

COURT OF APPEALS OF OREGON

Washington v. Taseca Homes, Inc.

101 Or. App. 607 (1990) · Decided May 23, 1990

SUMMARY

In this personal injury action arising from an automobile accident, the Oregon Court of Appeals held that the defendant’s deposition statement denying that the plaintiff had done anything careless was admissible as an opposing-party statement under OEC 801(4)(b)(A). The court held that the admission was relevant to comparative fault and that the opinion-rule requirements of OEC 701 did not apply. Because the liability and damages issues were intertwined, the court reversed and remanded for a new trial on all issues.

CASE DETAILS

COURT	Court of Appeals of Oregon
WRITING FOR THE COURT	Deits, J.; Newman, J.; Richardson, J.
JURISDICTION	Oregon
DECIDED	May 23, 1990
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiff appealed from a judgment entered after a jury verdict in a personal injury action arising from an automobile accident, challenging the exclusion of a deposition statement by the defendant.
STANDARD OF REVIEW	The opinion reviews the trial court's evidentiary ruling for legal error and determines the proper scope of a new trial.
PRECEDENTIAL VALUE	Published Oregon Court of Appeals opinion
PARTIES	Washington v. Taseca Homes, Inc.

TOPICS

- evidence
- hearsay
- comparative fault
- personal injury
- appellate procedure

PRACTICE AREAS

- Evidence
- Personal injury
- Torts
- Appellate procedure

QUESTIONS PRESENTED

1. Whether defendant's deposition statement denying that plaintiff had done anything careless causing the accident was admissible as the statement of an adverse party under OEC 801(4)(b)(A), notwithstanding the requirements of OEC 701 for lay opinion testimony.
2. Whether the new trial should be limited to comparative fault or should include liability and damages.

HOLDINGS

1. A party's own statement offered against that party is admissible as an admission of an adverse party under OEC 801(4)(b)(A), and the technical requirements of the lay-opinion rule, OEC 701, do not apply to exclude the statement.
2. A new trial must be conducted on liability and damages, rather than being limited to comparative fault, when the evidence concerning liability and damages is sufficiently intertwined.

KEY QUOTATIONS

"The technical demands of the opinion rule and the rule requiring personal knowledge are suspended." (610)

"The trial court erred in excluding defendant's admission, which was relevant to the comparative fault of the parties." (610)

"We conclude that these issues are sufficiently intertwined to make a retrial on all issues appropriate." (611)

FACTUAL BACKGROUND

In November 1984, plaintiff was injured when her eastbound vehicle collided with defendant's westbound vehicle as defendant turned left through an intersection in Portland. Defendant asserted that plaintiff was negligent in failing to yield, maintain a proper lookout, maintain control, and avoid excessive speed. During a deposition, defendant answered "No" when asked whether plaintiff had done anything careless that caused the accident.

PROCEDURAL HISTORY

The jury found both plaintiff and defendant negligent, allocating 45 percent of the fault to plaintiff and 55 percent to defendant, and awarded plaintiff \$41,250 based on total damages of \$75,000. The trial court excluded a deposition statement in which defendant denied that plaintiff had done anything careless causing the accident. The Court of Appeals reversed and remanded for a new trial on all issues.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Conduct a new trial on all issues, including liability, comparative fault, and damages.

CASES CITED

- Wilson v. B.F. Goodrich, 52 Or. App. 139, 152-53, 627 P.2d 1280 (1981), aff'd, 292 Or. 626, 642 P.2d 644 (1982)

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