

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.

