

Gay v. A.O. Smith Corp.

United States District Court for the Western District of Pennsylvania

April 27, 2021, Decided; April 28, 2021, Filed

Civil Action No. 2 :19-cv-1311

Reporter

2021 U.S. Dist. LEXIS 84847 *

CARL E. GAY, Plaintiff; v. A.O. SMITH CORPORATION, et al., Defendants.

Core Terms

asbestos, pumps, manufactured, summary judgment, proximity, products, regularity, frequency, exposure, **asbestos**-containing, mesothelioma, exposed to **asbestos**, substantial factor, exposed, reasons

Counsel: [*1] For Aurora Pump, BLUE M CORPORATION, DEZURIK INC., Industrial Holdings Corporation, CARBORUNDUM CORPORATION, Industrial Holdings Corporation, formerly known as, Lindberg, Counter Claimants: Joseph R. Schaper, LEAD ATTORNEY, Maron Marvel Bradley Anderson & Tardy, Pittsburgh PA; James P. Hadden, LEAD ATTORNEY, Maron Mavel Bfradley & Anderson P.A., Philadelphia PA.

For Flowserve Corporation, DURAMETALLIC CORPORATION, Flowserve Corporation, DURIRON COMPANY INC., Flowserve Corporation, formerly known as, Counter Claimants: Christine M. Crimarki, LEAD ATTORNEY, Goldfein & Joseph PC, Philadelphia PA; Melissa Devich Cochran, LEAD ATTORNEY, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; Edward A. Miller, LEAD ATTORNEY, Steptoe & Johnson PLLC, Canonsburg PA.

For FLOWSERVE US INC., f/k/a Flowserve FSD Corp. successor to Valtek International, FLOWSERVE US INC., solely as successor to Nordstrom Audco Inc. Edward Valves inc. Nordstrom Valves Inc. and Rockwell Manufacturing Company, Counter Claimants: Deborah

A. Beck, Goldfein & Joseph P.C., Philadelphia PA; Zachary Smith, LEAD ATTORNEY, Goldfein & Joseph P.C., Philadelphia PA; Christine M. Crimarki, Goldfein & Joseph PC; Melissa Devich Cochran, [*2] Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; John A. Turlik, LEAD ATTORNEY, PRO HAC VICE, Segal McCambridge Singer & Mahoney, Philadelphia PA.

For FLSMIDTH DORR-OLIVER INC., as successor-in-interest to Keller/Dorr-Oliver Boiler Company, Counter Claimant: Joseph R. Schaper, Maron Marvel Bradley Anderson & Tardy, Pittsburgh PA.

For Foseco Inc., Counter Claimant: Terry A. Schrock, LEAD ATTORNEY, Maron Marvel Bradley Anderson & Tardy LLC, Pittsburgh PA.

For Gardner Denver Inc., Gardner Denver Inc., Zurn Industries, also known as, Zurn Industries, ERIE CITY IRON WORKS, Counter Claimants: Melissa Devich Cochran, LEAD ATTORNEY, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; Edward A. Miller, LEAD ATTORNEY, Steptoe & Johnson PLLC, Canonsburg PA.

For Hajoca Corporation, Counter Claimant: Robert L Hogan, Rawle & Henderson LLP, Pittsburgh PA; Julie Nord Friedman, Robert L Hogan, LEAD ATTORNEY, Rawle & Henderson LLP, Pittsburgh PA.

For Parker-Hanifin Corporation, Riley Power Inc., BABCOCK BORSIG POWER INC., Riley Power Inc., DB RILEY INC., Riley Power Inc., formerly known as, Riley Power Inc., RILEY STOKER CORPORATION, Counter Claimants: Eric K. Falk, LEAD ATTORNEY, Davies McFarland [*3] & Carroll, Pittsburgh PA; Robert L Hogan, Rawle & Henderson LLP, Pittsburgh PA; Julie Nord Friedman, LEAD ATTORNEY, Rawle &

Henderson LLP, Pittsburgh PA.

LEAD ATTORNEYS, Spilman Thomas & Battle PLLC, Pittsburgh PA.

For The Goodyear Tire & Rubber Company, Counter Claimant: John C. McMeekin II, LEAD ATTORNEY, Rawle & Henderson LLP, Philadelphia PA; Robert L Hogan, Rawle & Henderson LLP, Pittsburgh PA; Julie Nord Friedman, LEAD ATTORNEY, Rawle & Henderson LLP, Pittsburgh PA.

For BW/IP INC., Counter Defendant: John A. Turlik, LEAD ATTORNEY, PRO HAC VICE, Segal McCambridge Singer & Mahoney, Philadelphia PA.

For Velan Valve Corporation, Counter Claimant: Joseph R. Schaper, LEAD ATTORNEY, Maron Marvel Bradley Anderson & Tardy, Pittsburgh PA.

For Carver Pump Company, Counter Defendant: Katherine A. Lowery, LEAD ATTORNEY, Kelley Jasons McGowan Spinelli Hanna & Reber LLP, Pittsburgh PA; James Murray Leety, LEAD ATTORNEY, Lewis Brisbois Bisgaard & Smith, Pittsburgh PA; Christopher S. Arnold, LEAD ATTORNEY, Pittsburgh PA.

For Alfa Laval Inc., Counter Defendant: Katherine A. Lowery, LEAD ATTORNEY, Kelley Jasons McGowan Spinelli Hanna & Reber LLP, Pittsburgh PA; James Murray Leety, LEAD ATTORNEY, Lewis Brisbois Bisgaard & Smith, Pittsburgh PA; Matthew J. Doz, LEAD ATTORNEY, Swartz Campbell LLC, Pittsburgh PA; Christopher S. Arnold, LEAD ATTORNEY, Pittsburgh PA.

For Certainteed Corporation, [*5] Counter Defendant: Jennifer E. Watson, LEAD ATTORNEY, Wilbraham Lawler & Buba, Pittsburgh PA.

For Chicago Bridge & Iron Company, Counter Defendant: Bryan S. Neft, LEAD ATTORNEY, Spilman Thomas & Battle PLLC, Pittsburgh PA.

For Allied Glove Corporation, Counter Defendant: Joseph D. Silvaggio, Willman & Arnold, Pittsburgh PA; Concetta A. Silvaggio, Ronald J. Richert, LEAD ATTORNEYS, Willman & Silvaggio, Pittsburgh PA; Edward O'Connell, Glenn A. Huetter Jr., Willman & Silvaggio LLP, Pittsburgh PA.

For Clark Reliance Corporation, and its division Jerguson Gage and Valve, Electrolux Home Products Inc., WCI OUTDOOR PRODUCTS INC., Electrolux Home Products Inc., formerly known as, Counter Defendants: Max T. Busatto, LEAD ATTORNEY, Vincent Scaglione Jr., LEAD ATTORNEY, Dickie McCamey & Chilcote, Pittsburgh PA.

For Ametek Inc., Counter Defendant: [*4] David Emil Lamm, Paul K. Vey, LEAD ATTORNEYS, Pietragallo Gordon Alfano Bosick & Raspanti LLP, Pittsburgh PA.

For Dravo Corporation, Counter Defendant: John W. Bruni, LEAD ATTORNEY, Litchfield Cavo, Pittsburgh PA; Michael J. Sechler, LEAD ATTORNEY, Litchfield Cavo LLP, Pittsburgh PA; Hilary C. Bonenberger, LEAD ATTORNEY, Swartz Campbell, Pittsburgh PA.

For Aurora Pump, Lindberg, BLUE M CORPORATION, DEZURIK INC., Counter Defendants: Joseph R. Schaper, LEAD ATTORNEY, Maron Marvel Bradley Anderson & Tardy, Pittsburgh PA; James P. Hadden, LEAD ATTORNEY, Maron Mavel Bfradley & Anderson P.A., Philadelphia PA.

For Eaton Corporation, as successor-in-interest to Cutler Hammer Inc. n/k/a Eaton Electrical Inc., Counter Defendant: Danielle M. Vugrinovich, Erin Margolin, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; Erin Margolin, LEAD ATTORNEY, Patrick Reilly, LEAD ATTORNEY, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA.

For Baker Hughes, a GE Company LLC, Counter Defendant: Philip P. Keating, LEAD ATTORNEY, Steptoe & Johnson PLLC, Canonsburg PA.

For Beazer East Inc, in its own right and as successor to Koppers Co. Inc. and other related companies including Thiem Corporation Beazer USA Inc. and Beazer PLC, Counter Defendant: Mark A. Fiorilli, Robert R. Leight,

For Firstenergy Corp., Counter Defendant: K. James Sullivan, Calfee Halter & Griswold LLP, [*6] Cleveland OH; Tracy S. Johnson, LEAD ATTORNEY, Calfee Halter & Griswold LLP, Cleveland OH.

For Flowserve Corporation, DURAMETALLIC CORPORATION, Flowserve Corporation, DURIRON COMPANY INC., Flowserve Corporation, formerly known as,, Counter Defendants: Christine M. Crimarki, LEAD ATTORNEY, Goldfein & Joseph PC, Philadelphia PA; Melissa Devich Cochran, LEAD ATTORNEY, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; Edward A. Miller, LEAD ATTORNEY, Steptoe & Johnson PLLC, Canonsburg PA.

For FLOWSERVE US INC., f/k/a Flowserve FSD Corp. successor to Valtek International, FLOWSERVE US INC., solely as successor to Nordstrom Audco Inc. Edward Valves inc. Nordstrom Valves Inc. and Rockwell Manufacturing Company, Counter Defendants: Deborah A. Beck, Goldfein & Joseph P.C., Philadelphia PA; Zachary Smith, LEAD ATTORNEY, Goldfein & Joseph P.C., Philadelphia PA; Christine M. Crimarki, Goldfein & Joseph PC; Melissa Devich Cochran, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; John A. Turlik, LEAD ATTORNEY, PRO HAC VICE, Segal McCambridge Singer & Mahoney, Philadelphia PA.

