

Buitrago v H.O Penn Machinery Co., Inc.

2013 NY Slip Op 30977(U)

April 22, 2013

Sup Ct, New York County

Docket Number: 100154/08

Judge: Paul Wooten

Republished from New York State Unified Court System's E-Courts Service.
Search E-Courts (<http://www.nycourts.gov/ecourts>) for any additional information on this case.

This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: HON. PAUL WOOTEN
Justice

PART 7

OSCAR BUITRAGO and MARIA BUITRAGO,

INDEX NO. 100154/08

Plaintiffs,

- against -

MOTION SEQ. NO. 005

H.O. PENN MACHINERY COMPANY, INC.,
H.O. PENN MACHINERY LEASING, LLC and
CATERPILLAR INC.,

Defendants.

FILED
MAY 07 2013

COUNTY CLERK'S OFFICE
NEW YORK

The following papers were read on this motion by defendants for summary judgment.

	PAPERS NUMBERED
Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...	_____
Answering Affidavits — Exhibits (Memo) _____	_____
Replying Affidavits (Reply Memo) _____	_____

Cross-Motion: Yes No

Motion sequence numbers 005 and 006 are hereby consolidated for purposes of disposition.

In sequence number 005, defendants H.O. Penn Machinery Company, Inc. and H.O. Machinery Leasing, LLC (both, H.O. Penn) move, pursuant to CPLR 3212, for an order granting summary judgment, dismissing all claims and cross-claims asserted against them, and granting conditional summary judgment on their common-law indemnification and contribution cross-claims. In sequence number 006, defendant Caterpillar Inc. (Caterpillar) moves for an order granting summary judgment, and dismissing all claims and cross-claims asserted against it. Discovery in this matter is complete and the Note of Issue has been filed.

BACKGROUND

In this strict products liability and negligence action, Oscar Buitrago (plaintiff) alleges that his left hand was partially crushed on June 29, 2006 by a multi-terrain loader equipped with a pallet fork attachment. The loader, a model no. 277B, was designed and manufactured by

Caterpillar. Caterpillar also drafted the loader's operation and maintenance manual (operator's manual). By factory invoice dated September 1, 2005, Caterpillar sold the loader to H.O. Penn, an authorized Caterpillar distributor. By sales contract dated November 9, 2005, H.O. Penn sold the loader with the operator's manual to nonparty Oscar's Rock and Dirt (Oscar's Rock). Buitrago is president and part owner of Oscar's Rock. Oscar's Rock attached a pallet fork to the loader that was not designed or manufactured by Caterpillar.

Plaintiff alleges that the accident occurred as the loader was being operated by nonparty Jose Ramon Vasquez, an Oscar's Rock employee. Plaintiff further alleges that as Buitrago neared the loader, he advised Vasquez that he was going to chain a tree to the pallet fork, and then braced himself against the loader by placing his left hand between the lift arm of the loader and the coupler portion of the pallet fork attachment. Plaintiff states that Buitrago bent toward the ground to retrieve the chain and secure the tree to the pallet fork, using his right hand, and as he did so, the arms of the loader blocked Vasquez's ability to see the area where Buitrago was standing. Plaintiff also maintains that, without warning to Buitrago, Vasquez curled the coupler back toward the lift arm on the loader, crushing the fifth digit on Buitrago's left hand.

Vasquez continued to be employed by Oscar's Rock for eight to twelve months after the accident, until he moved back to Ecuador, his native country. The parties have not been able to locate Herman Andres Rodriguez, an Oscar's Rock employee who witnessed the accident.

On these allegations, plaintiff asserts causes of action against defendants for strict products liability and negligent design, manufacture, and sale of the loader, failure to warn, and breach of warranty. Plaintiff's wife Maria Buitrago, asserts a derivative claim for loss of consortium.

In their answers, H.O. Penn and Caterpillar deny all allegations of wrongdoing, and assert numerous affirmative defenses, including assumption of the risk, lack of proximate cause, and proper design and manufacture of the loader. They also assert cross-claims

against each other for common-law indemnification and contribution.

H.O. Penn and Caterpillar now seek summary judgment on the cross-claims that they assert against each other. Pursuant to a so-ordered stipulation, H.O. Penn and Caterpillar voluntarily discontinued with prejudice and without costs the cross-claims, and H.O. Penn withdrew that branch of its motion for summary judgment on its cross-claims asserted against Caterpillar. Therefore, those branches of the motions in which defendants seek summary judgment on their respective cross-claims are moot, and all cross-claims are dismissed.

