

SUPREME COURT OF TEXAS

Helena Chemical Company v. Robert Cox, et al.

Helena Chemical Co. v. Cox, No. 20-0881 (Tex. Mar. 3, 2023) · No. No. 20-0881 · Decided March 3, 2023

SUMMARY

The Supreme Court of Texas considers whether farmers produced reliable evidence that Helena Chemical Company’s aerial application of the herbicide Sendero caused reduced cotton yields through herbicide drift. The Court holds that the plaintiffs’ expert and other causation evidence did not reliably establish exposure, sufficient dosage, representativeness across the claimed acreage, or exclusion of alternative causes. It affirms in part and reverses in part the court of appeals and reinstates summary judgment for Helena.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Justice James D. Blacklock; Justice Young did not participate
JURISDICTION	Texas
DECIDED	March 3, 2023
DOCKET	No. 20-0881
DISPOSITION	other
PROCEDURAL POSTURE	Helena petitioned for review of the court of appeals' reversal of a no-evidence summary judgment and exclusion of plaintiffs' expert causation testimony. The Supreme Court of Texas reviewed whether the plaintiffs' causation evidence raised a genuine issue of material fact.
STANDARD OF REVIEW	Summary judgments are reviewed de novo, with evidence viewed in the light most favorable to the nonmovant, reasonable inferences indulged in the nonmovant's favor, and doubts resolved against the movant. The reliability and admissibility of expert testimony are reviewed for abuse of discretion, but the Court assumed admission of the opinions and addressed whether they constituted reliable evidence sufficient to defeat no-evidence summary judgment.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Helena Chemical Company v. Robert Cox, James Cox Trust, Cox Farms, Tanner Cox, Loren Rees, Tyson Price, Russell Erwin, David

TOPICS

summary judgment

expert testimony

daubert standard

civil procedure

torts

PRACTICE AREAS

civil procedure

evidence

torts

environmental law

QUESTIONS PRESENTED

1. Whether the plaintiffs' expert evidence was reliable evidence of specific causation sufficient to raise a genuine issue of material fact and defeat Helena's no-evidence motion for summary judgment.
2. Whether reliable causation evidence in an herbicide-drift case must show that the crops were exposed to the defendant's product at levels sufficient to cause the claimed reduced yields.
3. Whether the plaintiffs' evidence adequately accounted for plausible alternative causes, including weather and other herbicides.
4. Whether the plaintiffs' lay opinions could establish causation where determining the source and effect of aerial herbicide drift required scientific knowledge beyond ordinary juror understanding.
5. Whether the plaintiffs were required to present field-by-field proof using federal agricultural field boundaries at the summary-judgment stage.

HOLDINGS

1. The plaintiffs' causation evidence did not raise a genuine issue of material fact because their expert opinions were not supported by a scientifically reliable basis connecting Helena's application of Sendero to the plaintiffs' reduced cotton yields.
2. In an herbicide-drift case seeking damages for reduced crop yields, the plaintiff must provide reliable evidence that the crops were exposed to the defendant's product at levels sufficient to cause the alleged lost yields.
3. The plaintiffs' evidence was insufficient because their experts failed to account for plausible alternative causes of the reduced crop yields, including weather and other herbicide applications.
4. The farmers' lay opinions, standing alone, could not establish causation because determining whether aerial herbicide caused reduced yields miles away involved scientific matters beyond common understanding.
5. The Court declined to impose a categorical requirement that every crop-loss plaintiff use USDA field boundaries or present field-by-field proof at summary judgment, but required reliable causation evidence for the entire area for which recovery is sought.

KEY QUOTATIONS

“To survive summary judgment, the plaintiffs’ causation evidence must raise a genuine fact issue as to whether it is more likely than not that Helena’s application of Sendero in July 2015 caused a reduced yield of cotton and therefore reduced income for the farmers.” (8)

“There must be reliable evidence that the failed crops for which recovery is sought were more likely than not (1) exposed to the harmful chemical, (2) at levels of exposure sufficient to cause the lost yields alleged.” (14)

“This observation certainly indicates the likelihood that some Sendero floated in the general direction of the plaintiffs’ fields, but it is no evidence of causation because it amounts to no more than speculation that Sendero actually landed on these particular, scattered fields in a concentration sufficient to cause the crop damage and attendant loss of yield alleged.” (18)

“Either way, assignment of liability to Helena could be based on a rational analysis bearing some indicia of reliability—not on the kind of assumptions and speculation we have repeatedly deemed insufficient.” (20)

“Just as it was no answer in Bostic to say that any exposure to asbestos can harm a person, it is no answer here to say that any exposure to Sendero can harm cotton plants.” (22)

“When an injury may have multiple contributing causes, the plaintiff must at least show that the defendant’s conduct was a substantial factor in causing the injury, taking into account any plausible alternative causes raised by the evidence.” (26)

