

**CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION SIX**

Alaniz v. Sun Pacific Shippers, L.P.

Alaniz · No. B290013 · Decided April 28, 2020

SUMMARY

The California Court of Appeal held that the trial court prejudicially erred by failing to instruct the jury on the Privette/Hooker doctrine governing a hirer's liability for injuries to an independent contractor's employee. The court also held that Sun Pacific was entitled to a mitigation-of-damages instruction and that judgment notwithstanding the verdict should have been entered for Sun Pacific on the premises liability cause of action because the alleged hazardous condition was open and known. The judgment was reversed, the case was remanded for a new trial on negligence, and judgment was directed for Sun Pacific on premises liability.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division Six
WRITING FOR THE COURT	Per curiam; Tangeman, J.; Gilbert, P. J.; Yegan, J.
JURISDICTION	California
DECIDED	April 28, 2020
DOCKET	B290013
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Sun Pacific appealed from a judgment entered after a jury found liability and awarded damages on negligence and premises-liability claims. It challenged the failure to give Privette/Hooker and mitigation-of-damages instructions, denial of its JNOV motion, and the evidentiary support for future medical expenses.
STANDARD OF REVIEW	Instructional error is reversible when there is a reasonable probability that, absent the error, a result more favorable to the appealing party would have been reached. In reviewing JNOV, the evidence is viewed in the light most favorable to the party securing the verdict, and JNOV is proper when the verdict lacks substantial evidence.
PRECEDENTIAL VALUE	Published and certified for publication; precedential under applicable California law.

PARTIES

Sun Pacific Shippers, L.P. v. Jesus Alaniz, Alaniz's wife

TOPICS

jury instructions

negligence

premises liability

appellate procedure

remedies

PRACTICE AREAS

Torts

Civil Procedure

Appellate Procedure

Jury Instructions

Remedies

QUESTIONS PRESENTED

1. Whether the trial court prejudicially erred by failing to instruct the jury on the Privette/Hooker limitations governing a hirer's liability to an independent contractor's employee in negligence and premises-liability claims.
2. Whether Sun Pacific forfeited its challenge to the negligence instructions by failing to request a Privette/Hooker instruction.
3. Whether the trial court erred by refusing an instruction on mitigation of damages based on Alaniz's delay in seeking medical treatment.
4. Whether the trial court erred by denying Sun Pacific's motion for JNOV on the negligence and premises-liability causes of action.
5. Whether the evidence supported the award of future medical expenses.

HOLDINGS

1. The trial court prejudicially erred by instructing on general negligence without instructing that a hirer of an independent contractor may be liable only when it retained control over safety conditions and its negligent exercise of that retained control affirmatively contributed to the employee's injury.
2. The premises-liability instructions were erroneous because they did not require proof that the hazardous condition was concealed and unknown or not reasonably ascertainable to the independent contractor.
3. Sun Pacific did not forfeit its challenge by failing to request a Privette/Hooker instruction because the instructions given incorrectly stated the applicable law by omitting controlling legal elements.
4. The trial court erred by refusing to instruct on mitigation of damages because evidence supported a finding that Alaniz's delay in seeking medical treatment increased his injuries.
5. JNOV was properly denied on the negligence cause of action because substantial evidence supported a finding that Sun Pacific controlled where vehicles parked and exercised that control in a manner that affirmatively contributed to Alaniz's injuries.
6. Sun Pacific was entitled to JNOV on the premises-liability cause of action because the allegedly unsafe condition was openly visible and known to Alaniz rather than concealed.

KEY QUOTATIONS

“In a negligence action, the hirer of an independent contractor may be liable to the contractor’s employee only if “the hirer retained control over safety conditions at [the] worksite” and “exercise of retained control affirmatively contributed to the employee’s injuries.”” (2)

“In a premises liability action, the hirer may be liable for injuries to the employee only if: “(1) it knows or reasonably should know of a concealed, preexisting hazardous condition on its premises; (2) the contractor does not know and could not reasonably ascertain the condition; and (3) the [hirer] fails to warn the contractor.”” (2)

“While “there ordinarily is no duty to instruct in the absence of a specific request by a party[,] the exception is a complete failure to instruct on material issues and controlling legal principles which may amount to reversible error.”” (7)

“The trial court’s refusal of the instruction was error.” (13)

FACTUAL BACKGROUND

Sun Pacific hired independent contractors to deliver and unload bins at its mandarin orchard. Jesus Alaniz, a truck driver employed by Navarro Trucking, climbed onto his trailer and moved bins toward a forklift after the trailer was positioned in an area allegedly too narrow for access from the opposite side; he fell and his leg was crushed by the forklift. The evidence conflicted about whether a Sun Pacific supervisor directed where Alaniz parked and whether another contractor's employee directed Alaniz to climb onto the trailer. Alaniz declined an immediate offer of transportation to a doctor, waited approximately four hours to seek treatment, and later underwent surgery.

