

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Stephen Brent Wheeler v. John Deere Company

27 Fed. R. Evid. Serv. 518 (10th Cir. 1988) · No. No. 86-1446 · Decided December 2, 1988

SUMMARY

The Tenth Circuit reviewed a Kansas strict-products-liability judgment arising from the plaintiff’s loss of an arm in a John Deere combine’s vertical unloading auger. The court held that the trial court improperly admitted certain evidence of other accidents and subsequent design changes, while concluding that the challenged jury instructions adequately reflected Kansas law. It reversed the judgment and remanded for a new trial.

CASE DETAILS

COURT	United States Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	Baldock; Moore; James A. Parker
JURISDICTION	Federal
DECIDED	December 2, 1988
DOCKET	No. 86-1446
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Wheeler obtained a jury verdict and judgment for \$2.3 million in a diversity strict-products-liability action under Kansas law. John Deere appealed evidentiary rulings, jury instructions, and denial of its motion for a directed verdict.
STANDARD OF REVIEW	Evidentiary rulings are reviewed for abuse of discretion and reversible error is assessed in light of the record as a whole. Jury-instruction error warrants reversal only if prejudicial when the instructions are considered as a whole. A directed verdict is proper only when the proof is one way or overwhelmingly favors the movant so that no other rational conclusion is possible.
PRECEDENTIAL VALUE	published precedential federal appellate opinion
PARTIES	John Deere Company v. Stephen Brent Wheeler

TOPICS

- products liability
- evidence
- standard of review
- appellate procedure
- comparative fault

PRACTICE AREAS

products liability

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether evidence of other accidents involving Titan series combines was properly admitted to show a dangerous condition and to impeach Deere's expert.
2. Whether evidence of subsequent design changes was admissible after Deere stipulated that the alternative design was technologically and economically feasible.
3. Whether the jury instructions correctly stated Kansas strict-products-liability and comparative-fault law.
4. Whether the district court properly denied Deere's motion for a directed verdict on the adequacy of the warning and consumer-expectations issues.

HOLDINGS

1. The district court did not abuse its discretion by admitting live testimony from five witnesses who suffered substantially similar injuries while clearing Titan-series combine augers.
2. The district court erred by allowing Wheeler to impeach Deere's expert with accidents for which the court had not first found substantial similarity.
3. The district court erred by admitting evidence of subsequent design changes after Deere stipulated that the alternative design was technologically and economically feasible.
4. The district court properly admitted portions of safety-committee exhibits concerning Deere's awareness of a possible warning problem and the need for a warning decal near the cleanout door.
5. The jury instructions, considered as a whole, adequately stated Kansas strict-products-liability and comparative-fault law, including the parties' respective duties.
6. The district court properly denied Deere's motion for a directed verdict because Wheeler presented sufficient evidence for a rational jury to find that the combine was unreasonably dangerous and inadequately warned.

KEY QUOTATIONS

"Both federal and Kansas law permit the introduction of substantially similar accidents in strict products liability actions to demonstrate "notice, the existence of a defect, or to refute testimony given by a defense witness that a given product was designed without safety hazards." (¶ 12)

"As earlier explained, evidence of other accidents is admissible to impeach testimony that a product was designed without safety hazards only if the proponent first shows that the accidents were substantially similar to the accident presently at issue." (¶ 23)

"The article sold must be dangerous to an extent beyond that which would be contemplated by the ordinary consumer who purchases it, with the ordinary knowledge common to the community as to its characteristics." (¶ 51)

"Accordingly, we reverse the judgment of the district court and remand for a new trial." (¶ 52)

FACTUAL BACKGROUND

Wheeler was injured while clearing wheat and chaff from the vertical unloading auger and sump of a John Deere Titan 7720 combine. After the auger had been disengaged but the engine remained running, the operator unexpectedly reengaged it while Wheeler's arm was extended into the auger housing, drawing in and severely injuring the arm and requiring amputation. Deere stipulated that a feasible alternative design using smaller cleanout doors would have prevented the accident, and that no warning appeared immediately next to the cleanout door.

