

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ASBESTOS PRODUCTS : MDL DOCKET No. 875  
LIABILITY LITIGATION (No.VI) : (MARDOC)  
: :  
CERTAIN PLAINTIFFS : :  
: : CIVIL ACTION NO.  
VS. : 2:02-md-875  
: :  
CERTAIN DEFENDANTS :

**ORDER**

And now, this 20th day of July, 2012, upon consideration of Defendant Crane Co.'s Expedited Motion to Quash Mardoc Co-worker Deposition Notices and Cross-Notices (Doc. 1694), and following a teleconference on the motion on July 19<sup>th</sup>, 2012, it is hereby ORDERED that the motion is DENIED.

The difficult process of organizing co-worker depositions has been addressed previously and the entire history need not be restated here. (Docs. 1155 & 1156). Plaintiffs have recently provided co-worker statements that provide certain information about the ships the co-workers worked on and about the products on those ships. With respect to manufacturing defendants such as Crane,<sup>1</sup> these form statements indicate the asbestos-containing products (by product type) about which the co-workers can provide testimony, and also indicate products by brand name about which they can testify. Plaintiffs have made the choice in these cases not to notice co-worker depositions, but if a

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<sup>1</sup>While there are several hundred ship-owner defendants remaining in these cases, there are approximately a half dozen remaining manufacturing defendants.

defendant notices a deposition plaintiffs then cross-notice that deposition by listing the cases in which that co-worker may provide testimony. Plaintiffs' counsel represented that a manufacturing defendant will be identified for any co-worker who shared vessel history on a ship with a plaintiff if that co-worker will provide testimony about that defendant's product by brand name or by category. For example, with respect to Crane, plaintiff has identified Crane by cross-notice where a co-worker either checked "Crane" products or checked "valves." Plaintiffs concede that if the co-worker did not identify Crane by name in their statement, plaintiffs will not elicit or rely on testimony about Crane in such deposition,<sup>2</sup> but argue that they will elicit testimony about valves and that other evidence in the record may provide the evidentiary link between those valves and Crane. They therefore take the position that the depositions should proceed and that defendants can determine on a witness-by-witness basis whether to participate in the deposition.

The current motion was precipitated by the issuance of 56 co-worker deposition notices by another manufacturing defendant, John Crane Inc. As described above, plaintiffs then cross-noticed the same depositions. These depositions are set to take place in various locations throughout the country and many are scheduled on any given day. This process could be repeated many times over depending on how many co-workers are noticed for deposition. Crane argues, seconded by other manufacturing defendants on the

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<sup>2</sup>Paragraph 10 of the Case Management and Scheduling Orders in these cases reflects the parties' agreement, endorsed by the Court in the Orders, that if a plaintiff does not "stipulate" a product in advance of a co-worker deposition that stipulation controls as to the admissibility of testimony in individual cases."

teleconference as well as one counsel for certain shipowners, that they should not be required to engage in this process unless and until plaintiffs specifically identify for each defendant the witnesses against that defendant, allowing that defendant to determine which witnesses to depose. They maintain that it is unfair and unduly burdensome to require them to decide by sifting through the voluminous witness disclosures and witness statements whether they will attend depositions, and that plaintiffs' method of cross-noticing depositions essentially forces them to attend every single one without knowing in advance if the witness will provide testimony that is relevant to them.

On balance, I conclude that the depositions should proceed. Defendants have sufficient information to determine whether to participate in the depositions, and there has been no suggestion that they lack the resources to do so. The motion to quash is therefore denied.

BY THE COURT:

/s/ Elizabeth T. Hey

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ELIZABETH T. HEY  
UNITED STATES MAGISTRATE JUDGE