

EXHIBIT 24

IN THE STATE COURT OF CHATHAM COUNTY

STATE OF GEORGIA

VERA LETHA ADAMS, THE SURVIVING)
SPOUSE OF PERRY WILSON ADAMS,)
DECEASED, AND JAMES R. TRIMM, M.D.,)
IN HIS CAPACITY AS THE DULY)
APPOINTED EXECUTOR OF THE)
ESTATE OF PERRY WILSON ADAMS,)
DECEASED,)

Plaintiffs,)

VS.)

A.W. CHESTERTON COMPANY, ET AL.,)

Defendants.)

CIVIL ACTION NO.: STCV10-3924-FO

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CHATHAM COUNTY
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ORDER

Pending before the Court is Plaintiffs' Motion Seeking Finding that Defendant John Crane Has Engaged in the Spoliation of Evidence filed on October 12, 2012.

This action was originally filed on December 30, 2010, by Plaintiff, Perry Wilson Adams who is now deceased. This action seeks to recover against various defendants for asbestos-related injuries incurred by Mr. Adams. On August 2, 2012, Perry Adams died as a result of his injuries. Following Mr. Adams death, the current Plaintiffs were substituted as parties by order of the Court and the complaint was amended to include a cause of action for wrongful death.

On June 13, 2011, Plaintiffs served Defendant John Crane with certain interrogatories and requests for production seeking information relating to John Crane's sale of asbestos containing materials to the Mahrt Mill. Perry Adams testified that he was exposed to asbestos containing John Crane products at the Mahrt Mill. Evidence in the record also

shows that John Crane supplied manufacturers with John Crane component parts that the pump and valve manufacturers could have sold to the Mahrt Mill, which would be indirect sales of asbestos containing products by John Crane to the Mahrt Mill. (Springs depo. p. 76-77, 80-85.

The Plaintiffs contend that the Defendant John Crane destroyed documents showing direct sales of asbestos containing products to the Mahrt Mill where Perry Adams worked. The allegedly spoliated documents in question are: 1) documents evidencing direct sales of asbestos containing products to Mahrt Mill; 2) sales records of asbestos containing gaskets and packings to other Defendants named in this case; and 3) records regarding John Crane's sales representative Mr. Jennings who has produced records confirming that John Crane sold products directly to the Mahrt Mill.

The Plaintiffs argue that Defendant John Crane has previously advised Plaintiffs' counsel in this action, as well as other Courts across the country, that it acted to preserve and maintain original sales records of the type requested by Plaintiffs dating back to 1977, that the evidence in this case establishes that John Crane has failed to preserve the records in the manner it has previously represented, and that John Crane systematically destroyed the original documents. Plaintiffs seek a finding that Defendant John Crane has engaged in the intentional spoliation of evidence, and the imposition of appropriate remedies provided under Georgia law for such misconduct.

Johnny Mack Jennings was originally identified by Plaintiffs as a witness in this action on June 14, 2011 as a John Crane sales rep who called upon both the Plaintiffs' Decedent, Perry Wilson Adams, as well as the "Mahrt" paper mill where Decedent worked. (Adams' discovery deposition, at 492, 493). Mr. Jennings sued John Crane in 1997 in regard to an

employment dispute that involved, in part, John Crane's direct sales to the Mahrt Mill. (See Exhibit "G", Deposition of Johnny Mack Jennings in John M. Jennings v. John Crane, Case No. 97-T-523-N, in the United States District Court for the Middle District of Alabama Northern Division, January 8, 1998 at 28).

Plaintiffs argue that prior to this case John Crane uniformly advised Plaintiffs' counsel and others that it retained all sales records dating back to 1977, that John Crane's corporate representative, George Springs, has now admitted for the first time that John Crane did not preserve all asbestos related sales records but in fact destroyed some of those records on a nearly daily basis through 1985. Plaintiffs argue that John Crane actually "preserved" only retyped summaries of select information from certain original documents and that the originals themselves were destroyed. Plaintiffs argue that said spoliation occurred well after John Crane was involved in asbestos litigation and that John Crane was under an obligation to preserve this evidence.

