

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
ILLINOIS, EASTERN DIVISION

Diedrich v. Wright

550 F. Supp. 805 (N.D. Ill. 1982) · No. 78 C 724 · Decided July 7, 1982

SUMMARY

The court granted the plaintiff partial summary judgment and struck the defendants' affirmative defenses of assumption of risk and release. It held that the plaintiff did not assume the risk of defective equipment or inadequate instruction and that the release did not clearly and unequivocally exempt the defendants from liability for negligence or strict liability.

CASE DETAILS

COURT	United States District Court for the Northern District of Illinois, Eastern Division
WRITING FOR THE COURT	Moran, District Judge
JURISDICTION	Illinois
DECIDED	July 7, 1982
DOCKET	78 C 724
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for partial summary judgment seeking a ruling that defendants' assumption-of-risk and release defenses were invalid. The district court granted the motion and struck both affirmative defenses.
STANDARD OF REVIEW	Summary judgment was appropriate because the material facts relevant to the challenged affirmative defenses were undisputed and the defenses failed as a matter of law.
PRECEDENTIAL VALUE	Published federal district court memorandum and order applying Illinois law
PARTIES	Ellen Diedrich v. George W. Wright, Randall Gaddini, d/b/a Belvidere Parachute Center, Paul Kevin Thompson

TOPICS

- summary judgment
- assumption of risk
- negligence
- strict liability
- affirmative defenses

PRACTICE AREAS

torts

contracts

civil procedure

QUESTIONS PRESENTED

1. Whether the assumption-of-risk defense was established as a matter of law because Diedrich knew of the general hazards inherent in skydiving.
2. Whether the release form barred Diedrich's negligence claims as a matter of law.
3. Whether an exculpatory clause could bar Diedrich's strict-liability claims.

HOLDINGS

1. Assumption of risk was unavailable as a matter of law because defendants did not show that Diedrich actually knew of the specific defective condition or inadequate instruction that allegedly caused her injury and deliberately chose to encounter that danger.
2. The release did not, as a matter of law, clearly and unequivocally exempt defendants from liability for their own negligence.
3. The exculpatory clause could not bar an action based on strict liability.

KEY QUOTATIONS

"The relevant inquiry is not whether plaintiff recognized the hazards of skydiving, rather, the question is whether she knew that the parachute was defective or that the instruction was inadequate." (807)

"Such a clause, however, must be strictly construed against the party seeking immunity from liability, and the intentions of the parties should be delineated "with the greatest of particularity."" (808)

"Because we find that the release does not bar plaintiff's negligence claim, we need not consider plaintiff's other arguments for rejecting the affirmative defense." (809)

FACTUAL BACKGROUND

Diedrich visited the Belvidere Parachute Center, later completed ground instruction, and made her first parachute jump on June 19, 1976. The parachute lines crossed or became "lined-over," causing the chute not to open fully and resulting in severe permanent injuries, including paraplegia. She had signed a release during an earlier visit to ride in an aircraft, but did not sign an identical release provided before her ground instruction and jump. She alleged inadequate instruction, unsafe equipment, and violations of Federal Aviation Administration rules.

PROCEDURAL HISTORY

Diedrich sued the parachute center operators and an instructor for injuries sustained during a parachute jump. Defendants asserted assumption of risk and a release as affirmative defenses. Plaintiff moved for partial summary judgment on those defenses; the court granted the motion. Claims against various parachute manufacturers had previously been dismissed.

DISPOSITION

other

CASES CITED

- Russo v. The Range, Inc., 76 Ill. App. 3d 236, 32 Ill. Dec. 63, 395 N.E.2d 10 (1st Dist. 1979)
- McCracken v. Westinghouse Air Brake Co., 103 Ill. App. 3d 26, 58 Ill. Dec. 507, 430 N.E.2d 539 (5th Dist. 1981)
- Niffenegger v. Lakeland Construction Co., 95 Ill. App. 3d 420, 50 Ill. Dec. 945, 420 N.E.2d 262 (2d Dist. 1981)
- Jackson v. First National Bank, 415 Ill. 453, 114 N.E.2d 721 (1953)
- Evra Corp. v. Swiss Bank Corp., 522 F. Supp. 820 (N.D. Ill. 1981)
- Berwind Corp. v. Litton Industries, 532 F.2d 1 (7th Cir. 1976)
- Kurek v. Port Chester Housing Authority, 18 N.Y.2d 450, 276 N.Y.S.2d 612, 223 N.E.2d 25 (1966)
- Bahamas Agricultural Industries Ltd. v. Riley Stoker Corp., 526 F.2d 1174 (6th Cir. 1975)
- Gross v. Sweet, 49 N.Y.2d 102, 424 N.Y.S.2d 365, 400 N.E.2d 306 (Ct. App. 1979)
- Sipari v. Villa Olivia Country Club, 63 Ill. App. 3d 985, 20 Ill. Dec. 610, 380 N.E.2d 819 (1978)
- Alvis v. Ribar, 85 Ill. 2d 1, 52 Ill. Dec. 23, 421 N.E.2d 886 (1981)

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