PROCEDURAL HISTORY

Wheeler sued John Deere after losing his right arm in the vertical unloading auger of a Titan 7720 combine. A jury found the combine unreasonably dangerous, assessed total damages of \$3.1 million, attributed 75 percent fault to Deere and 25 percent to Wheeler's employer, and entered a \$2.3 million verdict against Deere. The Tenth Circuit reversed because of evidentiary errors and remanded for a new trial, while upholding the denial of a directed verdict and the challenged jury instructions.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Conduct a new trial. On remand, the trial court should exclude evidence of subsequent design changes offered to prove feasibility because Deere stipulated to feasibility, require redaction of impertinent material from admissible safety-committee exhibits, and define the actors' respective duties without characterizing them as differing in degree.

CASES CITED

- Motive Parts Warehouse v. Facet Enter., 774 F.2d 380, 396 (10th Cir. 1985)
- Herndon v. Seven Bar Flying Serv., Inc., 716 F.2d 1322, 1326 (10th Cir. 1983), cert. denied, 466 U.S. 958 (1984)
- K-B Trucking Co. v. Riss Int'l Corp., 763 F.2d 1148, 1155-56 (10th Cir. 1985)
- Ponder v. Warren Tool Corp., 834 F.2d 1553, 1560 (10th Cir. 1987)
- Rexrode v. American Laundry Press Co., 674 F.2d 826, 829-30 & n. 9 (10th Cir.), cert. denied, 459 U.S. 862 (1982)
- Julander v. Ford Motor Co., 488 F.2d 839, 846-47 (10th Cir. 1973)
- Exum v. General Elec. Co., 819 F.2d 1158, 1162-63 (D.C. Cir. 1987)
- Jackson v. Firestone Tire & Rubber Co., 788 F.2d 1070, 1083 (5th Cir. 1986)
- Romine v. Parman, 831 F.2d 944, 945 (10th Cir. 1987)
- Johnson v. Colt Indus. Operating Corp., 797 F.2d 1530, 1534 n. 4 (10th Cir. 1986)
- Moe v. Avions Marcel Dassault-Breguet Aviation, 727 F.2d 917, 932 (10th Cir.), cert. denied, 469 U.S. 853 (1984)

- *Siruta v. Hesston Corp.*, 232 Kan. 654, 659 P.2d 799, 808-09, 822 (1983)
- *Johnson v. American Cyanamid Co.*, 239 Kan. 279, 718 P.2d 1318, 1324-25 (1986)
- *Kennedy v. City of Sawyer*, 228 Kan. 439, 618 P.2d 788, 798 (1980)
- *Albertson v. Volkswagenwerk Aktiengesellschaft*, 230 Kan. 368, 634 P.2d 1127, 1131-32 (1981)
- *Hardin v. Manitowoc-Forsythe Corp.*, 691 F.2d 449, 455 (10th Cir. 1982)
- *Prince v. Leesona Corp.*, 720 F.2d 1166, 1168 n. 2, 1171 n. 9 (10th Cir. 1983)
- *Brooks v. Dietz*, 218 Kan. 698, 545 P.2d 1104, 1108 (1976)
- *J.I. Case Credit Corp. v. Crites*, 851 F.2d 309, 311 (10th Cir. 1988)
- *Lester v. Magic Chef, Inc.*, 230 Kan. 643, 641 P.2d 353, 361 (1982)
- *Karns v. Emerson Elec. Co.*, 817 F.2d 1452, 1455 (10th Cir. 1987)
- *United States v. Taylor*, 800 F.2d 1012, 1017 (10th Cir. 1986), cert. denied, 484 U.S. 838 (1987)
- *Moe v. Avions Marcel Dassault-Breguet Aviation*, 727 F.2d 917, 924 (10th Cir.), cert. denied, 469 U.S. 853 (1984)

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