On June 5, 2012, Plaintiffs took the deposition of John Crane corporate representative George Springs. Plaintiffs also requested sales related documents from Mr. Springs via a subpoena duces tecum attached to his notice of deposition. Plaintiffs argue that despite having read Mr. Adams' depositions and being aware of Mr. Adams' contact with Mr. Jennings and John Crane, Mr. Springs was unable to provide any relevant documents nor meaningful testimony regarding Mr. Jennings or any sales representatives assigned to the Mahrt Mill during the relevant time period.

Plaintiffs argue that John Crane has always claimed to other courts that it had a practice of keeping records for only three years, which explained why it could never provide sales records and related materials for most mesothelioma cases where the exposures

occurred in the 1940s, 1950s, 1960s and part of the 1970s. Plaintiffs argue that John Crane has always claimed to other courts that it began keeping records in 1980 when it was first sued in civil asbestos litigation, and that it claimed to have properly preserved all sales related evidence from 1977 through 1985 when it claims to have stopped distributing asbestos containing products.

Evidence of record shows that Mr. Adams' exposure to asbestos at the Mahrt Mill continued through 1985. When fully questioned about the existence of 1977-1985 sales records and related materials, Mr. Springs admitted that the original regional and local sales records and related materials were actually destroyed on a regular daily basis, even after John Crane learned that it was involved in asbestos litigation. The only materials left from that time frame are hard copy computer print outs, that employees in the central office created from regional sales orders, and associated microfiche documents. The original sales materials and communications were destroyed. Mr. Springs does not know what happened to the original computerized databases, and the current records are not digitized for searches. The year-by-year records are several inches of materials per year in 3-ring binders.

Mr. Springs searches for "invoices" regarding a specific customer by beginning with the paper index for 1977 which lists all of the invoices for all of the customers for 1977 by customer name. He would do that search for every year from 1977 to 1985. (Springs depo. p. 62). The index to the invoices contains records of all of John Crane's asbestos-related sales from the invoices. (Springs depo. p. 65).

Mr. Springs testified that the invoices, which now exist only on microfiche, contain all of the "relevant" information that was on the handwritten documents. (Springs depo.

p. 47). He testified that the "relevant" information off of the handwritten documents was "input into the invoice system." (Springs depo. p. 47). Mr. Springs testified that the computer generated "invoices" included the customer's name, the "bill to" address, the "ship to" address, the purchase order number, the requested delivery date, the items that were purchased, the quantity of each item purchased, the price of the items purchased, the price of the items purchased, that the items had been delivered, supporting documentation for the delivery, how it was shipped, information regarding the carrier that was used, the price of shipping, the "ship from" address which was the John Crane office that distributed the products, information regarding the John Crane sales person who facilitated the order, and the sales person's identification number. (Springs depo. p. 53-55).

Plaintiffs argue that taking and retaining partial notes about evidence is not the same as preserving the evidence.

John Crane claims that if there were direct sales to the Mahrt Mill between 1977 and 1985, such sales were of non-asbestos sealing ring products.

Mr. Jennings produced a certificate of training completion with John Crane in 1982, when John Crane admits it was still selling asbestos containing products. Records at issue in Mr. Jennings' case against John Crane establish that sales person specific records existed at one time and that the Mahrt Mill (referred to as "Mead" in the records) was one of Mr. Jennings customers. Johnny Mack Jennings was involved in a lawsuit against his former employer, John Crane, that at least in part involved sales of materials to the Mahrt Mill. Mr. Jennings kept a detailed telephone directory of his customers. In his first of two telephone books, used in the earliest years, there are multiple references to both Perry Adams and the Mahrt Mill, dating back to Jennings' earliest time with John Crane.

The fact that Johnny Mack Jennings still had John Crane asbestos containing packing in his possession at the time he was contacted by Plaintiffs' attorney is of little significance, unless the Plaintiffs can prove that Mr. Jennings sold John Crane's asbestos containing material to the Mahrt Mill.

Plaintiffs argue that John Crane should be sanctioned for spoliation of evidence that could have shown the sale of asbestos containing products to Mahrt Mill by John Crane during the relevant time period.