For FLSMIDTH DORR-OLIVER INC., as successor-in-interest to Keller/Dorr-Oliver Boiler Company, Counter Defendant: [*7] Joseph R. Schaper, Maron Marvel Bradley Anderson & Tardy, Pittsburgh PA.

For Fluor Enterprises Inc., Counter Defendant: Joseph R. Petrina, LEAD ATTORNEY, Zimmer Kunz PLLC, Pittsburgh PA.

For Foseco Inc., Counter Defendant: Terry A. Schrock, LEAD ATTORNEY, Maron Marvel Bradley Anderson & Tardy LLC, Pittsburgh PA.

For General Electric Company, Counter Defendant: David Speziali, LEAD ATTORNEY, PRO HAC VICE, Speziali Greenwald & Hawkins; Bryan S. Neft, LEAD ATTORNEY, Spilman Thomas & Battle PLLC, Pittsburgh PA; Kate Mercer-Lawson, Wheeler Trigg O'Donnell LLP, Denver CO; Erik David Nadolink, LEAD ATTORNEY, PRO HAC VICE, Wheeler Trigg O'Donnell LLP, Denver CO; Kate Mercer-Lawson, PRO HAC VICE, Wheeler Trigg O'Donnell LLP, Denver CO.

For Gould Electronics Inc., formerly known as, Gould

Electronics Inc., GD-TEK INC., Gould Electronics Inc., Incorrectly desiganted by Plaintiff as Gould Electronics Inc. f/k/a GD-TEK Inc., Counter Defendants: Christopher H. Jones, LEAD ATTORNEY, McElroy Deutsch Mulvaney & Carpenter LLP, Philadelphia PA.

For Hajoca Corporation, Counter Defendant: Robert L Hogan, Rawle & Henderson LLP, Pittsburgh PA; Julie Nord Friedman, Robert L Hogan, LEAD ATTORNEYS, Rawle & Henderson [*8] LLP, Pittsburgh PA.

For HOWDEN NORTH AMERICA INC., formerly known as, HOWDEN NORTH AMERICA INC., HOWDEN BUFFALO INC, Counter Defendants: Alba E Arriaga, Riley Hewitt Witte & Romano P.C., Pittsburgh PA; Sandra L. Alven, LEAD ATTORNEY, Riley Hewitt Witte & Romano P.C., Pittsburgh PA; Anne M. McFadden, LEAD ATTORNEY, Riley Hewitt Witte & Romano PC, Pittsburgh PA.

For Industrial Holdings Corporation, CARBORUNDUM CORPORATION, Industrial Holdings Corporation, formerly known as, Counter Defendants: Joseph R. Schaper, LEAD ATTORNEY, Maron Marvel Bradley Anderson & Tardy, Pittsburgh PA.

For Insul Company Inc., Counter Defendant: Joni M. Mangino, LEAD ATTORNEY, Zimmer Kunz, Pittsburgh PA.

For McMaster-Carr Supply Co., Counter Defendant: Ronald J. Richert, Willman & Silvaggio, Pittsburgh PA; Concetta A. Silvaggio, Ronald J. Richert, LEAD ATTORNEYS, Willman & Silvaggio, Pittsburgh PA; Edward O'Connell, Glenn A. Huetter Jr., Willman & Silvaggio LLP, Pittsburgh PA.

For Metropolitan Life Insurance Company, formerly known as, Metropolitan Life Insurance Company, METROPOLITAN INSURANCE COMPANY, Counter Defendants: Stewart R. Singer, LEAD ATTORNEY, Salmon Ricchezza Singer & Turchi, Philadelphia PA; Ronald [*9] L. Daugherty, Salmon Ricchezza Singer & Turchi LLP, Philadelphia PA.

For Minnotte Contracting Corporation, Counter Defendant: Joni M. Mangino, Zimmer Kunz, Pittsburgh PA; Christopher T. Yoskosky, LEAD ATTORNEY, Zimmer Kunz, Pittsburgh PA; Gregory C Scheuring,

LEAD ATTORNEY, Zimmer Kunz PLLC, Pittsburgh PA.

Scully Mansukhani LLP, Pittsburgh PA.

For MOYNO INC., Counter Defendant: Ronald J. Richert, Willman & Silvaggio, Pittsburgh PA; Concetta A. Silvaggio, Ronald J. Richert, LEAD ATTORNEYS, Willman & Silvaggio, Pittsburgh PA; Edward O'Connell, Glenn A. Huetter Jr., Willman & Silvaggio LLP, Pittsburgh PA.

For WTI Rust Holdings Inc., Counter Defendant: David James Singley, Dinsmore & Shohl, Pittsburgh PA; Michael Magee, LEAD ATTORNEY, Pietragallo Bosick & Gordon, Pittsburgh PA.

For NORTH AMERICAN MANUFACTURING CO., Counter Defendant: Richard C. Polley, LEAD ATTORNEY, Dickie McCamey & Chilcote P.C., Pittsburgh PA; Shannan Noe Cerrone, LEAD ATTORNEY, Two Ppg Place, Pittsburgh PA.

For Honeywell International Inc., f/k/a Allied Signal Inc. as successor-in-interest to the Bendix Corporation, IMO Industries Inc, DELAVAL TURBINE INC., IMO Industries Inc, DEVALCO CORPORATION INC., IMO Industries Inc, formerly known as, IMO Industries Inc, IMO [*11] DELAVAL INC., Parker-Hanifin Corporation, Riley Power Inc., BABCOCK BORSIG POWER INC., Riley Power Inc., DB RILEY INC., Riley Power Inc., formerly known as, Riley Power Inc., RILEY STOKER CORPORATION, Cross Claimants, Cross Defendants, Defendants: Eric K. Falk, LEAD ATTORNEY, Davies McFarland & Carroll, Pittsburgh PA; Robert L Hogan, Rawle & Henderson LLP, Pittsburgh PA; Julie Nord Friedman, LEAD ATTORNEY, Rawle & Henderson LLP, Pittsburgh PA.

For Parker-Hanifin Corporation, Counter Defendant: Eric K. Falk, LEAD ATTORNEY, Davies McFarland & Carroll, Pittsburgh PA; Robert L Hogan, Rawle & Henderson LLP, Pittsburgh PA; Julie Nord Friedman, LEAD ATTORNEY, Rawle & Henderson LLP, Pittsburgh PA.

For Power Piping Company, Counter Defendant: Concetta A. Silvaggio, Ronald J. Richert, LEAD ATTORNEYS, Willman & Silvaggio, Pittsburgh PA; Edward O'Connell, Willman & Silvaggio LLP, [*10] Pittsburgh PA.

For A.O. Smith Corporation, Mueller Steam Specialty, Cleaver-Brooks, AQUA-CHEM, Cleaver-Brooks, formerly known as, CLYDE UNION INC., d/b/a Clyde Union Pumps individually and as successor-by-merger to Union Pump Company, Cross Claimants, Cross Defendants, Defendants: Vincent P. Lamperski, Post & Schell P.C., Pittsburgh PA; Leo Gerard Daly, Vincent P. Lamperski, LEAD ATTORNEYS, Post & Schell P.C., Pittsburgh PA.

For SULZER PUMPS SOLUTIONS INC., Counter Defendant: Jenna Christine Hutchinson, Troutman Pepper Hamilton Sanders LLP, New York NY.

For ABB Inc., as successor to Brown Boveri (Individually and as successor-in-interest to ITE IMPERIAL CO f/k/a ITE CIRCUIT BREAKER COMPANY), Power Piping Company, BMI Refractory Services Inc., Cross Claimants, Cross Defendants, Defendants: Concetta A. Silvaggio, Ronald J. Richert, LEAD ATTORNEYS, Willman & Silvaggio, Pittsburgh PA; Edward [*12] O'Connell, Willman & Silvaggio LLP, Pittsburgh PA.

For Tuthill Corporation, Counter Defendant: John C. McMeekin II, LEAD ATTORNEY, Rawle & Henderson LLP, Philadelphia PA; Edward J. Chiodo, LEAD ATTORNEY, Rawle & Henderson LLP, Pittsburgh PA.

For United States Steel Corporation, Counter Defendant: J. Lawson Johnston, LEAD ATTORNEY, Scott D. Clements, LEAD ATTORNEY, Dickie McCamey & Chilcote P.C., Pittsburgh PA.

For Velan Valve Corporation, Counter Defendant: Joseph R. Schaper, LEAD ATTORNEY, Maron Marvel Bradley Anderson & Tardy, Pittsburgh PA.

For Aecom Energy & Construction Inc., CATALYTIC CONSTRUCTION COMPANY, Aecom Energy & Construction Inc., formerly known as, Aecom Energy & Construction Inc., URS ENERGY & CONSTURCTION INC., Cross Claimants, Cross Defendants, Defendants: Jennifer E. Watson, LEAD ATTORNEY, Wilbraham Lawler & Buba, Pittsburgh PA.

For WATTS REGULATOR CO., Counter Defendant: James B. Insco, LEAD ATTORNEY, Gordon Rees

For Ahlstrom Pumps LLC, Cross Claimant, Cross Defendant, Defendant: Jenna Christine Hutchinson, Troutman Pepper Hamilton Sanders LLP, New York NY.

Pittsburgh PA; Daniel E. Krauth, Samantha Quinn, Zimmer Kunz, Pittsburgh PA; Daniel E. Krauth, LEAD ATTORNEY, Zimmer Kunz, Pittsburgh PA.

For Air & Liquid Systems Corporation, successor-by-merger to Buffalo Pumps Inc., Cross Claimant, Cross Defendant, Defendant: Jennifer E. Watson, LEAD ATTORNEY, Wilbraham Lawler & Buba, Pittsburgh PA.

For ATWOOD & MORRILL CO. INC., WEIR VALVES AND CONTROLS USA INC, Cross Claimant, Cross Defendant, Defendant: Mallory P. Gold, Evashavik DiLucente & [*14] Tetlow LLC, Pittsburgh PA; Daniel E. Krauth, Samantha Quinn, Zimmer Kunz, Pittsburgh PA; Daniel E. Krauth, LEAD ATTORNEY, Zimmer Kunz, Pittsburgh PA.

