

SUPREME JUDICIAL COURT OF MAINE

Estate of Pinkham v. Cargill, Inc.

55 A.3d 1 (Me. 2012) · Decided July 3, 2012

SUMMARY

The Maine Supreme Judicial Court vacated summary judgment for Cargill in a products-liability action involving an esophageal perforation allegedly caused by bone or cartilage in boneless turkey. The court adopted the reasonable-expectation test for defective food products under Maine's strict-liability statute and held that the Estate presented sufficient evidence to create genuine issues of material fact. The court also recognized that an inference of product defect may be available under Restatement (Third) of Torts: Products Liability § 3.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Jabar, J.; Alexander, J.; Gorman, J.; Levy, J.; Mead, J.; Saufley, C.J.
JURISDICTION	Maine
DECIDED	July 3, 2012
DISPOSITION	vacated
PROCEDURAL POSTURE	The Estate appealed the Superior Court's grant of summary judgment to Cargill in a strict products-liability action involving allegedly defective boneless turkey product.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, viewing the evidence and reasonable inferences in the light most favorable to the party against whom judgment was entered. When the defendant is the moving party, the defendant bears the burden of showing that the evidence fails to establish a prima facie case for each element of the claim.
PRECEDENTIAL VALUE	Published opinion of the Supreme Judicial Court of Maine adopting the reasonable-expectation test for defective-food strict-liability claims and recognizing potential reliance on Restatement (Third) of Torts: Products Liability § 3.
PARTIES	Estate of Stanley Pinkham v. Cargill, Inc.

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. What legal test governs a strict-liability claim under 14 M.R.S. § 221 involving an allegedly defective food product?
2. Whether the Estate presented sufficient evidence to create a genuine dispute of material fact regarding whether a foreign body in Cargill's turkey product caused Pinkham's esophageal injury and whether the product was defective.
3. Whether the Estate may seek an inference of product defect under Restatement (Third) of Torts: Products Liability § 3 without proof of a specific defect.
4. Whether the appellate court needed to decide the admissibility of the excluded affidavits and statements offered by the Estate.

HOLDINGS

1. Maine adopts the reasonable-expectation test for strict-liability cases alleging a defective food product under 14 M.R.S. § 221. Liability may exist when a substance in the food, whether natural to an ingredient or not, is something the consumer would not reasonably expect to find in the product.
2. Summary judgment was improper because the Estate presented sufficient evidence to create genuine disputes of material fact regarding whether a foreign body in the turkey product caused Pinkham's esophageal perforation and whether a consumer would reasonably expect to find that foreign body in a product labeled or sold as boneless turkey.
3. The Estate may seek recovery under Restatement (Third) of Torts: Products Liability § 3. Whether the injury was solely the result of causes other than a product defect existing at the time of sale or distribution is a question of fact for the jury.

KEY QUOTATIONS

“With this framework in mind, we adopt the “reasonable expectation” test in Maine, to be used in strict liability cases alleging a defective food product pursuant to section 221.” (¶ 15)

“Because the Estate has presented enough evidence to create a genuine issue of material fact as to whether a defective turkey product caused Pinkham’s injury, we vacate the summary judgment.” (¶ 23)

FACTUAL BACKGROUND

Stanley Pinkham suffered a sudden, severe upper-abdominal injury while eating a hot turkey sandwich containing Cargill's boneless turkey product. Physicians discovered an esophageal perforation and a food bolus containing small white fragments that appeared to be bone or cartilage. Medical testimony attributed the perforation to a foreign body, while evidence showed that larger bone pieces had previously been found in Cargill's boneless turkey product. Cargill also presented evidence that Pinkham had reported mild difficulty swallowing before the incident.

PROCEDURAL HISTORY

The Estate sued Cargill and Poultry Products of Maine, Inc., under Maine's strict-liability statute after Stanley Pinkham suffered an esophageal perforation while eating a turkey sandwich containing Cargill's product. Poultry Products of Maine was dismissed after settlement. The Superior Court excluded certain evidence as hearsay and granted Cargill summary judgment, concluding that the alleged bone fragments did not establish a defective product and that the Estate could not rely on an inference of defect. The Supreme Judicial Court of Maine vacated and remanded.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The case is remanded for further proceedings consistent with the opinion, including allowing a fact-finder to determine whether the turkey product contained a causative foreign body, whether the product was defective under the reasonable-expectation test, and whether the Estate is entitled to an inference of defect under Restatement (Third) of Torts: Products Liability § 3.

CASES CITED

- Kobeckis v. Budzko, 225 A.2d 418, 423 (Me. 1967)
- Newton v. Standard Candy Co., No. 8:06CV242, 2008 WL 752599, at *2 (D. Neb. Mar. 19, 2008)
- Jackson v. Nestle-Beich, Inc., 147 Ill. 2d 408, 168 Ill. Dec. 147, 589 N.E.2d 547, 548 (1992)
- Adams v. Buffalo Forge Co., 443 A.2d 932, 940 (Me. 1982)
- Matthews v. Campbell Soup Co., 380 F. Supp. 1061, 1065-66 (S.D. Tex. 1974)
- Inkel v. Livingston, 2005 ME 42, ¶ 4, 869 A.2d 745
- Wentworth v. Sebra, 2003 ME 97, ¶ 9, 829 A.2d 520
- Moores v. Sunbeam Prods., Inc., 425 F. Supp. 2d 151, 156 (D. Me. 2006)
- TNT Rd. Co. v. Sterling Truck Corp., No. 03-37-B-K, 2004 WL 1626254, at *5-6 (D. Me. July 19, 2004)
- Porteous v. St. Ann's Cafe & Deli, 713 So. 2d 454, 456 & n.3 (La. 1998)
- Phillips v. Town of W. Springfield, 405 Mass. 411, 540 N.E.2d 1331, 1332-33 (1989)
- Yong Cha Hong v. Marriott Corp., 656 F. Supp. 445, 448 (D. Md. 1987)
- Ex parte Morrison's Cafeteria of Montgomery, Inc., 431 So. 2d 975, 978-79 (Ala. 1983)
- Hochberg v. O'Donnell's Rest., Inc., 272 A.2d 846, 848-49 (D.C. 1971)