SPOILIATION

Spoliation refers to the destruction or failure to preserve evidence that is necessary to contemplated or pending litigation. Baxley v. Hakiel Industries, Inc., 282 Ga. 312, 313, 647 S.E. 2d 29 (2007). Such conduct creates a rebuttable presumption that the evidence would have been harmful to the spoliator. Id. Where a party has destroyed or significantly altered evidence that is material to the litigation, the trial court has wide discretion to fashion sanctions on a case-by-case basis. AMLI Residential Properties, Inc. v. Georgia Power Co., 293 Ga. App. 358, 361, 667 S.E.2d 150 (2008). A trial court may remedy the prejudice by charging the jury that spoliation of evidence creates a rebuttable presumption that the evidence would have been harmful to the spoliator. Id. A trial court is authorized to dismiss the case or to prevent that party's expert witnesses from testifying in any respect about the evidence. Id. The extreme sanction of dismissal, however, is reserved for cases where a party has maliciously destroyed relevant evidence with the sole purpose of precluding an adversary from examining that relevant evidence, Chapman v. Auto Owners Ins. Co., 220 Ga. App. 539, 469 S.E.2d 783 (1996), or where prejudice to the opposing party is so extraordinary it denies that party the ability to adequately present its case.

Bridgestone/ Firestone North America Tire, LLC v. Campbell, 258 Ga. App. 767, 770, 574 S.E.2d 923 (2002). In any event, when determining whether sanctions for spoliation are warranted, the trial court should weigh the degree of the spoliator's culpability against the prejudice to the opposing party. Campbell, 574 S.E.2d at 927. Whether remedies are warranted for spoliation is a matter for decision by the trial court. AMLI Residential Properties, at 361. The trial court should weigh five factors before exercising its discretion to impose sanctions. The factors are:

1. whether the party seeking sanctions was prejudiced as a result of the destruction of evidence;
2. whether the prejudice could be cured;
3. the practical importance of the evidence;
4. whether the party who destroyed the evidence acted in good or bad faith; and
5. the potential for abuse if expert testimony about the evidence was not excluded.

Plaintiffs argue that John Crane has not acted in good faith and has engaged in the intentional destruction of evidence. Plaintiffs also argue that accidental or unintentional destruction or non-preservation of crucial evidence by John Crane can result in the imposition of a sanction if the evidence was so essential to the Plaintiffs' case as to subject the Plaintiffs to severe prejudice.

Interrogatory No. 15 asked John Crane to identify all documents, including invoices, billing records and sales records that reflect the sale of John Crane's asbestos-containing products to any job site identified by Plaintiff, Mr. Adams.

Requests for Production of Documents Nos. 1 and 2 asked John Crane to produce those documents.

In responding to Interrogatory No. 15, John Crane said that "Defendant has kept records relating to the sales of asbestos-containing products since 1977, but it has not located any record of sales to the specified job sites subsequent to that time." John Crane also objected to producing the documents.

Mr. Adams testified that when Mr. Jennings arranged for him to visit John Crane's factory in Illinois, the subject of the visit "was mainly mechanical seals." (Adams depo. p. 124). Mr. Adams' visit to John Crane's factory in Illinois took place in the 1990's. (Springs depo. p. 24). According to Mr. Adams the subject of asbestos was not mentioned. (Adams depo. p. 125). Mr. Jennings was trying to sell John Crane's mechanical seals to the Mahrt Mill. (Adams depo. p. 212). The mechanical seals were intended to replace packing. (Adams depo. p. 212).

Mr. Jennings sold products to the Mahrt Mill. (Adams depo. p. 492). Mr. Jennings left his job at the Union Camp Corporation in June of 1982 to take a job with John Crane in Savannah, Georgia. (Jennings depo. p. 18-19). Mr. Jennings held the job of sales engineer with John Crane from 1982 to July of 1996. (Jennings depo. p. 19). Mr. Jennings' sales territory was primarily South Georgia and one account in Alabama. (Jennings depo. p. 21-22). The Alabama account was Mead Coated Board in Phenix City, Russell County, Alabama. (Jennings depo. p. 28).

Mr. Springs testified that John Crane's records indicated that John Crane "didn't have any sales to... the Mahrt Mill, under various names." (Springs depo. p. 17). Mr. Springs testified that he "disputes that [Mr. Adams] used [John Crane's] products." (Springs depo.

p. 17). Mr. Springs' position is that Mr. Adams "did not use John Crane gaskets and packing during his employment from 1968 to... 1990..." (Springs depo. p. 17). Mr. Springs testified that if John Crane sold gaskets and packing directly to the Mahrt Mill under the various names that he knew to search, then those sales would be in the records. (Springs depo. p. 18).