Next, H.O. Penn seeks summary judgment in its favor on the branches of the first and second causes of action for strict products liability based on defective design, contending, primarily, that plaintiffs have failed to allege any conduct or omission by H.O. Penn that could have been a proximate cause of Buitrago's injury. Caterpillar also seeks summary judgment in its favor, contending that the evidentiary record conclusively demonstrates that the loader was reasonably safe for its intended purpose, and that the accident was the result of misconduct by Buitrago and Vasquez.

In opposition, plaintiff contends that numerous genuine triable issues of fact exist regarding the proximate cause of the accident, and that defendants have failed to produce an expert witness affidavit in support of their conclusory allegation that the loader was reasonably safe for its intended purpose.

DISCUSSION

Summary judgment is a drastic remedy that should be granted only if no triable issues of fact exist and the movant is entitled to judgment as a matter of law (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324 [1986]; *Andre v Pomeroy*, 35 NY2d 361, 364 [1974]). The party moving for summary judgment must make a *prima facie* showing of entitlement to judgment as a matter of law, tendering sufficient evidence in admissible form demonstrating the absence of material issues of fact (*see Winegrad v New York Univ. Med. Ctr.*, 64 NY2d 851, 853 [1985];

CPLR 3212(b)). A failure to make such a showing requires denial of the motion, regardless of the sufficiency of the opposing papers (see *Smalls v AJI Indus. Inc.*, 10 NY3d 733, 735 [2008]). Once a prima facie showing has been made, however, "the burden shifts to the nonmoving party to produce evidentiary proof in admissible form sufficient to establish the existence of material issues of fact that require a trial for resolution" (*Giuffrida v Citibank Corp.*, 100 NY2d 72, 81 [2003]; see also *Zuckerman v City of New York*, 49 NY2d 557, 562 [1980]; CPLR 3212(b)).

When deciding a summary judgment motion, the Court's role is solely to determine if any triable issues exist, not to determine the merits of any such issues (see *Sillman v Twentieth Century-Fox Film Corp.*, 3 NY2d 395, 404 [1957]). The Court views the evidence in the light most favorable to the nonmoving party, and gives the nonmoving party the benefit of all reasonable inferences that can be drawn from the evidence (see *Negri v Stop & Shop, Inc.*, 65 NY2d 625, 626 [1985]). If there is any doubt as to the existence of a triable issue, summary judgment should be denied (see *Rotuba Extruders v Ceppos*, 46 NY2d 223, 231 [1978]).

Pursuant to the doctrine of strict products liability,

"[a] manufacturer who places into the stream of commerce a defective product which causes injury may be liable for such injury. A defect in a product may consist of a mistake in manufacturing, an improper design or the inadequacy or absence of warnings for the use of the product. For there to be a recovery for injuries or damages occasioned by a defective product, however, that defect must have been a substantial factor in bringing about the injury or damage and additionally, among other things, at the time of the occurrence, the product must have been used for the purpose and in the manner normally intended or in a manner reasonably foreseeable" (*Amatulli v Delhi Constr. Corp.*, 77 NY2d 525, 532 [1991] internal citations omitted).

"In order to establish a prima facie case in strict products liability for design defects, the plaintiff must show that the manufacturer breached its duty to market safe products when it marketed a product designed so that it was not reasonably safe and that the defective design

was a substantial factor in causing plaintiff's injury" (*Voss v Black & Decker Mfg. Co.*, 59 NY2d 102, 107 [1983]). "[A] defectively designed product is one which, at the time it leaves the seller's hands, is in a condition not reasonably contemplated by the ultimate consumer and is unreasonably dangerous for its intended use; that is one whose utility does not outweigh the danger inherent in its introduction into the stream of commerce" (*Robinson v Reed-Prentice Div. of Package Mach. Co.*, 49 NY2d 471, 479 [1980]).

H.O. Penn's repeated contention that it cannot be found liable in strict products liability because it was "merely" a link in the chain of distribution of the loader is without merit. "The theory behind strict liability is that those who market a product have undertaken a special responsibility to any member of the consuming public who may be injured by it. The rule is applicable to, among others, manufacturers, distributors, retailers, processors, and makers of component parts" (86 NY Jur 2d, Products Liability § 108; see *Fernandez v Riverdale Terrace*, 63 AD3d 555, 555-556 [1st Dept 2009]; *Perillo v Pleasant View Assoc.*, 292 AD2d 773, 774 [4th Dept 2002]; *Joseph v Yenkin Majestic Paint Corp.*, 261 AD2d 512, 512 [2d Dept 1999]).

