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As of: May 31, 2022 2:00 AM Z

[Hilster v. Air & Liquid Sys. Corp.](#)

United States District Court for the Western District of Pennsylvania

May 27, 2022, Decided; May 27, 2022, Filed

2:20-CV-01537-MJH

Reporter

2022 U.S. Dist. LEXIS 95654 *

SHIRLEY A. HILSTER, DECEASED; CHARLES W. HILSTERJR., INDIVIDUALLY; SHIRLEY A. CARPIN, AS EXECUTOR OF THE ESTATE OF SHIRLEY A. HILSTER, DECEASED; AND SHIRLEY A. HILSTER, Plaintiffs, vs. AIR & LIQUID SYSTEMS CORPORATION, et al., Defendants,

Core Terms

valve, asbestos, summary judgment motion, summary judgment, clothes, exposed to asbestos, pipefitter, genuine

Counsel: [*1] For SHIRLEY A. HILSTER, Deceased, Plaintiff: Benjamin D. Braly, Ethan Horn, LEAD ATTORNEYS, PRO HAC VICE, Rachel A. Gross, PRO HAC VICE, Dean Omar Branham Shirley LLP, Dallas, TX; Craig E. Coleman, LEAD ATTORNEY, Caroselli Beachler & Coleman, Pittsburgh, PA; Shawna Anne Forbes-King, PRO HAC VICE, Dean Omar Branham & Shirley, TX, Dallas, TX.

For CHARLES W. HILSTER, JR., individually, Plaintiff: Benjamin D. Braly, Ethan Horn, LEAD ATTORNEYS, PRO HAC VICE, Rachel A. Gross, PRO HAC VICE, Dean Omar Branham Shirley LLP, Dallas, TX; Craig E. Coleman, LEAD ATTORNEY, Caroselli Beachler & Coleman, Pittsburgh, PA; Shawna Anne Forbes-King, Dean Omar Branham & Shirley, TX, Dallas, TX.

For SHIRLEY A. CARPIN, as Executor of the Estate of Shirley A. Hilster, Deceased, Plaintiff: Rachel A. Gross, LEAD ATTORNEY, PRO HAC VICE, Benjamin D. Braly, Dean Omar Branham Shirley LLP, Dallas, TX; Shawna Anne Forbes-King, LEAD ATTORNEY, PRO HAC VICE, Dean Omar Branham & Shirley, TX, Dallas, TX.

For SHIRLEY A. HILSTER, Plaintiff: Shawna Anne Forbes-King, LEAD ATTORNEY, PRO HAC VICE, Dean Omar Branham & Shirley, TX, Dallas, TX; Ethan Horn, Dean Omar Branham Shirley LLP, Dallas, TX; Rachel A. Gross, PRO HAC VICE, Dean [*2] Omar

Branham Shirley LLP, Dallas, TX.

SHIRLEY A. CARPIN, Plaintiff, Pro se.

For AIR & LIQUID SYSTEMS CORPORATION, individually and as successor-in-interest to Buffalo Pumps, Inc., Defendant: Brady Lee Green, Edward Joseph White, PRO HAC VICE, Wilbraham Lawler & Buba, Philadelphia, PA; Jennifer E. Watson, Wilbraham Lawler & Buba, Pittsburgh, PA.

For BECHTEL CORPORATION, SEQUOIA VENTURES, INC., formerly known as BECHTEL CORPORATION, Defendants: Daniel J. Sinclair, Dennis R. McEwen, Eckert, Seamans, Cherin & Mellott, Pittsburgh, PA.

For BW/IP INC., and its wholly-owned subsidiaries, Defendant: John A. Turlik, LEAD ATTORNEY, PRO HAC VICE, Segal McCambridge Singer & Mahoney, Philadelphia, PA.

For CRANE CO., Defendant: Michael J. Ross, K&L Gates LLP, K&L Gates Center, Pittsburgh, PA; Sarah M. Czipinski, K&L Gates, K&L Gates Center, Pittsburgh, PA.

For ECKEL INDUSTRIES, INC., Defendant: Edward A. Smallwood, Kelly L Smith, Post & Schell, P.C., Pittsburgh, PA.

For EXELON CORPORATION, SCHNEIDER ELECTRIC SYSTEMS USA, INC., formerly known as INVENSYS SYSTEMS, INC., Defendants: Jennifer E. Watson, Wilbraham Lawler & Buba, Pittsburgh, PA.

For EXELON GENERATION COMPANY, LLC, a subsidiary of Exelon Corporation, [*3] MIDAMERICAN ENERGY COMPANY, Defendants: Jennifer E. Watson, LEAD ATTORNEY, Wilbraham Lawler & Buba, Pittsburgh, PA.

For FOSTER WHEELER ENERGY CORPORATION, Defendant: Dennis F. Wolford, LEAD ATTORNEY, Reed, Tosh, Wolford & Douglass, Beaver, PA; David S. Blow, PRO HAC VICE, Tanenbaum Keale LLP, Newark,

NJ.

For GOULDS PUMP LLC, GRINNELL LLC, doing business as GRINNELL CORPORATION, ITT, LLC, formerly known as ITT CORPORATION, formerly known as ITT INDUSTRIES INC., formerly known as ITT FLUID PRODUCTS CORP., formerly known as HOFFMAN SPECIALTY MFG. CORP., formerly known as BELL AND GOSSETT COMPANY, formerly known as ITT MARLOW, Defendants: Aaron Arthur, Thomas Combs & Spann, PLLC, Charleston, WV.

