CA; Katherine Gardiner, LEAD ATTORNEY, Walsworth, Franklin, Bevins & McCall LLP, San Francisco, CA.

For Georgia Pacific, LLC, Georgia Pacific, LLC: Steven K Hwang, LEAD ATTORNEY, Perkins Coie LLP, Los Angeles, CA.

For Hopeman Brothers, Inc., Defendant: Ehren Reno Cross, Jonathan E. Meislin, LEAD [*5] ATTORNEYS, Bassi, Edlin, Huie & Blum LLP, San Francisco, CA.

For M. Slayen and Associates, Inc., Respondent: Constance R. Fraenkel, Emily D Bergstrom, Mark S. Kannett, LEAD ATTORNEYS, Becherer Kannett & Schweitzer, Emeryville, CA.

For Plant Products & Supply Co., Respondent: Mary Margaret Ryan, LEAD ATTORNEY, Bishop Barry Drath, Emeryville, CA.

For Metropolitan Life Insurance Company, Respondent: Lisa M. Dowling, LEAD ATTORNEY, Steptoe & Johnson LLP, Los Angeles, CA.

For Parker-Hannifin Corporation, individually and as successor in interest, parent, alter ego and equitable trustee to Sacomo Manufacturing Co. and Sacomo-Sierra, Inc., Respondent: Ehren Reno Cross, LEAD ATTORNEYS, Bassi, Edlin, Huie & Blum LLP, San Francisco, CA.

JUDGES: Barry Ted Moskowitz, Chief United States District Judge.

OPINION BY: Barry Ted Moskowitz

OPINION

ORDER GRANTING CRANE CO.'S MOTION FOR SUMMARY JUDGMENT

On May 27, 2015, Crane Co. filed a motion for summary judgment against Plaintiffs. On June 29, 2015, Plaintiffs filed a notice of non-opposition to Crane Co.'s motion.

On June 17, 2014, Plaintiffs commenced this wrongful death and survival action in state court. The Complaint alleges that Michael Walshek's exposure to asbestos and asbestos-containing [*6] products while he was employed at the National Steel & Shipbuilding Co., resulted in severe and permanent injury and ultimately death. On June 27, 2014, this action was removed to federal court.

Crane Co. moves for summary judgment on the ground that Plaintiffs cannot show that the decedent was exposed to asbestos released from a product for which Crane Co. is legally responsible. In support of its motion, Crane Co. points to Plaintiffs' discovery responses. When responding to Crane Co.'s special interrogatories and document requests, Plaintiffs failed to identify any specific documents supporting Plaintiffs' contention that Mr. Walashek was exposed to asbestos-containing products for which Crane Co. is legally responsible. (Exs. B-E.)

When asked to identify persons with knowledge of Mr. Walashek's exposure to asbestos from Crane Co. products, Plaintiffs identified Jim Doud, Ron Gray, Frank

Walashek, "witnesses being identified in Plaintiffs' discovery and investigation," Plaintiffs' expert witnesses, and Crane Co.'s Person Most Knowledgeable and/or corporate representatives and/or employees/former employees. (Resp. to Special Interrogatory No. 2 (Ex. D).) However, Crane Co. deposed [*7] Mr. Doud, Mr. Gray, and Mr. Frank Walashek, and none of these witnesses provided evidence that Mr. Walashek encountered any asbestos-containing material made, sold, or otherwise placed into the stream of commerce by Crane Co. (Exs. 7, 8, 9.)

Crane Co. has satisfied its initial burden of production on summary judgment by showing that Plaintiffs have insufficient evidence of an essential element of their case -- i.e., that Mr. Walashek was exposed to Crane Co.'s asbestos-containing product. Therefore, the burden shifts to Plaintiffs, who must produce enough evidence to create a genuine issue of material fact. See *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). Plaintiffs have not submitted any evidence in opposition to the motion and have instead filed a notice of non-opposition.

Therefore, the Court **GRANTS** Crane Co.'s motion for summary judgment [Doc. 210] against Plaintiffs.

IT IS SO ORDERED.

Dated: July 23, 2015

/s/ Barry Ted Moskowitz

Barry Ted Moskowitz, Chief Judge

United States District Court