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United States District Court, E.D. Pennsylvania.
LEPORATI vs. B. BRAUN BIOTECH, INC., ET AL.
96-7334

No Date Given

TOPIC: PRODUCT LIABILITY - DEFECTIVELY DESIGNED INDUSTRIAL FERMENTER - FAILURE TO PREVENT MISMATCHING OF PLUGS AND COLLARS - FAILURE TO WARN - PLUG BLOWS OUT OF FERMENTER - PLAINTIFF SPRAYED WITH SCALDING LIQUID - PERMANENT SCARRING - SKIN GRAFTS REQUIRED.

SUMMARY:

Result: \$650,000 Recovery

ATTORNEY:

Plaintiff's: [George J. Badey, III](#), of Sheller, Ludwig & Badey in Philadelphia for plaintiff.

Defendant's: [Thomas P. Wagner](#) of Rawle & Henderson in Philadelphia for defendant B. Braun Biotech.

[Edward R. Murphy](#) of Murphy & O'Connor in Philadelphia for defendant Mettler-Toledo Process Analytical, Inc.(Ingold).

JUDGE: n

RANGE AMOUNT: \$500,000-999,999

STATE: Pa.

INJURIES:

PRODUCT LIABILITY - DEFECTIVELY DESIGNED INDUSTRIAL FERMENTER - FAILURE TO PREVENT MISMATCHING OF PLUGS AND COLLARS - FAILURE TO WARN - PLUG BLOWS OUT OF FERMENTER - PLAINTIFF SPRAYED WITH SCALDING LIQUID - PERMANENT SCARRING - SKIN GRAFTS REQUIRED.

FACTS:

This action stemmed from a workplace accident at the Merck & Company plant in Rahway, New Jersey. The plaintiff was working with an industrial fermenter manufactured by the defendant B. Braun Biotech when a plug blew out of the fermenter, spraying the plaintiff with scalding hot liquid. The manufacturer of the component fermenter plugs (Ingold) was also named as a defendant in the case. The plaintiff claimed that the defendants' failed to prevent mismatching of the plugs and associated collars and failed to warn of the dangers associated with mismatching the plugs and collars.

The plaintiff was working at his place of employment on March 13, 1995, using a 20 liter Braun fermenter manufactured by the defendant. The fermenter, as designed and manufactured, contains various openings or apertures, called 'ports' on the tank. During operation of the fermenter, these ports are either completely plugged by a solid plug in order to permit pressure within the tank to develop, or plugged by a modified plug, sometimes called a 'probe,' through which various probes can be insured into the tank to monitor the contents of the tank while still maintaining pressure within the tank. These plugs and modified plugs or probes are secured to the tank by way of separate collars which fit over the outside of the plugs or probes and which are screwed down onto threads surrounding each port. The plaintiff's employer purchased the 20 liter fermenter in 1994 from the defendant manufacturer at the same time it purchased two larger fermenters.

Evidence showed that as part of the specifications for the fermenter purchase, the employer requested that ports, probes and collars manufactured by the co-defendant Ingold be supplied with the fermenter. The defendant Braun supplied the Ingold

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ports, probes and collars with the fermenter, but also provided a Braun plugs and Braun collars with each fermenter. When the plaintiff was not in the room with the fermenter, a co-worker placed a Braun plug containing a probe in one of the ports of the fermenter, but used an Ingold collar to secure the Braun plug. When the plaintiff returned to the fermenter room, he was told that the fermenter was ready to be pressurized and heated. The plaintiff contended that he then checked to make sure that the collars on the several ports were hand tight and determined that they were. The plaintiff alleged that he was unaware of the fact that in one of the ports, a Braun plug was being used with an Ingold collar. Although Ingold and Braun both manufacture and sell plugs and collars to be used with fermentation equipment, and although the plugs and collars are 'standardized' insofar as they each fit into the Ingold port and screw down on the threads around this specific style of port, they are not standardized as to the inside diameter of the collar and the size of the lip of the plug that is retained by the collar, according to the plaintiff's claims.

The plaintiff contended that the inside diameter of the Ingold collar was ever so slightly larger than the outside diameter of the Braun plug so that, although it was not apparent to either the plaintiff, his co-worker or even the defendants, the Ingold collar would not really retain the Braun plug in the port once pressure built.

As the pressure and temperature inside the fermenter built up above the boiling point, the plaintiff alleged that the Braun plug blew out of the fermenter, causing the plaintiff to be sprayed with scalding liquid spewing out of the tank.

The plaintiff suffered second and third degree burns over much of his torso, left wrist and upper right arm in addition to other parts of his body. As a result of the scalding, he was hospitalized for a month in the burn unit of St. Barnabas Medical Center in Livingston, New Jersey. The plaintiff has undergone several surgical procedures, skin grafting and other medical treatment and has incurred approximately \$100,000 in medical expenses. The plaintiff claims to suffer continuing pain and limitations stemming from the injuries. His physicians reported that he can not spend time in the sun, parts of his body are scarred and he is incapable of sweating and experiences swelling and discoloration in lieu of sweating.

The case settled prior to trial for \$650,000.

COMMENTARY:

The plaintiff's theories of liability were fairly straightforward in this product defect action. The plaintiff contended that the defendant manufacturers should have attached each of their plugs to its matching collar in order to prevent the type of mismatching which led to the plaintiff's injuries. The plaintiff contended that the defendants failed to warn or instruct concerning the dangers related to such mismatching and should have sought to standardize their parts, so that a mismatch would not result in the escape of the fermenter's contents. Since Braun actually sold the Braun plug and the Ingold collar which was ultimately mismatched, the plaintiff contended that Braun should shoulder the majority of the responsibility for the plaintiff's injuries. The plaintiff's employer currently permanently attaches each plug by welding it to a matching collar to prevent this type of incident from reoccurring. Braun has also redesigned its plugs and collars so that each of its plugs is attached to its matching collar by way of a snap-ring, a device which cannot be removed without a special tool. However, this evidence of subsequent remedial measures may not have been admissible at trial.

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