

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

ROY and SHIRLEY :
SHEPARD :
 :
v. : C.A. No. 12-143L
 :
AIR & LIQUID SYSTEMS :
CORP., et al. :

REPORT AND RECOMMENDATION

Lincoln D. Almond, United States Magistrate Judge

This asbestos case was commenced by Plaintiffs in Rhode Island Superior Court on or about January 26, 2012. (Document No. 1, ¶ 1). Plaintiffs allege that Mr. Roy Shepard was injured due to exposure to “various asbestos containing products and/or machinery requiring the use of asbestos and/or asbestos-containing products, working as a Boilertender in the United States Navy from 1964 to 1977.” (Document No. 1-1 at p. 5). There are several named defendants. On February 29, 2012, Defendant Foster Wheeler LLC removed the action to this Court based on the so-called federal officer removal statute. See 28 U.S.C. § 1442(a)(1). Plaintiffs have moved for remand. (Document Nos. 137 and 194).

On April 19, 2012, Defendant DeZurik, Inc. moved for summary judgment pursuant to Fed. R. Civ. P. 56 on the grounds that Plaintiffs have failed to offer proof that it was a source of Roy Shepard’s alleged exposure to asbestos. (Document No. 183). In particular, DeZurik asserts that Plaintiffs have no evidence that “Mr. Shepard worked with, or in proximity to, an asbestos-containing product manufactured, sold or distributed by DeZurik.”(Document No. 183 at pp. 4-5).

DeZurik's Motion has been referred to me for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B).

Plaintiffs have not filed an Opposition to DeZurik's Motion within the time required by Local Rule Cv 7(b)(1). Plaintiffs have also not requested an extension of time to do so under Fed. R. Civ. P. 6(b) and have not sought relief from responding under Fed. R. Civ. P. 56(d). Accordingly, since DeZurik's Motion for Summary Judgment (Document No. 183) has not been timely opposed or contested in any way by Plaintiffs, I recommend that it be GRANTED.

Any objection to this Report and Recommendation must be specific and must be filed with the Clerk of the Court within fourteen (14) days of its receipt. See Fed. R. Civ. P. 72(b); LR Cv 72. Failure to file specific objections in a timely manner constitutes waiver of the right to review by the District Court and the right to appeal the District Court's decision. See United States v. Valencia-Copete, 792 F.2d 4, 6 (1st Cir. 1986); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
May 29, 2012