

INDIANA SUPREME COURT

Schlosser v. Rock Industries, Inc.

804 N.E.2d 1140 (Ind. 2004) · No. No. 50S03-0403-CV-118 · Decided March 11, 2004

SUMMARY

The Indiana Supreme Court abandoned the common-law acceptance rule, under which contractors generally owed no duty to third parties after the owner accepted their work. Applying the modern foreseeability approach, the court held that Rock Industries' alleged negligence in creating a snow pile had to be evaluated under traditional negligence principles and that proximate cause was best determined by the trier of fact. The court reversed the trial court's summary judgment for Rock Industries and remanded for further proceedings.

CASE DETAILS

COURT	Indiana Supreme Court
WRITING FOR THE COURT	Rucker, Justice; Shepard, Chief Justice; Dickson, Justice; Sullivan, Justice; Boehm, Justice
JURISDICTION	Indiana
DECIDED	March 11, 2004
DOCKET	No. 50S03-0403-CV-118
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs petitioned for transfer after the Indiana Court of Appeals affirmed the trial court's grant of summary judgment to Rock Industries in an automobile-collision negligence action. The State also appealed an issue concerning its proposed cross-claim, but did not seek transfer on that issue.
STANDARD OF REVIEW	Summary judgment is reviewed under the applicable legal standard, and the contractor's proximate-cause argument was deemed best determined by the trier of fact.
PRECEDENTIAL VALUE	Published and precedential Indiana Supreme Court opinion.
PARTIES	Julee Schlosser, as Administratrix of the Estate of Jocelyn H. Schlosser, Deceased, Jordan Schlosser, individually and on behalf of Madysen Wagoner, a minor, Joshua Wagoner, on behalf of Madysen Wagoner, a minor, State of Indiana v. Rock Industries, Inc.

TOPICS

construction law

negligence

duty of care

summary judgment

appellate procedure

PRACTICE AREAS

torts

construction law

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the common-law acceptance rule barred negligence liability against a contractor after the owner accepted the contractor's work.
2. Whether Rock Industries was entitled to summary judgment because its work had been accepted by the State or because its conduct was not the proximate cause of Plaintiffs' injuries.

HOLDINGS

1. Indiana abandons the acceptance rule, under which contractors generally owed no duty of care to third parties after the owner accepted the work, and adopts evaluation under traditional negligence principles and the foreseeability doctrine.
2. Rock Industries was not entitled to summary judgment on the ground that its conduct was not the proximate cause of Plaintiffs' injuries because that issue was best determined by the trier of fact.

KEY QUOTATIONS

“Based on the “acceptance rule” the trial court granted summary judgment in an action arising out of an automobile collision. In an opinion handed down today we abandoned the rule.” (804 N.E.2d at 1140)

“Because we have abandoned the acceptance rule, Rock Industries’ claims “must be evaluated under traditional principles of negligence.”” (804 N.E.2d at 1141)

FACTUAL BACKGROUND

Rock Industries contracted with the Indiana Department of Transportation to remove snow from an intersection. Its employee reduced an existing median snow pile but added snow on the opposite side of a yield sign; additional snowfall and plowing followed. After an officer raised concerns about the pile, a two-car collision occurred at the intersection, killing Jocelyn Schlosser and injuring Jordan Schlosser and one-year-old Madysen Wagoner. Plaintiffs alleged that the snow-removal efforts reduced visibility and caused the collision.

PROCEDURAL HISTORY

Plaintiffs sued the State of Indiana, Rock Industries, Inc., and Marshall County after a collision allegedly caused by snow-removal work that created or left a large snow pile obstructing visibility. Marshall County was dismissed by stipulation, and Plaintiffs dismissed their claims against the State. The Marshall Circuit Court granted Rock Industries summary judgment under the acceptance rule. The Indiana Court of Appeals affirmed, and the Indiana Supreme Court granted transfer, abandoned the acceptance rule in a contemporaneous opinion,

reversed the judgment, and remanded for further proceedings. The court summarily affirmed the Court of Appeals' disposition of the State's cross-claim issue.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings evaluating Rock Industries' potential liability under traditional negligence principles rather than the abandoned acceptance rule.

CASES CITED

- Peters v. Forster, ___ N.E.2d ___, No. 42S01-0301-CV-24 (Ind. 2004)
- Blake v. Calumet Construction Corp., 674 N.E.2d 167, 170 (Ind. 1996)
- Citizens Gas & Coke Util. v. American Economic Insurance Co., 486 N.E.2d 998, 1000 (Ind. 1985)
- Schlosser v. Rock Industries, Inc., 796 N.E.2d 350, 358 n.6 (Ind. Ct. App. 2003)