For IMO INDUSTRIES, INC., Defendant: Eric K. Falk, Davies, McFarland & Carroll, Pittsburgh, PA; Julie Nord Friedman, Rawle & Henderson, LLP, The Henry W. Oliver Building, Pittsburgh, PA.

For METROPOLITAN LIFE INSURANCE COMPANY, a wholly-owned subsidiary of MetLife, Inc., Defendant: Ronald L. Daugherty, Salmon, Ricchezza, Singer & Turchi, LLP, Philadelphia, PA.

For PSEG NUCLEAR LLC, a subsidiary of Public Service Enterprise Group Incorporated, PSEG POWER LLC, a subsidiary of Public Service Enterprise [*4] Group Incorporated, Defendants: Steven G. Blackmer, LEAD ATTORNEY, Willman & Silvaggio, LLP, Pittsburgh, PA.

For PUBLIC SERVICE ENTERPRISE GROUP INCORPORATED, Defendant: Anna Sosso, LEAD ATTORNEY, Willman & Silvaggio, LLP, Pittsburgh, PA; Daniel Robert Kuszmerski, LEAD ATTORNEY, PRO HAC VICE, Hoagland, Longo, Moran, Dunst & Doukas, New Brunswick, NJ; Marc Gaffrey, LEAD ATTORNEY, PRO HAC VICE, Hoagland Longo Moran Dunst & Doukas, LLP, New Brunswick, NJ.

For THE WILLIAM POWELL COMPANY, Defendant: Edward A. Smallwood, LEAD ATTORNEY, Post & Schell, P.C., Pittsburgh, PA; Kerryann Marie Cook, PRO HAC VICE, The Cook Group, New York, NY; Steven D. Evans, Post & Schell, PC, Pittsburgh, PA.

For VIACOMCBS INC., and also as successor-in-interest to BF Sturtevant, formerly known as CBS CORPORATION, a Delaware Corporation, formerly known as VIACOM, INC., successor by merger to CBS Corporation, a Pennsylvania corporation, formerly known as WESTINGHOUSE ELECTRIC CORPORATION, Defendant: Daniel J. Sinclair, Dennis R. McEwen, Eric L. Horne, Eckert, Seamans, Cherin & Mellott, Pittsburgh, PA; Gretchen Panchik, Eckert Seamans, Pittsburgh, PA; William D Harvard, PRO HAC VICE, Evert Weathersby Houff, Watkinsville, [*5] GA.

For WARREN PUMPS LLC, Defendant: Danielle M.

Vugrinovich, Patrick Reilly, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh, PA; Judith Perritano, PRO HAC VICE, Pierce Davis & Perritano LLP, Boston, MA.

For ABB INC., Defendant: Melanie Irwin, Willman & Silvaggio, Pittsburgh, PA.

For AECOM ENERGY & CONSTRUCTION, INC., Defendant: Jason M. English, LEAD ATTORNEY, Margolis Edelstein, The Oliver Building, Pittsburgh, PA; Kyle T. McGee, LEAD ATTORNEY, Robert D. Shope, Jr., Margolis Edelstein, Pittsburgh, PA; Dawn Dezii, PRO HAC VICE, Margolis Edelstein, Mount Laurel, NJ.

For AIR & LIQUID SYSTEMS CORPORATION, individually and as successor-in-interest to Buffalo Pumps, Inc., Cross Defendant: Brady Lee Green, Edward Joseph White, LEAD ATTORNEYS, PRO HAC VICE, Wilbraham Lawler & Buba, Philadelphia, PA; Jennifer E. Watson, Wilbraham Lawler & Buba, Pittsburgh, PA.

For BW/IP INC., and its wholly-owned subsidiaries, Cross Defendant: John A. Turlik, Segal McCambridge Singer & Mahoney.

For CENTRAL HUDSON GAS & ELECTRIC CORPORATION, Cross Defendant: Ruthe Ann Nepf, LEAD ATTORNEY, PRO HAC VICE, Thompson Hine LLP.

For CRANE CO., Cross Defendant: Michael J. Ross, K&L Gates LLP, K&L Gates Center, Pittsburgh, [*6] PA; Sarah M. Czypinski, K&L Gates, K&L Gates Center, Pittsburgh, PA.

For ECKEL INDUSTRIES, INC., Cross Defendant: Edward A. Smallwood, Kelly L Smith, Post & Schell, P.C., Pittsburgh, PA.

For ELECTRIC BOAT CORPORATION, a subsidiary of General Dynamics Corporation, GENERAL DYNAMICS CORPORATION, Cross Defendants: James B. Insko, LEAD ATTORNEY, Gordon Rees Scully Mansukhani, Pittsburgh, PA; Erik C. Dimarco, Gordon Rees Scully Mansukhani LLP.

For EXELON CORPORATION, MIDAMERICAN ENERGY COMPANY, SCHNEIDER ELECTRIC SYSTEMS USA, INC., Cross Defendants: Jennifer E. Watson, Wilbraham Lawler & Buba, Pittsburgh, PA.

For FOSTER WHEELER ENERGY CORPORATION, Cross Defendant: David S. Blow, LEAD ATTORNEY, PRO HAC VICE, Tanenbaum Keale LLP, Newark, NJ.

