

Pira v Air & Liquid Sys. Corp.

2023 NY Slip Op 33440(U)

October 4, 2023

Supreme Court, New York County

Docket Number: Index No. 190093/2020

Judge: Adam Silvera

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This opinion is uncorrected and not selected for official publication.

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

PRESENT: HON. ADAM SILVERA

PART

13

Justice

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JOSEPH PIRA, AS ADMINISTRATOR FOR THE ESTATE
OF GIACINTO PIRA AND MARIA PIRA, INDIVIDUALLY,

INDEX NO. 190093/2020

MOTION DATE 07/18/2023

MOTION SEQ. NO. 007

Plaintiff, .

- v -

AIR & LIQUID SYSTEMS CORPORATION, AS
SUCCESSOR-BY-MERGER TO BUFFALO PUMPS, INC,
AMCHEM PRODUCTS, INC., N/K/A 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
COPEP-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,

**DECISION + ORDER ON
MOTION**

Defendant.

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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 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 (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 (2nd Dep't 2020)(internal quotations and citations omitted). The relevant inquiry regarding a corporate defendant's place of incorporation

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 (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 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

ORDERED that defendant SGI's renewed motion to dismiss for lack of personal

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.

ADAM SILVERA, J.S.C.

10/04/2023

DATE

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| CHECK ONE: | <input type="checkbox"/> | CASE DISPOSED | <input checked="" type="checkbox"/> | DENIED | <input checked="" type="checkbox"/> | NON-FINAL DISPOSITION | <input type="checkbox"/> | OTHER |
| APPLICATION: | <input type="checkbox"/> | GRANTED | <input type="checkbox"/> | GRANTED IN PART | <input type="checkbox"/> | SUBMIT ORDER | <input type="checkbox"/> | REFERENCE |
| CHECK IF APPROPRIATE: | <input type="checkbox"/> | SETTLE ORDER | <input type="checkbox"/> | FIDUCIARY APPOINTMENT | <input type="checkbox"/> | | | |
| | <input type="checkbox"/> | INCLUDES TRANSFER/REASSIGN | | | | | | |