

Case Study – Plastic Manufacturing Machinery Product Liability Litigation

Challenge

Our client, Company (X)*, is southern-based thermoforming and blow molding plastic manufacturer that specializes in producing products for the Lawn and Gardening Industry. During their normal course of business, and information learned from business associates, Company (X) learned that a local plastics company's planned relocation might create a new business opportunity, by way of manufacturing a variety of different sized plastic flowerpots, no longer manufactured due to the company's departure in the region. Therefore, company (X) realized the potential and opportunity in continuing to manufacture their own product line of plastic flowerpots in this region.

After contacting a reputable manufacture of Plastic Thermoforming Machinery, located in the Northeast United States, our client conducted an onsite inspection, to view the thermoforming machine that both Company (X) and the thermoforming manufacture Company, believed to be suitable for the manufacturing of our client's plastic flowerpots. Following their inspection and subsequent to numerous conversations regarding machine configuration and available options, the purchase of the machine is completed following both parties acceptance of the machine sales contract.

Shortly thereafter, Company (X) traveled a second time to view the machine start-up and a pre-production sample run. Pre production runs take place before the final sign off, and completion of the sale, to ensure the customer has indeed received exactly what the client envisioned and to ensure that the machinery is capable of producing

* In compliance with our corporate policy, concerning client confidentiality and non-disclosure, we intentionally excluded the identity of all concerned parties from this Case Study.

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the product(s), **before** delivery of the machine. In addition, even though in this particular case, the machine did not function as intended but the parties agreed that if Company (X) signed off on the machine and accept delivery that the corrections would be made operational at the time of installation and start-up, which would be performed by the Plastic Thermoforming Machinery Manufacturer's Service Technicians.

Based on the timeline provided by the Thermoforming Machinery Manufacturer regarding installation and start up, Company (X) began negotiating and closing contracts on flowerpot production. For quite some time, the two companies went back and forth troubleshooting the open technical issues, and numerous service technicians made several trips but had no success. In the end, the Plastic Thermoforming Machine never achieved operational capacity and subsequently, plastic flowerpot production never occurred.

In the meantime, Company (X) had lost numerous sales, since the Thermoforming Machine was never truly operational, they could not deliver because they did not deliver, their reputation in the industry suffered tremendously and financially they were stuck with a \$500,000.00 "Boat Anchor", not to mention hundreds of thousands of dollars spent on trying to get the Thermoforming Machine operational. Company (X) had no other choice at this point other than proceed with litigation and retained a very large and very reputable law firm located in the same area. Due to the litigant's geographical locations, the trial would be heard in Federal Court.

CPC Plastics, Inc. was contacted, and subsequently retained, in the fall of 2004, by Company (X)'s law firm, to provide an expert opinion regarding the operational ability of the subject Plastic Thermoforming Machine and to offer plastic expert testimony related to the foreseeable rate of production had the machine performed as intended.

Solution

CPC Plastics' experts immediately arranged and traveled to Company (X) Alabama facility for a face to face meeting with the attorneys on the case at their facility to further discuss the law suit, and to view the subject plastic thermoforming machine first hand. Our on-site inspection of the subject machine included a comprehensive



review of both the machinery and the tooling. In addition, we meet with high-level management from Company (X) to learn their perspective and to gain insight as to the problems with the machinery as they believed them to be.

During this initial visit, CPC Plastics accepted tens of thousands of documents pertaining to the case, which we shipped to our Rhode Island offices for a more detailed analysis. In addition to case files, we also received and examined the plastic thermoforming machine's technical references, including the machine control program, design, hydraulic, pneumatic, electronic schematics, and machine operator manual. Our so that we could prepare for our next visit on the onsite testing that we needed to perform before an opinion regarding operational capacity and machine readiness could be formed.

Subsequent to CPC Plastics' review of these aforementioned articles, and following numerous discussions with client and counsel, CPC scheduled a second visit to the client's southern manufacturing facility to perform the machine testing based on our research. Our analysis of the plastic thermoforming machine included a comprehensive evaluation of the machine control program, in order to determine the true sequence of machine events and to verify the accuracy of the same. Additionally, a complete analysis of the mechanical, electrical, hydraulic, and pneumatic systems were scrutinized for function and accuracy.

In parallel, CPC Plastics' design experts began building a comprehensive set of 3D modeling of the subject plastic thermoforming machine and tooling that when coupled with sophisticated animation, which proved to be an invaluable tool in offering our expert opinion and a visual aid to explain the same.

Result

With the comprehensive and detailed expert report provided by CPC Plastics, Inc., the parties in reached a settlement. Though we cannot discuss the specific details, we can tell you that we the results were very favorable for our client, Company (X), who was reimbursed for its expenses regarding the purchase of the thermoforming manufacturing equipment and damages. More importantly, they were able to rebound and be a productive company to this date.



The expert testimony that CPC Plastics Inc. provided was instrumental to the fiscally positive outcome of this case. If you would like the experience of plastic experts that have the technical knowledge and real world experience of working on all-encompassing projects, "call on the experts that those within the industry turn to with their toughest problems"™, **Toll Free: 866.828.0820.**

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