Next, H.O. Penn and Caterpillar contend that the loader was not defectively designed. In opposition, plaintiffs contend that triable issues exist regarding whether the loader was defectively designed in that the coupler portion of the pallet fork attachment and the lift arms create a crush point when the coupler is racked back, and that the operator's station provided insufficient visibility of the crush point created when the arms are racked back.

In a strict products liability claim, "the proper standard to be applied should be whether the product as designed was 'not reasonably safe' – that is, whether it is a product which, if the design defect were known at the time of manufacture, a reasonable person would conclude that the utility of the product did not outweigh the risk inherent in marketing a product designed in that manner" (*Voss v Black & Decker Mfg. Co.*, 59 NY2d at 108). This issue is generally one for the jury to decide (*see id.*). In balancing the risks inherent in the product, as designed,

against its utility and cost, the jury may consider the following factors:

"(1) the utility of the product to the public as a whole and to the individual user; (2) the nature of the product – that is, the likelihood that it will cause injury; (3) the availability of a safer design; (4) the potential for designing and manufacturing the product so that it is safer but remains functional and reasonably priced; (5) the ability of the plaintiff to have avoided injury by careful use of the product; (6) the degree of awareness of the potential danger of the product which reasonably can be attributed to the plaintiff; and (7) the manufacturer's ability to spread any cost related to improving the safety of the design" (*id.* at 108-109).

Here, defendants do not contend that no crush point could be created when the loader was in operation, but, instead, contend that the crush danger was open and obvious, and, therefore, the loader design did not need to be modified. Thomas Lane (Lane), Caterpillar's senior product consultant in product safety and compliance, testified that a pinch point is created when the operator moves a loader attachment, the hydraulics are running, and a control lever is hit (*see* Lane Deposition at 10:13-15, 87:13 to 88:15). Lane testified that Caterpillar's safety audit during development of the loader revealed "multiple crush points around the machine" and, after reviewing a photo of the area where Buitrago's hand had been crushed, testified that the area is one of them (*id.* at 72:22 to 73:3, 88:24 to 89:25). Gary Lamar Morris (Morris), a Caterpillar multi-terrain loader designer, testified that Caterpillar was fully aware of the creation of the crush point, that the loader operator has direct control of the loader arms that create the hazard, that the hazard was clearly visible, and that the operator would see the arm movement and pinch points every time he racked back the loader attachment (*see* Morris Deposition at 8:20 to 9:3, 31:5-20, 43:15 to 44:17). The Court notes that plaintiff testified that Vasquez was an experienced loader operator, and that plaintiff had warned Vasquez not to move the loader attachment when people were working around it (*see* Plaintiff Deposition at 70:2-18, 136:6 to 137:22).

Plaintiffs' technical and safety expert witness, John P. Coniglio (Coniglio), president of

Expert Litigation Services Inc., vice president-operations of Occupational Safety & Environmental Associates Inc., and a safety professional certified by the Board of Certified Safety Professionals, attests that the use of a multi-terrain loader typically involves participation by untrained workers to attach, detach, and adjust work tool attachments and to secure, position, rotate, adjust or move various loads (see Coniglio Aff ¶¶ 1, 2, 13). Coniglio concludes that operation of the machine near non-operators, such as plaintiff, is reasonably foreseeable, and may result in such people being in proximity to the areas of the loader arms where plaintiff sustained his injury (see *id.* ¶ 14). He also attests that the accepted policies of construction workplace safety and injury avoidance required Caterpillar to exercise reasonable care to remove or minimize crush hazards in the area where Buitrago placed his hand and, where feasible, to furnish warnings against the danger of injuries in that area (see *id.* ¶ 15).