Mr. Springs' expectation was that John Crane had sales representatives assigned to call on the Mahrt Mill to sell its products over time. (Springs depo. p. 18).

Mr. Springs testified that he has access to any records at John Crane, but that he is the custodian of the "asbestos" records, and he could not see records that are "confidential" for some particular reason.¹ (Springs depo. p. 25).

Mr. Springs testified that any kind of records of sales visits to the Mahrt Mill would not be part of the "asbestos" records; they would be part of the "financial" records, and the only records still in existence would be expense reports. (Springs depo. p. 25).

Records regarding Mr. Adams' visit to Illinois, if they still exist, would be in the financial records in the accounting records. (Springs depo. p. 26). Mr. Springs only searched the "sales records." (Springs depo. p. 26).

Mr. Springs doubts that historical records regarding which customers were handled by the various John Crane sales representatives still exist. (Springs depo. p. 26). Mr. Springs does not believe that John Crane is keeping "historical sales representative records on who had what complaints." (Springs depo. p. 27). However a sales record will have a salesman's identification number and a customer's identification number on it. (Springs

¹

John Crane argued in its Motion for Protective Order filed on March 21, 2013, that all of the records in question are "confidential."

depo. p. 27). Mr. Springs testified that the current sales records with the salesman's identification number and the customer's identification number are on the computer. (Springs depo. p. 28).

Old sales records from the time that Mr. Jennings worked for John Crane are not in the computer. (Springs depo. p. 28). The "sales" records are the records that John Crane has and the records that Mr. Springs searched for sales to the Mahrt Mill. (Spring depo. p. 29).

When asked if he acknowledged that John Crane has sold at least some products to the Mahrt Mill over time, Mr. Springs avoided the question by stating that "the records that we have from 1977 to 1985 show no sales of asbestos-containing products to that Mill." (Springs depo. p. 29).

Mr. Springs testified that for the period of 1977 to 1985 for the customer names for the mill in question, the Mahrt Mill, there are no records of any asbestos-containing product sales to that mill. (Springs depo. p. 30).

Mr. Springs testified that "there were no direct sales from John Crane to that mill of asbestos-containing products during that period for those names." (Springs depo. p. 31).

The sort of documents contained in John Crane's asbestos records include sales records, brochures, old copies of galley proofs for advertising materials, financial records of John Crane, old financial records, testing material from testing the environment in John Crane's plant, OSHA type compliance materials, medical records and transcripts of testimony. (Springs depo. p. 33).

John Crane stopped producing asbestos-containing products on July 31, 1985. (Springs depo. p. 34, 38).

All of John Crane's paperwork up until 1985 and "quite a ways after that" was handwritten at the end of every day. The John Crane branch offices sent "the batch" which was all the handwritten order forms. The branch offices would air freight the batches to Morton Grove, Illinois every night. The batches of order forms showed what was sold, to whom, the price, the quantity, all of the relevant information such as the salesman's identification number, a "ship to" address, a "bill to" address, and a purchase order number. (Springs depo. p. 41-42).

There was a roomful of ladies at Morton Grove who input that information into a billing computer to produce an "invoice" for each order form. All of the "invoices" were produced in Morton Grove. John Crane did not preserve all of the order forms contained in the batches that were sent from around the country to Morton Grove for the period from 1977 to 1985. (Springs depo. p. 42, 44). The actual digital computer records that were being punched in every day are no longer available. What John Crane has left is a printout, the hard copy from the computer which is an index to the invoices which are on microfiche. (Spring depo. p. 43, 55).

Most of the handwritten order forms that were put into batches and sent to Morton Grove every day "don't exist anymore." (Springs depo. p. 44). Those materials were destroyed. (Springs depo. p. 44). Those order forms were discarded on a daily basis. (Springs depo. p. 56). John Crane kept and preserved the computer recognized invoices for sales of asbestos-containing products because those invoices had all of the relevant information. (Springs depo. p. 44). There was never any effort to keep the mounds of paperwork. (Springs depo. p. 44).

