

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ANNE ANDERSON, et al.,
Plaintiffs,

V.

CRYOVAC, INC., et al.,
Defendants

*
*
* CIVIL ACTION
* NO. 82-1672-S
*
*
*

MEMORANDUM AND ORDER

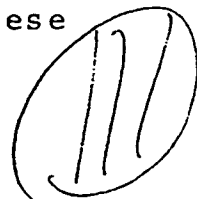
July 25, 1984

SKINNER, D.J.

The plaintiffs in this case seek damages for death or illness allegedly caused by exposure to certain chemicals. One of the defendants, W. R. Grace & Co. ("Grace"), has moved for summary judgment.

The plaintiffs allege that Grace and others contaminated well water in Woburn, Massachusetts with the chemicals trichloroethylene; tetrachloroethylene; and 1, 2 transdichloroethylene. They further allege that exposure to this contaminated water caused seven children and one adult to contract leukemia.

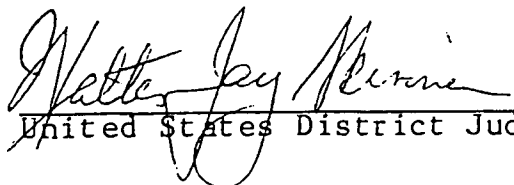
The defendant contends that it is entitled to judgment because as a matter of law the plaintiffs cannot prove a causal connection between exposure to the chemicals in question and the disease contracted by the plaintiffs. In support of this contention, the defendants have submitted affidavits of two physicians. Dr. Moloney stated that he has "found no medical research that would support the conclusion that any of these



three chemical agents is leukemogenic or even probably leukemogenic in humans". Moloney Affidavit ¶10. Dr. Jandl stated that "there is no medically-accepted literature that these chemical agents are leukemogenic in human beings or are causally related to the incidence of leukemia". Jandl Affidavit ¶18.

The plaintiffs' expert witness disagrees with the opinions of the defendant's expert witness. Dr. Levin stated that he believes "to a reasonable medical certainty...that the exposure of the plaintiffs to the subject chemicals caused or substantially contributed to the plaintiffs suffering serious illnesses including immune dysfunction and leukemia". Levin Affidavit, ¶16. Since the complex factual issue of causation is a subject of heated dispute in this case, summary judgment is clearly inappropriate. Stepanischen v. Merchants Despatch Transportation Corporation, 722 F.2d 922 (1st Cir. 1983).

Accordingly, the defendant's motion is DENIED. The parties shall report for a scheduling conference on September 4, 1984 at 2:00 p.m. at Courtroom 6, United States Courthouse, Boston, Massachusetts.


United States District Judge

384