

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TED SHERMAN,	§	
	§	No. 98, 2014
Plaintiff Below,	§	
Appellant,	§	Court Below:
	§	
v.	§	Superior Court of the
	§	State of Delaware, in and for
GEORGIA-PACIFIC LLC,	§	New Castle County
	§	
Defendant Below,	§	C. A. No. 11C-01-271-ASB
Appellee.	§	

Submitted: October 22, 2014

Decided: October 23, 2014

Before **STRINE**, Chief Justice, **RIDGELY** and **VALIHURA**, Justices.

ORDER

This 23rd day of October 2014, upon consideration of the record before us, it appears to the Court that Appellant Ted Sherman (“Sherman”) raises two issues on appeal. First, he argues that the Superior Court erred when it denied Sherman’s motion at trial to amend his pleadings to include a breach of implied warranty claim under Virginia law. Second, he argues that the Superior Court erred when it did not instruct the jury concerning his negligence theory that the Appellee failed to exercise ordinary care in the design, manufacture and sale of products, and instead, instructed the jury solely on the theory of failure to warn.

We have carefully reviewed the complicated record below. We find that there is evidence in the record to suggest that the Appellee would have been

prejudiced if Sherman's requested amendments and instructions had been allowed. Accordingly, on the record before us, we conclude that the Superior Court did not abuse its discretion in denying Sherman's proposed amendment and in instructing the jury.

NOW, THEREFORE, IT IS HEREBY ORDERED that the judgment of the Superior Court be, and the same hereby is, AFFIRMED.

BY THE COURT:

/s/ Karen L. Valihura
Justice