

Manns v. 3m Co.

Superior Court of California, County of Los Angeles

June 29, 2023, Filed

21STCV16240

Reporter

2023 Cal. Super. LEXIS 39708 *

JAMES MANNNS, et al. v. 3M COMPANY, et al.

Core Terms

manufacturing, successor, products, personal jurisdiction, product line, continuation

Counsel: [*1] For Plaintiff(s): No Appearances.

For Defendant(s): No Appearances.

Other Appearance Notes: Plaintiff's counsel: Michael Eyerly (X); Defense counsel: Robert Young IV; and Brian Triplett (X);.

Judges: Honorable Laura A. Seigle, Judge.

Opinion by: Laura A. Seigle

Opinion

NATURE OF PROCEEDINGS: Hearing on Motion to Quash Service of Summons and Complaint for Lack of Personal Jurisdiction for Defendant Master Industries Worldwide, LLC (CCP § 418(A)(1)) (Manns-21STCV16240)

Matter is called for hearing.

The Court issues a Tentative Ruling.

Counsel argue and submit. The Court adopts the Tentative Ruling as the Final Court Order as follows:

ORDER RE MOTION TO QUASH

Plaintiffs James Manns, David Papworth, Carie Edwards, Shauna Papworth, Jami Hoffman, and Robee Green ("Plaintiffs") filed this action alleging Debra Manns developed mesothelioma as a result of exposure to **asbestos** from Master Industries Worldwide, LLC's products. On November 4, 2022, Plaintiffs dismissed

Master Industries Worldwide, LLC. On the same day, Plaintiffs amended their complaint to substitute Master Industries Worldwide, LLC as successor-in-interest to Master Industries, Inc.

On January 11, 2023, Defendants Master Industries Worldwide, LLC ("Defendant") filed a motion to quash [*2] service of summons for lack of personal jurisdiction. The court continued the hearing on the motion several times to allow jurisdictional discovery. The parties then filed supplemental briefs.

A defendant may move to quash service of summons on the ground of lack of jurisdiction of the court over him or her. ([Code Civ. Proc., § 418.10, subd. \(a\)\(1\).](#)) The court may dismiss without prejudice the complaint in whole, or as to that defendant, when dismissal is made pursuant to [Section 418.10. \(Code Civ. Proc., § 581, subd. \(h\).\)](#)

"A court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States." ([Code Civ. Proc., § 410.10.](#)) "The Due Process Clause protects an individual's liberty interest in not being subject to the binding judgments of a forum with which he has established no meaningful 'contacts, ties, or relations.'" ([Burger King Corp. v. Rudzewicz \(1985\) 471 U.S. 462, 471-472.](#)) A state court may not exercise personal jurisdiction over a party under circumstances that would offend "traditional notions of fair play and substantial justice." ([Asahi Metal Industry Co., Ltd., v. Superior Court of California, Solano County \(1987\) 480 U.S. 102, 113.](#))

When a defendant moves to quash service of process on jurisdictional grounds, the plaintiff has the initial burden of demonstrating facts justifying the exercise of jurisdiction. ([Jayone Foods, Inc. v. Aekyung Industrial Co. Ltd. \(2019\) 31 Cal.App.5th 543, 553.](#)) Once facts showing minimum contacts with the forum state are established, the [*3] defendant has the burden to demonstrate the exercise of jurisdiction would be unreasonable. (Ibid.) "The plaintiff must provide specific

evidentiary facts, through affidavits and other authenticated documents, sufficient to allow the court to independently conclude whether jurisdiction is appropriate. [Citation.] The plaintiff cannot rely on allegations in an unverified complaint or vague and conclusory assertions of ultimate facts. [Citation.] (*Strasner v. Touchstone Wireless Repair & Logistics, LP* (2016) 5 Cal.App.5th 215, 222.)

A defendant is subject to a state's general jurisdiction if its contacts "are so continuance and systematic as to render [it] essentially at home in the forum State." (*Daimler AG v. Bauman* (2014) 571 U.S. 117, 127.) A nonresident defendant may be subject to the specific jurisdiction of the forum "if the defendant has purposefully availed himself or herself of forum benefits [citation], and the 'controversy is related to or 'arises out of' a defendant's contacts with the forum.' [Citations.]" (*Vons Companies, Inc. v. Seabest Foods, Inc.* (1996) 14 Cal.4th 434, 446.) This test does not require a "causal relationship between the defendant's in-state activity and the litigation." (*Ford Motor Co. v. Montana Eighth Judicial District Court* (2021) 141 S.Ct. 1017, 1026.) The "arise out" of standard "asks about causation," but "relate to" does not. (Ibid.) "[W]hen a corporation has 'continuously and deliberately exploited [a State's] market, it [*4] must reasonably anticipate being haled into [that State's] court[s] to defend actions 'based on' products causing injury there." (*Id. at p. 1027.*)

"In a case raising liability issues, a California court will have personal jurisdiction over a successor company if (1) the court would have had personal jurisdiction over the predecessor, and (2) the successor company effectively assumed the subject liabilities of the predecessor." (*CenterPoint Energy, Inc. v. Superior Court* (2007) 157 Cal.App.4th 1101, 1120.)