For AIRTEK INC., Cross Claimant, Cross Defendant, Defendant: Richard C. Polley, Dickie McCamey & Chilcote P.C, Pittsburgh PA.

For Aurora Pump, Cross Claimant, Cross Defendant, Defendant: Joseph R. Schaper, LEAD ATTORNEY, Maron Marvel Bradley Anderson & Tardy, Pittsburgh PA; James P. Hadden, LEAD ATTORNEY, Maron Mavel Bfradley & Anderson P.A., Philadelphia PA.

For Ajax Magnethermic Corporation, Cross Claimant, Cross Defendant, Defendant: William J. Witte, LEAD ATTORNEY, Riley Hewitt Witte & Romano P.C., Pittsburgh PA.

For Baker Hughes, a GE Company LLC, Cross Claimant, Cross Defendant, Defendant: Philip P. Keating, LEAD ATTORNEY, Steptoe & Johnson PLLC, Canonsburg PA.

For Allied Glove Corporation, Cross Claimant, Cross Defendant, Defendant: Joseph D. Silvaggio, Willman & Arnold, Pittsburgh PA; Concetta A. Silvaggio, Ronald J. Richert, LEAD ATTORNEYS, Willman & Silvaggio, Pittsburgh [*13] PA; Edward O'Connell, Glenn A. Huetter Jr., Willman & Silvaggio LLP, Pittsburgh PA.

For Beazer East Inc, in its own right and as successor to Koppers Co. Inc. and other related companies including Thiem Corporation Beazer USA Inc. and Beazer PLC, Cross Claimant, Cross Defendant, Defendant: Mark A. Fiorilli, Robert R. Leight, LEAD ATTORNEYS, Spilman Thomas & Battle PLLC, Pittsburgh PA.

For Ameron International Corporation, Cross Claimant, Cross Defendant, Defendant: Edward A. Smallwood, LEAD ATTORNEY, Post & Schell P.C., Pittsburgh PA.

For Bechtel Corporation, Cross Claimant, Cross Defendant, Defendant: Daniel J. Sinclair, Dennis R. McEwen, LEAD ATTORNEYS, Eckert Seamans Cherin & Mellott, Pittsburgh PA; Alison R. Viola, LEAD ATTORNEY, Eckert Seamans Cherin & Mellott LLC, Pittsburgh PA.

For Ametek Inc., Cross Claimant, Cross Defendant, Defendant: David Emil Lamm, Paul K. Vey, LEAD ATTORNEYS, Pietragallo Gordon Alfano Bosick & Raspanti LLP, Pittsburgh PA.

For Armstrong International Inc., Cross Claimant, Cross Defendant, Defendant: Richard C. Polley, LEAD ATTORNEY, Dickie McCamey & Chilcote P.C, Pittsburgh PA; Shannan Noe Cerrone, LEAD ATTORNEY, Two Ppg Place, Pittsburgh PA.

For BLUE M CORPORATION, Cross Claimant, Cross Defendant, Defendant: Joseph R. Schaper, LEAD ATTORNEY, Maron [*15] Marvel Bradley Anderson & Tardy, Pittsburgh PA; James P. Hadden, LEAD ATTORNEY, Maron Mavel Bfradley & Anderson P.A., Philadelphia PA.

For Armstrong Pumps Inc., Cross Claimant, Cross Defendant, Defendant: Adam J. Warhola, LEAD ATTORNEY, Dickie McCamey & Chilcote, Pittsburgh PA.

For BRAND INSULATIONS INC., Cross Claimant, Cross Defendant, Defendant: David James Singley, Dinsmore & Shohl, Pittsburgh PA; Michael Magee, LEAD ATTORNEY, Pietragallo Bosick & Gordon, Pittsburgh PA.

For ATWOOD & MORRILL CO. INC., doing business as, Cross Claimant, Cross Defendant, Defendant: Mallory P. Gold, Evashavik DiLucente & Tetlow LLC,

For BROWN BOVERI INC., Cross Claimant, Cross Defendant, Defendant: Glenn A. Huetter Jr., Willman & Silvaggio LLP, Pittsburgh PA.

For BW/IP INC., Cross Claimant, Cross Defendant, Defendant: John A. Turlik, LEAD ATTORNEY, PRO HAC VICE, Segal McCambridge Singer & Mahoney, Philadelphia PA.

For Cameron International Corporation, COOPER CAMERON CORPORATION, Cameron International Corporation, formerly known as, Cross Claimants, Cross Defendants, Defendants: Nicholas J. Koch, LEAD ATTORNEY, Frost Brown Todd, Pittsburgh PA.

For Carrier Corporation, Cross Claimant, Cross Defendant, Defendant: Melissa Devich Cochran, LEAD ATTORNEY, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; Edward A. Miller, LEAD ATTORNEY, Steptoe & Johnson PLLC, Canonsburg PA.

For Carver Pump Company, Cross Claimant, Cross Defendant, Defendant: Katherine A. Lowery, LEAD ATTORNEY, Kelley [*16] Jasons McGowan Spinelli Hanna & Reber LLP, Pittsburgh PA; James Murray Leety, LEAD ATTORNEY, Lewis Brisbois Bisgaard & Smith, Pittsburgh PA; Christopher S. Arnold, LEAD ATTORNEY, Pittsburgh PA.

For CASHCO INC., Cross Claimant, Cross Defendant, Defendant: Danielle M. Vugrinovich, Erin Margolin, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; Danielle M. Vugrinovich, LEAD ATTORNEY, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA.

For CBS Corporation, f/k/a Viacom Inc. as Successor by Merger to CBS Corp. a Pennsylvania corporation f/k/a Westinghouse Electric Corporation, Cross Claimant, Cross Defendant, Defendant: Daniel J. Sinclair, Eckert Seamans Cherin & Mellott, Pittsburgh PA; Eric L. Horne, LEAD ATTORNEY, Eckert Seamans Cherin & Mellott, Pittsburgh PA.

For Cemline Corporation, Cross Claimant, Cross Defendant, Defendant: Jason M. English, Kyle T.

McGee, Richard E. Bliss, LEAD ATTORNEYS, Margolis Edelstein, Pittsburgh PA; Margolis Edelstein, LEAD ATTORNEY, Pittsburgh PA.

For Certainteed Corporation, Cross Claimant, Cross Defendant, Defendant: Jennifer E. Watson, LEAD ATTORNEY, Wilbraham Lawler & Buba, Pittsburgh PA.

For Chicago Bridge & Iron Company, Cross Claimant, Cross [*17] Defendant, Defendant: Bryan S. Neft, LEAD ATTORNEY, Spilman Thomas & Battle PLLC, Pittsburgh PA.

For Chicago Pneumatic Tool Company LLC, Cross Claimant, Cross Defendant, Defendant: Joni M. Mangino, LEAD ATTORNEY, Zimmer Kunz, Pittsburgh PA; Ryan Anthony Zeli, LEAD ATTORNEY, Zimmer Kunz PLLC, Pittsburgh PA.

For Clark Equipment Company, Cross Claimant, Cross Defendant, Defendant: Danielle M. Vugrinovich, Erin Margolin, Patrick Reilly, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; Danielle M. Vugrinovich, Erin Margolin, LEAD ATTORNEYS, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA.

For Clark Reliance Corporation, and its division Jerguson Gage and Valve, Cross Claimant, Cross Defendant, Defendant: Max T. Busatto, Vincent Scaglione Jr., LEAD ATTORNEYS, Dickie McCamey & Chilcote, Pittsburgh PA.

For Columbus McKinnon Corp., successor-by-merger to Lift Tech International Inc. and its Shaw-Box Hoist Division, Cross Claimant, Cross Defendant, Defendant: Kevin M. Ward, LEAD ATTORNEY, Swartz Campbell LLC, Pittsburgh PA.

For CRANE COMPANY INC., Cross Claimant, Cross Defendant, Defendant: Sarah M. Czapinski, LEAD ATTORNEY, K&L Gates, Pittsburgh PA; Michael J. Ross, K&L Gates LLP, [*18] Pittsburgh PA; Stephen R. Mlinac, LEAD ATTORNEY, Swartz Campbell LLC, Pittsburgh PA.

For DEZURIK INC., Cross Claimant, Cross Defendant, Defendant: Joseph R. Schaper, LEAD ATTORNEY,

Maron Marvel Bradley Anderson & Tardy, Pittsburgh PA; James P. Hadden, LEAD ATTORNEY, Maron Mavel Bfradley & Anderson P.A., Philadelphia PA.

PRODUCTS INC., Cross Claimant, Cross Defendant, Defendant: Max T. Busatto, Vincent Scaglione Jr., LEAD ATTORNEYS, Dickie McCamey & Chilcote, Pittsburgh PA.

For Donald McKay Smith Inc., Cross Claimant, Cross Defendant, Defendant: Joni M. Mangino, Zimmer Kunz, Pittsburgh PA; Christopher T. Yoskosky, LEAD ATTORNEY, Zimmer Kunz, Pittsburgh PA; Gregory C Scheuring, LEAD ATTORNEY, Zimmer Kunz PLLC, Pittsburgh PA.

For Evoqua Water Technologies LLC, in its own right and as successor-in-interest to Wallace & Tiernan, Cross Claimant, Cross Defendant, Defendant: Adam J. Warhola, Dickie McCamey & Chilcote, Pittsburgh PA.

For Dravo Corporation, Cross Claimant, Cross Defendant, Defendant: John W. Bruni, LEAD ATTORNEY, Litchfield Cavo, Pittsburgh PA; Michael J. Sechler, LEAD ATTORNEY, Litchfield Cavo LLP, Pittsburgh PA; Hilary C. Bonenberger, LEAD ATTORNEY, Swartz Campbell, Pittsburgh PA.

For Exelon Corporation, Cross Claimant, Cross Defendant, [*20] Defendant: Jennifer E. Watson, Wilbraham Lawler & Buba, Pittsburgh PA.

For Duquesne Light Company, Cross Claimant, Cross Defendant, Defendant: Cathy R. Gordon, LEAD ATTORNEY, Post & Schell PC, Pittsburgh PA.