Coniglio attests that Caterpillar's duty was heightened in the circumstances presented here because the crush point was not conspicuous or otherwise obvious, inasmuch as it does not have protuberances or moving parts, and is not readily recognizable as a crush hazard to untrained non-operators, such as plaintiff (see *id.* ¶ 9). He attests that the failure by Caterpillar to meet its duty to exercise reasonable care is a violation of applicable industry and safety-related guidelines, standards, and practices, including those promulgated by the Society of Automotive Engineers, the International Organization for Standardization, the Occupational Safety and Health Administration, the New York State Industrial Code and the American National Standards Institute (see *id.* ¶ 19). Coniglio attests that other loader manufacturers, such as nonparties New Holland, Bobcat, and Gehl, have incorporated safer alternative designs that eliminate the direct contact points on a loader that can cause a crushing effect (see *id.* ¶¶ 16-17).

Coniglio concludes, based on his experience and expertise, and his assessment of the loader's reasonably foreseeable uses, utility, and dangers, that the location of inconspicuous

crush points that are not highlighted with a warning at readily accessible areas of the loader's arms, such as where plaintiff's injury occurred, rendered the design of the machine unreasonably dangerous and defective, created the substantial and foreseeable risk of injuries to persons situated near and around the machine, and proximately caused Buitrago's injuries (*see id.* ¶¶ 20-22). Coniglio also concludes that, considering that it was practicable and cost-effective to manufacture the loader in an alternative manner that minimized or eliminated the crush points without reducing the machine's utility, Caterpillar's failure to do so cannot be justified (*see id.*).

In light of this evidence, the Court finds that the parties have raised genuine triable issues of material fact regarding the design of the loader sufficient to preclude summary judgment (*see Rotuba Extruders v Ceppos*, 46 NY2d 223, 231 [1978]; CPLR 3212).

Genuine triable issues also exist regarding whether the conduct of plaintiff and Vasquez were the only proximate causes of the accident. "[W]hether the action is pleaded in strict products liability, breach of warranty or negligence, it is a consumer's burden to show that a defect in the product was a substantial factor in causing the injury and . . . , that the defect complained of existed at the time the product left the manufacturer or entity in the line of distribution being sued" (*Tardella v RJR Nabisco*, 178 AD2d 737, 737 [3d Dept 1991]; *Codling v Paglia*, 32 NY2d 330, 342 [1973]). In addition, "[t]he existence of more than one proximate cause for an accident in which the plaintiff is injured by allegedly unsafe equipment will not exonerate the manufacturer from liability if the manufacturer's negligence and unsafe design can be shown to be the substantial cause of events that produced the injury" (86 NY Jur 2d, Products Liability § 3, citing *Bush v Lamb-Grays Harbor Co.*, 246 AD2d 768, 771 [3d Dept 1998]).

Caterpillar's repeated contentions that plaintiff was an experienced loader operator and fully appreciated the danger of placing his left hand at a crush point are mere speculation, not

* 9]

based on the evidentiary record. Plaintiff testified that, at the time of the accident, he had not received any training in the use or operation of the loader (see Plaintiff Deposition at 23:15-19, 41:24 to 42:3). He further testified that, as co-owner and president of Oscar's Rock, he managed the company's excavation projects, while the company employed a trained machine operator, Vasquez, to operate the loader (see *id.* at 31:12-22, 43:17 to 44:4). Plaintiff also testified that, when he was present at a work site, his tasks were generally restricted to manually digging with a shovel, and providing other assistance to the loader operator and other employees (see *id.* at 55:9-17). He testified that he himself had never operated the loader with the pallet fork attachment (see *id.* at 54:19 to 55:2), and had operated the loader only once a month, at most, during the seven-month period that Oscar's Rock owned the loader prior to the accident, when he would load and unload it into, and out of, the company's shop (see *id.* at 40:18 to 41:7, 52:13-18, 190:5-7). Plaintiff further testified that Vasquez had been hired by Oscar's Rock approximately two years prior to the accident, and had operated the loader two or three times a week, for two to three hours at a time (see *id.* at 44:5-13, 45:4-10), and that Oscar's Rock had purchased the loader specifically to be operated by a trained operator (see *id.* at 133:4-7).

While Robert Reggiani (Reggiani), a certified Caterpillar salesperson formerly employed by H.O. Penn, testified that he had observed plaintiff operating other machines on a few occasions (see Reggiani Deposition at 6:17, 10:6-10, 66:11-16), and had probably seen plaintiff curl and uncurl a loader bucket attachment, he also testified that he did not know whether plaintiff racked back the bucket attachment to make contact with the loader arms and create a crush point (see *id.* at 121:13 to 122:2). Reggiani also testified that he did not recall whether he advised plaintiff that the area in front of the machine is not clearly visible from the operator's station, or identified any crush points to plaintiff (see *id.* at 59:7-16, 60:3-13, 61:5-9). Plaintiff testified that he did not receive any training from Reggiani regarding the use of the loader (see

Buitrago Deposition at 41:24 to 42:3).

