

SUPREME COURT OF LOUISIANA

Patricia Ann Thompson v. Winn-Dixie Montgomery, Inc.

181 So. 3d 656 (La. 2015) · No. 2015-C-0477 · Decided October 14, 2015

SUMMARY

The Louisiana Supreme Court reviewed the apportionment of fault in a slip-and-fall action against Winn-Dixie and third-party cleaning contractors. The court held that Louisiana's comparative-fault provisions apply to claims under La. R.S. 9:2800.6 and that the merchant could not be held liable for 100% of damages based solely on its statutory duties or its contractual relationship with the cleaning contractor. The court also found insufficient evidence of operational control by Winn-Dixie and reinstated the jury's allocation of 70% fault to KAP and 30% to Winn-Dixie.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Johnson, Chief Justice
JURISDICTION	Louisiana
DECIDED	October 14, 2015
DOCKET	2015-C-0477
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Winn-Dixie sought review by writ of certiorari of the Louisiana Third Circuit Court of Appeal's decision assigning Winn-Dixie 100% liability in a slip-and-fall case. The Supreme Court granted the writ in part to review only apportionment of liability.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo. Allocation of fault is a factual determination reviewed under the manifest-error or clearly-wrong standard. Taxation of costs is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Winn-Dixie Montgomery, Inc. v. Patricia Ann Thompson

TOPICS

premises liability

comparative fault

negligence

statutory interpretation

appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether La. R.S. 9:2800.6 imposes 100% or solidary liability on a merchant for a third-party cleaning contractor's fault in a slip-and-fall accident.
2. Whether Louisiana Civil Code articles 2323 and 2324 require allocation of fault among the merchant and the third-party contractor in a claim governed by La. R.S. 9:2800.6.
3. Whether Winn-Dixie exercised operational control over KAP's employee so as to create an exception to the general rule that a principal is not liable for an independent contractor's negligence.
4. Whether the jury's allocation of 70% fault to KAP and 30% fault to Winn-Dixie was manifestly erroneous.
5. Whether the district court's equal allocation of litigation costs should be reinstated.

HOLDINGS

1. La. R.S. 9:2800.6 does not preclude application of comparative-fault principles to third parties that contributed to a plaintiff's injury. Louisiana Civil Code articles 2323 and 2324 apply to claims under the merchant-liability statute and require allocation of fault among all persons causing or contributing to the harm.
2. A merchant does not escape its statutory duty to patrons by contracting for floor-cleaning services, but the merchant's statutory duty does not eliminate the independent contractor's own duty of care or make the merchant liable for the contractor's fault.
3. Winn-Dixie did not exercise operational control over KAP's employee and therefore did not fall within the exception to the general rule that a principal is not liable for an independent contractor's negligence.
4. The jury's allocation of 70% fault to KAP and 30% fault to Winn-Dixie was supported by the record and was not manifestly erroneous.
5. The district court's order requiring Winn-Dixie and Thompson each to pay 50% of the costs was properly reinstated.

KEY QUOTATIONS

“It is indisputable that under the express provisions of La. C.C. art. 2323, 100% of the causative fault for a harm must be allocated in actions for an injury under any theory of liability.” (at 9)

“Statutory duties imposed on one tortfeasor do not excuse joint tortfeasors from the consequences of their own negligent acts.” (at 10)

“The jury properly applied the provisions of La. R.S. 9:2800.6, along with Articles 2323 and 2324, to allocate fault.” (at 16)

FACTUAL BACKGROUND

Patricia Thompson slipped on a puddle of water in front of a meat case at a Winn-Dixie store while shopping on July 21, 2008. A KAP cleaning employee had rolled up and pushed aside a rubber-backed mat to prepare for mopping, exposing the puddle, and left the area without placing wet-floor signs or remaining to protect the hazard. The water likely resulted from condensation or leakage associated with the meat case, and evidence showed Winn-Dixie had duties and policies concerning floor inspections and safe premises. The jury found KAP 70% at fault, Winn-Dixie 30% at fault, and Thompson 0% at fault.

PROCEDURAL HISTORY

Thompson sued Winn-Dixie after slipping on water in its store. Winn-Dixie brought third-party claims against SCSi, which had subcontracted the janitorial work to KAP. Thompson settled with SCSi and KAP, but KAP's fault remained at issue because Winn-Dixie pleaded third-party fault. After a jury assigned 70% fault to KAP and 30% to Winn-Dixie, the district court entered judgment on the verdict and divided costs equally. The court of appeal amended the judgment to impose 100% liability and costs on Winn-Dixie and increased damages. The Supreme Court reversed that portion of the court of appeal's judgment and reinstated the district court's allocation and cost assessment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The opinion states 'REVERSED AND RENDERED' and reinstates the district court's judgment on the jury's allocation of fault and the equal division of costs. No further remand instructions are stated.

CASES CITED

- Red Stick Studio Dev., L.L.C. v. State ex rel. Department of Economic Development, 56 So. 3d 181, 187 (La. 2011)
- Dumas v. State ex rel. Department of Culture, Recreation & Tourism, 828 So. 2d 530, 536-39 (La. 2002)
- Miller v. LAMMICO, 973 So. 2d 693, 706 (La. 2008)
- Boudreaux v. Farmer, 604 So. 2d 641, 650-52 (La. App. 1st Cir. 1992), writ denied, 605 So. 2d 1373 (La. 1992)
- Thomas v. Albertsons, Inc., 685 So. 2d 1134 (La. App. 2d Cir. 1996), writ denied, 692 So. 2d 395 (La. 1997)
- Merrill v. Greyhound Lines, Inc., 60 So. 3d 600, 602 (La. 2011)
- Wooley v. Lucksinger, 61 So. 3d 507, 564 (La. 2011)
- Ellerbe v. Albertsons, Inc., 989 So. 2d 303, 305 (La. App. 2d Cir. 2008)
- Sys. Contractors Corp. v. Williams & Associates Architects, 769 So. 2d 777, 781 (La. App. 5th Cir. 2000)
- Ledent v. Guar. Nat'l Ins. Co., 723 So. 2d 531, 537 (La. App. 2d Cir. 1998)
- Clement v. Frey, 666 So. 2d 607, 611 (La. 1996)
- Read v. Willwoods Community, 165 So. 3d 883, 888 (La. 2015)
- Watson v. State Farm Fire and Casualty Insurance Co., 469 So. 2d 967 (La. 1985)

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