For Firstenergy Corp., Cross Claimant, Cross Defendant, Defendant: K. James Sullivan, Calfee Halter & Griswold LLP, Cleveland OH; Tracy S. Johnson, LEAD ATTORNEY, Calfee Halter & Griswold LLP, Cleveland OH.

For Eaton Corporation, as successor-in-interest to Cutler Hammer Inc. n/k/a Eaton Electrical Inc., Cross Claimant, Cross Defendant, Defendant: Danielle M. Vugrinovich, Erin Margolin, Marshall Dennehey Warner Coleman & Goggin, [*19] Pittsburgh PA; Erin Margolin, Patrick Reilly, LEAD ATTORNEYS, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA.

For Flowserve Corporation, DURAMETALLIC CORPORATION, Cross Claimant, Cross Defendant, Defendant: Christine M. Crimarki, LEAD ATTORNEY, Goldfein & Joseph PC, Philadelphia PA; Melissa Devich Cochran, LEAD ATTORNEY, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; Edward A. Miller, LEAD ATTORNEY, Steptoe & Johnson PLLC, Canonsburg PA.

For ECODYNE HEAT EXCHANGERS INC., (incorrectly named as Ecodyne Corp.), Cross Claimant, Cross Defendant, Defendant: Erin Margolin, Patrick Reilly, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA.

For Flowserve Corporation, DURIRON COMPANY INC., Cross Claimant, Cross Defendant, Defendant: Christine M. Crimarki, LEAD ATTORNEY, Goldfein & Joseph PC, Philadelphia PA; Melissa Devich Cochran, LEAD ATTORNEY, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; Edward A. Miller, LEAD ATTORNEY, Steptoe & Johnson PLLC, Canonsburg PA.

For Eichleay Corporation, Cross Claimant, Cross Defendant, Defendant: Mallory P. Gold, LEAD ATTORNEY, Evashavik DiLucente & Tetlow LLC, Pittsburgh PA; Daniel E. Krauth, Samantha Quinn, LEAD ATTORNEYS, Zimmer Kunz, Pittsburgh PA.

For Flowserve Corporation, formerly known as, Cross Claimant, Cross Defendant, Defendant: Christine M. Crimarki, LEAD ATTORNEY, Goldfein & Joseph PC, Philadelphia PA; Melissa Devich Cochran, LEAD ATTORNEY, Marshall Dennehey Warner Coleman & Goggin, [*21] Pittsburgh PA; Edward A. Miller, LEAD ATTORNEY, Steptoe & Johnson PLLC, Canonsburg PA.

For Electrolux Home Products Inc., formerly known as, Cross Claimant, Cross Defendant, Defendant: Max T. Busatto, Vincent Scaglione Jr., LEAD ATTORNEYS, Dickie McCamey & Chilcote, Pittsburgh PA.

For Electrolux Home Products Inc., WCI OUTDOOR

For FLOWSERVE US INC., f/k/a Flowserve FSD Corp. successor to Valtek International, Cross Claimant,

Cross Defendant, Defendant: Deborah A. Beck, Goldfein & Joseph P.C., Philadelphia PA; Zachary Smith, LEAD ATTORNEY, Goldfein & Joseph P.C., Philadelphia PA; Christine M. Crimarki, Goldfein & Joseph PC; Melissa Devich Cochran, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; John A. Turlik, LEAD ATTORNEY, PRO HAC VICE, Segal McCambridge Singer & Mahoney, Philadelphia PA.

For FLOWSERVE US INC., solely as successor to Nordstrom Audco Inc. Edward Valves inc. Nordstrom Valves Inc. and Rockwell Manufacturing Company, Cross Claimant, Cross Defendant, Defendant: Deborah A. Beck, Goldfein & Joseph P.C., Philadelphia PA; Zachary Smith, LEAD ATTORNEY, Goldfein & Joseph P.C., Philadelphia PA; Christine M. Crimarki, Goldfein & Joseph PC; Melissa Devich Cochran, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; John A. Turlik, LEAD ATTORNEY, PRO HAC VICE, Segal McCambridge Singer & Mahoney, Philadelphia PA.

For FLSMIDTH DORR-OLIVER INC., as successor-in-interest to Keller/Dorr-Oliver Boiler Company, [*22] Cross Claimant, Cross Defendant, Defendant: Joseph R. Schaper, Maron Marvel Bradley Anderson & Tardy, Pittsburgh PA.

For Flsmidth Inc., formerly known as, Cross Claimant, Cross Defendant, Defendant: Danielle M. Vugrinovich, Ryan M. Krescanko, LEAD ATTORNEYS, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA.

For Flsmidth Inc., FULLER COMPANY, Cross Claimant, Cross Defendant, Defendant: Danielle M. Vugrinovich, Ryan M. Krescanko, LEAD ATTORNEYS, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA.

For Fluor Constructors International, also known as, Cross Claimant, Cross Defendant, Defendant: Joseph R. Petrina, LEAD ATTORNEY, Zimmer Kunz PLLC, Pittsburgh PA.

For Fluor Constructors International, FLUOR CORPORATION, Cross Claimant, Cross Defendant, Defendant: Joseph R. Petrina, LEAD ATTORNEY, Zimmer Kunz PLLC, Pittsburgh PA.

For Fluor Corporation, Fluor Enterprises Inc., Cross Claimants, Cross Defendants, Defendants: Joseph R. Petrina, LEAD ATTORNEY, Zimmer Kunz PLLC, Pittsburgh PA.

For Foseco Inc., Cross Claimant, Cross Defendant, Defendant: Terry A. Schrock, LEAD ATTORNEY, Maron Marvel Bradley Anderson & Tardy LLC, Pittsburgh PA.

For Foster Wheeler LLC, Cross Claimant, Cross Defendant, [*23] Defendant: Kathryn L. Johnston, LEAD ATTORNEY, Reed Luce Tosh Wolford & Douglass, Beaver PA; Dennis F. Wolford, LEAD ATTORNEY, ReedTosh Wolford & Douglass, Beaver PA.

For Gardner Denver Inc., Zurn Industries, also known as, Zurn Industries, ERIE CITY IRON WORKS, Cross Claimants, Cross Defendants, Defendants: Melissa Devich Cochran, LEAD ATTORNEY, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; Edward A. Miller, LEAD ATTORNEY, Steptoe & Johnson PLLC, Canonsburg PA.

For General Electric Company, Cross Claimant, Cross Defendant, Defendant: David Speziali, LEAD ATTORNEY, PRO HAC VICE, Speziali Greenwald & Hawkins; Bryan S. Neft, LEAD ATTORNEY, Spilman Thomas & Battle PLLC, Pittsburgh PA; Kate Mercer-Lawson, Wheeler Trigg O'Donnell LLP, Denver CO; Erik David Nadolink, LEAD ATTORNEY, PRO HAC VICE, Wheeler Trigg O'Donnell LLP, Denver CO; Kate Mercer-Lawson, PRO HAC VICE, Wheeler Trigg O'Donnell LLP, Denver CO.

For Gould Electronics Inc., formerly known as, Gould Electronics Inc., GD-TEK INC., Gould Electronics Inc., Incorrectly designated by Plaintiff as Gould Electronics Inc. f/k/a GD-TEK Inc., Cross Claimants, Cross Defendants, Defendants: Christopher H. Jones, LEAD ATTORNEY, McElroy [*24] Deutsch Mulvaney & Carpenter LLP, Philadelphia PA.

For Greene Tweed & Company Inc., Cross Claimant, Cross Defendant, Defendant: Kathryn L. Johnston, LEAD ATTORNEY, Reed Luce Tosh Wolford & Douglass, Beaver PA; Dennis F. Wolford, LEAD ATTORNEY, ReedTosh Wolford & Douglass, Beaver PA.

For Hajoca Corporation, Cross Claimant, Cross Defendant, Defendant: Robert L Hogan, Rawle & Henderson LLP, Pittsburgh PA; Julie Nord Friedman, Robert L Hogan, LEAD ATTORNEYS, Rawle & Henderson LLP, Pittsburgh PA.

For Honeywell Inc., Cross Claimant, Cross Defendant, Defendant: Eric W. Santos, Mark T. Caloyer, LEAD ATTORNEYS, Lewis Brisbois, Pittsburgh PA; Donald H. Smith, LEAD ATTORNEY, LEWIS BRISBOIS BISGAARD & SMITH LLP, Pittsburgh PA; Trisha R. Hudkins, LEAD ATTORNEY, Lewis Brisbois Bisgaard and Smith LLP, Pittsburgh PA.

For HOWDEN NORTH AMERICA INC., formerly known as, HOWDEN NORTH AMERICA INC., HOWDEN BUFFALO INC, Cross Claimants, Cross Defendants, Defendants: Alba E Arriaga, Riley Hewitt Witte & Romano P.C., Pittsburgh PA; Sandra L. Alven, LEAD ATTORNEY, Riley Hewitt Witte & Romano P.C., Pittsburgh PA; Anne M. McFadden, LEAD ATTORNEY, Riley Hewitt Witte & Romano PC, Pittsburgh PA.

For Hunter Sales Corporation, [*25] Cross Claimant, Cross Defendant, Defendant: Kelly L Smith, Post & Schell P.C., Pittsburgh PA; Edward A. Smallwood, Kelly L Smith, LEAD ATTORNEYS, Post & Schell P.C., Pittsburgh PA; Steven D. Evans, LEAD ATTORNEY, Post & Schell PC, Pittsburgh PA.

For I.U. North America Inc., as successor by merger to The Garp Company formerly known as The Gage Company formerly known as Pittsburgh Gage and Supply Company, Cross Claimant, Cross Defendant, Defendant: Jennifer E. Watson, LEAD ATTORNEY, Wilbraham Lawler & Buba, Pittsburgh PA.

For Industrial Holdings Corporation, CARBORUNDUM CORPORATION, Industrial Holdings Corporation, formerly known as, Cross Claimants, Cross Defendants, Defendants: Joseph R. Schaper, LEAD ATTORNEY, Maron Marvel Bradley Anderson & Tardy, Pittsburgh PA.

