

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA



-----x
FLETCHER MCDANIEL, et ux,

Plaintiffs,

v.

ARMSTRONG WORLD INDUSTRIES,
INC., et al.,

Defendants.
-----x

Civil Action No. 83-3520

(Judge Flannery)

FILED

JUL 12 1984

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

NOTICE OF FILING IN SUPPORT OF MOTION
OF DEFENDANT TURNER & NEWALL PLC TO
DISMISS FOR LACK OF PERSONAL JURISDICTION

Defendant Turner & Newall, PLC ("T&N"), by its attorneys, and in further support of its pending Motion to Dismiss, respectfully submits herewith the attached Order entered July 9, 1984 and filed July 10, 1984, by the Honorable Barrington D. Parker in Quigley v. Armstrong World Industries, Inc., D.D.C. Civil Action No. 83-2989. Such Order denies the motion filed by the same attorneys representing Plaintiffs in this case requesting reconsideration of Judge Parker's March 19, 1984 Order dismissing a similar complaint as to T&N and Nicolet, Inc. for lack of personal jurisdiction and subject matter jurisdiction, and insufficiency of process.

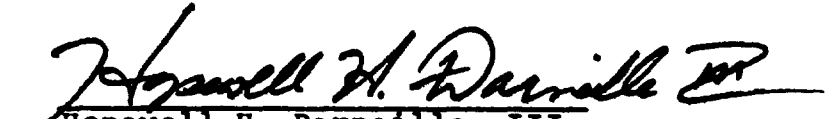
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Respectfully submitted,


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Attorneys for Defendant
Turner & Newall PLC

July 12, 1984

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

JUL 12 1984

JOSEPH ARTHUR QUIGLEY, JR.,
and ELIZABETH LEE QUIGLEY,

Plaintiffs,

v.

ARMSTRONG WORLD INDUSTRIES, INC.,
et al.,

Defendants.

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Civil Action No. 83-2989

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JAMES E. DAVEY, CLERK

ORDER

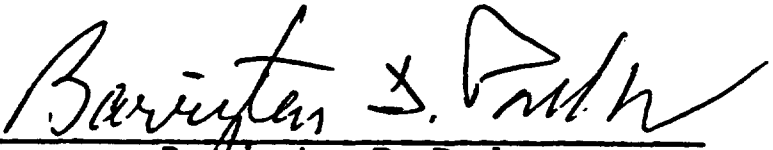
The Court has considered the plaintiffs' motion for reconsideration of the March 19, 1984 order dismissing defendants Nicolet, Inc. and Turner & Newall, PLC, and the oppositions thereto filed by those defendants, and determines that the plaintiffs' motion for reconsideration should be denied. The case chiefly relied on by the plaintiffs in support of their motion, Sheehan v. Owens-Corning Fiberglass Corp., No. 83-2160 (D. Mass. May 2, 1984), is simply a recommended decision of Magistrate DeGiacomo, and in any event, is based on factual circumstances which differ from those present in this case. As Magistrate DeGiacomo recognized in declining to follow the Fifth Circuit's opinion in Hargrave v. Fibreboard Corp., 710 F.2d 1154 (1983), the resolution of motions to dismiss for lack of personal jurisdiction varies according to the relevant long-arm statute and

CA 83-3528
Attachment

the particular factual record presented to the Court.

In addition, the Magistrate's opinion does not discuss jurisdiction over Nicolet, which has filed affidavits in this case stating that it does not manufacture or distribute the asbestos product at issue in the Massachusetts case. Affidavits of Bernard S. Bergman (President) and Mark S. Musselman (Secretary-Treasurer), filed June 11, 1984. Under these circumstances, the Court finds no persuasive reason to reconsider its previous order of dismissal.

Entered: July 9, 1984


Barrington D. Parker
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Notice of Filing in Support of Motion of Defendant T&N to Dismiss For Lack of Personal Jurisdiction" was served this 12th day of July 1984, by delivering true and correct copies thereof by first-class mail, postage prepaid, to James F. Green, Esquire and Peter T. Enslein, Esquire, Ashcraft & Gerel, 2000 L Street, N.W., Washington, D.C. 20036, attorneys for Plaintiffs, and to:

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