

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PRISCILLA LEE, Personal
Representative of the Estate
of JERRY LEE, Deceased,

Plaintiff

v.

UNION CARBIDE CORPORATION, a
FOREIGN CORPORATION, DIAMOND
SHAMROCK CORPORATION, a foreign
corporation, STAUFFER CHEMICAL
COMPANY, a foreign corporation,
TENNECO RESINS, INC., a foreign
corporation, UNIROYAL, INC., a
foreign corporation, ALLIED
CHEMICAL CORPORATION, a foreign
corporation, OCCIDENTAL CHEMICAL
CORPORATION, a foreign corpora-
tion, FIRESTONE TIRE & RUBBER
COMPANY, a foreign corporation,
B. F. GOODRICH COMPANY, a foreign
corporation, GOODYEAR TIRE &
RUBBER COMPANY, a foreign
corporation,

Defendant

Civil Action No. 84-2398

HON. JULIAN ABELE COOK, JR.

ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

At a session of the United States District
Court for the Eastern District of Michigan
in the United States Courthouse in Detroit,
Michigan on JUN 19 1985

PRESIDING:

JULIAN ABELE COOK, JR.
HONORABLE JULIAN ABELE COOK, JR.
United States District Judge

On April 18, 1985, Plaintiff, Priscilla Lee, the personal
representative of the Estate of Jerry Lee (the Decedent), filed a
Complaint in this Court, seeking to recover damages for the un-
timely demise of the Decedent from granulocytic leukemia. She

URL 11108

maintains that the Decedent contracted the disease while working at the Ford Motor Company Mount Clemens Vinyl Plant. Specifically, she asserts that the Decedent's death was caused by his exposure to polyvinyl chloride products which the Defendants supplied to the Plant.

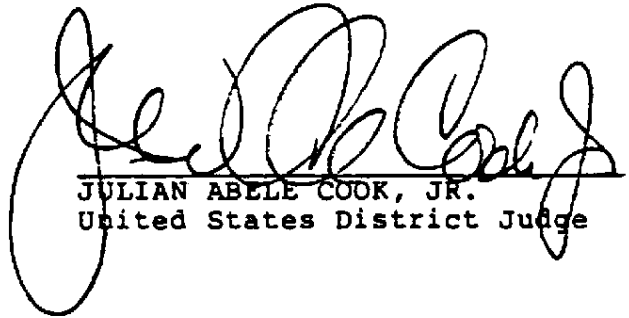
On April 25, 1985, April 30, 1985 and May 9, 1985, the Defendants, Goodyear Tire & Rubber Company, B. F. Goodrich Company and Diamond Shamrock Corporation, respectively, filed Motions for Summary Judgment. In essence, they contend that the Plaintiff's claim is barred by the three year statute of limitations for product liability actions, M.C.L.A. §600.6805(9); M.S.A. §27A.5805 (9).

On May 22, 1985, this Court entered a summary judgment in favor of Defendants, Union Carbide Corporation, Tenneco Resins, Inc., Uniroyal, Inc., Allied Corporation, Occidental Chemical Corporation and the Firestone Tire & Rubber Company on the basis of an oral ruling which was rendered at the conclusion of a hearing on April 18, 1985. The Court opined, inter alia, that Plaintiff's claims were barred by the three year statute of limitations.

This Court believes that the opinion, which was offered at that hearing, must control as to those litigants who are presently before the Court. There are no substantive differences between the claims, defenses and/or the law which were asserted during the earlier proceeding, and the claims, defenses and/or the law that have been set forth by the parties in conjunction with the current motion. In essence, the positions of the re-

spective parties in the two proceedings are the same. Thus, the Court will (1) incorporate the opinion which was stated on the record at the April 18, 1985 hearing, and (2) grant the Defendants' Motions for Summary Judgment.¹

IT IS SO ORDERED.


JULIAN ABELE COOK, JR.
United States District Judge

Dated: JUN 19 1985
Detroit, Michigan

URL 11110

^{1/} On April 25, 1985, Goodyear Tire and Rubber Company filed a "Motion to Amend Pleadings to Plead Affirmative Defense of Statute of Limitations." The ruling by the by the Court today makes the consideration of this Motion unnecessary. Thus, it will not be resolved.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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corporation, GOODYEAR TIRE &
RUBBER COMPANY, a foreign
corporation,

Defendant

I hereby certify that the foregoing is
a true copy of the original on file in this
Office.

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

Civil Action No. 84-2398

HON. JULIAN ABELE COOK, JR.

URL 11111

ORDER

At a session of the United States District
Court for the Eastern District of Michigan
in the United States Courthouse in Detroit,
Michigan on JUN 28 1985

PRESIDING:

JULIAN ABELE COOK, JR.
HONORABLE JULIAN ABELE COOK, JR.
United States District Judge

On June 6, 1985, the Defendants filed a " . . . Brief in
Opposition to [the] Plaintiff's Motion for Rehearing." In es-
sence, they reassert all of the arguments that were set forth in
their initial brief.

This Court is of the opinion that the Plaintiff's Motion for Rehearing must be denied.

Local Rule 17(k) provides as follows:

Any motion . . . for rehearing . . . shall be served not later than 10 days after entry of such judgment or order.

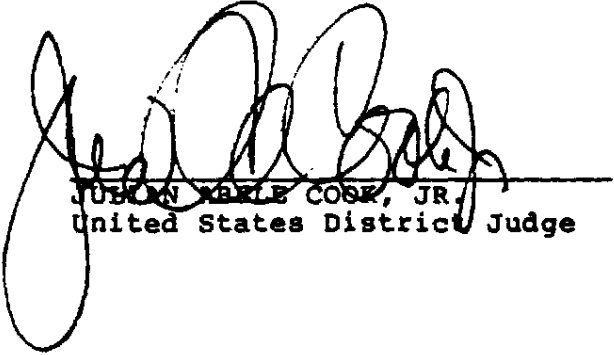
In this matter, Plaintiff filed the motions on May 23, 1985, more than ten days after the entry of the Order. Thus, this Court is without jurisdiction to evaluate the pending motion.

However, even if the motion had been timely filed, the Plaintiff's request would have been denied because this Court believes that its earlier ruling was correct. Thus, since the Plaintiff has not complied with Local Rule 17(k)(3) in that she has failed to " . . . demonstrate a palpable defect by which the Court and the parties have been misled [or] show that a different disposition of the case must result from a correction thereof." Therefore, for these reasons, Plaintiff's Motion is denied.

IT IS SO ORDERED.

Dated:

JUN 23 1985
Detroit, Michigan


JUBON W. COLE, JR.
United States District Judge

URL 11112