For Ingersoll-Rand Corporation, Cross Claimant, Cross Defendant, Defendant: Michael J. Sechler, LEAD ATTORNEY, Litchfield Cavo LLP, Pittsburgh PA; Edward A. Smallwood, Kelly L Smith, Leo Gerard Daly,

LEAD ATTORNEYS, Post & Schell P.C., Pittsburgh PA.

For Insul Company Inc., Cross Claimant, Cross Defendant, Defendant: Joni M. Mangino, LEAD ATTORNEY, Zimmer Kunz, Pittsburgh PA.

For J-M Manufacturing Company Inc., Cross Claimant, [*26] Cross Defendant, Defendant: Daniel R. Bentz, LEAD ATTORNEY, Marks O'Neill O'Brien Doherty & Kelly, Pittsburgh PA; John M. Schollaert, Sarah Boehme, LEAD ATTORNEYS, Marks O'Neill O'Brien Doherty & Kelly PC, Pittsburgh PA.

For John Crane Inc., Cross Claimant, Cross Defendant, Defendant: Edward A. Schenck, LEAD ATTORNEY, Cipriani & Warner P.C., Pittsburgh PA.

For Joy Global Surface Mining Inc., formerly known as, Joy Global Surface Mining Inc., HARNISCHFEGER CORPORATION, Joy Global Surface Mining Inc., P&H MINING EQUIPMENT, Cross Claimants, Cross Defendants, Defendants: David Emil Lamm, Paul K. Vey, LEAD ATTORNEYS, Pietragallo Gordon Alfano Bosick & Raspanti LLP, Pittsburgh PA.

For Joy Global Underground Mining LLC, formerly known as, Joy Global Underground Mining LLC, JOY TECHNOLOGIES INC., Cross Claimants, Cross Defendants, Defendants: Melissa Devich Cochran, LEAD ATTORNEY, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; Edward A. Miller, LEAD ATTORNEY, Steptoe & Johnson PLLC, Canonsburg PA.

For Lindberg, Cross Claimant, Cross Defendant, Defendant: Joseph R. Schaper, LEAD ATTORNEY, Maron Marvel Bradley Anderson & Tardy, Pittsburgh PA; James P. Hadden, LEAD ATTORNEY, Maron Mavel [*27] Bfradley & Anderson P.A., Philadelphia PA.

For Lockheed Martin Corporation, Cross Claimant, Cross Defendant, Defendant: Richard C. Polley, Dickie McCamey & Chilcote P.C, Pittsburgh PA.

For M.S. JACOBS & ASSOCIATES INC., Cross Claimant, Cross Defendant, Defendant: Daniel J. Cuddy, LEAD ATTORNEY, Daniel J Cuddy Attorney at Law, Pittsburgh PA; Joni M. Mangino, LEAD

ATTORNEY, Zimmer Kunz, Pittsburgh PA.

For Manchester Tank, Division of McWane Inc., Cross Claimant, Cross Defendant, Defendant: Erin Margolin, Patrick Reilly, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; Danielle M. Vugrinovich, LEAD ATTORNEY, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA.

For Marmon Holdings Inc., Cross Claimant, Cross Defendant, Defendant: Erin Margolin, Patrick Reilly, LEAD ATTORNEYS, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA.

For MCCARLS INC., Cross Claimant, Cross Defendant, Defendant: Daniel R. Bentz, LEAD ATTORNEY, Marks O'Neill O'Brien Doherty & Kelly, Pittsburgh PA; John M. Schollaert, LEAD ATTORNEY, Marks O'Neill O'Brien Doherty & Kelly PC, Pittsburgh PA; Jennifer E. Watson, Wilbraham Lawler & Buba, Pittsburgh PA.

For MCJUNKIN REDMAN CORPORATION, formerly known as, [*28] Cross Claimant, Cross Defendant, Defendant: Joni M. Mangino, LEAD ATTORNEY, Zimmer Kunz, Pittsburgh PA.

For MCJUNKIN REDMAN CORPORATION, MRC GLOBAL (US) INC., Cross Claimant, Cross Defendant, Defendant: Joni M. Mangino, LEAD ATTORNEY, Zimmer Kunz, Pittsburgh PA.

For McMaster-Carr Supply Co., Cross Claimant, Cross Defendant, Defendant: Ronald J. Richert, Willman & Silvaggio, Pittsburgh PA; Concetta A. Silvaggio, Ronald J. Richert, LEAD ATTORNEYS, Willman & Silvaggio, Pittsburgh PA; Edward O'Connell, Glenn A. Huetter Jr., Willman & Silvaggio LLP, Pittsburgh PA.

For McNeil (Ohio) Corporation, Cross Claimant, Cross Defendant, Defendant: Concetta A. Silvaggio, Ronald J. Richert, LEAD ATTORNEYS, Willman & Silvaggio, Pittsburgh PA; Edward O'Connell, Glenn A. Huetter Jr., Willman & Silvaggio LLP, Pittsburgh PA.

For Milwaukee Valve Company, Cross Claimant, Cross Defendant, Defendant: Jennifer E. Watson, LEAD ATTORNEY, Wilbraham Lawler & Buba, Pittsburgh PA.

For Mine Safety Appliance Company, Cross Claimant, Cross Defendant, Defendant: Joseph F. Butcher, LEAD ATTORNEY, Zimmer Kunz P.L.L.C., Pittsburgh PA; Gregory C Scheuring, LEAD ATTORNEY, Zimmer Kunz PLLC, Pittsburgh PA.

For Minnotte Contracting [*29] Corporation, Cross Claimant, Cross Defendant, Defendant: Joni M. Mangino, Zimmer Kunz, Pittsburgh PA; Christopher T. Yoskosky, LEAD ATTORNEY, Zimmer Kunz, Pittsburgh PA; Gregory C Scheuring, LEAD ATTORNEY, Zimmer Kunz PLLC, Pittsburgh PA.

For Morgan Engineering Systems Inc., Cross Claimant, Cross Defendant, Defendant: Joni M. Mangino, LEAD ATTORNEY, Zimmer Kunz, Pittsburgh PA; Ryan Anthony Zeli, LEAD ATTORNEY, Zimmer Kunz PLLC, Pittsburgh PA.

For MOYNO INC., Cross Claimant, Cross Defendant, Defendant: Ronald J. Richert, Willman & Silvaggio, Pittsburgh PA; Concetta A. Silvaggio, Ronald J. Richert, LEAD ATTORNEYS, Willman & Silvaggio, Pittsburgh PA; Edward O'Connell, Glenn A. Huetter Jr., Willman & Silvaggio LLP, Pittsburgh PA.

For MW Custom Papers LLC, also known as, Cross Claimant, Cross Defendant, Defendant: Danielle M. Vugrinovich, Erin Margolin, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; Danielle M. Vugrinovich, Ryan M. Krescanko, LEAD ATTORNEYS, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA.

For MW Custom Papers LLC, MEAD, Cross Claimant, Cross Defendant, Defendant: Danielle M. Vugrinovich, Erin Margolin, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh [*30] PA; Danielle M. Vugrinovich, Ryan M. Krescanko, LEAD ATTORNEYS, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA.

For Nagle Pumps Inc., Cross Claimant, Cross Defendant, Defendant: Adam J. Warhola, LEAD ATTORNEY, Dickie McComey & Chilcote, Pittsburgh PA; Richard C. Polley, LEAD ATTORNEY, Dickie McComey & Chilcote P.C, Pittsburgh PA.

For NORTEK GLOBAL HVAC LLC, as successor by merger to Reznor LLC (incorrectly named herein;

correct naming as follows: Nortek Global HVAC LLC), Cross Claimant, Cross Defendant, Defendant: John A. Turlik, LEAD ATTORNEY, PRO HAC VICE, Segal McCambridge Singer & Mahoney, Philadelphia PA.

For NORTH AMERICAN MANUFACTURING CO., Cross Claimant, Cross Defendant, Defendant: Richard C. Polley, LEAD ATTORNEY, Dickie McCamey & Chilcote P.C, Pittsburgh PA; Shannan Noe Cerrone, LEAD ATTORNEY, Two Ppg Place, Pittsburgh PA.

For Ocean View Capital, formerly known as, Cross Claimant, Cross Defendant, Defendant: Leo Gerard Daly, Vincent P. Lamperski, Post & Schell P.C., Pittsburgh PA; Leo Gerard Daly, Vincent P. Lamperski, LEAD ATTORNEYS, Post & Schell P.C., Pittsburgh PA.

For Ocean View Capital, TRIANGLE PWC INC., Cross Claimant, Cross Defendant, Defendant: Leo Gerard [*31] Daly, Vincent P. Lamperski, Post & Schell P.C., Pittsburgh PA; Leo Gerard Daly, Vincent P. Lamperski, LEAD ATTORNEYS, Post & Schell P.C., Pittsburgh PA.

For Osram Sylvania Inc., in its own right and as successor-in-interest to GTE Products Corporation The Clark Controller Company and A.O. Smith Corporation, Cross Claimant, Cross Defendant, Defendant: Leo Gerard Daly, Vincent P. Lamperski, Post & Schell P.C., Pittsburgh PA; Vincent P. Lamperski, LEAD ATTORNEY, Post & Schell P.C., Pittsburgh PA.

For POWERMASTER PACIFIC PRODUCTS, also known as, Cross Claimant, Cross Defendant, Defendant: Robert L Hogan, Rawle & Henderson LLP, Pittsburgh PA; Julie Nord Friedman, Robert L Hogan, LEAD ATTORNEYS, Rawle & Henderson LLP, Pittsburgh PA.

For POWERMASTER PACIFIC PRODUCTS, PACIFIC PARTS INC., Cross Claimant, Cross Defendant, Defendant: Robert L Hogan, Rawle & Henderson LLP, Pittsburgh PA; Julie Nord Friedman, Robert L Hogan, LEAD ATTORNEYS, Rawle & Henderson LLP, Pittsburgh PA.

