

SUPREME COURT OF APPEALS OF WEST VIRGINIA

McMahon v. Advance Stores Co., Inc., 227 W. Va. 21

705 S.E.2d 131 (2010) · No. No. 35467 · Decided November 24, 2010

SUMMARY

The Supreme Court of Appeals of West Virginia answered a certified question concerning whether West Virginia Code § 46A-6-108(a) applies to a subsequent purchaser seeking enforcement of a limited express warranty restricted to original purchasers. The court held that the statute does not apply in those circumstances and concluded that Advance Auto Parts could limit the battery warranty to the original purchaser. The matter was remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Justice Benjamin; Chief Justice Davis; Justice Ketchum; Justice Workman
JURISDICTION	West Virginia
DECIDED	November 24, 2010
DOCKET	No. 35467
DISPOSITION	remanded
PROCEDURAL POSTURE	The Supreme Court of Appeals of West Virginia reviewed a certified question from the Circuit Court of Ohio County concerning whether West Virginia Code § 46A-6-108(a) applies to a subsequent purchaser's suit for breach of a limited express warranty restricted to the original purchaser.
STANDARD OF REVIEW	De novo review applies to questions of law answered and certified by a circuit court.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Advance Stores Company, Incorporated, d/b/a Advance Auto Parts, Donn Free v. Scott McMahon, Karen Jones, Karen John

TOPICS

[warranty](#)[uniform commercial code](#)[consumer protection](#)[statutory interpretation](#)[appellate procedure](#)

PRACTICE AREAS

contract law

consumer protection

commercial law

appellate procedure

QUESTIONS PRESENTED

1. Whether West Virginia Code § 46A-6-108(a) applies to a subsequent purchaser's suit for breach of a limited express warranty that expressly restricts coverage to the original purchaser.
2. Whether West Virginia's abolition of privity extends to an action seeking replacement under a retailer's limited express warranty rather than damages for personal injury, property damage, or an implied-warranty product-liability claim.
3. Whether the terms of Advance's limited express warranty permitted the retailer to terminate coverage when the original purchaser sold the vehicle.

HOLDINGS

1. West Virginia Code § 46A-6-108(a) does not apply to a suit by a subsequent purchaser for breach of a limited express warranty when the warranty specifically limits availability to the original purchaser.
2. A retailer may create a limited express warranty that restricts repair or replacement coverage to the original purchaser.
3. Advance's warranty clearly and unambiguously limited coverage to the original purchaser holding the original transaction receipt and ceased when the original purchaser sold the vehicle.

KEY QUOTATIONS

"We hold that W. Va.Code § 46A-6-108(a) does not apply to suits for breach of a limited express warranty by subsequent purchasers where the limited express warranty involved specifically limits its availability to original purchasers." (137)

"At the moment the original purchaser sold the battery, Advance's limited warranty, by its express terms, ceased to exist." (137)

"In sum, although courts around the country have moved away from requiring privity to enforce implied warranties when a product injures a person or property, courts permit merchants to grant express warranties for replacement or repair of products that can be enforced only by the original purchaser." (143)

FACTUAL BACKGROUND

Scott McMahon purchased a new Autocraft battery from Advance in March 2004. The receipt stated that the battery had a 24-month free-replacement and 72-month prorated warranty, while Advance's warranty policy provided that coverage expired when the purchaser sold the vehicle and required the original purchase receipt. McMahon sold the vehicle to Karen John in September 2004; the battery failed in January 2005, and Advance refused replacement because John was not the original purchaser. McMahon sued Advance and its store manager for breach of express and implied warranties, fraud, and violations of West Virginia consumer-protection law.

PROCEDURAL HISTORY

The circuit court granted the plaintiffs partial summary judgment and later reaffirmed summary judgment, concluding that West Virginia's abolition of privity required Advance to honor its battery warranty for a subsequent purchaser. Advance's direct petition for appeal was rejected, after which the circuit court certified the warranty question to the Supreme Court of Appeals of West Virginia. The Supreme Court accepted the certified question, answered it in the negative, and remanded for further proceedings.

DISPOSITION

remanded

REMAND INSTRUCTIONS

Remand to the Circuit Court of Ohio County for further proceedings consistent with the opinion.

CASES CITED

- Gallapoo v. Wal-Mart Stores, Inc., 197 W. Va. 172, 475 S.E.2d 172 (1996)
- Dawson v. Canteen Corp., 158 W. Va. 516, 212 S.E.2d 82 (1975)
- Sewell v. Gregory, 179 W. Va. 585, 371 S.E.2d 82 (1988)
- Eastern Steel Constructors, Inc. v. City of Salem, 209 W. Va. 392, 549 S.E.2d 266 (2001)
- Adams v. Nissan Motor Corp., 182 W. Va. 234, 387 S.E.2d 288 (1989)
- Heritage Res., Inc. v. Caterpillar Fin. Servs. Corp., 284 Mich. App. 617, 774 N.W.2d 332 (2009)
- Copiers Typewriters Calculators, Inc. v. Toshiba Corp., 576 F. Supp. 312 (D. Md. 1983)
- Addressograph-Multigraph Corp. v. Zink, 273 Md. 277, 329 A.2d 28 (1974)
- Federal Ins. Co. v. Lazzara Yachts of N. Am., Inc., No. 8:09-CV-607-T-27MAP, 2010 WL 1223126 (M.D. Fla. Mar. 25, 2010)
- Johnson v. Anderson Ford, Inc., 686 So. 2d 224 (Ala. 1996)
- Haas v. DaimlerChrysler Corp., 611 N.W.2d 382 (Minn. Ct. App. 2000)
- Lankarani v. Jeld-Wen, Inc., No. 98,208, 2008 WL 4471685 (Kan. Ct. App. Oct. 3, 2008)
- Goodman v. PPG Industries, Inc., 849 A.2d 1239 (Pa. Super. Ct. 2004)
- Barre v. Gulf Shores Turf Supply, Inc., 547 So. 2d 503 (Ala. 1989)
- St. Paul Mercury Ins. Co. v. The Viking Corp., 539 F.3d 623 (7th Cir. 2008)
- Nebraska Plastics, Inc. v. Holland Colors Americas, Inc., 408 F.3d 410 (8th Cir. 2005)
- Stearns v. Select Comfort Retail Corp., 2008 WL 4542967 (N.D. Cal. 2008)
- Renaissance Leasing, LLC v. Vermeer Mfg. Co., 322 S.W.3d 112 (Mo. 2010)
- Hughes v. Segal Enterprises, Inc., 627 F. Supp. 1231 (W.D. Ark. 1986)