

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN RE: ASBESTOS LITIGATION**

GARY GLOYNE, as personal)
Representative of the Estate of Kathleen)
Gloyne, and GARY GLOYNE,)
individually,)

Plaintiff,)

v.)

BORGWARNER MORSE TEC, LLC)
et al.,)

Defendants.)

C.A. No. N13C-09-059 ASB

Decided: November 8, 2017

ORDER

*Upon Defendant BorgWarner Morse Tec's
Motion for Summary Judgment. **GRANTED.***

Plaintiff, Gary Gloyne, (“Plaintiff”) cannot satisfy the summary judgment criteria.¹ Plaintiff filed this action against Defendant BorgWarner Morse Tec, LLC (“BorgWarner”) alleging that his wife, Ms. Gloyne, contracted lung cancer as a result of secondary asbestos exposure. Plaintiff contends that Ms. Gloyne was exposed to asbestos from BorgWarner’s products. Plaintiff did not prove that Ms.

¹ Super. Ct. Civ. R. 56; *Smith v. Advanced Auto Parts, Inc.*, 2013 WL 6920864, at *3 (Del. Super. Dec. 30, 2013); *see Moore v. Sizemore*, 405 A.2d 679, 680 (Del. 1979); *Nutt v. A.C. & S., Inc.*, 517 A.2d 690, 692 (Del. Super. Ct. 1986); *In re Asbestos Litigation (Helm)*, 2012 WL 3264925 (Del. Aug. 13, 2012).

Gloyne was exposed to BorgWarner's asbestos containing product. There is no evidence that Ms. Gloyne ever worked around or worked with an asbestos product manufactured or sold by BorgWarner. Plaintiff is the only product identification witness in this case, and he testified to using BorgWarner products along with other manufacturers. However, there is no evidence that Plaintiff used an asbestos product manufactured by BorgWarner, and that Ms. Glyne was exposed to that product. Accordingly, BorgWarner's Motion for Summary Judgment is hereby **GRANTED**. **IT IS SO ORDERED.**

/s/ Calvin L. Scott

The Honorable Calvin L. Scott, Jr.