For GOULDS PUMP LLC, GRINNELL LLC, ITT, LLC,

Cross Defendants: Aaron Arthur, Thomas Combs & Spann, PLLC, Charleston, WV.

For METROPOLITAN LIFE INSURANCE COMPANY, a wholly-owned subsidiary of MetLife, Inc., Cross Defendant: Ronald L. Daugherty, Salmon, Ricchezza, Singer & Turchi, LLP, Philadelphia, PA.

For PUBLIC SERVICE ENTERPRISE GROUP INCORPORATED, Cross Defendant: Daniel Robert Kuzmerski, LEAD ATTORNEY, PRO HAC VICE, Hoagland, Longo, Moran, Dunst & Doukas, [*7] New Brunswick, NJ; Marc Gaffrey, LEAD ATTORNEY, PRO HAC VICE, Hoagland Longo Moran Dunst & Doukas, LLP, New Brunswick, NJ.

For THE WILLIAM POWELL COMPANY, Cross Defendant: Edward A. Smallwood, LEAD ATTORNEY, Post & Schell, P.C., Pittsburgh, PA; Kerryann Marie Cook, LEAD ATTORNEY, PRO HAC VICE, The Cook Group, New York, NY; Steven D. Evans, Post & Schell, PC, Pittsburgh, PA.

For VIACOMCBS INC., and also as successor-in-interest to BF Sturtevant, Cross Defendant: William D Harvard, LEAD ATTORNEY, PRO HAC VICE, Evert Weathersby Houff, Watkinsville, GA.

For WARREN PUMPS LLC, Cross Defendant: Judith Perritano, LEAD ATTORNEY, PRO HAC VICE, Pierce Davis & Perritano LLP, Boston, MA; Danielle M. Vugrinovich, Patrick Reilly, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh, PA.

For IMO INDUSTRIES, INC., Cross Claimant: Julie Nord Friedman, Rawle & Henderson, LLP, The Henry W. Oliver Building, Pittsburgh, PA.

For BW/IP INC., and its wholly-owned subsidiaries, Cross Defendant: John A. Turlik, Segal McCambridge Singer & Mahoney, Philadelphia, PA.

For SEMINOLE ELECTRIC COOPERATIVE, INC., Cross Defendant: Houston Bragg, Dinsmore & Shohl, LLP, Lexington, KY.

For BW/IP INC., and its wholly-owned subsidiaries, [*8] Counter Defendant: John A. Turlik, Segal McCambridge Singer & Mahoney, Philadelphia, PA.

For AIR & LIQUID SYSTEMS CORPORATION, individually and as successor-in-interest to Buffalo Pumps, Inc., Counter Defendant: Brady Lee Green, Edward Joseph White, LEAD ATTORNEYS, PRO HAC VICE, Wilbraham Lawler & Buba, Philadelphia, PA; Jennifer E. Watson, Wilbraham Lawler & Buba, Pittsburgh, PA.

For CENTRAL HUDSON GAS & ELECTRIC CORPORATION, Counter Defendant: Ruthe Ann Nepf, LEAD ATTORNEY, PRO HAC VICE, Thompson Hine LLP.

For CRANE CO., Counter Defendant: Michael J. Ross, K&L Gates LLP, K&L Gates Center, Pittsburgh, PA; Sarah M. Czypinski, K&L Gates, K&L Gates Center, Pittsburgh, PA.

For ECKEL INDUSTRIES, INC., Counter Defendant: Kelly L Smith, Post & Schell, P.C., Pittsburgh, PA.

For ELECTRIC BOAT CORPORATION, a subsidiary of General Dynamics Corporation, GENERAL DYNAMICS CORPORATION, Counter Defendants: James B. Insko, LEAD ATTORNEY, Gordon Rees Scully Mansukhani, Pittsburgh, PA; Erik C. Dimarco, Gordon Rees Scully Mansukhani LLP.

For EXELON CORPORATION, SCHNEIDER ELECTRIC SYSTEMS USA, INC., Counter Defendants: Jennifer E. Watson, Wilbraham Lawler & Buba, Pittsburgh, PA.

For FOSTER WHEELER ENERGY CORPORATION, [*9] Counter Defendant: David S. Blow, LEAD ATTORNEY, PRO HAC VICE, Tanenbaum Keale LLP, Newark, NJ.

For GOULDS PUMP LLC, GRINNELL LLC, ITT, LLC, Counter Defendants: Aaron Arthur, Thomas Combs & Spann, PLLC, Charleston, WV.

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For METROPOLITAN LIFE INSURANCE COMPANY, a wholly-owned subsidiary of MetLife, Inc., Counter Defendant: Ronald L. Daugherty, Salmon, Ricchezza, Singer & Turchi, LLP, Philadelphia, PA.

For PUBLIC SERVICE ENTERPRISE GROUP INCORPORATED, Counter Defendant: Daniel Robert Kuzmerski, LEAD ATTORNEY, PRO HAC VICE, Hoagland, Longo, Moran, Dunst & Doukas, New Brunswick, NJ; Marc Gaffrey, LEAD ATTORNEY, PRO HAC VICE, Hoagland Longo Moran Dunst & Doukas, LLP, New Brunswick, NJ.

For SEMINOLE ELECTRIC COOPERATIVE, INC., Counter Defendant: Houston Bragg, LEAD ATTORNEY, Dinsmore & Shohl, LLP, Lexington, KY.

