

In the
Indiana Supreme Court



Bradley A. Estabrook,
Plaintiff,

v.

Mazak Corp.,
Defendant.

Supreme Court Case No.
19S-CQ-00590

U.S. District Court for the Northern
District of Indiana
Case No. 1:16-CV-87-HAB

Order

The United States District Court for the Northern District of Indiana has certified a question of Indiana state law for this Court's consideration, pursuant to Indiana Appellate Rule 64. The question arises in Estabrook v. Mazak Corp., Case No. 1:16-CV-87-HAB. The question as framed by the District Court is as follows:

Can the statute of repose codified in Ind. Code § 34-20-3-1(b) be extended by post-sale repair/refurbishment/reconstruction of the product and, if so, what is the appropriate test to be used to determine whether the seller has done sufficient work to trigger the extension?

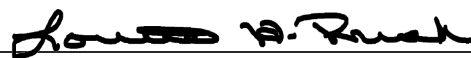
The certified question, which each member of this Court has considered, is hereby **ACCEPTED**. The Court further directs as follows:

- a) There shall be simultaneous briefing of this matter. The briefs shall, to the extent reasonably practicable, conform to the provisions of Appellate Rules 43, 44, and 46, except they may not exceed the greater of **twenty (20) pages or 9,000 words**, and any brief exceeding twenty (20) pages shall conform to the word count and certification requirements found in Appellate Rule 44.
 1. Each side's principal brief, and any appendix (see below), must be filed by **December 16, 2019**.
 2. Each side may file a single brief in response to the other side's principal brief and any amici curiae brief by **January 6, 2020**. Any response brief shall not exceed the greater of **ten (10) pages or 4,200 words**, and any brief exceeding ten (10) pages shall conform to the word count and certification requirements found in Appellate Rule 44.
- b) If the parties believe there are documents from the District Court case necessary or

helpful for deciding the certified question, then the parties shall confer and agree on the materials to be included and file a joint appendix containing copies of those documents and also, if applicable, the items listed in Appellate Rule 50. The parties should avoid unnecessary inclusion in the appendix of memorandums of law or briefs filed in the District Court, since all necessary legal arguments should be presented to this Court in the briefs described in the preceding paragraph.

- c) The parties shall file and serve all documents electronically pursuant to Appellate Rules 24 and 68.
- d) A party who has not yet filed an appearance form shall do so contemporaneously with the first document filed by the party, as required by Appellate Rule 16(C). The appearance form shall include an electronic mail address for each attorney appearing in the case. This e-mail address shall be used for transmission of all orders, opinions, and notices from the Clerk of this Court. *See* Ind. Appellate Rule 26.
- e) Extensions of time will be granted only in **truly extraordinary circumstances** and only for a very short period. Any motion seeking an extension of time must be made jointly by the parties.
- f) The Court will conduct oral argument in this matter on **Thursday, January 30, 2020**. The Plaintiff shall argue first. A detailed order scheduling oral argument will issue contemporaneously with this order.
- g) No later than two (2) weeks after the conclusion of this matter before this Court, the parties shall supply file-stamped copies of all documents filed in this case, including the orders and opinions issued by this Court, in PDF format to the Clerk of the United States District Court for the Northern District of Indiana.
- h) The Court further invites participation of amici curiae, believing the question certified may be of wider interest. Pursuant to Appellate Rule 41(B), an entity wishing to file a brief of amicus curiae must file a motion for leave to appear as amicus and tender a proposed brief on or before **December 16, 2019**. The court encourages the submission of joint briefs. Any amicus brief will be limited in size to no greater than **ten (10) pages or 4,200 words**, and any brief exceeding ten (10) pages shall conform to the word count and certification requirements found in Appellate Rule 44.

Done at Indianapolis, Indiana, on 11/14/2019



Loretta H. Rush
Chief Justice of Indiana