

DISTRICT COURT OF APPEAL OF FLORIDA, FIFTH DISTRICT

Stimpson v. Ford Motor Co.

988 So. 2d 1119 (Fla. Dist. Ct. App. 2008) · Decided July 18, 2008

SUMMARY

The Florida Fifth District Court of Appeal held that Florida’s twelve-year products-liability statute of repose is tolled during periods when a manufacturer had actual knowledge of an alleged defect and took affirmative steps to conceal it. The court concluded that the plaintiffs could potentially establish that Ford concealed the alleged sudden-acceleration defect in their vehicle, making their claims timely. It reversed the summary judgment entered for Ford and remanded for further proceedings.

CASE DETAILS

COURT	District Court of Appeal of Florida, Fifth District
WRITING FOR THE COURT	Pleus, J.; Orfinger, J.; Evander, J.
JURISDICTION	Florida
DECIDED	July 18, 2008
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The plaintiffs appealed an order granting Ford final summary judgment on their products-liability claims.
STANDARD OF REVIEW	De novo review of the grant of final summary judgment
PRECEDENTIAL VALUE	Published Florida District Court of Appeal opinion
PARTIES	Ralph Stimpson, Peggy Stimpson v. Ford Motor Company

TOPICS

- products liability
- statutory interpretation
- summary judgment
- statute of limitations
- appellate procedure

PRACTICE AREAS

- products liability
- statutory interpretation
- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether Florida's products-liability statute of repose is tolled during periods in which a manufacturer, with actual knowledge of the alleged defect, takes affirmative steps to conceal it.

2. Whether summary judgment was proper when evidence could support a finding that Ford actively concealed the alleged defect.

HOLDINGS

1. Under section 95.031(2)(d), Florida Statutes (2003), the twelve-year products-liability repose period is tolled, meaning it stops running, for any period during which the manufacturer had actual knowledge of the alleged defect and took affirmative steps to conceal it.
2. Summary judgment was improper because the Stimpsons presented evidence that, if believed by a jury, could establish or support an inference of active concealment and could show that the claims were timely under the tolling provision.

KEY QUOTATIONS

“The repose period described within paragraph (b) is tolled for any period during which the manufacturer through its officers, directors, partners, or managing agents had actual knowledge that the product was defective in the manner alleged by the claimant and took affirmative steps to conceal the defect. Any claim of concealment under this section shall be made with specificity and must be based upon substantial factual and legal support.” (1121)

“The plain meaning of this statutory language is that the statutory clock is tolled for concealment — it stops during any period of active concealment by a manufacturer.” (1121)

FACTUAL BACKGROUND

Mrs. Stimpson was seriously injured in October 2003 when her 1991 Ford Aerostar van unexpectedly accelerated and struck a pole. The Stimpsons alleged that a defect in the van caused the acceleration and argued that Ford actively concealed the known defect. The trial court found evidence sufficient to make a threshold showing of concealment but held the claims barred by the twelve-year products-liability statute of repose.

PROCEDURAL HISTORY

The Stimpsons sued Ford after Mrs. Stimpson was injured when her 1991 Ford Aerostar unexpectedly accelerated. The trial court found a threshold showing of concealment but ruled that the claims were barred by Florida's twelve-year products-liability statute of repose because the injury occurred more than twelve years after the vehicle's first consumer sale. The Fifth District Court of Appeal reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings consistent with the opinion, including an opportunity for the Stimpsons to prove active concealment and establish whether the claims are timely after tolling.

OPINION

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PLEUS, J.

PLEUS, J. Ralph and Peggy Stimpson (“the Stimp-sons”) appeal an order granting final summary judgment on each of their claims against Ford Motor Company (“Ford”). The Stimpsons raise six issues on appeal, only one of which merits discussion. Specifically, the Stimpsons argued that the twelve-year statute of repose in products liability cases was tolled for any period in which Ford actively concealed the defect. We agree and reverse. Mrs. Stimpson was seriously injured in October 2003 when her 1991 Ford Aeros-tar van unexpectedly accelerated and struck a pole. The Stimpsons sued Ford for an alleged defect in the van which caused the acceleration. However, the trial court ruled that the Stimpsons’ claims were barred by Florida’s products liability statute of repose, which provides that any claim arising out of a product defect cannot be brought more than twelve years after the date of the first sale to a consumer. § 95.031(2)(b), Fla. Stat. (2003). The Stimpsons argued that if Ford actively concealed a known defect in the vehicle, the twelve-year repose period would not run during any period of concealment. The trial court found that the Stimpsons made a threshold showing of concealment, but held that their claims were barred because Mrs. Stimpson was not injured within the twelve-year statutory period. Based on our reading of the controlling statute, this ruling was incorrect. At issue in this case is a tolling provision within Florida’s products liability statute of repose. Section 95.031(2)(d) provides: The repose period described within paragraph (b) is tolled for any period during which the manufacturer through its officers, directors, partners, or managing agents had actual knowledge that the product was defective in the manner alleged by the claimant and took affirmative steps to conceal the defect. Any claim of concealment under this section shall be made with specificity and must be based upon substantial factual and legal support. (Emphasis added). “ ‘Tolling’ refers to suspending or stopping the running of a *1121statute of limitations; it is analogous to a clock stopping and then restarting.” 35 Fla. Jur. 2d Limitations and Laches § 87 (2008) (emphasis added). See also Black’s Law Dictionary 1495 (7th ed. 1999) (defining “toll, vb. ... 2. (Of a time period, esp. a statutory one) to stop the running of; to abate <toll the limitations period>”). The plain meaning of this statutory language is that the statutory clock is tolled for concealment — it stops during any period of active concealment by a manufacturer. The statute provides that the “[twelve year] repose period ... is tolled [, or stopped,] for any period during which the manufacturer ... had actual knowledge that the product was defective ... and took affirmative steps to conceal the defect.” § 95.031(2)(d), Fla. Stat. (2003). If the Stimpsons can prove that Ford had knowledge of the defect causing sudden acceleration and actively concealed that defect, any time period of concealment does not count toward the twelve-year statutory period. In other words, although the Stimpsons’ claims were brought more than twelve years after the initial, qualifying sale of the vehicle, their action may be timely if they can show that the twelve-year statutory clock

did not run because of active concealment by Ford. At the summary judgment hearing, the Stimpsons offered evidence, which if believed by a jury, could establish, or at least infer, concealment of the defect by Ford. The Stimpsons should have been given the opportunity to prove concealment by Ford and to demonstrate that their claims were not barred by the statute of repose. The trial court improperly granted summary judgment on the ruling that Mrs. Stimpson had to be injured within twelve years of the initial consumer sale. Section 95.031(2)(d) provides that the statutory clock is tolled for any time during which Ford actively concealed a defect. If the Stimpsons can prove active concealment of a known defect by Ford, such periods of time should be credited against the twelve-year statutory period and may make the Stimpsons' action timely. Accordingly, we reverse and remand for further proceedings consistent with this opinion. REVERSED AND REMANDED. ORFINGER and EVANDER, JJ., concur.