

Supreme Court of Florida

No. 79,837

W.R. GRACE & CO.--CONNECTICUT, OWENS-CORNING
FIBERGLAS CORPORATION, et al., Petitioners,

v.

GARLAND P. PARLIER, et ux., Respondents.

[March 11, 1993]

PER CURIAM.

In Pearlstein v. King, 18 Fla. L. Weekly S8 (Fla. Dec. 24, 1992), we held that the 120-day rule for serving a defendant in Florida Rule of Civil Procedure 1.070(j) applies to causes of action pending on January 1, 1989. Therefore, we quash Parlier v. Eagle-Picher Industries, Inc., 596 So. 2d 1125 (Fla. 5th DCA 1992) and direct the district court to remand for further proceedings consistent with this opinion,"

* We note that respondents argue that some of the petitioners waived reliance on the 120-day rule by failing to raise the defense in their responsive pleadings or motions. This is an issue which may be resolved upon remand.

It is so ordered.

BARKETT, C.J., and OVERTON, McDONALD, SHAW, GRIMES, KOGAN and
HARDING, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF
FILED, DETERMINED,

Application for Review of the Decision of the District Court of
Appeal - Direct Conflict of Decisions

Fifth District - Case Nos. 91-18, 91-19, 91-20, 91-22,
91-23, 91-24, 91-25, 91-26,
91-27, 91-28, 91-30

(Orange County) .

Jonathan C. Hollingshead and Susan B. Collingwood of Fisher,
Rushmer, Werrenrath, Keiner, Wack & Dickson, P.A., Orlando,
Florida, on behalf of W. R. Grace & Co. - Conn.; James E. Tribble
of Blackwell & Walker, P.A., Miami, Florida, on behalf of Owens-
Corning Fiberglas Corporation; Blaire & Cole, P.A., Coral Gables,
Florida, and Louise H. McMurray of Louise H. McMurray, P.A.,
Miami, Florida, on behalf of Fiberboard Corporation, Keene
Corporation and Pittsburgh Corning Corporation; Timothy Clark of
the Law Offices of Timothy Clark, Miami, Florida, on behalf of
Unites States Mineral Products Company; and Robert A. Hannah and
Henry W. Jewett, II of Hannah, Marsee, Beik & Vought, P.A.,
Orlando, Florida, on behalf of Owens-Illinois, Inc.,

Petitioners

Robles & Gonzalez, Miami, Florida; and Patrice A. Talisman of
Paul, Landy, Beiley & Harper, P.A., Miami, Florida,

for Respondents