Defendant argues there is no personal jurisdiction over because it was formed in 2011 and did not manufacture or sell products until 2012, many years after Debra Manns' exposure. (Symes Decl., ¶ 12.) It contends it is not continuing the business of Master Industries, Inc. In 2011, it purchased certain assets of Master Industries, Inc. for valuable consideration. (Symes Decl., ¶ 10; Motion at p. 9; Reply at p. 5.)

Plaintiffs do not contest there is no general jurisdiction over Defendant. Plaintiffs argue Defendant is a successor-in-interest to Master Industries, Inc., which manufactured, sold, and distributed Easy Slide talc products in California that exposed Debra Manns to **asbestos** in California. (Opposition at pp. 3, 5.) Plaintiffs

submitted evidence that Defendant claimed [*5] to have been in business for fifty years manufacturing products in California. (Opposition at p. 2; Eyerly Decl., Ex. 3.) Plaintiffs also submitted evidence that Defendant posted a photo of its shipping facility online in 2009, to rebut Defendant's argument that it was formed in 2011. (Eyerly Decl., Ex. 4.)

In their supplemental opposition, Plaintiffs argue Defendant has purposefully availed itself of the benefits of doing business in California. It had a manufacturing facility in California from 2012 through 2020. (Eyerly Decl., Ex. 2 at p. 50.) Master Industries, Inc. had a California facility in the years before that, its only location. (*Id.* at pp. 41-42.) Thus, Master Industries, Inc. and Defendant availed themselves of the forum benefit of California.

Plaintiffs contend their damages arise out of or relate to Master Industries, Inc.'s and Defendant's activities in California because Defendant purchased Master Industries, Inc. and then continued the Master business and brand using the same employees and facilities in California and selling the same products to the same customers, including the product that allegedly exposed Debra Manns to **asbestos**. (Supp. Opp. at p. 2.) Plaintiffs [*6] contend the product line exception rule in *Ray v. Alad* applies.

The court in *Ray* analyzed the successor liability of a purchaser of the assets of a corporation. (*Ray v. Alad* (1977) 19 Cal.3d 22, 28.) Generally, "the purchaser does not assume the seller's liabilities unless: (1) there is an express or implied agreement of assumption, (2) the transaction amounts to a consolidation or merger of the two corporations, (3) the purchasing corporation is a mere continuation of the seller, or (4) the transfer of assets to the purchaser is for the fraudulent purpose of escaping liability for the seller's debts." (Ibid.) The case also recognized strict tort liability for defective products when a party acquires a manufacturing business and continues the output of its line of products "holding itself out to potential customers as the same enterprise," thereby exploiting the prior business' "established reputation as a going concern manufacturing a specific product line." (*Id. at p. 34.*) The justification for imposing strict liability on the successor rests on "(1) the virtual destruction of the plaintiffs remedies against the original manufacturer caused by the successor's acquisition of the business, (2) the successor's ability to assume the [*7] original manufacturer's risk-spreading role, and (3) the fairness of requiring the successor to assume a responsibility for defective products that was a burden

necessarily attached to the original manufacturer's good will being enjoyed by the successor in the continued operation of the business." (*Id. at p. 31.*)

Plaintiffs submitted evidence that Defendant purchased assets from Master Industries, Inc. including, the Master brand, intellectual property (patents, trademarks, names, website, social media, computer codes, artwork, trade secrets, copyrights, know-how, etc.), office furniture, manufacturing equipment, warehouse material, vendor lists, books, financial information, and the existing book of business. (Eyerly Decl., Ex. 2 at pp. 20-21, 24-30.) Defendant assumed the lease of the California manufacturing facility. (*Id. at p. 38.*) Defendant remained in the physical location after the purchase (*Id. at p. 25.*) Defendant kept the same employee except two. (*Id. at pp. 40-41.*) After the purchase, from 2012 to 2016 Defendant continued to make and sell the Easy Slide product that allegedly exposed Debra Manns to **asbestos**. (*Id. at p. 32.*) It manufactured the product at the same California location [*8] where Master Industries, Inc. had manufactured the product. (*Id. at pp. 32, 35*)