FACTUAL BACKGROUND

Farmers alleged that Helena supervised the aerial application of approximately 3,300 gallons of the herbicide Sendero over the Spade Ranch in July 2015 and that the herbicide drifted onto cotton fields located 1.8 to 25 miles away. They sought damages for reduced yields in 2015 and 2016 across more than 14,000 acres spread over hundreds of square miles. The plaintiffs’ experts relied primarily on visual observations, reports, limited laboratory testing, and farmer accounts; they did not visit the affected fields, collect cotton samples, model the aerial drift, quantify exposure, or reliably distinguish Sendero from other herbicides. The record also showed possible alternative causes, including weather and other herbicide applications.

PROCEDURAL HISTORY

The plaintiffs sued Helena and other defendants in Mitchell County seeking damages for reduced cotton yields allegedly caused by aerially applied herbicide drift. The district court granted partial summary judgment on mental-anguish, gross-negligence, and punitive-damages claims, granted Helena’s no-evidence motion for summary judgment on causation, and granted Helena’s motion to strike the plaintiffs’ expert testimony. The court of appeals reversed in large part, concluding that most of the expert testimony was reliable and that the evidence was sufficient to survive summary judgment, while affirming partial summary judgment on mental anguish and punitive damages. The Supreme Court granted Helena’s petition, affirmed in part, reversed in part, and rendered a take-nothing judgment on all claims.

DISPOSITION

other

CASES CITED

- Valence Operating Co. v. Dorsett, 164 S.W.3d 656, 661 (Tex. 2005)
- City of Keller v. Wilson, 168 S.W.3d 802, 813, 824 (Tex. 2005)
- Cooper Tire & Rubber Co. v. Mendez, 204 S.W.3d 797, 800-02, 807-08 (Tex. 2006)
- Seger v. Yorkshire Insurance Co., 503 S.W.3d 388, 410 n.23 (Tex. 2016)
- Merrell Dow Pharmaceuticals, Inc. v. Havner, 953 S.W.2d 706, 713-14, 720 (Tex. 1997)
- E.I. du Pont de Nemours & Co. v. Robinson, 923 S.W.2d 549, 551, 557, 559 (Tex. 1995)
- Gammill v. Jack Williams Chevrolet, Inc., 972 S.W.2d 713, 721-22, 726-27 (Tex. 1998)
- City of San Antonio v. Pollock, 284 S.W.3d 809, 816, 818, 820 n.33 (Tex. 2009)
- Gen. Electric Co. v. Joiner, 522 U.S. 136, 146 (1997)
- Volkswagen of America, Inc. v. Ramirez, 159 S.W.3d 897, 912 (Tex. 2005)
- Gharda USA, Inc. v. Control Solutions, Inc., 464 S.W.3d 338, 348-49 (Tex. 2015)
- Bostic v. Georgia-Pacific Corp., 439 S.W.3d 332, 338, 350-51, 353, 360 (Tex. 2014)
- Draughon v. Johnson, 631 S.W.3d 81, 88 (Tex. 2021)
- Mack Trucks, Inc. v. Tamez, 206 S.W.3d 572, 583 (Tex. 2006)
- Builder Services Group, Inc. v. Taylor, No. 03-18-00710-CV, 2020 WL 5608484, at *6 (Tex. App.—Austin Sept. 17, 2020, pet. denied)
- Pitchfork Land & Cattle Co. v. King, 346 S.W.2d 598 (Tex. 1961)
- Plunkett v. Connecticut General Life Insurance Co., 285 S.W.3d 106, 115-17 (Tex. App.—Dallas 2009, pet. denied)
- Purina Mills, Inc. v. Odell, 948 S.W.2d 927, 934, 937 (Tex. App.—Texarkana 1997, pet. denied)
- Marathon Corp. v. Pitzner, 106 S.W.3d 724, 729 (Tex. 2003)
- Burroughs Wellcome Co. v. Crye, 907 S.W.2d 497, 499-500 (Tex. 1995)
- JLG Trucking, LLC v. Garza, 466 S.W.3d 157, 162 (Tex. 2015)
- Transcontinental Insurance Co. v. Crump, 330 S.W.3d 211, 218 (Tex. 2010)
- Cerny v. Marathon Oil Corp., 480 S.W.3d 612, 620 (Tex. App.—San Antonio 2015, pet. denied)
- Foust v. Estate of Walters, 21 S.W.3d 495, 505 (Tex. App.—San Antonio 2000, pet. denied)
- Hager v. Romines, 913 S.W.2d 733, 734-35 (Tex. App.—Fort Worth 1995, no writ)
- Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 590 (1993)
- 630 S.W.3d 234, 243-45, 249 (Tex. App.—Eastland 2020)