

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF VENTURA
VENTURA**

MINUTE ORDER

DATE: 01/05/2015

TIME: 08:20:00 AM

DEPT: 20

JUDICIAL OFFICER PRESIDING: Tari Cody

CLERK: Martha Lagana

REPORTER/ERM: Nalena K Rieder

CASE NO: **56-2014-00458073-CU-AS-VTA**

CASE TITLE: **Robert Denyer vs AB Electrolux**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Asbestos

EVENT TYPE: Demurrer (CLM) to plaintiffs' Complaint; Memo of p&a's

MOVING PARTY: Rheem Manufacturing Company

CAUSAL DOCUMENT/DATE FILED: Demurrer to plaintiffs' Complaint; Memo of p&a's, 11/21/2014

APPEARANCES

Stephen M. Fishback, counsel, present for Plaintiff(s).

Ashley Milnes, counsel, present for Defendant(s) telephonically.

Edward Ulloa, counsel, present for Defendants Rheem Manufacturing Co.

Counsel have received and read the court's written tentative ruling.

Matter submitted to the Court with argument.

The Court finds/orders:

The Court's tentative is adopted as the Court's ruling.

The court's ruling is as follows:

Deny Plaintiffs Robert and Gertrude Denyer's request for judicial notice, on the ground that Plaintiffs fail to articulate an appropriate purpose for the Court to take judicial notice of the subject court records.

The Court overrules Defendant Rheem Manufacturing Company's ("Rheem") demurrer for uncertainty to Plaintiffs' entire Complaint, on the grounds that (a) demurrers for uncertainty are disfavored and should only be sustained where the complaint is so bad that the demurring defendant cannot reasonably respond thereto (see, e.g., *Khoury v. Maly's of Calif., Inc.* (1993) 14 Cal.App.4th 612, 616); and (b) here Plaintiffs generally identify the types of asbestos-containing products Plaintiff Robert Denyer was allegedly exposed to and their failure to allege more specific information (i.e., specific brand/model/identification numbers) does not prevent Defendant Rheem from reasonably responding to the Complaint.

The Court overrules Defendant Rheem's general demurrer to the first cause of action for negligence,

second cause of action for strict liability, and sixth cause of action for loss of consortium, on the ground that Plaintiffs allegations regarding production identification and causation are just sufficient..

The Court overrules Defendant Rheem's general demurrer to the third cause of action for false representation and fourth cause of action for "intentional tort" (i.e., fraudulent concealment/nondisclosure), on the grounds that the allegations are sufficient to place Defendant Rheem on notice of the nature of the fraud claims against it, and due to the nature of the nondisclosures/false representations alleged, Rheem is likely to have knowledge of material facts which is superior to Plaintiffs', at least at this early stage in the proceeding.

Defendant Rheem is ordered to file and serve an Answer to the Complaint by no later than January 26, 2015.

Notice to be given by Mr. Ulloa.