

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Adams v. Armstrong World Industries, Inc.

847 F.2d 589 (9th Cir. 1988) · Decided May 26, 1988

SUMMARY

The Ninth Circuit considered asbestos-related personal injury and wrongful death claims governed by Idaho law. In light of intervening Idaho Supreme Court decisions adopting an objectively ascertainable injury standard for accrual of the statute of limitations, the court vacated its prior ruling on limitations, reversed the summary judgments for the defendants, and remanded for further proceedings. The court also directed reconsideration of the statute-of-limitations issue based on potentially disputed facts concerning when the plaintiffs’ asbestosis became objectively ascertainable.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Alarcon; Pregerson; Wright
JURISDICTION	Federal
DECIDED	May 26, 1988
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs appealed the district court's grant of summary judgment for asbestos defendants in a diversity action involving personal-injury and wrongful-death claims.
STANDARD OF REVIEW	Summary judgment is reviewed under the standard that it is improper when material facts are genuinely disputed; the appellate court reviewed the legal interpretation of Idaho's statute of limitations de novo and remanded for factual determination under the intervening state-law decisions.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Mary G. Adams, Frank H. Adams, Fred M. Adams, Gloria A. Waters, David Waters, Teri Thompson, Dennis Waters v. Armstrong World Industries, Inc., GAF Corp., Celotex Corp., Eagle-Picher Industries, Inc., Fibreboard Corp., Owens-Corning Fiberglas Corp., Owens-Illinois, Inc., Pittsburgh Corning Corp., Turner & Newall PLC, Raymark Industries, Inc.

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QUESTIONS PRESENTED

1. Whether an intervening interpretation of Idaho Code section 5-219(4) by the Idaho Supreme Court required reconsideration of the Ninth Circuit's prior statute-of-limitations ruling.
2. Whether the personal-injury claims could be resolved on summary judgment without factual development concerning when the decedents' asbestosis became objectively ascertainable.
3. Whether the district court's summary judgment orders should be reversed and remanded for determination of the limitations issue under Idaho's objectively ascertainable injury rule.

HOLDINGS

1. An intervening decision of the highest state court interpreting controlling state law inconsistently with the appellate court's prior ruling is grounds for reconsidering that prior ruling notwithstanding the law-of-the-case doctrine.
2. Under Idaho's objectively ascertainable injury rule, the limitations period for the asbestos-related personal-injury claims did not necessarily commence on the date of the tortfeasor's conduct or the date of last exposure; the claims had to be evaluated based on when the injury became objectively ascertainable.

KEY QUOTATIONS

“In light of the Idaho Supreme Court’s new rulings, although we have previously disposed of the statute of limitations issue in this matter in our May 5, 1986 unpublished disposition, we believe that we must vacate that portion of our judgment and remand this action to the district court for reconsideration of the factual questions presented by the statute of limitations issue.” (at 592)

“Our prior ruling on the statute of limitations issue is inconsistent with the Idaho Supreme Court’s interpretation of section 5-219(4) in Davis v. Moran.” (at 592)

FACTUAL BACKGROUND

Frank Herbert Adams and Ross Greenwood Waters died of asbestosis allegedly resulting from asbestos exposure. Their families brought personal-injury and wrongful-death claims against manufacturers and suppliers of asbestos-containing products. The central factual question on remand was when the decedents' asbestosis became objectively ascertainable through objective medical proof.

PROCEDURAL HISTORY

The district court initially granted summary judgment against the Adams and Waters families, concluding that the personal-injury claims were barred by Idaho's two-year statute of limitations and that the wrongful-death claims failed to satisfy a condition precedent. The Ninth Circuit previously affirmed those rulings in an unpublished disposition but remanded the constitutional issue. On remand, the district court upheld the constitutionality of Idaho Code section 5-219(4) and again granted summary judgment. While the litigation was pending, the Idaho Supreme Court decided *Davis v. Moran* and *Werner v. American-Edwards Laboratories*, adopting an objectively ascertainable injury rule. The Ninth Circuit vacated its prior limitations ruling, reversed the district court's summary judgment orders, and remanded for reconsideration under *Davis*.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must reconsider and determine the statute-of-limitations issue in light of Idaho's objectively ascertainable injury test articulated in *Davis v. Moran*. If material facts concerning the date the asbestosis became objectively ascertainable are disputed, the district court may not resolve the issue on summary judgment.

CASES CITED

- *Adams v. Armstrong World Indus.*, 596 F. Supp. 1407 (D. Idaho 1984)
- *Waters v. Armstrong World Indus., Inc.*, 773 F.2d 248 (9th Cir. 1985)
- *Davis v. Moran*, 112 Idaho 703, 735 P.2d 1014 (1987)
- *Werner v. American-Edwards Laboratories*, 113 Idaho 434, 745 P.2d 1055 (1987)
- *Meyer v. Armstrong World Indus., Inc.*, 820 F.2d 329 (9th Cir. 1987)
- *Jenkins v. Armstrong World Indus.*, 643 F. Supp. 17 (D. Idaho 1985)
- *Richardson v. United States*, 841 F.2d 993 (9th Cir. 1988)
- *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986)

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