

They dispute whether or not that admission extends to events falling outside the dates specified in the Bills of Information.

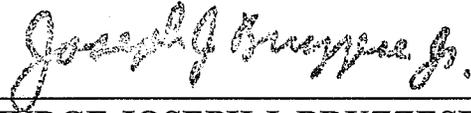
The Court agrees with Defendant. Therefore Defendants' pleas of guilty to the Federal Bills of Information will not be deemed to be an admission as to any event occurring outside of the period of time beginning October 1, 2004 and ending April 4, 2005.

Defendants cite R.C.3710.17 for the proposition that where a property owner engages a licensed asbestos remover that the owner is shielded from liability arising from violations of which he is unaware. Plaintiff asserts that R.C.3710.17 does not control this case because the regulations under which this case is brought spring from different code sections. The Court finds and holds that no regulation, regardless of its authorizing statute can negate, repeal or otherwise trump any State statute regardless of where it is found. The State statute prevails every time no matter where it is found. But there is another issue.

R.C.3710.17 addresses itself only to liabilities to injured parties. Because it expressly limits its application and insulating effect to situation involving "an injury to any individual or property caused or related to this activity" it is no shield to administrative enforcement actions. The Court therefore holds that the statute prevails over a regulation where a conflict occurs but in this case, there is no conflict.

Summary Judgment is hereby granted in favor of Plaintiff and against Defendant as to all of Counts occurring from October 1, 2004 through April 4, 2005. As to Counts occurring outside of those dates no Summary Judgment is granted. At trial R.C.3710.17 will not be a defense to administrative enforcement actions.

Summary Judgment is therefore granted with respect to March 13, 2005 incidences alleged at Counts 3, 4 and 6. Otherwise, Plaintiff's Motion for Summary Judgment is overruled.



JUDGE JOSEPH J. BRUZZESE, JR.

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