Although plaintiff testified that, immediately before the accident, he made eye contact with Vasquez, signaled to him that he intended to approach the loader, and believed that Vasquez understood his intent (see Plaintiff Deposition at 85:13 to 87:5), there is no conclusive evidence that Vasquez fully understood plaintiff's message, and saw plaintiff approach the loader and place his left hand on the machine, before he racked back the pallet fork attachment, creating the crush point. Vasquez was not deposed regarding the accident. Therefore, the branches of H.O. Penn's and Caterpillar's motions for summary judgment on the strict products liability claim based on defective product design are denied.

Next, H.O. Penn and Caterpillar seek summary judgment on the branches of the products liability claims for failure to warn, contending that they bore no legal obligation to place warning decals on the loader, or to otherwise warn plaintiff, because the danger was patent and obvious and described in the operator's manual and plaintiff was aware of the danger. In opposition, plaintiff contends that the loader was unreasonably dangerous because it did not have warning decals on its lift arms, and that triable issues exist regarding whether defendants fulfilled their duties to warn plaintiff about the crush hazard created when the loader arms were activated.

"Unlike design decisions that involve consideration of many interdependent factors, the inquiry in a duty to warn case is much more limited, focusing principally on the foreseeability of the risk and the adequacy and effectiveness of any warning" (*Liriano v Hobart Corp.*, 92 NY2d 232, 239 [1998]). "A manufacturer has a duty to warn against latent dangers resulting from foreseeable uses of its product of which it knew or should have known. A manufacturer also has a duty to warn of the danger of unintended uses of a product[,] provided these uses are reasonably foreseeable" (*id.* at 237 [internal citation omitted]). A seller has "a duty to inspect for and to discover such defects as a reasonable physical inspection would disclose" (*Naples v*

City of New York, 34 AD2d 577, 578 [2d Dept 1970]; 86 NY Jur 2d, Products Liability § 48).

Further, "[t]here is no duty to warn of an open and obvious danger of which the product user is actually aware or should be aware as a result of ordinary observation or as a matter of common sense" (*Felle v W.W. Grainger, Inc.*, 302 AD2d 971, 972 [4th Dept 2003]).

Contrary to plaintiff's contention, the Caterpillar deponents uniformly testified that the loader was designed without warning decals on the lift arms. For example, Lane testified that Caterpillar chose not to require a warning label at every crush point, including the area where the accident occurred, as the loader is used, paint is worn away from the pinch point area, making the hazard obvious, no one had been injured by the previous loader model, and there are four or five places in the operator's manual warning that the loader must not be operated when people are nearby (Lane Deposition at 90:2 to 91:7). He also testified that Caterpillar decided which crush points warranted warnings and safety messages by evaluating "the likelihood of a person being in that area and the potential for a crush hazard" (*id.* at 72:19 to 73:3, 92:4-7).

Plaintiff has raised triable issues regarding, among other things, whether plaintiff was warned, and whether Caterpillar should have required a warning decal on the loader arms. Plaintiff testified that he was never informed or warned – in the manual, on the loader, by H.O. Penn or anyone else – that the area on the loader where he placed his left hand was a crush point (see Plaintiff Deposition at 74:18 to 75:6). Plaintiff also testified that, when the accident happened, he did not know which components of the loader moved to crush his hand (see *id.* at 75:12-18), and that he did not see the pallet forks move before his hand was crushed (see *id.* at 79:5-7).

Plaintiff's expert witness, Dr. William J. Vigilante, Jr. (Vigilante), a Robson Forensic, Inc. employee with a doctorate in psychology/ergonomics and with more than 18 years of experience in drafting, evaluating, analyzing, and testing the adequacy, suitability and

