

IN THE SUPERIOR COURT OF CLAYTON COUNTY
STATE OF GEORGIA

CLYDE STANLEY PHILLIPS,
individually and in his capacity as
Executor of the Estate of CHRISTINNA
PHILLIPS,
Deceased,
Plaintiff,
vs.
GEORGIA-PACIFIC, LLC, ET AL.,
Defendants

CASE NO.
2012CV00804-5

PLF
EXHIBIT NO 28
FOR ID
2-27-13
DEFT
TRN

**ORDER ON DEFENDANT HONEYWELL INTERNATIONAL INC.'S EMERGENCY
MOTION TO LIMIT THE EXAMINATION OF HONEYWELL INTERNATIONAL INC.'S
30(B)(6) WITNESS AND REQUEST FOR HEARING AND ORAL ARGUMENT
MOTION FOR RECONSIDERATION**

The above-styled case having come before the Court on Defendant Honeywell International Inc.'s Emergency Motion To Limit Examination of 30(B)(6) Witness filed February 21, 2013. Plaintiff filed a Response in Opposition and Supplemental Response in Opposition via electronic mail received on February 25, 2013. In said Motion to Limit, Defendant Honeywell seeks to have the Court limit the scope of questions asked by the Plaintiff during depositions of Honeywell's Corporate Representatives, and limit the time allowed for deposition examination to seven hours. Defendant Honeywell argues that during a recent deposition, the Plaintiff asked questions regarding workers' compensation claims and plant safety conditions which Honeywell alleges is not relevant to the instant case and should be prohibited. Defendant Honeywell argues that there is a vast distinction between injuries sustained by workers who are constantly exposed to raw asbestos materials and direct fibers from sanding and drilling and the alleged third party exposure injury sustained by the decedent, Mrs. Christinna Phillips.

The Plaintiff cites O.C.G.A. § 9-11-26 (b)(1) and DeLoitte Haskins & Sells v. Green, 187 Ga.App. 376 (1988), to support his argument that he is entitled to the information concerning

workers' compensation claims and workplace conditions at the Honeywell/Bendix plant to show the incidence of mesothelioma and other asbestos related diseases. The Plaintiff argues that worker's compensation records and records of plant conditions are relevant in the instant case to show that Honeywell employees, who handled the manufactured brake pads, allegedly used or handled by the Plaintiff, contracted asbestos related diseases. As in the case of Browning et al. v. Paccar, Inc., 214 Ga. App 496 (1994), the Plaintiff argues that the depositional testimony regarding Honeywell employees who filed asbestos related injury claims and plant environmental safety is needed to rebut Defendant Honeywell's defense of impossibility.

LAW

As stated in DeLoitte Haskins & Sells v. Green, 187 Ga. App. 376 (1988), Georgia courts have recognized a liberal policy in applying discovery law; however, there are limitations to the scope of permissible discovery. "O.C.G.A. § 9-11-26 (b)(1) provides that, as a general proposition, parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action". Id. at 377. The permissible extent of discovery and the use of orders of limitations are generally in the sound and legal discretion of the trial judge. Bridges v. 20th Century Travel, 149 Ga. App. 837 (1979).

DECISION

Based on the arguments presented by both parties and the applicable laws, the Court hereby GRANTS Defendant Honeywell's Motion to Limit the Examination of Honeywell International, Inc.'s 30(B)(6) Witness. The scope of questioning shall not encompass workers' compensation claims filed by injured Honeywell employees nor testimony regarding the Honeywell/Bendix plant conditions. The Court finds that these areas of examination are not relevant to the pending action which involves an alleged third-party exposure injury.

The Court also GRANTS Defendant Honeywell International, Inc.'s request to limit the deposition of the Honeywell Corporate representatives to seven hours total.

SO RULED THIS THE 25th day of February, 2013.



ALBERT B. COLLIER
Judge, Superior Court
Clayton Judicial Circuit

cc: Mr. Robert C. Buck, Attorney for Plaintiff
Mr. Ivan A. Gustafson, Attorney for Defendant Pnuemo Abex & the Pep Boys
Mr. Gregory Wheeler, Attorney for Defendant Borg Warner Morse TEC, Inc.
Ms. Lee Ann Anand, Attorney for Defendant Georgia-Pacific & Honeywell International, Inc.
Mr. Peter R. York, Attorney for Defendant DAP, Inc.
Ms. E. Elaine Shofner, Attorney for Defendant Union Carbide Corp.
Ms. Lawrie E. Demorest, Attorney for Defendant Union Carbide Corp.
Mr. Andrew Phillips, Attorney for Defendant Ford Motor Company
Mr. W. Clay Massey, Attorney for Defendant Genuine Parts Company
Mr. Charles K. Reed, Attorney for Defendants Honda North America, Inc. & Yamaha Motor Corp. USA
Mr. Michael J. Sullivan, Attorney for Defendant Sears, Roebuck, and Co.
Mr. Ollie M. Harton, Attorney for Defendant Volkswagen Group of America, Inc.