IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN RE: ASBESTOS LITIGATION	)	
	)	
Nancy Snavely, Individually and as Personal Representative of the Estate of Cletus Snavely,	)	C.A. No. N22C-07-166 ASB
	)	
	)	ASBESTOS
Plaintiff,	)	
v.	)	
	)	
RCH Newco II, LLC, et al.,	)	
	)	
Defendants.	)	

Submitted: September 30, 2026
Decided: November 12, 2026

OPINION AND ORDER
On Defendant RCH Newco II, LLC's Motion for Summary Judgment

GRANTED

Thomas Crumplar, Esquire, Newark, Delaware, *Attorneys for Plaintiff.*

Timothy Sullivan, III, Esquire, Wilmington, Delaware, *Attorney for Defendant Nosroc Corp.*

Jones, J.

This is an asbestos action where Plaintiffs allege that Cletus Snavely died of lung cancer as a result of his exposure to asbestos-containing products from a number of Defendants. One of the Defendants sued is RCH II, LLC ("RCH"). RCH's predecessor, H.H. Robertson Company, manufactured and sold a product under the trade name Galbestos from 1940 to 1981. Galbestos was used as a corrosion-resistant coating sheet for walls and roofs of buildings. Plaintiff alleges that Galbestos contained sheets of asbestos paper. Robertson is alleged to have used asbestos-containing Galbestos through at least 1979. RCH has moved for summary judgment on the basis of product nexus.

The substantive law of Delaware controls the Plaintiff's claim. Under Delaware law a Plaintiff must show that a particular Defendant's asbestos containing product was used at the job site and that the Plaintiff was in proximity to that product at the time it was being used.[1] Plaintiff's claim of exposure to Galbestos is limited to his time working at the Lukens Steel plant in 1972. Plaintiff attempts to meet his burden in two ways.

First Plaintiff relies on the testimony of William Mizell. Mizell is an alleged coworker. Mizell testified to working with Galbestos at the Lukens Steet plant in 1972 and that Snavely was at the plant at that time. However, there is no testimony that Snavely and Mizell were in the same area of the Plaintiff while Mizell worked with the Galbestos. Plaintiff argues that Mizell's testimony that the product was all

[1] *In re Asbestos Litigation (Helm)*, 2007 WL 1651968, at *19 (Del. Super. May 31, 2007).

over the Lukens plant is sufficient for the Plaintiff to meet the burden on product nexus. It is not. This argument runs contrary to the standard articulated in *Helm*.[2] Plaintiff must present testimony that Snavely was in an area of the plant when Mizell was working with the Galbestos. Mizell's testimony does not establish this fact and is not sufficient in order for the Plaintiff to meet his burden on product nexus.

Plaintiff next maintains that he can meet his burden through Dr. Orn Eliasson. Plaintiff had a prior asbestos-related lawsuit that was filed in 2002. In connection with that case, Dr. Eliasson interviewed the Plaintiff and in 2025 prepared a report on causation. Dr. Eliasson's report reads in pertinent part that:

> "Mr. Snavely was exposed to asbestos through his work as an ironworker on permit from Local 451 at various industrial and utility sites, including but not limited to the Getty Oil refinery in Delaware City, DE, Lukens Stell in Coatesville, PA and the DPL Indian River and Edgmoor powerhouses in Delaware. He was exposed to asbestos from July 1065 [sic] until November 1980. He used asbestos blankets while doing welding work and cut asbestos sheets."[3]

Plaintiff maintains that the statements made to Dr. Eliasson fall within the medical statement exception to the hearsay rule as provided in D.R.E. 803(4). According to Plaintiff, since the statement is an exception to the hearsay rule it can be admitted through Dr. Eliasson as substantive evidence.[4] This Court has found no

---

[2] *Id.*
[3] Expert Report by Dr. Orn Eliasson, at 2 (dated Mar. 3, 2025).
[4] D.R.E. 703 provides that hearsay relied upon by an expert is admissible only to establish the basis of the expert's opinion and not as substantive evidence. *United States v. Keegan*, 161 F.4th 1334, 1343 (11th Cir. 2025); *Hendeson*

asbestos cases that have permitted the sole proof of exposure to a particular Defendant's product through a medical doctor following his examination of a Plaintiff. This Court has grave concerns that D.R.E. 803(4) can be used as the sole evidence to prove exposure to a particular Defendant's product at a particular location. But on the present record the Court does not have to address this issue.

Even assuming that Plaintiff was able to rely on Dr. Eliasson's statement as substantive evidence, this evidence does still not satisfy the *Helm* requirements. Under *Helm*, in order to prove product nexus the Plaintiff must show he has been exposed to a particular Defendant's product at a particular place. The statement to Dr. Eliasson does not meet the *Helm* standard. It does not identify the product as being supplied and manufactured by H. H. Robertson, nor does the statement identify that the product to which the Plaintiff was exposed was Galbestos. On this record, even when considering the statement to Dr. Eliasson, the Plaintiff has not met his burden on product nexus. As such, summary judgment is GRANTED in favor of RCH.

IT IS SO ORDERED.

/s/ *Francis J. Jones, Jr.*
Francis J. Jones, Jr., Judge

cc: Original to Prothonotary

v. Ford Motor Co, 72 F.4th 1237, 1243 (11th Cir 2023). *See also* Paul W. Kaufman & Christopher J. Merken, *Toward a Presumptive Admission of Medical Records Under Federal Rule of Evidence 803(4)*, 64 B.C.L. Rev. 567, 585-86 n.85 (2023) (discussing the contradictions between the 2000 amendment to F.R.E. 703 and the 1972 Advisory Committee's Note to F.R.E. 803(4) as they relate to evidence admissibility).