

SUPREME COURT OF THE STATE OF NEW MEXICO

Acosta v. Shell Western Exploration and Production, Inc.

Acosta v. Shell W. Expl. & Prod., Inc., 2016-NMSC-012 (2016) · No. S-1-SC-33884 · Decided March 3, 2016

SUMMARY

The New Mexico Supreme Court held that the district court applied an incorrect standard when excluding expert and scientific evidence offered to establish that petrochemical exposure caused autoimmune disorders. The court concluded that the epidemiological study, animal studies, and related expert testimony were probative of causation and should have been admitted, even if they were not independently sufficient to establish the plaintiffs' entire burden of proof. It reversed the partial summary judgment for Shell and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of the State of New Mexico
WRITING FOR THE COURT	Charles W. Daniels; Barbara J. Vigil; Petra Jimenez Maes; Edward L. Chávez; Judith K. Nakamura
JURISDICTION	New Mexico
DECIDED	March 3, 2016
DOCKET	S-1-SC-33884
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs sought review by certiorari of the Court of Appeals' affirmance of the district court's exclusion of expert causation evidence and partial summary judgment for Shell on claims involving lupus and other autoimmune disorders.
STANDARD OF REVIEW	The Supreme Court reviewed the threshold question whether the district court applied the correct evidentiary standard de novo, reviewed the related partial-summary-judgment ruling de novo, and ordinarily reviews admission or exclusion of evidence for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Conception Acosta, Rosario Acosta, Plaintiffs/Intervenors-Petitioners v. Shell Western Exploration and Production, Inc., Shell Oil Company, Defendants-Respondents

TOPICS

expert testimony daubert standard relevance environmental law appellate procedure

PRACTICE AREAS

Evidence Toxic torts Environmental law Appellate procedure Summary judgment

QUESTIONS PRESENTED

1. Whether the district court applied an incorrect standard when it excluded Dr. Dahlgren's epidemiological study, animal studies, and causation testimony as irrelevant or insufficient to establish general causation.
2. Whether New Mexico law permits exclusion of expert testimony because of an allegedly excessive analytical gap between the underlying data and the expert's conclusions.
3. Whether partial summary judgment was proper after exclusion of the plaintiffs' general-causation evidence.

HOLDINGS

1. Expert evidence is admissible under Rule 11-702 when the expert is qualified, the testimony assists the trier of fact, and the testimony concerns scientific, technical, or specialized knowledge with a reliable basis. Relevance is a minimal threshold; evidence need only have a tendency to make a fact more or less probable.
2. New Mexico does not adopt the Joiner rule permitting a judge to reject expert testimony merely because the analytical gap between the underlying evidence and the expert's conclusion is too great.
3. A toxic-tort plaintiff must establish general causation—that the suspected agent is capable of causing the injury in the general population—and specific causation—that the agent actually caused the plaintiff's injury. Evidence need not conclusively establish general causation to be admissible if it is scientifically valid and probative of causation.
4. Partial summary judgment for Shell on the lupus and autoimmune-disorder claims was improper because it resulted from the erroneous exclusion of plaintiffs' general-causation evidence, which created a genuine issue of material fact.

KEY QUOTATIONS

“Admissibility is a minimal standard for individual items of evidence, including expert opinions.” (¶ 21)

“New Mexico has never adopted the Joiner rule that a judge may reject expert testimony where the “analytical gap” between the underlying evidence and the expert’s conclusions is “too great,”” (¶ 27)

“Given the capabilities of jurors and the liberal thrust of the rules of evidence, we believe any doubt regarding the admissibility of scientific evidence should be resolved in favor of admission, rather than exclusion.” (¶ 28)

“We conclude that the methodology of Dahlgren’s study supports a valid scientific inference that is probative of causation, even if it does not conclusively establish that the specific chemicals at issue here, the agents, can

cause lupus or other autoimmune disorders.” (¶ 42)

FACTUAL BACKGROUND

Shell conducted oil and gas operations in Hobbs, New Mexico, including use of an unlined hydrocarbon storage pit and a nearby tank battery. Extensive hydrocarbon contamination was later discovered in the Westgate subdivision and surrounding soil and groundwater. Plaintiffs alleged that exposure to benzene, hydrocarbons, mercury, and other crude-oil chemicals caused or aggravated lupus and other autoimmune disorders. Dr. James Dahlgren offered epidemiological, toxicological, animal-study, and exposure evidence supporting general and specific causation.

PROCEDURAL HISTORY

The district court excluded portions of Dr. James Dahlgren's causation evidence, including animal studies, his epidemiological study, and his causation opinion, and granted Shell partial summary judgment on the autoimmune-disorder claims. The Court of Appeals affirmed, concluding that the evidence did not sufficiently bridge the analytical gap between association and causation. The New Mexico Supreme Court granted certiorari, reversed the lower courts, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the district court for proceedings consistent with the opinion, including consideration of the admitted causation evidence and further proceedings on the autoimmune-disorder claims.

CASES CITED

- Acosta v. Shell W. Expl. & Prod., Inc., 2013-NMCA-009, ¶¶ 1, 12, 293 P.3d 917
- Acosta v. Shell W., 2012-NMCERT-012
- State v. Downey, 2008-NMSC-061, ¶¶ 24-25, 30, 145 N.M. 232, 195 P.3d 1244
- State v. Torres, 1999-NMSC-010, ¶¶ 28, 43, 127 N.M. 20, 976 P.2d 20
- Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 590-96 (1993)
- Kumho Tire Co. v. Carmichael, 526 U.S. 137, 151 (1999)
- General Electric Co. v. Joiner, 522 U.S. 136, 146 (1997)
- Zamora v. St. Vincent Hospital, 2014-NMSC-035, ¶¶ 10-11, 335 P.3d 1243
- Romero v. Philip Morris Inc., 2010-NMSC-035, ¶ 8, 148 N.M. 713, 242 P.3d 280
- State v. Hughey, 2007-NMSC-036, ¶¶ 15, 17, 142 N.M. 83, 163 P.3d 470
- Lee v. Martinez, 2004-NMSC-027, ¶¶ 16, 48, 136 N.M. 166, 96 P.3d 291
- Norris v. Baxter Healthcare Corp., 397 F.3d 878, 881-82 (10th Cir. 2005)
- Turner v. Iowa Fire Equipment Co., 229 F.3d 1202, 1209 (8th Cir. 2000)

- Best v. Lowe's Home Centers, Inc., 563 F.3d 171, 180-81 (6th Cir. 2009)
- Milward v. Acuity Specialty Products Group, Inc., 639 F.3d 11, 17-18 (1st Cir. 2011)
- Ambrosini v. Labarraque, 101 F.3d 129, 135, 141 (D.C. Cir. 1996)
- Kennedy v. Collagen Corp., 161 F.3d 1226, 1228, 1230-31 (9th Cir. 1998)

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