For THE WILLIAM POWELL COMPANY, Counter Defendant: Edward A. Smallwood, LEAD ATTORNEY,

Post & Schell, P.C., Pittsburgh, PA; Kerryann Marie Cook, LEAD ATTORNEY, PRO HAC VICE, The Cook Group, New York, NY; Steven D. Evans, Post & Schell, PC, Pittsburgh, PA.

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For WARREN PUMPS LLC, Counter Defendant: Judith Perritano, LEAD ATTORNEY, PRO HAC VICE, Pierce Davis & Perritano LLP, Boston, MA; Danielle M. Vugrinovich, Patrick Reilly, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh, PA.

For WARREN PUMPS LLC, Counter Claimant: Judith Perritano, LEAD ATTORNEY, PRO HAC VICE, Pierce Davis & Perritano LLP, Boston, MA; Danielle M. Vugrinovich, Patrick Reilly, Marshall Dennehey Warner Coleman & Goggin, Pittsburgh, PA.

For THE WILLIAM POWELL COMPANY, Cross Claimant: Edward A. Smallwood, LEAD ATTORNEY, Post & Schell, P.C., Pittsburgh, PA; Kerryann Marie Cook, LEAD ATTORNEY, PRO HAC VICE, The Cook Group, New York, NY; Steven D. Evans, Post & Schell, PC, Pittsburgh, PA.

For EXELON GENERATION COMPANY, LLC, a subsidiary of Exelon Corporation, MIDAMERICAN ENERGY COMPANY, Cross Defendants: Jennifer E. Watson, LEAD ATTORNEY, Wilbraham Lawler & Buba, Pittsburgh, PA.

For IMO INDUSTRIES, INC., Cross Defendant: Eric K. Falk, [*11] Davies, McFarland & Carroll, Pittsburgh, PA; Julie Nord Friedman, Rawle & Henderson, LLP, The Henry W. Oliver Building, Pittsburgh, PA.

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For ECKEL INDUSTRIES, INC., Cross Claimant: Edward A. Smallwood, Kelly L Smith, Post & Schell, P.C., Pittsburgh, PA.

For VERMONT YANKEE NUCLEAR POWER CORPORATION, Cross Defendant: Ashley D Waldinger, Dickie, McCamey & Chilcote, P.C, Pittsburgh, PA.

For PSEG NUCLEAR LLC, a subsidiary of Public

Service Enterprise Group Incorporated, PUBLIC SERVICE ENTERPRISE GROUP INCORPORATED, Cross Defendants: Anna M. Sosso, Willman & Silvaggio, Pittsburgh, PA.

For FOSTER WHEELER ENERGY CORPORATION, Cross Defendant: Dennis F. Wolford, Reed, Tosh, Wolford & Douglass, Beaver, PA.

For CHARLES W. HILSTER, JR., Cross Defendant: Craig E. Coleman, LEAD ATTORNEY, Caroselli Beachler & Coleman, Pittsburgh, PA; Ethan Horn, Rachel A. Gross, LEAD ATTORNEYS, PRO HAC VICE, Dean Omar Branham Shirley LLP, Dallas, TX; Shawna Anne Forbes-King, LEAD [*12] ATTORNEY, PRO HAC VICE, Dean Omar Branham & Shirley, TX, Dallas, TX.

For SHIRLEY A. HILSTER, Cross Defendant: Benjamin D. Braly, Ethan Horn, LEAD ATTORNEYS, PRO HAC VICE, Dean Omar Branham Shirley LLP, Dallas, TX; Craig E. Coleman, LEAD ATTORNEY, Caroselli Beachler & Coleman, Pittsburgh, PA; Shawna Anne Forbes-King, LEAD ATTORNEY, PRO HAC VICE, Dean Omar Branham & Shirley, TX, Dallas, TX; Rachel A. Gross, PRO HAC VICE, Dean Omar Branham Shirley LLP, Dallas, TX.

For EXELON GENERATION COMPANY, LLC, a subsidiary of Exelon Corporation, Counter Defendant: Jennifer E. Watson, LEAD ATTORNEY, Wilbraham Lawler & Buba, Pittsburgh, PA.

For SEMINOLE ELECTRIC COOPERATIVE, INC., Counter Defendant: Houston Bragg, Dinsmore & Shohl, LLP, Lexington, KY.

For VERMONT YANKEE NUCLEAR POWER CORPORATION, Counter Defendant: Ashley D Waldinger, Dickie, McCamey & Chilcote, P.C, Pittsburgh, PA.

For AIR & LIQUID SYSTEMS CORPORATION, individually and as successor-in-interest to Buffalo Pumps, Inc., Cross Claimant: Brady Lee Green, Edward Joseph White, LEAD ATTORNEYS, PRO HAC VICE, Wilbraham Lawler & Buba, Philadelphia, PA; Jennifer E. Watson, Wilbraham Lawler & Buba, Pittsburgh, PA.

For AIR & LIQUID SYSTEMS CORPORATION, [*13] individually and as successor-in-interest to Buffalo Pumps, Inc., Counter Claimant: Brady Lee Green, Edward Joseph White, LEAD ATTORNEYS, PRO HAC VICE, Wilbraham Lawler & Buba, Philadelphia, PA; Jennifer E. Watson, Wilbraham Lawler & Buba, Pittsburgh, PA.

For FOSTER WHEELER ENERGY CORPORATION,

Counter Defendant: Dennis F. Wolford, LEAD ATTORNEY, Reed, Tosh, Wolford & Douglass, Beaver, PA.

