

SUPREME COURT OF ALABAMA

Patterson v. Consolidated Aluminum Corp.

101 So. 3d 743 (Ala. 2012) · Decided August 17, 2012

SUMMARY

The Alabama Supreme Court affirmed a summary judgment dismissing Dawn and Brooks Patterson’s asbestos-related claims against Consolidated Aluminum Corporation and Lonza America, Inc. as barred by the statute of limitations. The court held that the plaintiffs were not entitled to relation back under Alabama Rules of Civil Procedure 9(h) and 15(c) because they did not promptly amend their complaint after learning of the defendants’ identity and potential liability.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Stuart, Justice; Malone, C.J.; Parker, J.; Shaw, J.; Stuart, J.; Wise, J.
JURISDICTION	Alabama
DECIDED	August 17, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a Jefferson Circuit Court judgment dismissing the Pattersons' claims against Consolidated Aluminum Corporation and Lonza America, Inc. as barred by the statute of limitations. The trial court treated the defendants' motion to dismiss as a motion for summary judgment because matters outside the pleadings were considered and certified the judgment as final under Rule 54(b), Ala. R. Civ. P.
STANDARD OF REVIEW	De novo review applies to a summary judgment. The appellate court applies the same standard as the trial court and determines whether the movant made a prima facie showing that no genuine issue of material fact exists and that the movant is entitled to judgment as a matter of law, viewing the evidence in the light most favorable to the nonmovant.
PRECEDENTIAL VALUE	Published Alabama Supreme Court opinion; precedential.
PARTIES	Dawn Elaine Patterson, Brooks Patterson v. Consolidated Aluminum Corporation, Lonza America, Inc.

TOPICS

statute of limitations

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summary judgment

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the trial court properly treated CAC and Lonza's motion to dismiss as a motion for summary judgment because matters outside the pleadings were considered.
2. Whether the Pattersons could use the relation-back provisions of Rules 9(h) and 15(c), Ala. R. Civ. P., to substitute CAC and Lonza for fictitiously named defendants after the statute of limitations had expired.
3. Whether the Pattersons exercised due diligence and promptly amended their complaint after knowing or having notice of CAC and Lonza's identities and potential liability.

HOLDINGS

1. The trial court properly treated the motion to dismiss as a motion for summary judgment because it considered evidence outside the pleadings.
2. A plaintiff may substitute a defendant for a fictitiously named party after the limitations period only if the plaintiff stated a cause of action against the fictitious party in the original complaint, was ignorant of the defendant's identity when the complaint was filed, exercised due diligence to identify the defendant, and promptly amended the complaint after learning the defendant's identity.
3. The Pattersons were not entitled to relation back because they failed to exercise due diligence by promptly amending their complaint after they knew or should have known that CAC and Lonza were the parties described fictitiously.

KEY QUOTATIONS

"This Court's review of a summary judgment is de novo." (746)

"The absence of evidence establishing any one of these factors is sufficient to support a trial court's judgment disallowing the outside-of-the-limitations-period substitution." (747)

"because the Pattersons did not promptly move to amend their complaint to substitute CAC and Lonza as defendants after learning of their identity and potential liability, they are not entitled to the benefit of the relation-back doctrine." (749)

FACTUAL BACKGROUND

Dawn Elaine Patterson was diagnosed with malignant mesothelioma on September 11, 2008, allegedly resulting from secondary exposure to asbestos brought home by her father, Jerry Dison, from his employment. Dison's employment records identified CAC as one of the entities that employed him at the Florence facility, and those records were submitted to the trial court in December 2009. Although the Pattersons named Phelps-Dodge and

other entities and later asserted a claim against Ormet as successor to CAC, they did not identify CAC or Lonza as defendants until May 2011, after the two-year limitations period had expired.

PROCEDURAL HISTORY

The Pattersons filed an asbestos-related complaint in August 2009 against various defendants, including fictitiously named parties. They amended the complaint in February 2010 to add Quanex and Ormet, including Ormet as successor in interest to CAC. In May 2011, after receiving discovery responses, they amended the complaint to substitute CAC and Lonza for fictitious defendants. The trial court granted CAC and Lonza's limitations motion, treated as a summary-judgment motion, and the Alabama Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Dow v. Alabama Democratic Party, 897 So. 2d 1035, 1038-39 (Ala. 2004)
- Williams v. State Farm Mut. Auto. Ins. Co., 886 So. 2d 72, 74 (Ala. 2003)
- Blue Cross & Blue Shield of Alabama v. Hodurski, 899 So. 2d 949, 952-53 (Ala. 2004)
- Wilson v. Brown, 496 So. 2d 756, 758 (Ala. 1986)
- Bass v. SouthTrust Bank of Baldwin County, 538 So. 2d 794, 797-98 (Ala. 1989)
- Ex parte Griffin, 4 So. 3d 430, 436 (Ala. 2008)
- Columbia Eng'g Int'l Ltd. v. Espey, 429 So. 2d 955, 958 (Ala. 1983)
- Davis v. Mims, 510 So. 2d 227, 229 (Ala. 1987)
- West v. Founders Life Assurance Co. of Florida, 547 So. 2d 870, 871 (Ala. 1989)
- Ex parte Hensel Phelps Constr. Co., 7 So. 3d 999, 1004 (Ala. 2008)
- Sherrin v. Bose, 608 So. 2d 364, 366 (Ala. 1992)
- Spradlin v. Drummond, Inc., 548 So. 2d 1002, 1005 (Ala. 1989)