

Pira v Air & Liquid Sys. Corp.

Supreme Court of New York, New York County

October 4, 2023, Decided

INDEX NO. 190093/2020

Reporter

2023 N.Y. Misc. LEXIS 7384 *; 2023 NY Slip Op 33440(U) **

[1]** JOSEPH PIRA, AS ADMINISTRATOR FOR THE ESTATE OF GIACINTO PIRA AND MARIA PIRA, INDIVIDUALLY, Plaintiff, - v - AIR & LIQUID SYSTEMS CORPORATION, AS SUCCESSOR-BY-MERGER TO BUFFALO PUMPS, INC, AMCHEM PRODUCTS, INC., NAVA RHONE POULENC AG COMPANY, N/K/A BAYER CROPSCIENCE INC, AMERICAN OPTICAL CORPORATION, BW/IP, INC. AND ITS WHOLLY OWNED SUBSIDIARIES, CBS CORPORATION, F/K/A VIACOM INC., SUCCESSOR BY MERGER TO CBS CORPORATION, F/K/A WESTINGHOUSE ELECTRIC CORPORATION, CRANE CO, DCO LLC F/K/A DANA COMPANIES, LLC, ELECTROLUX HOME PRODUCTS, INC. INDIVIDUALLY, AND AS SUCCESSOR TO TAPPAN AND COPES-VULCAN, EMPIRE-ACE INSULATION MFG. CORP, FLOWSERVE US, INC. INDIVIDUALLY AND SUCCESSOR TO ROCKWELL MANUFACTURING COMPANY, EDWARD VALVE, INC., NORDSTROM VALVES, INC., EDWARD VOGT VALVE COMPANY, AND VOGT VALVE COMPANY, FMC CORPORATION, ON BEHALF OF ITS FORMER CHICAGO PUMP & NORTHERN PUMP BUSINESSES, GARDNER DENVER, INC, GENERAL ELECTRIC COMPANY, GOODYEAR CANADA, INC, GOULDS PUMPS LLC, GUARD-LINE, INC, GUTHRIE DELAWARE, INC, HOBART BROTHERS COMPANY, HONEYWELL INTERNATIONAL, INC., F/K/A ALLIED SIGNAL, INC. / BENDIX, IMO INDUSTRIES, INC, ITT LLC., INDIVIDUALLY AND AS SUCCESSOR TO BELL & GOSSETT AND AS SUCCESSOR TO KENNEDY VALVE MANUFACTURING CO., INC, JENKINS BROS, MCCORD CORPORATION, MINE SAFETY APPLIANCES COMPANY, MORSE TEC LLC, PFIZER, INC. (PFIZER), PREST-O-SALES & SERVICES, INC, STEEL GRIP SAFETY APPAREL COMPANY, INC, STEEL GRIP, INC., STEEL GRIP, INC., A/K/A VOORHEES, INC INDIVIDUALLY AND AS SUCCESSOR-IN-INTEREST TO STEEL GRIP SAFETY APPAREL COMPANY, INC, TENNECO AUTOMOTIVE

OPERATING COMPANY INC, THE BOC GROUP, INC, THE GOODYEAR TIRE AND RUBBER COMPANY, U.S. RUBBER COMPANY (UNIROYAL), UNION CARBIDE CORPORATION, WARREN PUMPS, LLC, **[**2]** Defendant.

Notice: THIS OPINION IS UNCORRECTED AND WILL NOT BE PUBLISHED IN THE PRINTED OFFICIAL REPORTS.

Core Terms

personal jurisdiction, deposition, discovery, products, RENEW, principal place of business, general jurisdiction, substantial revenue, tortious act, incorporation, confirmed, documents, commits, derives, arm

Judges: **[*1]** PRESENT: HON. ADAM SILVERA, Justice.

Opinion by: ADAM SILVERA

Opinion

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 007) 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349 were read on this motion to/for RENEW/REARGUE/RESETTLE/RECONSIDER.

Upon the foregoing documents, it is ordered that defendant Steel Grip, Inc.'s (SGI) motion to renew, filed herein following the completion of jurisdictional discovery as per this Court's prior decision dated December 27, 2021, seeking dismissal of this action pursuant to [CPLR §3211\(a\)\(8\)](#) is decided in accordance with the decision below.

In this **asbestos** action, defendant SGI seeks to dismiss the complaint against it on the basis that it has no connections to the State of New York and the Court has no personal jurisdiction over it. Plaintiff opposes, highlighting jurisdictional discovery which confirmed SGI's contacts with New York regarding the products at issue herein.

To find personal jurisdiction, the Court must determine whether it has general or specific jurisdiction over the moving defendant. New York's general jurisdiction statute [CPLR §301](#) and the long arm statute [CPLR §302\(a\)](#) govern jurisdiction over a non-domiciliary defendant. As to general **[*2]** jurisdiction pursuant to [CPLR §301](#), it must be established that a defendant's "affiliations with the State [of] New York are so continuous and systematic as to render it essentially at home in the... State". *Robins v Procure Treatment Ctrs., Inc.*, 157 AD3d 606, 607, 70 N.Y.S.3d 457 (1st Dep't 2018)(internal brackets and citations omitted). "Aside from an exceptional case, a corporation is at home only in a state that is the company's place of incorporation or its principal place of business". [Lowy v Chalkable, LLC](#), 186 AD3d 590, 592, 129 N.Y.S.3d 517 (2nd Dep't 2020)(internal quotations and citations omitted). The relevant inquiry regarding a corporate defendant's place of incorporation **[**3]** and principal place of business, is at the time the action is commenced. See [Lancaster v Colonial Motor Freight Line, Inc.](#), 177 AD2d 152, 156, 581 N.Y.S.2d 283 (1st Dep't 1992).

As for long arm jurisdiction, [CPLR §302\(a\)](#) states that specific jurisdiction may be exercised over a non-resident who "(1) transacts any business within the state or contracts anywhere to supply goods or services in the state; or (2) commits a tortious act within the state...; or (3) commits a tortious act without the state causing injury to person...within the state...if he (i) regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in the state, or (ii) expects or should reasonably expect **[*3]** the act to have consequences in the state and derives substantial revenue from interstate or international commerce; or (4) owns, uses or possesses real property situated within the state."

Here, plaintiff-decent, Giacinto Pira ("Mr. Pira"), testified unequivocally to the **asbestos**-containing gloves he used on cruise ships being sourced from New York. See Affirmation in Opposition to Defendant Steel Grip, Inc.'s Second Motion to Dismiss, p. 9. Additionally, plaintiff's jurisdictional discovery pursuant to this Court's order

dated December 27, 2021, yielded the deposition of defendant SGI's corporate representative, Thomas A. McGurk, Jr. ("Mr. McGurk"). Such deposition confirmed that SGI sold its products to companies in New York and that deponent Mr. McGurk had personal experience travelling to New York for work. See *id.*, Exh. M, Deposition Transcript of Thomas A. McGurk, Jr., dated May, 19, 2022.

As such, plaintiff has presented evidence sufficient to establish that defendant SGI had a nexus to New York and conducted business herein such that it should be held liable for products sold therein.

Accordingly, it is

[4]** ORDERED that defendant SGI's renewed motion to dismiss for lack of personal **[*4]** jurisdiction is denied; and it is further

ORDERED that within 30 days of entry, plaintiff shall serve a copy of this decision/order upon all parties with notice of entry.

This constitutes the Decision/Order of the Court.

10/04/2023

DATE

/s/ Adam Silvera

ADAM SILVERA, J.S.C.

End of Document