

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT  
DISTRICT OF MASS

\_\_\_\_\_  
ANNE ANDERSON, et al.,  
Plaintiffs

v.

\_\_\_\_\_  
CRYOVAC, INC., et al.,  
Defendants  
\_\_\_\_\_

CIVIL ACTION  
NO. 82-1672-S

**DOCKETED**

DEFENDANTS' JOINT MOTION FOR PARTIAL SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56(b), the defendants, Beatrice Foods Co. and W.R. Grace and Co. move for summary judgment as to the following claims of the plaintiffs:

1. The wrongful death claims for Michael Zona, James Anderson and Carl Robbins, III, because they are barred by the time limitations contained in the Massachusetts wrongful death statute, M.G.L. ch. 229, §2;

2. The claims asserted on behalf of Eric Aufiero, because he was never exposed to the allegedly contaminated water;

3. The emotional distress claims asserted on behalf of the plaintiffs who do not allege to have contracted leukemia, because their alleged emotional distress was not caused by any physical injury they claim to have suffered;

4. The plaintiffs' claims of increased risk of disease in the future, because such speculative claims are not recognized by Massachusetts law;

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5. The plaintiffs' request for injunctive relief under a theory of nuisance, because the plaintiffs do not have standing to assert such a claim.

In support of this motion, the defendants rely on the plaintiffs' depositions and interrogatory answers, and the Memorandum in Support of Defendants' Joint Motion for Partial Summary Judgment submitted herewith.

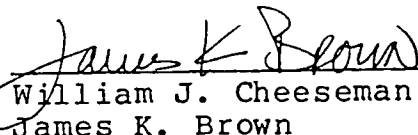
The defendants believe that oral argument may be of assistance to the Court. Pursuant to Local Rule 12(c), the defendants therefore request oral argument. The defendants believe that thirty minutes will be necessary for all parties to be heard.

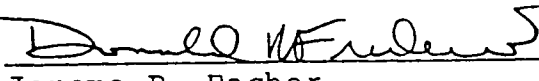
W.R. GRACE & CO.

By its attorneys,

BEATRICE FOODS CO.

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