

## Matter of New York City Asbestos Litig.

Supreme Court of New York, Appellate Division, First Department

November 1, 2022, Decided; November 1, 2022, Entered

Index No. 190093/20, Appeal No. 16569, Case No. 2022-00478

### Reporter

2022 N.Y. App. Div. LEXIS 5963 \*; 2022 NY Slip Op 06092 \*\*

**[\*\*1]** In the Matter of New York City **Asbestos** Litigation. Joseph Pira, as Administrator for the Estate of Giacinto Pira, et al., Plaintiffs-Respondents, Air & Liquid Systems Corporation, etc., et al., Defendants, Steel Grip, Inc., Also Known as Voorhees, Inc., Individually and as Successor-In-Interest to Steel Grip Safety Apparel Company, Inc., Defendant-Appellant.

**Notice:** THE PAGINATION OF THIS DOCUMENT IS SUBJECT TO CHANGE PENDING RELEASE OF THE FINAL PUBLISHED VERSION.

THIS OPINION IS UNCORRECTED AND SUBJECT TO REVISION BEFORE PUBLICATION IN THE OFFICIAL REPORTS.

**Prior History:** [\*1] Order, Supreme Court, New York County (Adam Silvera, J.), entered on or about January 5, 2022, which denied the motion of defendant Steel Grip, Inc. (SGI) to dismiss the complaint against it for lack of personal jurisdiction, without prejudice to renew at the conclusion of discovery, and granted plaintiff's cross motion for jurisdictional discovery, unanimously affirmed, without costs.

### Core Terms

gloves, personal jurisdiction, business transaction, deposition, **asbestos**, raises

**Counsel:** Foley & Mansfield, PLLP, New York (Michael E. Tuttle of counsel), for appellant.

Weitz & Luxenberg, P.C., New York (Jason P. Weinstein of counsel), for respondents.

**Judges:** Before: Gische, J.P., Gesmer, Oing, Kennedy, Scarpulla, JJ.

### Opinion

In this action for damages due to plaintiff's decedent's exposure to **asbestos**, plaintiff's decedent testified at his deposition that he thought his employer purchased SGI's **asbestos**-containing safety gloves in New York, and gave the gloves to him so he could use them for welding. This testimony raises an issue of fact as to the existence of the requisite purposeful business transactions in New York necessary to assert long-arm jurisdiction under [CPLR 302\(a\)\(1\)](#) (see [D&R Global Selections, S.L. v Bodega Olegario Falcón PiÑeiro, 90 AD3d 403, 405 \[1st Dept 2011\]](#)). The decedent's deposition testimony also raises an inference that he was injured by the **asbestos** inside the gloves when they ripped [\*2] open while he was wearing them. This testimony may provide a sufficient nexus between plaintiff's cause of action and SGI's alleged New York business transactions (*id.*).

SGI's motion to dismiss for lack of personal jurisdiction was based on an affidavit of its officer, in which he attested that SGI's principal place of business is in Illinois. The officer stated that SGI did not manufacture its products in New York and he denied that SGI has an office in New York or owns any property in New York. Nevertheless, the SGI officer failed to clarify whether SGI sold its gloves to plaintiff's decedent's employer in New York. Under these circumstances, jurisdictional discovery is warranted because plaintiffs sufficiently demonstrated the possible existence of facts that would support the exercise of personal jurisdiction over SGI (see *e.g. Radium2 Capital, LLC v Xtreme Natl. Maintenance Corp.*, 202 AD3d 638, 639 [1st Dept 2022]; *Starr Russia Invs. III B.V. v Deloitte Touche Tohumatsu Ltd.*, 169 AD3d 421, 422 [1st Dept 2019]).

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: November 1, 2022

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