

MAY 28 2020

VERMONT SUPERIOR COURT
CHITTENDEN UNIT
CIVIL DIVISION

CHITTENDEN UNIT

STATE OF VERMONT,
Plaintiff

v.

3M COMPANY, et al.,
Defendants

Docket No. 547-6-19 Cncv

RULING ON MOTION TO SEPARATE AND STAY (Motions 14 and 19)

All Defendants move to bifurcate Count 9 of the complaint and stay the proceedings on that claim, brought under the Voidable Transactions Act, 9 V.S.A. § 2285 et seq. They present several grounds for their motions.

Our civil rules provide for bifurcation when separate trials will be more convenient, avoid prejudice, or be “conducive to expedition and economy. . . .” V.R.C.P. 42(b). Defendants argue that all the other counts relate to the sale and manufacture of products and damages from those products, and Count 9 is limited to a claim based on an asset and/or liability transfer. Thus, they argue, discovery and evidence on Count 9 will be distinct from the balance of the claims. That may be, and might even justify bifurcation at the time of trial, but there is no reason that discovery and motion practice on these issues cannot be done at the same time as on the balance of the case. Many lawsuits have multiple claims on different legal theories, but they do not prove impossible for lawyers (or courts, for that matter) to manage.

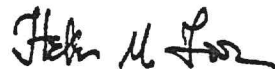
Defendants next argue that if the other claims are resolved in their favor, there will be no need to reach Count 9. Again, while this might justify bifurcation at trial, the court is not persuaded that delaying discovery and motion practice on one count is an efficient way to manage this case.

The last argument is that the voidable transactions issue is currently being litigated in Delaware in another action among some of the defendants here. It is apparently now in arbitration rather than in court. *See* State's Notice of Supplemental Authority (filed April 1, 2020). Regardless, as the State is not a party to that matter, the court does not see how it would resolve the question here. Moreover, litigating in more than one forum at the same time is hardly unusual for a large company. It is not such an unusual burden as to justify special treatment here.

Order

The motions to separate and stay (Motions 14 and 19) are denied.

Electronically signed on May 28, 2020 at 11:02 AM pursuant to V.R.E.F. 7(d).



Helen M. Toor
Superior Court Judge