

SUPREME COURT OF ALASKA

Bierria v. Dickinson Manufacturing Co., Ltd.

36 P.3d 654 (Alaska 2001) · No. Nos. S-9489, S-9509 · Decided November 23, 2001

SUMMARY

The Supreme Court of Alaska affirmed a judgment for Dickinson Manufacturing in a products-liability action arising from a fishing boat fire allegedly caused by a defective stove. The court held that the jury had an evidentiary basis to find that the defect arose after the stove left the manufacturer’s possession and upheld evidentiary rulings excluding evidence of certain other boat fires and admitting testing conducted in an on-shore warehouse.

CASE DETAILS

COURT	Supreme Court of Alaska
WRITING FOR THE COURT	Matthews, Justice; Fabe, Chief Justice; Eastaugh, Justice; Bryner, Justice
JURISDICTION	Alaska
DECIDED	November 23, 2001
DOCKET	Nos. S-9489, S-9509
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed the denial of his motion for a new trial after a jury found that the product was defective but that it was not defective when it left the defendants' possession. Plaintiff also challenged evidentiary rulings excluding evidence of certain other boat fires and admitting expert testing evidence. Defendants cross-appealed regarding jury instructions.
STANDARD OF REVIEW	The denial of a motion for a new trial is reviewed for abuse of discretion, with the record viewed in the light most favorable to the nonmoving party. Evidentiary rulings are also reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Albert Bierria, as former owner of the F/V Ivanoff II v. Dickinson Manufacturing Co., Ltd., Dickinson USA, Inc.

TOPICS

products liability

evidence

standard of review

appellate procedure

PRACTICE AREAS

products liability

torts

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence supporting the jury's finding that the stove was not defective when it left Dickinson's possession was so lacking or unconvincing that denial of a new trial constituted an abuse of discretion.
2. Whether the superior court abused its discretion by excluding evidence of certain other boat fires involving Dickinson stoves.
3. Whether the superior court abused its discretion by admitting expert tests conducted on a Dickinson stove in an on-shore warehouse rather than under seagoing conditions.

HOLDINGS

1. The superior court did not abuse its discretion in denying a new trial because evidence supported the jury's finding that the stove's defect arose after it left Dickinson's possession.
2. The superior court did not abuse its discretion by excluding evidence of the HIGH ROLLER, C MARIE, SHEARWATER, and NATALIA fires, while evidence concerning the MAD GAFFER fire was relevant but could not support error because Bierria chose not to present it.
3. The superior court did not abuse its discretion by admitting Dr. Paul Blotter's tests of the Dickinson stove despite the tests' not having been conducted aboard a seagoing vessel.

KEY QUOTATIONS

"An abuse of discretion exists when `evidence to support the verdict was completely lacking or was so slight and unconvincing as to make the verdict plainly unreasonable and unjust.'" (36 P.3d at 656)

"Without evidence that the results of Blotter's tests were likely to be distorted by the circumstances under which they were conducted, Judge Brown did not abuse his discretion in admitting those tests into evidence." (36 P.3d at 659)

FACTUAL BACKGROUND

Bierria owned and operated the fishing vessel F/V Ivanoff II and purchased a Dickinson stove for it in 1990. He installed the stove himself, repeatedly changed its parts, and replaced its gravity-flow fuel system with an impulse pump connected to the main fuel line by rubber tubing. In 1996 the vessel caught fire and sank; the jury found the stove defective but found that the defect was not present when the stove left Dickinson's possession.

PROCEDURAL HISTORY

Bierria sued Dickinson Manufacturing after the F/V Ivanoff II caught fire and sank, alleging that a defect in a Dickinson stove caused the loss. The jury found the stove defective but found that the defect did not exist when

the stove left Dickinson's possession, resulting in a verdict against Bierria. The superior court denied Bierria's motion for a new trial and made the challenged evidentiary rulings. The Alaska Supreme Court affirmed in all respects and held the cross-appeal concerning jury instructions moot.

DISPOSITION

affirmed

CASES CITED

- Kulawik v. ERA Jet Alaska, 820 P.2d 627, 639 (Alaska 1991)
- Ahlstrom v. Cummings, 388 P.2d 261, 262 (Alaska 1964)
- Nautilus Marine Enterprises, Inc. v. Valdez Fisheries Development Association, 943 P.2d 1201, 1203 n. 3 (Alaska 1997)
- Johnson v. State, 636 P.2d 47, 57 (Alaska 1981)
- St. Louis Southwestern Railway Co. v. Jackson, 242 Ark. 858, 416 S.W.2d 273, 278 (1967)
- Gilbert v. Pessin Grocery Co., 132 Cal. App. 2d 212, 282 P.2d 148, 154-55 (1955)
- Gumbs v. International Harvester, Inc., 718 F.2d 88, 97 (3d Cir. 1983)
- Tacke v. Vermeer Manufacturing, 220 Mont. 1, 713 P.2d 527, 532 (1986)
- Barker v. Deere and Co., 60 F.3d 158, 162 (3d Cir. 1995)
- Kissock v. Butte Convalescent Center, 297 Mont. 307, 992 P.2d 1271, 1274 (1999)
- Drabik v. Stanley-Bostitch, Inc., 997 F.2d 496, 508 (8th Cir. 1993)
- Dura Corp. v. Harned, 703 P.2d 396, 410-11 (Alaska 1985)
- Beck v. State, Department of Transportation and Public Facilities, 837 P.2d 105, 113 (Alaska 1992)