

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RICHARD DESCLAFANI, :

Plaintiff, :

-against- :

PAVE-MARK CORPORATION, et al., :

Defendants. :

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07 Civ. 4639 (HBP)

ORDER

PITMAN, United States Magistrate Judge:

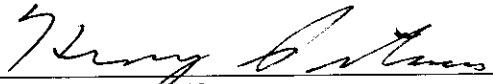
Plaintiff, Richard Desclafani, commenced this action to recover damages for injuries he sustained while using a kettle that melts pavement-marking material. Plaintiff asserts claims of negligence, strict products liability, breach of warranty, and failure to warn against Pave-Mark Corporation ("Pave-Mark"), the manufacturer of the kettle, and Stimsonite Corporation and Avery Dennison Corporation, two successor corporations of Pave-Mark. Defendants Stimsonite and Avery Dennison have moved for summary judgment, arguing that they merely purchased Pave-Mark's assets and have no responsibility for injuries resulting from items manufactured and sold by Pave-Mark prior to Stimsonite's purchase of Pave-Mark's assets (Docket Item 13). In light of this argument, two material facts are the dates on which the kettle at issue was manufactured and sold. In their moving papers, defen-

dants have failed to submit evidence on these points and the record as a whole does not disclose these facts.

Accordingly, Stimsonite and Avery Dennison shall have two weeks from the date of this Order to file supplementary submissions concerning when the kettle was manufactured and sold. Plaintiff shall have two weeks to respond. No reply submission shall be filed.

Dated: New York, New York
June 9, 2008

SO ORDERED


HENRY PITMAN
United States Magistrate Judge

Copies mailed to:

Kenneth Halperin, Esq.
Wingate, Russoti & Shapiro, LLP
Suite 2750
420 Lexington Avenue
New York, New York 10170

Michael J. Caulfield, Esq.
Connors & Connors, P.C.
766 Castleton Avenue
Staten Island, New York 10310

John M. Alten
Ulmer & Burne, LLP
Skylight Office Tower
1660 West 2nd Street
Suite 1100
Cleveland, Ohio 44113