For RCH NEW CO. II LLC, f/k/a Robertson Ceco Corporation an alleged successor to H.H. Robertson Company, Cross Claimant, Cross Defendant,

Defendant: Jennifer E. Watson, Wilbraham Lawler & Buba, Pittsburgh PA.

For Research-Cottrell [*32] Inc., n/k/a AWT AIR COMPANY INC. incorrectly identified as Research Cottrell Cooling Inc. n/k/a AWT Air Company Inc., Cross Claimant, Cross Defendant, Defendant: Joseph L. Orszulak II, LEAD ATTORNEY, Riley Hewitt Witte & Romano P.C., Pittsburgh PA.

For Reunion Industries Inc., Cross Claimant, Cross Defendant, Defendant: Edward A. Smallwood, Joshua M. Brick, Post & Schell P.C., Pittsburgh PA; Edward A. Smallwood, Joshua M. Brick, LEAD ATTORNEYS, Post & Schell P.C., Pittsburgh PA.

For Rust Engineering & Construction Inc., formerly known as, Cross Claimant, Cross Defendant, Defendant: David James Singley, Dinsmore & Shohl, Pittsburgh PA; Michael Magee, LEAD ATTORNEY, Pietragallo Bosick & Gordon, Pittsburgh PA.

For Rust Engineering & Construction Inc., THE RUST ENGINEERING COMPANY, Cross Claimant, Cross Defendant, Defendant: David James Singley, Dinsmore & Shohl, Pittsburgh PA; Michael Magee, LEAD ATTORNEY, Pietragallo Bosick & Gordon, Pittsburgh PA.

For SAINT-GOBAIN ABRASIVES INC., formerly known as, SAINT-GOBAIN ABRASIVES INC., NORTON COMPANY, Cross Claimants, Cross Defendants, Defendants: Jennifer E. Watson, LEAD ATTORNEY, Wilbraham Lawler & Buba, Pittsburgh PA.

For Schneider Electric USA [*33] Inc., formerly known as, Cross Claimant, Cross Defendant, Defendant: Michael J. Zukowski, LEAD ATTORNEY, Fox Rothschild LLC, Pittsburgh PA; Jeffrey N Kinsey, Tausha Saunders, Fox Rothschild LLP, Pittsburgh PA; Jeffrey N Kinsey, LEAD ATTORNEY, Fox Rothschild LLP, Pittsburgh PA.

For Schneider Electric USA Inc., SQUARE D COMPANY, Cross Claimant, Cross Defendant, Defendant: Michael J. Zukowski, LEAD ATTORNEY, Fox Rothschild LLC, Pittsburgh PA; Jeffrey N Kinsey, Tausha Saunders, Fox Rothschild LLP, Pittsburgh PA; Jeffrey N Kinsey, LEAD ATTORNEY, Fox Rothschild

LLP, Pittsburgh PA.

For Siemens Industry Inc, Cross Claimant, Cross Defendant, Defendant: James B. Insko, Gordon Rees Scully Mansukhani LLP, Pittsburgh PA.

For Spirax Sarco Inc., Cross Claimant, Cross Defendant, Defendant: Max T. Busatto, Vincent Scaglione Jr., LEAD ATTORNEYS, Dickie McCarney & Chilcote, Pittsburgh PA.

For Sterling Fluid Systems (USA) LLC, Cross Claimant, Cross Defendant, Defendant: W. Matthew Reber, LEAD ATTORNEY, Kelley Jasons McGowan Spinelli Hanna & Reber, Philadelphia PA; Katherine A. Lowery, LEAD ATTORNEY, Kelley Jasons McGowan Spinelli Hanna & Reber LLP, Pittsburgh PA; Matthew J. Doz, LEAD ATTORNEY, Swartz Campbell [*34] LLC, Pittsburgh PA; Christopher S. Arnold, LEAD ATTORNEY, Pittsburgh PA.

For SULZER PUMPS (US) INC., Cross Claimant, Cross Defendant, Defendant: Jenna Christine Hutchinson, Troutman Pepper Hamilton Sanders LLP, New York NY; Ralph C. Surman Jr., LEAD ATTORNEY, Troutman Pepper LLP, Pittsburgh PA.

For SULZER PUMPS SOLUTIONS INC., Cross Claimant, Cross Defendant, Defendant: Jenna Christine Hutchinson, Troutman Pepper Hamilton Sanders LLP, New York NY.

For Sunbeam Products Inc., as success-in-interest to Sunbeam Corporation, Cross Claimant, Cross Defendant, Defendant: Danielle M. Vugrinovich, Ryan M. Krescanko, LEAD ATTORNEYS, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA; Michael A. Karaffa, LEAD ATTORNEY, Union Trust Building, Moon Township PA.

For SUNDYNE LLC, Cross Claimant, Cross Defendant, Defendant: Ronald J. Richert, Willman & Silvaggio, Pittsburgh PA; Concetta A. Silvaggio, Ronald J. Richert, LEAD ATTORNEYS, Willman & Silvaggio, Pittsburgh PA; Edward O'Connell, Willman & Silvaggio LLP, Pittsburgh PA.

For The Goodyear Tire & Rubber Company, Cross

Claimant, Cross Defendant, Defendant: John C. McMeekin II, LEAD ATTORNEY, Rawle & Henderson LLP, Philadelphia PA; Robert L Hogan, [*35] Rawle & Henderson LLP, Pittsburgh PA; Julie Nord Friedman, LEAD ATTORNEY, Rawle & Henderson LLP, Pittsburgh PA.

For The Marley-Wylain Company, incorrectly designated as WEIL-McLAIN COMPANY, Cross Claimant, Cross Defendant, Defendant: Christopher H. Jones, LEAD ATTORNEY, McElroy Deutsch Mulvaney & Carpenter LLP, Philadelphia PA.

For The Marley-Wylain Company, Incorrectly Designated by Plaintiff as Weil-McLain Company, Cross Claimant, Cross Defendant, Defendant: Christopher H. Jones, LEAD ATTORNEY, McElroy Deutsch Mulvaney & Carpenter LLP, Philadelphia PA.

For The Nash Engineering Company, Cross Claimant, Cross Defendant, Defendant: Edward A. Smallwood, LEAD ATTORNEY, Post & Schell P.C., Pittsburgh PA; Steven D. Evans, Post & Schell PC, Pittsburgh PA.

For The William Powell Company, Cross Claimant, Cross Defendant, Defendant: Edward A. Smallwood, LEAD ATTORNEY, Post & Schell P.C., Pittsburgh PA; Steven D. Evans, LEAD ATTORNEY, Post & Schell PC, Pittsburgh PA.

For Trane U.S. Inc., f/k/a American Standard Corporation f/k/a/ American Radiator & Standard Sanitary in its own right and as successor to Westinghouse Airbrake and/or WABCO, Cross Claimant, Cross Defendant, Defendant: Michael J. Sechler, [*36] LEAD ATTORNEY, Litchfield Cavo LLP, Pittsburgh PA; Edward A. Smallwood, Kelly L Smith, Leo Gerard Daly, LEAD ATTORNEYS, Post & Schell P.C., Pittsburgh PA.

For Union Carbide Corporation, Cross Claimant, Cross Defendant, Defendant: Eric A. Fischer, Katherine A. Lowery, LEAD ATTORNEYS, Kelley Jasons McGowan Spinelli Hanna & Reber LLP, Pittsburgh PA; Richard L. Walker, LEAD ATTORNEY, Kelley Jasons McGuire & Spinelli, Philadelphia PA; James Murray Leety, LEAD ATTORNEY, Lewis Brisbois Bisgaard & Smith, Pittsburgh PA; Matthew J. Doz, LEAD ATTORNEY, Swartz Campbell LLC, Pittsburgh PA; Christopher S.

Arnold, LEAD ATTORNEY, Pittsburgh PA.

For United Conveyor Corporation, Cross Claimant, Cross Defendant, Defendant: Jeanne Welch Sopher, LEAD ATTORNEY, Litchfield Cavo LLP, Pittsburgh PA.

For United States Steel Corporation, Cross Claimant, Cross Defendant, Defendant: J. Lawson Johnston, Scott D. Clements, LEAD ATTORNEYS, Dickie McCamey & Chilcote P.C., Pittsburgh PA.

For Velan Valve Corporation, Cross Claimant, Cross Defendant, Defendant: Joseph R. Schaper, LEAD ATTORNEY, Maron Marvel Bradley Anderson & Tardy, Pittsburgh PA.

For Viking Pump Inc., Cross Claimant, Cross Defendant, Defendant: Jennifer [*37] E. Watson, LEAD ATTORNEY, Wilbraham Lawler & Buba, Pittsburgh PA.

For Warren Pumps LLC, Cross Claimant, Cross Defendant, Defendant: Danielle M. Vugrinovich, Ryan M. Krescanko, LEAD ATTORNEYS, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh PA.

For Washington Group International, f/k/a Raytheon Engineers and Constructors Inc. and all its domestic subsidiaries including The Badger Company Inc. n/k/a URS Energy & Construction Inc., Cross Claimant, Cross Defendant, Defendant: Jason M. English, Kyle T. McGee, Richard E. Bliss, LEAD ATTORNEYS, Margolis Edelstein, Pittsburgh PA.

For Watson McDaniel Company, Cross Claimant, Cross Defendant, Defendant: Jason M. English, Kyle T. McGee, Richard E. Bliss, LEAD ATTORNEYS, Margolis Edelstein, Pittsburgh PA.

For WATTS REGULATOR CO., Cross Claimant, Cross Defendant, Defendant: James B. Insko, LEAD ATTORNEY, Gordon Rees Scully Mansukhani LLP, Pittsburgh PA.

For Wheelabrator Air Pollution Control Inc., Cross Claimant, Cross Defendant, Defendant: David James Singley, Dinsmore & Shohl, Pittsburgh PA; Michael Magee, LEAD ATTORNEY, Pietragallo Bosick & Gordon, Pittsburgh PA.

For Wheeling Rubber Products Inc., Cross Claimant, Cross Defendant, Defendant: [*38] Edward A. Smallwood, LEAD ATTORNEY, Post & Schell P.C., Pittsburgh PA.

