

COURT OF APPEALS OF WISCONSIN

Earl v. Gulf & Western Manufacturing Co., 123 Wis. 2d 200

366 N.W.2d 160 (Conn. Ct. App. 1985) · No. No. 84-959 · Decided February 14, 1985

SUMMARY

The Wisconsin Court of Appeals reviewed a nonfinal discovery order in a product liability action arising from an injury involving a punch press. The court held that discovery concerning prior accidents should be limited to presses of the same model as the press involved in the plaintiff's injury, while allowing discovery concerning relevant foreign safety standards and shipments. The court also affirmed denial of a protective order because the defendant failed to show good cause for confidentiality.

CASE DETAILS

COURT	Court of Appeals of Wisconsin
WRITING FOR THE COURT	Wedemeyer, P.J.; Moser, J.; Sullivan, J.
JURISDICTION	Wisconsin
DECIDED	February 14, 1985
DOCKET	No. 84-959
DISPOSITION	other
PROCEDURAL POSTURE	Gulf & Western appealed a nonfinal discovery order in a product-liability action. The order compelled broader answers to interrogatories and denied Gulf & Western's request for a protective order restricting disclosure of discovery materials.
STANDARD OF REVIEW	Discovery and protective-order decisions are reviewed for misuse of discretion. Whether the burden and expense of producing information is excessive in light of its value is a question of law reviewed independently.
PRECEDENTIAL VALUE	Published Wisconsin Court of Appeals opinion
PARTIES	Gulf & Western Manufacturing Company v. Steven Earl, Ella Earl

TOPICS

discovery dispute

products liability

evidence

appellate procedure

civil procedure

PRACTICE AREAS

Civil procedure

Products liability

Evidence

Appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court misused its discretion by ordering discovery concerning a broad range of power presses rather than limiting discovery to presses sufficiently similar to the model No. 28½ press involved in the accident.
2. Whether discovery concerning foreign shipments and foreign safety standards was relevant and unduly burdensome.
3. Whether Gulf & Western established good cause for a protective order prohibiting the Earls from disclosing discovered information to persons unconnected with the case.

HOLDINGS

1. The trial court misused its discretion by ordering discovery concerning all sizes and several types of power presses over a broad period. Gulf & Western may be compelled to answer the interrogatories only with respect to presses of the same model, No. 28½, as the press that injured Steven Earl.
2. Information concerning foreign shipments, foreign safety standards, and safety features on model No. 28½ presses was relevant and, after limiting discovery to that model, was not unduly burdensome.
3. The trial court did not misuse its discretion by denying Gulf & Western's motion for a protective order because Gulf & Western failed to establish good cause.

KEY QUOTATIONS

"Type of Press Information need not be admissible at trial in order to be subject to discovery; however, it must be 'reasonably calculated to lead to the discovery of admissible evidence.'" (123 Wis. 2d at 205)

"The presumption is that no order is necessary; the movant must show a positive reason (i.e., 'good cause') for the entry of an order." (123 Wis. 2d at 209)

FACTUAL BACKGROUND

Steven Earl's hand and part of his arm were amputated on February 2, 1981, when he was injured by a model No. 28½ multipurpose open-back inclinable punch press manufactured in 1944 by E.W. Bliss Company, a Gulf & Western subsidiary. The press was shipped without guards or safety devices, although it later had a pullback device installed by someone other than Gulf & Western. The Earls sought discovery concerning other power-press injuries, current litigation, and safety standards and guarding for presses shipped to foreign countries. Gulf & Western produced information only for model No. 28½ presses equipped with pullbacks, while the trial court ordered much broader discovery covering numerous types and sizes of presses manufactured over several decades.

PROCEDURAL HISTORY

The Earls sued Gulf & Western for negligence and strict liability arising from Steven Earl's injury while operating a Bliss model No. 28½ punch press. The trial court ordered Gulf & Western to answer interrogatories concerning a broad range of presses, accidents, foreign shipments, and foreign safety standards, and denied its motion for a confidentiality order. The Court of Appeals affirmed the denial of the protective order but modified the discovery order to limit discovery to model No. 28½ presses.

DISPOSITION

other

REMAND INSTRUCTIONS

The discovery order was to be modified so that Gulf & Western's interrogatory responses were limited to model No. 28½ presses, including all accidents involving that model since the date it was first manufactured and the related foreign-shipment information. The order was affirmed in all other respects, including denial of the protective order.

CASES CITED

- *Shibilski v. St. Joseph's Hospital*, 83 Wis. 2d 459, 470-71, 266 N.W.2d 264, 270 (1978)
- *Martin v. Griffin*, 117 Wis. 2d 438, 442-43, 344 N.W.2d 206, 209 (Ct. App. 1984)
- *Barstad v. Frazier*, 118 Wis. 2d 549, 554, 348 N.W.2d 479, 482 (1984)
- *Lobermeier v. General Telephone Co.*, 119 Wis. 2d 129, 150, 349 N.W.2d 466, 476 (1984), on reconsideration, 120 Wis. 2d 419, 355 N.W.2d 531 (1984)
- *Walker v. Trico Manufacturing Co.*, 487 F.2d 595, 599-600 (7th Cir. 1973), cert. denied, 415 U.S. 978 (1974)
- *Uitts v. General Motors Corp.*, 58 F.R.D. 450, 452 (E.D. Pa. 1972)
- *Vincent & Vincent, Inc. v. Spacek*, 102 Wis. 2d 266, 272-73, 306 N.W.2d 85, 88 (Ct. App. 1981)
- *State v. Beloit Concrete Stone Co.*, 103 Wis. 2d 506, 511, 309 N.W.2d 28, 30 (Ct. App. 1981)