The handwritten order forms were called sales order drafts or SOD by John Crane.

(Springs depo. p. 45).

In 1980 John Crane decided to start keeping asbestos-related records. (Springs depo. p. 46). Since John Crane had a 3 year retention practice, the asbestos-related records go back to 1977. (Springs depo. p. 46). The records are from January 1, 1977 to 1985. (Springs depo. p. 46).

By 1970 John Crane was aware that raw asbestos fibers could be hazardous. (Springs depo. p. 46). By 1970 John Crane became aware of other companies' concerns about their employees who worked with raw asbestos fibers and smoked. (Springs depo. p. 48). In John Crane's opinion in 1970, John Crane's product contained asbestos that was encapsulated in other ingredients and therefore was of no danger to people using the end product. (Springs depo. p. 49). John Crane in 1970 made at least 200 products that contained asbestos in one form or another. (Springs depo. p. 50). 35 to 40 of those products contained crocidolite blue African asbestos. (Springs depo. p. 50). John Crane destroyed all sales records regarding asbestos-containing products between 1970 and 1977. (Springs depo. p. 51).

The computer generated invoices from 1977 through 1985 for sales of asbestos-containing products still exist on microfiche. (Springs depo. p. 55).

The sales order drafts or handwritten order forms were in triplicate. One copy went to Morton Grove, one copy was kept at the branch office, and one copy was kept by the sales rep. The customer's purchase order would be attached to the copy sent to Morton Grove. Also, any other relevant documentation regarding the shipper would be attached to the copy sent to Morton Grove. All of the paperwork attached to the copy of the sales order draft sent to Morton Grove was discarded after it was three years old. (Springs depo.

p. 59). Some of those materials would have involved sales of asbestos-containing products. (Springs depo. p. 59). Mr. Springs did not search for records regarding sales of nonasbestos-containing products to the Mahrt Mill. (Springs depo. p. 59).

Mr. Springs does not know what happened to the electronic computerized version of the invoices, but he does know it no longer exists. (Springs depo. p. 60-61).

John Crane has a book, and in some cases two books, or looseleaf binders about three or four inches thick for each year from 1977 to 1985 which contain all of John Crane's records of asbestos-related sales from the dates 1977 through 1985. (Springs depo. p. 65).

It is the finding of the Court that the Plaintiffs have been prejudiced as a result of John Crane's destruction of evidence, that the prejudice cannot be cured, that the practical importance of the spoliated evidence to the Plaintiffs' case against John Crane and other Defendants is unknown and that the Plaintiffs have failed to prove by the preponderance of the evidence that John Crane acted in bad faith in destroying the evidence.

In this case the Plaintiffs suggest several possible sanctions that the Court could impose on John Crane.

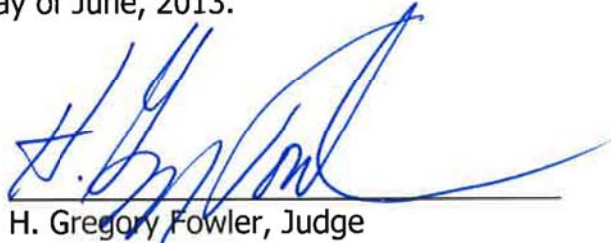
First, the Court could instruct the jury to accept a fact or facts as proven and prohibit John Crane from contesting the fact or facts at trial. Specifically, the Plaintiffs suggest that the Court could prevent John Crane from contesting that Perry Adams was exposed to its asbestos containing products at the Mahrt Mill, or could prevent John Crane from contesting that Mr. Adams' exposure to John Crane's asbestos containing products at the Mahrt Mill was causative of his disease.

Second, Plaintiffs suggest that the Court could strike John Crane's answer and enter a finding of liability against John Crane.

Additionally, the Court could charge the jury that spoliation of evidence creates a rebuttable presumption that the evidence would have been harmful to John Crane.

Wherefore, it is hereby ORDERED that the Court shall charge the jury that spoliation of evidence creates a rebuttable presumption that the evidence would have been harmful to the spoliator, if a timely request for such a charge is made.

SO ORDERED this 19th day of June, 2013.



H. Gregory Fowler, Judge
State Court of Chatham County, Georgia

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