For WT/HRC Corporation, formerly known as, Cross Claimant, Cross Defendant, Defendant: Concetta A. Silvaggio, Ronald J. Richert, LEAD ATTORNEYS, Willman & Silvaggio, Pittsburgh PA; Edward O'Connell, Glenn A. Huetter Jr., Willman & Silvaggio LLP, Pittsburgh PA.

For WT/HRC Corporation, WHITING CORPORATION, Cross Claimant, Cross Defendant, Defendant: Concetta A. Silvaggio, Ronald J. Richert, LEAD ATTORNEYS, Willman & Silvaggio, Pittsburgh PA; Edward O'Connell, Glenn A. Huetter Jr., Willman & Silvaggio LLP, Pittsburgh PA.

For WTI Rust Holdings Inc., Cross Claimant, Cross Defendant, Defendant: David James Singley, Dinsmore & Shohl, Pittsburgh PA; Michael Magee, LEAD ATTORNEY, Pietragallo Bosick & Gordon, Pittsburgh PA.

For Yuba Heat Transfer LLC, Cross Claimant, Cross Defendant, Defendant: Shannan Noe Cerrone, LEAD ATTORNEY, Two Ppg Place, Pittsburgh PA.

For A.R. Wilfley & Sons Inc., Cross Defendant, Defendant: Kimberly A. Martin-O'Bryan, LEAD ATTORNEY, Dehay & Elliston LLP, Charleston WV.

For Alfa Laval Inc., Cross Defendant: Katherine A. Lowery, LEAD ATTORNEY, Kelley Jasons McGowan Spinelli Hanna & Reber LLP, Pittsburgh [*39] PA; James Murray Leety, LEAD ATTORNEY, Lewis Brisbois Bisgaard & Smith, Pittsburgh PA; Matthew J. Doz, LEAD ATTORNEY, Swartz Campbell LLC, Pittsburgh PA; Christopher S. Arnold, LEAD ATTORNEY, Pittsburgh PA.

For ALLISA D. GAY, Executrix of the Estate of CARL E. GAY, Cross Defendant: Charles J. McLeigh, LEAD ATTORNEY, Goldberg Persky & White P.C., Pittsburgh PA.

For BorgWarner Morse TEC LLC, Cross Defendant, Defendant: Hunter A. McGeary Jr., LEAD ATTORNEY, McGeary Law Offices, Pittsburgh PA.

For CARL E. GAY, Cross Defendant: Charles J. McLeigh, Leif J. Ocheltree, LEAD ATTORNEYS, Goldberg Persky & White P.C., Pittsburgh PA; Jason T. Shipp, LEAD ATTORNEY, Goldberg Persky Jennings & White, Pittsburgh PA.

For Electric Boat Corporation, Cross Defendant, Defendant: James B. Insko, LEAD ATTORNEY, Gordon Rees Scully Mansukhani LLP, Pittsburgh PA.

For Firstenergy Corporation, Cross Defendant, Defendant: K. James Sullivan, LEAD ATTORNEY, Calfee Halter & Griswold LLP, Cleveland OH; Lindsey E. Sacher, LEAD ATTORNEY, PRO HAC VICE, Calfee Halter & Griswold LLP.

For General Dynamics Corporation, Cross Defendant: Erik C. Dimarco, Gordon Rees Scully Mansukhani LLP.

For Genuine Parts Company, Cross Defendant: **[*40]** Patrick A. Hewitt, LEAD ATTORNEY, Riley Hewitt Witte & Romano P.C., Pittsburgh PA; Alba E Arriaga, LEAD ATTORNEY, Riley Hewitt Witte & Romano P.C., Pittsburgh PA.

For Goulds Pumps LLC, Cross Defendant, Defendant: Aaron Arthur, LEAD ATTORNEY, Morgan Lewis & Bockius LLP, Philadelphia PA.

For Grinnell LLC, Cross Defendant, Defendant: For ITT INDUSTRIES INC., Johnson Controls Inc., York International Corporation, Cross Defendants, Defendants: Aaron Arthur, Morgan Lewis & Bockius LLP, Philadelphia PA.

For Kadant Inc., Cross Defendant: Laura L. Reinhart, LEAD ATTORNEY, Burns White LLC, Pittsburgh PA.

For Met-Pro Technologies LLC, incorrectly named as Met-Pro Corporation and its Dean Pump brand d/b/a Met-Pro Global Pump Solutions, Cross Defendant, Defendant: John C. McMeekin II, LEAD ATTORNEY, Rawle & Henderson LLP, Philadelphia PA; Edward J. Chiodo, LEAD ATTORNEY, Rawle & Henderson LLP,

Pittsburgh PA.

For Metropolitan Life Insurance Company, formerly known as, Metropolitan Life Insurance Company, METROPOLITAN INSURANCE COMPANY, Cross Defendants, Defendants: Stewart R. Singer, LEAD ATTORNEY, Salmon Ricchezza Singer & Turchi, Philadelphia PA; Ronald L. Daugherty, Salmon Ricchezza Singer & Turchi **[*41]** LLP, Philadelphia PA.

For Reading Crane and Engineering Company, Cross Defendant, Defendant: Christian W. Wrabley, David F. Ryan, Joni M. Mangino, LEAD ATTORNEYS, Zimmer Kunz, Pittsburgh PA.

For Siemens Industry Inc., in its own right and as successor-in-interest to I-T-E Circuit Breaker Company, Cross Defendant, Defendant: James B. Insko, LEAD ATTORNEY, Gordon Rees Scully Mansukhani LLP, Pittsburgh PA.

For SPX COOLING TECHNOLOGIES INC., formerly known as, SPX COOLING TECHNOLOGIES INC., MARLEY COOLING TECHNOLOGIES INC., SPX COOLING TECHNOLOGIES INC., THE MARLEY COOLING TOWER COMPANY, Cross Defendants, Defendants: Matthew R. Wimer, LEAD ATTORNEY, Wimer Law Offices, Oakmont PA; Matthew Wimer, Wimer Law Offices P.C, Oakmont PA.

For SURFACE COMBUSTION INC., Cross Defendant, Defendant: Patrick R. Malone, LEAD ATTORNEY, LeechTishman Fuscaldo & Lampl, Pittsburgh PA.

For Tuthill Corporation, Cross Defendant, Defendant: John C. McMeekin II, LEAD ATTORNEY, Rawle & Henderson LLP, Philadelphia PA; Edward J. Chiodo, LEAD ATTORNEY, Rawle & Henderson LLP, Pittsburgh PA.

For Union Tank Car Company, Cross Defendant, Defendant: Danielle M. Vugrinovich, LEAD ATTORNEY, Marshall Dennehey Warner Coleman & Goggin, **[*42]** Pittsburgh PA.

For ALLISA D. GAY, Executrix of the Estate of CARL E. GAY, Plaintiff: Charles J. McLeigh, LEAD ATTORNEY, Goldberg Persky & White P.C., Pittsburgh PA.

Judges: Hon. WILLIAM S. STICKMAN IV, UNITED STATES DISTRICT JUDGE.

Opinion by: WILLIAM S. STICKMAN IV

Opinion

MEMORANDUM OPINION

WILLIAM S. STICKMAN IV, United States District Judge

Plaintiff Allisa D. Gay ("Plaintiff") sued Defendant A.O. Smith Corp. ("A.O. Smith") and various manufacturers and distributors on October 8, 2019 in the Court of Common Pleas of Allegheny County, Pennsylvania and alleged that Decedent Carl E. Gay ("Decedent") developed mesothelioma from exposure to Defendant's **asbestos**-containing products. On October 11, 2019, Defendant General Electric Co. filed a Notice of Removal to the United States District Court for the Western District of Pennsylvania under [28 U.S.C. § 1446](#). Before the Court is A.O. Smith's Motion for Summary Judgment. (ECF No. 879). The Court must determine whether Plaintiff has properly identified A.O. Smith's product as a cause of Mr. Gay's disease and, ultimately, death. For the following reasons, Defendant's Motion is granted.

I. Background

This case involves an alleged **asbestos**-related injury because of Mr. Gay's employment in the [*43] United States Navy from 1946 to 1958, the United States Air Force from 1958 to 1967, General Electric Co. from 1967 to 1974, Stone and Webster from 1974 to 1989 and from his automotive work starting in the 1940s. (See ECF Nos. 1-1, 1-2). Mr. Gay was diagnosed with mesothelioma in June 2019. (*Id.* ¶ 165; ECF No. 675).

Mr. Gay was deposed over nine days—November 5-7, 11-13, 21-22, 25, 2019—and identified various manufacturers, suppliers and users of **asbestos** products. Mr. Gay died on April 12, 2020. (*Id.* ¶ 165;

ECF No. 675). His daughter, Allisa D. Gay, was named executor of her father's estate and filed an Amended Complaint on August 13, 2020. (ECF No. 692). Allisa Gay was substituted as Plaintiff. (*Id.*)

II. Relevant Facts

Plaintiff alleges that Mr. Gay developed mesothelioma from exposure to Defendant's **asbestos**-containing products while working on the USS Seawolf an engineman Plaintiff alleges Mr. Gay was exposed to **asbestos** products used with A.O. Smith's pump (or pumps) aboard the USS Seawolf. The parties do not dispute that Mr. Gay did not recall working with or around A.O. Smith's pumps. (ECF No. 948, p. 1); (ECF No. 983, p. 1).

III. Standard of Review

Summary judgment is warranted [*44] if the Court is satisfied that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. [Celotex Corp. v. Catrete](#), [477 U.S. 317, 322 \(1986\)](#). A fact is material if it must be decided to resolve the substantive claim or defense to which the motion is directed. In other words, there is a genuine dispute of material fact "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." [Anderson v. Liberty Lobby, Inc.](#), [477 U.S. 242, 248 \(1986\)](#). The Court must view the evidence presented in the light most favorable to the nonmoving party. *Id.* at 255. It refrains from making credibility determinations or weighing evidence. *Id.* "Real questions about credibility, gaps in the evidence, and doubts as to the sufficiency of the movant's proof' will defeat a motion for summary judgment. [El v. Se. Pa. Transp. Auth.](#), [479 F.3d 232, 238 \(3d Cir. 2007\)](#).