For PSEG POWER LLC, a subsidiary of Public Service Enterprise Group Incorporated, Counter Defendant: Anna M. Sosso, Willman & Silvaggio, Pittsburgh, PA.

For PUBLIC SERVICE ENTERPRISE GROUP INCORPORATED, Cross Defendant: Steven G. Blackmer, Willman & Silvaggio, LLP, Pittsburgh, PA.

For EXELON CORPORATION, SCHNEIDER ELECTRIC SYSTEMS USA, INC., MIDAMERICAN ENERGY COMPANY, Cross Claimants: Jennifer E. Watson, Wilbraham Lawler & Buba, Pittsburgh, PA.

For EXELON CORPORATION, SCHNEIDER ELECTRIC SYSTEMS USA, INC., MIDAMERICAN ENERGY COMPANY, Counter Claimants: Jennifer E. Watson, Wilbraham Lawler & Buba, Pittsburgh, PA.

For EXELON GENERATION COMPANY, LLC, a subsidiary of Exelon Corporation, Cross Claimant: Jennifer E. Watson, LEAD ATTORNEY, Wilbraham Lawler & Buba, Pittsburgh, PA.

For EXELON GENERATION COMPANY, [*14] LLC, a subsidiary of Exelon Corporation, Counter Claimant: Jennifer E. Watson, LEAD ATTORNEY, Wilbraham Lawler & Buba, Pittsburgh, PA.

For FOSTER WHEELER ENERGY CORPORATION, Cross Defendant: Dennis F. Wolford, LEAD ATTORNEY, Reed, Tosh, Wolford & Douglass, Beaver, PA.

For TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC., Counter Defendant: Tausha Saunders, Greenberg Traurig, LLP, Philadelphia, PA.

For FOSTER WHEELER ENERGY CORPORATION, Cross Claimant: David S. Blow, LEAD ATTORNEY, PRO HAC VICE, Tanenbaum Keale LLP, Newark, NJ; Dennis F. Wolford, LEAD ATTORNEY, Reed, Tosh, Wolford & Douglass, Beaver, PA.

For BECHTEL CORPORATION, SEQUOIA VENTURES, INC., Cross Defendants: Daniel J. Sinclair, Dennis R. McEwen, Eckert, Seamans, Cherin & Mellott, Pittsburgh, PA.

For VIACOMCBS INC., and also as successor-in-interest to BF Sturtevant, Cross Defendant: Daniel J. Sinclair, Dennis R. McEwen, Eric L. Horne, Eckert, Seamans, Cherin & Mellott, Pittsburgh, PA; Gretchen Panchik, Eckert Seamans, Pittsburgh, PA.

For BECHTEL CORPORATION, SEQUOIA

VENTURES, INC., Counter Defendants: Daniel J. Sinclair, Dennis R. McEwen, Eckert, Seamans, Cherin & Mellott, Pittsburgh, PA.

For VIACOMCBS INC., and also as [*15] successor-in-interest to BF Sturtevant, Counter Defendant: Daniel J. Sinclair, Dennis R. McEwen, Eric L. Horne, Eckert, Seamans, Cherin & Mellott, Pittsburgh, PA; Gretchen Panchik, Eckert Seamans, Pittsburgh, PA.

For ELECTRIC BOAT CORPORATION, a subsidiary of General Dynamics Corporation, GENERAL DYNAMICS CORPORATION, Cross Claimants: James B. Insko, LEAD ATTORNEY, Gordon Rees Scully Mansukhani, Pittsburgh, PA; Erik C. Dimarco, Gordon Rees Scully Mansukhani LLP.

For ELECTRIC BOAT CORPORATION, a subsidiary of General Dynamics Corporation, Cross Defendant: Erik C. Dimarco, Gordon Rees Scully Mansukhani LLP, New York, NY.

For PSEG NUCLEAR LLC, a subsidiary of Public Service Enterprise Group Incorporated, PSEG POWER LLC, a subsidiary of Public Service Enterprise Group Incorporated, Cross Claimants: Anna M. Sosso, Willman & Silvaggio, Pittsburgh, PA.

For PUBLIC SERVICE ENTERPRISE GROUP INCORPORATED, Cross Claimant: Daniel Robert Kuzmerski, LEAD ATTORNEY, PRO HAC VICE, Hoagland, Longo, Moran, Dunst & Doukas, New Brunswick, NJ; Marc Gaffrey, LEAD ATTORNEY, PRO HAC VICE, Hoagland Longo Moran Dunst & Doukas, LLP, New Brunswick, NJ; Anna M. Sosso, Willman & Silvaggio, Pittsburgh, PA.

For BW/IP INC., [*16] and its wholly-owned subsidiaries, Cross Defendant: John A. Turlik, LEAD ATTORNEY, Segal McCambridge Singer & Mahoney, Philadelphia, PA.

For VIACOMCBS INC., and also as successor-in-interest to BF Sturtevant, Cross Claimant: William D Harvard, LEAD ATTORNEY, PRO HAC VICE, Evert Weathersby Houff, Watkinsville, GA; Daniel J. Sinclair, Dennis R. McEwen, Eric L. Horne, Eckert, Seamans, Cherin & Mellott, Pittsburgh, PA; Gretchen Panchik, Eckert Seamans, Pittsburgh, PA.

