

Rhode Island Superior Court Decides Sworn Statement is Admissible under 804(c) as a Hearsay Rule Exception



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On June 27, 2017, Presiding Justice Gibney of the Rhode Island Superior Court issued Mary Suprey, et al. v. Afla Laval, Inc., et al., No. Civ.A 13-3511, 2017 WL 2840563, (R.I. Super. June 27, 2017) and Mary Suprey, et al. v. CBS Corporation F/K/A Viacom, Inc., et al., No. Civ.A 13-3512, 2017 WL 2840563, (R.I. Super. June 27, 2017), wherein the court examined whether a sworn statement regarding alleged asbestos exposure by a plaintiff was admissible as a hearsay exception under Rhode Island Rules of Evidence 804(b) (“Statement Under Belief of Impending Death”) or 804(c) (“Declaration of Decedent Made in Good Faith”). The court ultimately held a sworn statement of the decedent plaintiff was admissible under Rule 804(c) as a hearsay exception.

By way of background, the plaintiff provided a sworn statement to his attorney, with a court reporter present, approximately sixteen days prior to the commencement of the lawsuit. Approximately four months after the lawsuit commenced, the plaintiff passed away.

Thereafter, a number of defendants filed a motion for summary judgment, arguing there was insufficient product identification to survive summary judgment. The plaintiff objected, arguing there were genuine issues of material fact for trial, because prior to plaintiff’s death, he provided sufficient product identification via a sworn statement, which was admissible under exceptions to the hearsay rule.

In Rhode Island, R.I. R. Evid. 804(c) states a declarant’s statements shall not be inadmissible in evidence as hearsay “if the court finds that [the declaration] was made in good faith before the commencement of the action and upon the personal knowledge of the declarant.”

Here, the court reviewed all the evidence and circumstances before it and decided that the plaintiff’s statements were made from his personal knowledge because they concerned his personal work experience and his own memories of his work in the U.S. Navy. There was nothing in the record to indicate that the plaintiff was less than truthful regarding his employment and service history, and therefore the statements were made in good faith. Therefore, the plaintiff’s sworn statements were admissible as an exception to the hearsay rule as a statement

of a decedent made in good faith. Based on the sworn statement, as well as historical documents provided during discovery and medical experts, the court found the plaintiff sufficiently alleged a particular or specific date or range of contact and the proximity and frequency of any contact to surpass the summary judgment stage. Accordingly, the court found there were genuine issues of material fact regarding product identification, plaintiff's exposure, and causal nexus for a jury's consideration regarding plaintiff's alleged asbestos exposure.

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