IV. Applicable Law

A. The Court Will Apply Pennsylvania Law.

The parties agree that Pennsylvania substantive law applies. Under traditional admiralty choice of law rules, a court may apply state law if it does not conflict with federal admiralty law. See [Calhoun v. Yamaha Motor Corp., USA.](#), [40 F.3d 622 \(3d Cir. 1994\)](#); see also [Floyd v. Lykes Bros. S.S. Co.](#), [844 F.2d 1044, 1046-47 \(3d](#)

[Cir. 1988](#)) (courts may substitute state law with maritime law when maritime law is silent or a local matter is at issue, but a court may not apply state law where it would conflict with [*45] maritime law); [Centennial Ins. Co. v. Lithotech Sales, LLC, 29 F. App'x. 835, 836 \(3d Cir. 2002\)](#) (maritime law displaces only inconsistent state law). For these reasons, the Court will apply Pennsylvania law. See [Erie R.R. Co. v. Tompkins, 304 U.S. 64 \(1938\)](#); see also [Guar. Trust Co. v. York, 326 U.S. 99, 108 \(1945\)](#).

B. Causation Standard

Before imposing liability on a defendant in a product liability action, Pennsylvania law requires a plaintiff to show not only that the plaintiff was exposed to a defective product manufactured or sold by the defendant but that the plaintiff's exposure was a substantial factor in causing the plaintiff's injury. [Richards v. Raymark Indus. Inc., 660 F. Supp. 599 \(E.D. Pa. 1987\)](#); [Gregg v. V-J Auto Parts Co., 943 A.2d 216, 224-26 \(Pa. 2007\)](#); accord [Robertson v. Allied Signal Inc., 914 F.2d 360, 375 \(3rd Cir. 1990\)](#) (applying Pennsylvania law). The Pennsylvania Supreme Court held in [asbestos](#) litigation that "it is appropriate for courts, at the summary judgment stage, to make a reasoned assessment concerning whether, in the light of the evidence concerning frequency, regularity, and proximity of a plaintiff's or decedent's asserted exposure, a jury would be entitled to make the necessary inference of a sufficient causal connection between defendant's product and the asserted injury." [Gregg, 943 A.2d at 226-27](#) (adopting the frequency, regularity and proximity standard in [asbestos](#) cases). As a result, a plaintiff must prove he was exposed to [asbestos](#) from a defendant's product with sufficient frequency, regularity and proximity so that a jury [*46] could make the necessary inference of an adequate causal connection between that product and the asserted injury. [Id. at 227](#).

As for proximity, a plaintiff cannot merely show that the product was present at the plaintiff's workplace; he must present evidence to establish that the plaintiff inhaled [asbestos](#) fibers of the specific product of a manufacturer. [Kardos v. Armstrong Pumps, Inc., 222 A.3d 393, 399 \(Pa. Super. 2019\)](#); [Gutteridge v. A.P. Green Services, Inc., 804 A.2d 643, 652 \(Pa. Super. 2002\)](#), appeal denied, 829 A.2d 1158 (2003).

V. ANALYSIS

Defendant moves for summary judgment because it is not liable for injuries caused by [asbestos](#) products for two reasons. First, it argues that Plaintiff failed to produce sufficient evidence to satisfy her burden of showing that Mr. Gay was exposed to [asbestos](#) fibers of any product manufactured, distributed or supplied by A.O. Smith. (ECF No. 880, p. 1). Second, it contends Plaintiff failed to produce sufficient evidence to satisfy her burden of showing that Mr. Gay was exposed to [asbestos](#) fibers of any product manufactured, distributed or supplied by A.O. Smith on a regular, frequent or proximate basis. (*Id.*)

"At the heart of an [asbestos](#) case is at least product identification—that is, a plaintiff cannot triumph against a manufacturer unless he shows that the victim came across the manufacturer's product and that [*47] the product caused his injury." [Mehnert v. Agilent Techs., Inc.](#), No. CV 18-893, [2020 WL 1493542 \(W.D. Pa. Mar. 27, 2020\)](#) (quoting [Walker v. Blackmer Pump Co., 367 F. Supp. 3d 360, 372 \(E.D. Pa. 2019\)](#)). Such an inquiry is "fact-intensive." *Id.*

For Plaintiff to defeat Defendant's Motion for Summary Judgment, Plaintiff must show not only that Mr. Gay was exposed to [asbestos](#)-containing products with sufficient proximity, regularity and frequency to cause his injuries but also that the [asbestos](#) products to which Plaintiff claims exposure were manufactured, distributed or sold by Defendant. [Eckenrod, 544 A.2d at 53](#); see also [Wilson v. A.P. Green Indus., 807 A.2d 922, 924 \(Pa. Super. 2002\)](#) ("Ideally, a plaintiff or a witness will be able to directly testify that plaintiff breathed in [asbestos](#) fibers and that those fibers came from defendant's product."). The Court has a "duty to prevent questions from going to the jury which would require it to reach a verdict based on conjecture, surmise, guess or speculation." [Krauss v. Trane, 104 A.3d 556, 568 \(Pa. Super. 2014\)](#) (citation omitted).

A. Plaintiff Failed to Identify Evidence that Mr. Gay Was Exposed to [Asbestos](#) from A.O. Smith's Products.

A.O. Smith argues that Plaintiff could not produce evidence establishing that Mr. Gay worked with or around any [asbestos](#)-containing products manufactured, distributed or supplied by A.O. Smith. (ECF No. 880, p. 4). Mr. Gay was deposed over nine days and [*48] did not identify any A.O. Smith products. The only evidence Plaintiff provides is a report showing that A.O. Smith's pumps were in some way incorporated

into the USS Seawolf. The report does not reveal where the pumps were located or for what purpose they were used. Plaintiffs evidence is, at best, borderline to establish sufficiency under applicable legal standards. *Sebright v. General Elec. Co.*, No. CV 19-10593-[WGY](#), [2021 WL 927664](#), at *22 (*D. Mass. Mar. 11, 2021*). Plaintiff tries to bolster her argument by highlighting the fact that where Mr. Gay worked was "compact and the opportunities for exposure to dust created by the work of others were very real." (ECF No. 948, p. 8). Plaintiff also cites the fact that "[s]ailors were constantly taking machinery and piping systems apart . ." (*Id.*) Finally, Plaintiff claims "**asbestos-containing packing material was required to be used for the life of the equipment**" without further specifying the type of equipment. (*Id.*) The Court holds that Plaintiffs generalized accusations are not enough to establish that Mr. Gay was exposed to an **asbestos**-containing product of A.O. Smith with sufficient frequency, regularity and proximity

B. Plaintiff's Evidence Is Insufficient.

A.O. Smith urges the Court to [*49] reject Plaintiffs evidence from JRG **Asbestos** Research as it violates the Federal Rules of Evidence. (ECF No. 983, p. 3). When opposing a motion for summary judgment, the facts on which the nonmovant may rely must be admissible at trial but need not be in an admissible form as presented in its opposition. *Celotex Corp. v. Catrett*, [477 U.S. 417, 324 \(1986\)](#). A.O. Smith specifically contends Plaintiffs use of the JRG **Asbestos** Research violates the Federal Rules of Evidence. Regardless if the research is admissible, it is insufficient. The research merely shows that A.O. Smith's pumps were in some non-specific manner incorporated into the USS Seawolf. It does not describe how or where, and it does not establish that any specific pump from A.O. Smith contained **asbestos**. A "plaintiff must establish more than mere presence of **asbestos** in the workplace; he must prove that he worked in a vicinity in which a specific manufacturer's product was used." *Gutteridge*, [804 A.2d at 652](#). The Court holds that Plaintiffs research does not establish that A.O. Smith's pump contained **asbestos** and that Mr. Gay was exposed to it with sufficient frequency, regularity and proximity

C. Plaintiff Failed to Establish Mr. Gay Was Exposed to A.O. Smith Pumps with Requisite Frequency, Regularity [*50] and Proximity.

A.O. Smith contends that Plaintiff failed to adduce

enough evidence to establish that Mr. Gay's contact with A.O. Smith's pumps was a "substantial factor" causing Mr. Gay's mesothelioma. (ECF No. 983, p. 5). Mr. Gay's deposition and affidavit and Industrial Hygienist Frank M. Parker III never mention A.O. Smith in its discussion of Mr. Gay's alleged exposure to **asbestos**. Plaintiff fails to establish the requisite substantial factor causation element in her claim. While seeking to resolve every doubt in favor of Plaintiff as the nonmoving party and construing all evidence in the light most favorable to Plaintiff, the evidence does not overcome A.O. Smith's Motion for Summary Judgment. Plaintiff is unable to establish that A.O. Smith's pumps were a substantial factor in contributing to Mr. Gay's mesothelioma. No one can identify A.O. Smith, other than one line from a third-party report. A factfinder could not find for Plaintiff without making several inferential leaps. See *Liberty Lobby*, [477 U.S. at 248](#). For these reasons, the Court holds that Plaintiff has not proffered enough evidence to show A.O. Smith's pumps were a substantial factor in Mr. Gay's mesothelioma.

VI. Conclusion

The Court finds that [*51] a genuine issue of material fact does not exist in this case, which precludes summary judgment. As a result, Defendant's Motion for Summary Judgment is granted. Orders of Court will follow.

BY THE COURT:

/s/ William S. Stickman IV

WILLIAM S. STICKMAN IV

UNITED STATES DISTRICT JUDGE

4-27-21

Dated

ORDER OF COURT

AND NOW, this 27 day of April 2021, IT IS HEREBY ORDERED for the reasons set forth in the Memorandum Opinion filed this day, the Defendant A.O. Smith Corp.'s Motion for Summary Judgment (ECF No. 879) is GRANTED. All counts against Defendant are hereby DISMISSED with prejudice.

BY THE COURT:

/s/ William S. Stickman IV

WILLIAM S. STICKMAN IV

UNITED STATES DISTRICT JUDGE

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