For ELECTRIC BOAT CORPORATION, a subsidiary of General Dynamics Corporation, Cross Defendant: Erik C. Dimarco, LEAD ATTORNEY, Gordon Rees Scully Mansukhani LLP.

For PSEG NUCLEAR LLC, a subsidiary of Public Service Enterprise Group Incorporated, PSEG POWER

LLC, a subsidiary of Public Service Enterprise Group Incorporated, Cross Defendants: Steven G. Blackmer, LEAD ATTORNEY, Willman & Silvaggio, LLP, Pittsburgh, PA.

For BW/IP INC., and its wholly-owned subsidiaries, Counter Defendant: John A. Turlik, LEAD ATTORNEY, Segal McCambridge Singer & Mahoney, Philadelphia, PA.

For ELECTRIC BOAT CORPORATION, a subsidiary of General Dynamics Corporation, Counter Defendant: Erik C. Dimarco, LEAD ATTORNEY, Gordon Rees Scully Mansukhani LLP.

[*17] For PSEG NUCLEAR LLC, a subsidiary of Public Service Enterprise Group Incorporated, PSEG POWER LLC, a subsidiary of Public Service Enterprise Group Incorporated, Counter Defendants: Steven G. Blackmer, LEAD ATTORNEY, Willman & Silvaggio, LLP, Pittsburgh, PA.

For CENTRAL HUDSON GAS & ELECTRIC CORPORATION, Cross Defendant: Ruthe Ann Nepf, LEAD ATTORNEY, Thompson Hine LLP.

For CENTRAL HUDSON GAS & ELECTRIC CORPORATION, Counter Defendant: Ruthe Ann Nepf, LEAD ATTORNEY, Thompson Hine LLP.

For BW/IP INC., and its wholly-owned subsidiaries, Cross Claimant: John A. Turlik, LEAD ATTORNEY, Segal McCambridge Singer & Mahoney, Philadelphia, PA.

For PUBLIC SERVICE ENTERPRISE GROUP INCORPORATED, Cross Defendant: Anna Sosso, LEAD ATTORNEY, Willman & Silvaggio, LLP, Pittsburgh, PA; Daniel Robert Kuszmanski, LEAD ATTORNEY, Hoagland, Longo, Moran, Dunst & Doukas, New Brunswick, NJ; Marc Gaffrey, LEAD ATTORNEY, Hoagland Longo Moran Dunst & Doukas, LLP, New Brunswick, NJ.

For AECOM ENERGY & CONSTRUCTION, INC., Cross Defendant: Dawn Dezii, LEAD ATTORNEY, PRO HAC VICE, Margolis Edelstein, Mount Laurel, NJ; Kyle T. McGee, LEAD ATTORNEY, Margolis Edelstein, Pittsburgh, PA.

For TRI-STATE GENERATION AND TRANSMISSION **[*18]** ASSOCIATION, INC., Cross Defendant: Tausha Saunders, LEAD ATTORNEY, Greenberg Traurig, LLP, Philadelphia, PA.

For CRANE CO., Cross Claimant: Michael J. Ross, K&L

Gates LLP, K&L Gates Center, Pittsburgh, PA; Sarah M. Czynski, K&L Gates, K&L Gates Center, Pittsburgh, PA.

For ABB INC., Cross Defendant: Melanie Irwin, Willman & Silvaggio, Pittsburgh, PA.

For ELECTRIC BOAT CORPORATION, a subsidiary of General Dynamics Corporation, Cross Claimant: Erik C. Dimarco, LEAD ATTORNEY, Gordon Rees Scully Mansukhani LLP.

For ABB INC., Cross Claimant: Melanie Irwin, Willman & Silvaggio, Pittsburgh, PA.

For AECOM ENERGY & CONSTRUCTION, INC., Cross Claimant: Dawn Dezii, LEAD ATTORNEY, PRO HAC VICE, Margolis Edelstein, Mount Laurel, NJ; Jason M. English, LEAD ATTORNEY, Margolis Edelstein, The Oliver Building, Pittsburgh, PA; Kyle T. McGee, LEAD ATTORNEY, Margolis Edelstein, Pittsburgh, PA.

For THE WILLIAM POWELL COMPANY, Cross Defendant: Edward A. Smallwood, LEAD ATTORNEY, Post & Schell, P.C.

Judges: MARILYN J. HORAN, United States District Judge.

Opinion by: MARILYN J. HORAN

Opinion

Plaintiffs bring the within action against many Defendants for Shirley A. Hilster's asbestos-related injuries and death. Defendant, The William Powell Company, **[*19]** now moves for summary judgment pursuant to Fed. R. Civ. P. 56. (ECF Nos. 345). Powell has also moved to exclude Plaintiffs' expert, Dr. Edwin Holstein (ECF No. 351). These matters are now ripe for consideration.

Upon Consideration of Powell's Motion for Summary Judgment (ECF Nos. 345), the respective briefs of the parties (ECF Nos. 346, 377, and 387), the arguments of counsel, and for the following reasons, Powell's Motion for Summary Judgment will be granted. Based upon the Court's disposition Powell's Motion for Summary Judgment, Powell's Motion to Exclude Dr. Holstein will be dismissed as moot.

I. Background

Plaintiffs initiated this asbestos-related personal injury action alleging that Shirley Hilster was exposed to

asbestos from contact with her husband's work clothes and person when greeting him home, laundering his work clothes, and spending time in his vehicle. Plaintiffs allege Mr. Charles Hilster was employed as a pipefitter, hydraulic pipefitter, new construction project manager and maintenance supervisor by various premises and naval shipyards from approximately 1958 to 1987 and 1989 to 1995. (ECF No. 1 at ¶¶ 114-118.)

