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1999 Survey of Rhode Island Law: Cases: Products Liability

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Products Liability. *Buonanno v. Colmar Belting Co.*, 733 A.2d 712 (R.I. 1999). Under section 5 of the Restatement (Third) of Torts, adopted by the Supreme Court of Rhode Island, manufacturers and sellers of component parts may be proper defendants in product liability suits.

FACTS AND TRAVEL

Plaintiff Americo C. Buonanno, III (Buonanno) worked for New England Ecological Development, Inc. (NEED), a recycling transfer station in Johnston, Rhode Island.¹ Although he was a relatively new employee, he held the position of supervisor.² Buonanno was involved in a workplace accident when he attempted to fix a conveyor belt that was running off track.³ While up on a catwalk, he lost his balance and fell onto the conveyor belt system.⁴ His arm was caught and crushed in the "nip point" of the conveyor.⁵ The nip point did not have a guard, which probably would have prevented an injury.⁶ In fact, three weeks prior to the accident, an OSHA inspector visited the NEED facility and warned NEED that guards should be installed.⁷ An unguarded nip point is undisputedly a workplace danger.⁸ As a result of the accident, Buonanno's right arm was amputated at the elbow.⁹

The conveyor belt upon which Buonanno was injured was necessary to transport rubbish inside the plant.¹⁰ NEED hired a welder to construct the system from a variety of component parts.¹¹ These parts were bought from Colmar Belting Company

1. See *Buonanno v. Colmar Belting Co.*, 733 A.2d 712, 713 (R.I. 1999).

2. See *id.*

3. See *id.*

4. See *id.*

5. See *id.* The Rhode Island Supreme Court noted that a nip point was "created where the conveyor belt moves over the stationary portion of the conveyor-belt system, or the 'wing pulley.' The wing pulley prevents waste materials from getting caught between the roller and the belt." *Id.* at 713 n.1.

6. See *id.* at 714.

7. See *id.*

8. See *id.*

9. See *id.* at 713.

10. See *id.*

11. See *id.* at 714.

(Colmar), a distributor, who purchased the parts from Emerson Power Transmission Corporation (EPT), a manufacturer.¹²

Buonanno sued both Colmar and EPT, alleging that Colmar and EPT were responsible for his injury because the nip point did not have a safety guard that would have prevented his arm from being caught.¹³ In his complaint, Buonanno prayed that Colmar and EPT would be found strictly liable or, in the alternative, negligent for defective design of the system.¹⁴ Both Colmar and EPT argued that they had no duty to supply or manufacture a guard for the wing pulley since the system was custom-made by the NEED welder.¹⁵

Buonanno amended his complaint to include claims for defective design of the wing pulley and failure to warn of its dangerous nature.¹⁶ Before the case could reach trial, EPT filed a motion for summary judgment.¹⁷ EPT rested its motion on the fact that component part manufacturers do not have a duty to ensure the safety of the final integrated product, and did not challenge the existence of a defect.¹⁸ Colmar joined EPT's motion, and also argued that it could not be held liable for Buonanno's injury because it did not manufacture or design any component part.¹⁹ Buonanno responded by arguing that a duty did exist on the part of Colmar and EPT. In addition, Buonanno argued that the defendants' failed to employ a reasonable alternative design of the wing pulley that would have reduced the chance of injury.²⁰

The trial justice granted the defendants' motions for summary judgment, holding that a manufacturer or distributor of a component part is not liable for injury caused by the final integrated product.²¹ In so holding, the trial justice relied on *Moor v. Iowa Manufacturing Company*.²² In *Moor*, South Dakota's highest court held that in order to hold a component parts manufacturer liable in

12. *See id.*

13. *See id.* at 713.

14. *See id.*

15. *See id.* at 714.

16. *See id.*

17. *See id.*

18. *See id.*

19. *See id.*

20. *See id.* at 715.

21. *See id.*

22. 320 N.W.2d 927 (S.D. 1982).

products liability, the plaintiff must prove that the product was defective at the time it left the manufacturer's control, rendering the product unreasonably dangerous.²³ The trial justice noted that because Buonanno did not present any evidence on this issue, there was no genuine issue of material fact to be resolved.²⁴ The trial judge did not address Buonanno's reasonable alternative design argument.²⁵ Buonanno appealed.²⁶

ANALYSIS AND HOLDING

Justice Goldberg's Opinion

Justice Goldberg recognized that Buonanno's claim for liability of a component part manufacturer had ample support in the Restatement (Third) of Torts (the Restatement Third).²⁷ Section 5 of the Restatement Third provides that a component part seller or distributor can be liable for product-caused harm, if (1) the product is defective itself, or (2) if the seller or distributor substantially participates in the integration of the component part into the product.²⁸ In either case, the plaintiff must show that the product defect caused the harm, and in the latter case, the plaintiff must also show that the integration of the component part caused the product to be defective.²⁹