effectiveness of product warning and instructions, evaluated the loader, warnings, instructions, and the underlying facts, and attests that it was reasonably foreseeable that a non-operator bystander would lack the same training, experience and familiarity as trained loader operators regarding the mechanical movements of the loader's arms and attachments, including the knowledge that crush points are created at the inconspicuous areas of the loader arms (see William J. Vigilante, Jr. Aff ¶¶ 1, 2, 4-5). Vigilante also attests that placing a warning decal on the loader arms near the area of the crush hazard was both feasible and simple, and that the cost of creating two additional decals would have been minimal, and would have resulted in the accident being avoided (see *id.* ¶¶ 6-7, 24). He concludes that, in his opinion, with a reasonable degree of professional certainty, that each of the defendants' failures to warn of the crush hazard rendered the loader "inherently and unreasonably dangerous and defective, created and/or failed to alleviate the substantial and foreseeable risk of injuries to persons situated near and around the machine, were improper in that they failed to provide adequate warnings of the existence and dangers of the Crush Point hazard at issue, and proximately caused Oscar Buitrago's injuries" (see *id.* ¶ 27).

The Court finds that the trier of fact may find that a warning decal would have avoided the accident, particularly if Vasquez did not have clear visibility of the loader where the crush point was created. Buitrago testified that the loader arms blocked visibility between the area where he was standing and the operator's station in the loader (see Plaintiff Deposition at 66:8-21).

Based upon the foregoing, the branches of H.O. Penn's and Caterpillar's motions for summary judgment on the failure-to-warn claim are denied. For the same reasons, the branches of the motions by H.O. Penn and Caterpillar for summary judgment on plaintiff's negligence claim are denied. In the claim, it is alleged that Caterpillar negligently failed to use reasonable care in designing the loader to create crush points without warning decals, although

it could have foreseen the accident, and that the design defects caused the injury. A manufacturer is under a duty to use reasonable care in designing its products, and where it is responsible for a defect that caused injury, and it could have foreseen the injury, it will be held liable in negligence (see *Robinson v Reed-Prentice Div. of Package Mach. Co.*, 49 NY2d at 480). Where, as here, "liability is predicated on a failure to warn, New York views negligence and strict liability claims as equivalent" (*Martin v Hacker*, 83 NY2d 1, 8 n 1 [1993]).

Similarly, the branches of the motions for summary judgment on the claim for breach of warranty are denied. In such a claim, the central inquiry is "whether the product in question was 'fit for the ordinary purposes for which such goods are used'" (*Denny v Ford Motor Co.*, 87 NY2d 248, 258 [1995], quoting UCC § 2-314 [2][c]). Thus, the "inquiry focuses on the expectations for the performance of the product when used in the customary, usual and reasonably foreseeable manners" (*id.* at 258-259). As a practical matter, "the distinction between the defect concepts in tort law and in implied warranty theory may have little or no effect in most cases" (*id.* at 262). As held above, triable issues exist regarding whether the loader, as designed, was fit for its intended purpose.

Accordingly, it is

ORDERED that the portion of defendants H.O. Penn Machinery Company, Inc. and H.O. Machinery Leasing, LLC's motion for an order granting summary judgment dismissing all claims asserted against them (sequence 005) is denied; and it is further,

ORDERED that the portion of defendants H.O. Penn Machinery Company, Inc. and H.O. Machinery Leasing, LLC's motion for summary judgment dismissing all cross-claims (sequence 005) is moot as this portion of the motion has been withdrawn; and it is further,

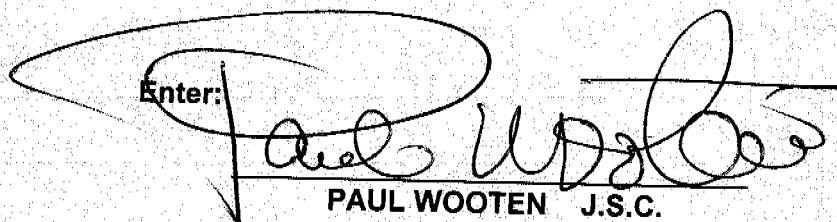
ORDERED that the portion of defendant Caterpillar Inc.'s motion for an order granting summary judgment dismissing all claims asserted against it (sequence 006) is denied; and it further,

ORDERED that the portion of defendant Caterpillar Inc.'s motion for an order granting summary judgment dismissing the cross-claims asserted against it (sequence 006) is moot as all cross-claims have been discontinued; and it is further,

ORDERED that plaintiffs are directed to serve a copy of this order with Notice of Entry upon all parties.

This constitutes the Decision and Order of the Court.

Dated: 4-22-13

Enter: 
PAUL WOOTEN J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

Check if appropriate: : DO NOT POST REFERENCE

FILED

MAY 07 2013

COUNTY CLERK'S OFFICE
NEW YORK