Plaintiffs allege that Shirley Hilster was exposed to **asbestos** from laundering [*20] her husband's work clothing throughout their marriage (with the exception of when Mr. Hilster served in the Navy). Charles Hilster claimed that he was exposed to **asbestos** while working as a pipefitter apprentice, pipefitter, supervisor, foreman, piping supervisor, assistant project manager and project manager at various industrial facilities and naval shipyards beginning in 1957 and continuing into 1975. (ECF No. 320-1 at p. 12). Mr. Hilster testified that during this time period, his wife Shirley would launder his work clothes and would have shaken out the clothing prior to washing it. (ECF No. 350-1 at p. 57:8-16). Shirley Hilster was diagnosed with malignant mesothelioma of the pleura in July 2020. She died of this disease on October 11, 2020.

Plaintiffs aver claims of Negligence (Count I), Strict Liability (Count II), Breach of Implied Warranty (Count III), Negligence-Premises Liability (Count IV), Negligent Hiring, Training and/or Supervision of Defendant-Employees (Count V), Gross Negligence; Willful, Wanton, and Reckless Conduct (Count VI), False Representation (Count VII), Failure to Warn-Product Defendants (Count VIII), Failure to Warn-Premises Defendants (Count IX), Conspiracy, [*21] Concert of Action Damages (Count X), Wrongful Death (Count XI), and Survival (Count XII).

In its Motion, Powell contends that Plaintiffs' claims against it must be dismissed because there is no evidence that Mr. Hilster was exposed to **asbestos** from a product manufactured or sold by Powell. Further, Powell moves to dismiss the punitive damages claim.

II. Standard of Review

According to [Federal Rule of Civil Procedure 56](#), a court must grant summary judgment where the moving party "shows that there is no genuine dispute as to any material fact" and the moving party "is entitled to judgment as a matter of law." [Fed. R. Civ. P. 56\(a\)](#). For a dispute to be genuine, there must be "a sufficient evidentiary basis on which a reasonable jury could find for the non-moving party." [Moody v. Atl. City Bd. of](#)

[Educ.](#), [870 F.3d 206, 213 \(3d Cir. 2017\)](#) (internal quotations omitted). Additionally, for a factual dispute to be material, it must have an effect on the outcome of the suit. *Id.* In reviewing and evaluating the evidence to rule upon a motion for summary judgment, the court must "view the underlying facts and all reasonable inferences therefrom in the light most favorable to the" non-moving party. [Blunt v. Lower Merion Sch. Dist.](#), [767 F.3d 247, 265 \(3d Cir. 2014\)](#) (internal quotations omitted). However, where "the non-moving party fails to make 'a sufficient showing on an essential [*22] element of her case with respect to which she has the burden of proof,'" the moving party is entitled to judgment as a matter of law. [Moody](#), [870 F.3d at 213](#) (quoting [Celotex Corp. v. Catrett](#), [477 U.S. 317, 323, 106 S. Ct. 2548, 91 L. Ed. 2d 265 \(1986\)](#)).

"The movant has the burden of showing that there is no genuine issue of fact, but the plaintiff is not thereby relieved of his own burden of producing in turn evidence that would support a jury verdict." [Anderson v. Liberty Lobby, Inc.](#), [477 U.S. 242, 256, 106 S. Ct. 2505, 91 L. Ed. 2d 202 \(1986\)](#). "Discredited testimony is not normally considered a sufficient basis for drawing a contrary conclusion. Instead, the plaintiff must present affirmative evidence in order to defeat a properly supported motion for summary judgment." [Id. at 256-57](#) (internal citation omitted). "If the evidence is merely colorable, or is not significantly probative, summary judgment may be granted." [Id. at 249-50](#) (internal citations omitted). Judges are not "required to submit a question to a jury merely because some evidence has been introduced by the party having the burden of proof, unless the evidence be of such a character that it would warrant the jury in finding a verdict in favor of the party." [Id. at 251](#) (internal citation omitted).

III. Discussion

Powell argues that Plaintiffs have insufficient evidence to establish that Shirley Hilster was exposed and inhaled **asbestos** fibers from a product [*23] sold or supplied by The William Powell Company. It maintains that, because Shirley Hilster was exposed to **asbestos** from the work clothes of her husband, Plaintiffs must produce evidence that Mr. Hilster worked around **asbestos** containing products sold or supplied by Powell. Powell contends that Plaintiffs have produced no such evidence.

Plaintiffs maintain that Mr. Hilster testified that he worked on valves supplied by Powell. Mr. Hilster testified that he worked as a pipefitter at Electric Boat in Groton, Connecticut for 13 years, between 1957 and

1970. During that period, Mr. Hilster asserts that he worked on pipes, pumps, valves, and related equipment on nuclear submarines. Plaintiffs argue that Mr. Hilster removed gasket material from Powell valves and that the gasket and packing material used in Powell valves contained **asbestos**.