After expressly adopting section 5 of the Restatement Third, Justice Goldberg proceeded to examine if the facts of the present case precluded summary judgment in favor of the defendants.³⁰ Justice Goldberg found that the record indicated that Colmar might have been a substantial participant in the integration of NEED's system.³¹ Therefore, the trial judge erred by entering summary judgment in favor of Colmar.³² As for EPT, Justice Goldberg found that there was no evidence that EPT had any participation in the integration of its product into the system at

23. See *id.* at 928.

24. See *Buonanno*, 733 A.2d at 715.

25. See *id.*

26. See *id.*

27. See *id.* at 716 (citing Restatement (Third) of Torts § 5 (1998)).

28. See Restatement (Third) of Torts § 5 (1998).

29. See *id.*

30. See *Buonanno*, 733 A.2d at 716.

31. See *id.* at 716-17.

32. See *id.* at 717.

NEED.³³ However, Justice Goldberg did find a basis for reversing the summary judgment order as to EPT as well.³⁴

One of Buonanno's arguments below was that EPT failed to employ a reasonable alternative design for the pulley it manufactured.³⁵ If Buonanno was able to prove this at trial, the product could be considered defective at the time it left EPT's control.³⁶ Thus EPT could be found liable under section 2(b) of the Restatement Third.³⁷ Therefore, Justice Goldberg concluded that Buonanno's reasonable alternative design argument precluded summary judgement as to EPT.³⁸

The Majority

Chief Justice Weisberger, joined by Justice Bourcier and Justice Lederberg, wrote the opinion for the majority.³⁹ The majority adopted Justice Goldberg's opinion with respect to Colmar in its entirety, but concluded that the trial justice properly granted summary judgment with respect to EPT.⁴⁰

The majority found that EPT could not be liable under the new Restatement.⁴¹ First, as Justice Goldberg recognized, EPT was not a substantial participant in the integration of the completed conveyor belt system.⁴² Second, EPT could not be liable for failure to warn since no defect existed at the time the component part left EPT's control.⁴³ Third, contrary to Justice Goldberg's finding, the court held that there was no evidence to support EPT's liability under the reasonable alternative design argument because EPT

33. *See id.*

34. *See id.*

35. *See id.*

36. *See id.*

37. *See id.* Section 2(b) of the Restatement (Third) of Torts states that a product is defective when:

the foreseeable risks of harm posed by the product could have been reduced or avoided by the adoption of a reasonable alternative design by the seller or other distributor, or a predecessor in the commercial chain of distribution, and the omission of the alternative design renders the product not reasonably safe.

Restatement (Third) of Torts § 2(b) (1998).

38. *See Buonanno*, 733 A.2d at 717-18.

39. *See id.* at 718.

40. *See id.*

41. *See id.*

42. *See id.*

43. *See id.*

could not anticipate how NEED would implement the component.⁴⁴ The court made clear that the primary duty to ensure product safety in the workplace rested on NEED's shoulders and that EPT could not reasonably anticipate the design preferences of the industry.⁴⁵ As there was no genuine issue of material fact left for the jury to decide, the supreme court affirmed the lower court's decision granting summary judgment in favor of EPT.⁴⁶

Justice Flanders' Opinion

Justice Flanders concurred with the decision of the court with respect to Colmar, but dissented from the majority's opinion upholding summary judgment for EPT.⁴⁷ The majority held that EPT could not be liable under a failure to warn theory because it could not foresee NEED's dangerous integration of the part.⁴⁸ Justice Flanders found this nonsensical.⁴⁹ The parties agreed at oral argument that a nip point is inherently dangerous without a guard. EPT also conceded that the only foreseeable use of the pulley is as a component part of a conveyor belt system. Therefore, Justice Flanders held it must follow that the pulley will always be unreasonably dangerous absent a guard, and that a warning would remedy this situation.⁵⁰ Under section 2 of the Restatement Third, failure to warn of an unreasonably dangerous product is a basis for liability.⁵¹ Thus, the trial court should not have granted summary judgment in favor of EPT.⁵²

CONCLUSION

Although the facts of this case spawned three separate opinions, the Rhode Island Supreme Court unanimously agreed that component part manufacturers and distributors cannot escape liability for product-caused harm by arguing that no duty exists. By adopting section 5 of the Restatement (Third) of Torts, the supreme court ensured that manufacturers and sellers of compo-

44. *See id.*

45. *See id.* at 719.

46. *See id.* at 719-20.

47. *See id.* at 720.

48. *See id.*

49. *See id.*

50. *See id.*

51. *See* Restatement (Third) of Torts § 2 (1998).

52. *See Buonanno*, 733 A.2d at 721.

nent parts will not escape liability for the harm caused by their products where they substantially participate in the integration of those parts into a final product, or where the component part is defective itself.

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