PROCEDURAL HISTORY

Jesus Alaniz and his wife sued Sun Pacific, Lule, and Reynosa for negligence and sued Sun Pacific for premises liability after Alaniz was injured while unloading bins at Sun Pacific's orchard. The jury assigned Sun Pacific 40 percent responsibility and awarded Alaniz \$2,563,190 and his wife \$131,250. The trial court denied Sun Pacific's motions for new trial and JNOV. The Court of Appeal reversed, ordered a new trial on negligence, and directed entry of judgment for Sun Pacific on premises liability.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for a new trial on the negligence cause of action using the applicable Privette/Hooker legal standards and with an appropriate mitigation-of-damages instruction. Direct the trial court to enter judgment in favor of Sun Pacific on the premises-liability cause of action. Sun Pacific shall recover its costs on appeal.

CASES CITED

- Privette v. Superior Court (1993) 5 Cal. 4th 689
- Hooker v. Department of Transportation (2002) 27 Cal. 4th 198, 202, 214-215

- Kinsman v. Unocal Corp. (2005) 37 Cal. 4th 659, 665, 674-675, 681-683
- Null v. City of Los Angeles (1988) 206 Cal. App. 3d 1528, 1535-1536
- People v. Wilson (2008) 44 Cal. 4th 758, 793
- Suman v. BMW of North America, Inc. (1994) 23 Cal. App. 4th 1, 9, 11
- Agarwal v. Johnson (1979) 25 Cal. 3d 932, 951
- White v. Ultramar, Inc. (1999) 21 Cal. 4th 563, 574, fn. 4
- Brown v. Smith (1997) 55 Cal. App. 4th 767, 783, fn. 11, 785
- Mock v. Michigan Millers Mutual Ins. Co. (1992) 4 Cal. App. 4th 306, 333-334
- Green v. State of California (2007) 42 Cal. 4th 254, 267
- Bowman v. Wyatt (2010) 186 Cal. App. 4th 286, 298, fn. 7
- Manguso v. Oceanside Unified School Dist. (1984) 153 Cal. App. 3d 574, 581
- National Medical Transportation Network v. Deloitte & Touche (1998) 62 Cal. App. 4th 412, 428-429
- Doney v. Tambouratgis (1979) 23 Cal. 3d 91, 96-97
- Ray v. Silverado Constructors (2002) 98 Cal. App. 4th 1120, 1130
- Regalado v. Callaghan (2016) 3 Cal. App. 5th 582, 595
- Madden v. Summit View, Inc. (2008) 165 Cal. App. 4th 1267, 1276
- Chakalis v. Elevator Solutions, Inc. (2012) 205 Cal. App. 4th 1557, 1573
- Paverud v. Niagara Machine & Tool Works (1987) 189 Cal. App. 3d 858, 863
- Soule v. General Motors Corp. (1994) 8 Cal. 4th 548, 574, 580-581
- College Hospital Inc. v. Superior Court (1994) 8 Cal. 4th 704, 715
- Mayes v. Bryan (2006) 139 Cal. App. 4th 1075, 1087
- McDonald v. Shell Oil Co. (1955) 44 Cal. 2d 785, 788-790
- Vine v. Bear Valley Ski Co. (2004) 118 Cal. App. 4th 577, 594-595, 601-603
- Whiteley v. Philip Morris, Inc. (2004) 117 Cal. App. 4th 635, 660
- People v. Chism (2014) 58 Cal. 4th 1266, 1291
- M.T. v. Superior Court (2009) 178 Cal. App. 4th 1170, 1177
- Bernal v. Richard Wolf Medical Instruments Corp. (1990) 221 Cal. App. 3d 1326, 1337-1338
- Sweatman v. Department of Veterans Affairs (2001) 25 Cal. 4th 62, 68
- Simmons v. Ware (2013) 213 Cal. App. 4th 1035, 1048
- McCoy v. Hearst Corp. (1991) 227 Cal. App. 3d 1657, 1659-1661
- Singh v. Southland Stone, U.S.A., Inc. (2010) 186 Cal. App. 4th 338, 367