In response, Powell contends that Mr. Hilster's testimony does not establish that he worked with or around Powell valves on a regular or frequent basis. Instead, Powell argues that Mr. Hilster only testified that he recalled seeing the name Powell on a valve or in a plan or Navy specification. Powell maintains that Mr. Hilster could not recall a specific [*24] submarine where he installed or repaired a Powell valve could not recall a specific application for Powell valves; could not recall the size, color, or type of any during his testimony Powell valve; and could not recall where on the valve he would have seen the name "Powell." Therefore, Powell maintains that this type of evidence is insufficient to create an issue of material fact as to Shirley Hilster's exposure to a Powell valve to survive summary judgment.

The parties' briefing agrees that Connecticut law applies to Plaintiffs' claims against Powell. Under Connecticut law, a plaintiff asserting a claim for **asbestos**-related injuries must "1) identify an **asbestos**-containing product for which a defendant is responsible, 2) prove that he has suffered damages, and 3) prove that defendant's **asbestos**-containing product was a substantial factor in causing his damages." [Laposka v. Aurora Pump Co., 2004 Conn. Super. LEXIS 2578, 2004 WL 2222935, at *1 \(Conn. Super. Sept. 14, 2004\)](#) (quoting [Roberts v. Owens-Corning Fiberglas Corp., 726 F. Supp. 172, 174 \(W.D. Mich. 1989\)](#)). "The plaintiff must produce evidence sufficient to support an inference that he inhaled **asbestos** dust from the defendant's product." [Drucker v. A.W. Chesterton Co., CV075006717S, 2009 Conn. Super. LEXIS 1715, 2009 WL 2231654, at *2 \(Conn. Super. Ct. June 23, 2009\)](#) (citing [Peerman v. Georgia-Pacific Corporation, 35 F.3rd 284, 287 \(7th Cir.1994\)](#)). A general recollection of a product cannot overcome a motion for summary judgment. [Gay v. A.O. Smith Corp., 2:19-CV-1311, 2021 U.S. Dist. LEXIS 120300, 2021 WL 2652926, at *4 \(W.D. Pa. June 28, 2021\)](#) Further, "[s]peculation does not create a genuine issue of fact; instead, it creates [*25] a false issue, the demolition of which is a primary goal of summary judgment." [Lexington Ins. Co. v. W. Pa. Hosp., 423 F.3d 318, 333 \(3d Cir. 2005\)](#) (quoting [Hedberg v. Ind. Bell Tel. Co., Inc., 47 F.3d 928, 932 \(7th Cir.1995\)](#)).

Here, the evidence and testimony of record do not connect any Powell-supplied **asbestos** containing product to Mr. Hilster without the insertion of speculation and reliance on only a recollection of the "Powell" name. Mr. Hilster was deposed and questioned extensively regarding his alleged occupational exposures to **asbestos**. With regard to Powell, Mr. Hilster testified that he recalled seeing the name Powell "probably on the valve or in the plan" or Navy specifications. (ECF No. 346-2 at p. 4). Mr. Hilster, however, could not recall a specific submarine where he installed or repaired a Powell valve; could not recall a specific application for Powell valves; could not recall the size, color, or type of any Powell valve; and could not recall where on the valve he would have seen the name "Powell." *Id.* at pp. 4-5. Further, Mr. Hilster offered no evidence or testimony that he was present while others performed work on a Powell valve. Mr. Hilster's recollection of the name Powell from a valve or from plans does not establish his exposure to **asbestos** from a Powell valve. While he certainly may have generally [*26] worked with other valves and gaskets containing **asbestos**, the evidence does not support Mr. Hilster's contact with **asbestos** from Powell products.

In addition, Plaintiffs' naval expert, Capt. Bruce Woodruff acknowledged that he saw no reference to Powell valves in any of the documents or materials he reviewed as part of his research into equipment that Mr. Hilster worked with while employed at Electric Boat. Therefore, Plaintiffs have produced no evidence sufficient to establish any genuine issue of material fact that infers that Mr. Hilster was exposed to any **asbestos** containing material sold or supplied by Powell. Without direct or even circumstantial evidence that Mr. Hilster was definitively in the presence of Powell product that contained **asbestos**, the jury would otherwise be invited to improperly speculate based upon such attenuated circumstances. Because no reasonable juror could find that a Powell product caused Mrs. Hilster's mesothelioma, Powell is entitled to summary judgment.

Having determined that the Plaintiffs' claims against Powell fail due to lack of causation evidence, the Court will not address Powell's remaining arguments regarding punitive damages. Likewise, the Court [*27] will not address Powell's Motion to Exclude Dr. Holstein.

IV. Conclusion

Accordingly, based upon the foregoing, Powell's Motion for Summary Judgment will be granted. Judgment will be entered in favor of Powell and against the Plaintiffs. Powell's Motion to Exclude Dr. Holstein will be

dismissed as moot. A separate order will follow.

DATED this 27th day of May, 2022.

BY THE COURT:

/s/ Marilyn J. Horan

MARILYN J. HORAN

United States District Judge

ORDER

Upon Consideration of Powell's Motion for Summary Judgment (ECF Nos. 345), the respective briefs of the parties (ECF Nos. 346, 377, and 387), the arguments of counsel, and for the reasons stated in this Court's Opinion (ECF No. 405), Powell's Motion for Summary Judgment is granted. Judgment is entered in favor of Powell and against the Plaintiffs. Based upon the Court's disposition Powell's Motion for Summary Judgment, Powell's Motion to Exclude Dr. Holstein is dismissed as moot.

DATED this 27th day of May, 2022.

BY THE COURT:

/s/ Marilyn J. Horan

MARILYN J. HORAN

United States District Judge

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