Defendant argues the product line exception does not apply because there is no evidence Defendant paid inadequate consideration to Master Industries, Inc., citing *Franklin v. USX Corp.* (87 Cal.App.4th 615.) Inadequate consideration is a factor under the theory of merger or mere continuation (the second and third grounds in *Ray v. Alad* for successor liability), and the court in *Franklin* discussed inadequate consideration in the context of analyzing the merger and mere continuation grounds. (*Franklin, supra, 87 Cal.App.4th at pp. 625-626.*) The court in *Franklin* did not discuss or require inadequate consideration as a prerequisite to the product line theory of successor liability. (*Id. at pp. 827-828.*) Nor did the court in *Ray v. Alad*. (See *Ray, supra, 19 Cal.3d at pp. 31-32.*)

As in *Ray v. Alad*, here the original company no longer exists. Defendant took over Master Industries, Inc.'s business, and the original company stopped operations and was dissolved. (Eyerly Decl., Ex. 6.) Thus Defendant's purchase of the business led to "the virtual destruction of [Plaintiffs'] remedies against the original manufacturer caused by the successor's acquisition of the business." (*Ray, supra, 19 Cal.3d at p. 31.*)

In *Ray v. Alad*, the court explained that the transfer of the [*9] original company's assets to the successor transferred "the resources that had previously been available to [the original company] for meeting its

responsibilities to persons injured by defects in [the products] it had produced. These resources included not only the physical plant, the manufacturing equipment, and the inventories of raw materials, work in process, and finished goods, but also the know-how available through the records of manufacturing designs, the continued employment of the factory personnel, and the consulting services of [the original company's] general manager." (*Ray, supra, 19 Cal.3d at p. 33.*) Similarly, here Defendant obtained the physical location, manufacturing equipment, intellectual property, know-how, materials, business records, book of business, and employees. For the reasons expressed in *Ray v. Alad*, Defendant was able "to assume the original manufacturer's risk-spreading role." (*Ray, supra, 19 Cal.3d at p. 31.*)

That makes this situation different from that in *Lundell v. Sidney Machine Tool Co.*, cited by Plaintiffs, where the original company had stopped manufacturing the products ten years before the defendant purchased some of the assets and started a business repairing those products. (*Lundell, supra, (1987) 190 Cal.App.3d 1546, 1549-1550.*) The defendant in *Lundell* [*10] was not carrying on the same business as the original manufacturer, was not manufacturing the products in dispute, and was a much smaller business. (*Id. at p. 1555.*) Here in contrast, Defendant was carrying on the same business, manufacturing the same product, and operating at a similar size (same facilities, employees, equipment, etc.) as the original manufacturer. There was not a gap in the production of the disputed product.

The last factor for the product line exception is "the fairness of requiring the successor to assume a responsibility for defective products that was a burden necessarily attached to the original manufacturer's good will being enjoyed by the successor in the continued operation of the business." (*Ray, supra, 19 Cal.3d at p. 31.*) Defendant argues it would be unfair because it does not have insurance, continued selling the product at issue for only four years after acquiring the company and decades after Plaintiff used the product, and ceased operating in California in 2020.

The evidence discussed above and in the papers shows Defendant purchased the assets of Master Industries, Inc. necessary to continue the business and indeed continued the output of the product at issue under the same brand [*11] name. Defendant's name — Master Industries Worldwide LLC — takes advantage of the reputation and name of Master Industries, Inc. Indeed, Defendant purchased Master Industries, Inc. because

"[t]he Master brand was well-recognized in the bowling industry," and "it seemed like a good fit." (Eyerly Decl., Ex. 2 at p. 22.) These were the same factors that led the court in *Ray v. Alad* to conclude imposition of liability on the successor was fair.

In sum, Plaintiffs showed that Master Industries, Inc. and Defendant both availed themselves of the benefits of doing business in California, and Plaintiffs' claims arise from their use of Master Industries, Inc.'s product made, sold, and used in California. Plaintiffs also provided sufficient evidence that Defendant assumed the liabilities of Master Industries, Inc. for that product.

Defendant argues that the product line exception only applies to strict product liability claims and not the other claims in the complaint. That is an argument for another motions attacking the other causes of action.

The motion to quash is DENIED as follows:

The Hearing on Motion to Quash Service of Summons and Complaint for Lack of Personal Jurisdiction for Defendant [*12] Master Industries Worldwide, LLC (CCP § 418(A)(1)) (Manns-21STCV16240) scheduled for 06/29/2023 is 'Held - Motion Denied' for case 21STCV16240.

The moving party is to give notice.

A copy of this minute order will append to the following coordinated case under JCCP4674: 21STCV16240.

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