

SUPREME COURT OF WISCONSIN

Matthew W. Murphy v. Columbus McKinnon Corporation

2022 WI 109 · No. 2020AP1124 · Decided December 28, 2022

SUMMARY

The Wisconsin Supreme Court reviewed a published Court of Appeals decision concerning Matthew Murphy's product-liability claims against Columbus McKinnon Corporation arising from injuries caused by utility-pole lifting tongs. The court affirmed the Court of Appeals' reversal of summary judgment in part, held that Wis. Stat. § 895.047 retains the consumer-contemplation standard while requiring proof of a safer reasonable alternative design, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	Patience Drake Roggensack, J.; Ann Walsh Bradley, J.; Rebecca Frank Dallet, J.; Jill J. Karofsky, J.; Brian Hagedorn, J.; Anette Kingsland Ziegler, C.J.; Rebecca Grassl Bradley, J.
JURISDICTION	Wisconsin
DECIDED	December 28, 2022
DOCKET	2020AP1124
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Wisconsin Supreme Court reviewed a published court of appeals decision that reversed in part and affirmed in part the circuit court's grant of summary judgment to Columbus McKinnon Corporation in a defective-design products-liability and negligent-design action.
STANDARD OF REVIEW	Statutory interpretation and summary judgment are reviewed independently. On summary judgment, the court determines whether genuine issues of material fact exist and whether the moving party is entitled to judgment as a matter of law, without resolving disputed factual issues.
PRECEDENTIAL VALUE	Published and precedential Wisconsin Supreme Court opinion
PARTIES	Matthew W. Murphy v. Columbus McKinnon Corporation

TOPICS

products liability

statutory interpretation

summary judgment

standard of review

civil procedure

PRACTICE AREAS

products liability

negligence

civil procedure

QUESTIONS PRESENTED

1. What requirements must a plaintiff establish under Wis. Stat. § 895.047(1) for a strict-liability defective-design claim?
2. Does Wis. Stat. § 895.047(1)(a) replace Wisconsin's consumer-contemplation standard with the Restatement (Third) of Torts risk-utility test?
3. Does Wis. Stat. § 895.047(1)(b) retain the consumer-contemplation standard for determining whether a defective product is unreasonably dangerous?
4. Whether genuine disputes of material fact precluded summary judgment on Murphy's statutory defective-design and common-law negligent-design claims.

HOLDINGS

1. A plaintiff asserting a strict-liability defective-design claim under Wis. Stat. § 895.047(1) must prove all five statutory requirements: a defective design involving a reasonable alternative design whose omission renders the product not reasonably safe; that the defective condition rendered the product unreasonably dangerous; that the condition existed when the product left the manufacturer's control; that the product reached the consumer without substantial change; and that the condition caused the claimant's damages.
2. For a design-defect claim, Wis. Stat. § 895.047(1)(a) requires proof that the foreseeable risks of harm could have been reduced or avoided by adopting a reasonable alternative design and that omission of the alternative design rendered the product not reasonably safe.
3. Wis. Stat. § 895.047(1)(b) codifies Wisconsin's common-law consumer-contemplation standard for determining whether a defective condition renders a product unreasonably dangerous.
4. Wis. Stat. § 895.047 does not preclude a plaintiff from bringing a common-law negligent-design claim in addition to a statutory strict-liability claim.
5. Summary judgment for CMC was improper because the record contained genuine disputes of material fact concerning the alternative design, causation, Murphy's use and placement of the tongs, the height of the lift, whether he conducted a test lift, and the parties' comparative negligence.

KEY QUOTATIONS

“In interpreting Wisconsin's product liability statute when the claim is for a defective design, we conclude as follows: (1) Wis. Stat. § 895.047(1)(a) requires proof of a more safe, reasonable alternative design the omission of which renders the product not reasonably safe; (2) proof that the consumer-contemplation standard as set out in § 895.047(1)(b) (for strict liability claims for a defective design) has been met; and (3) proof that the remaining three factors of a § 895.047(1) claim have been met.” (¶12)

“It is the enacted law, not the unenacted intent, that is binding on the public.” (¶129)

“The statute's plain language is clear in showing that the legislature codified the common law consumer-contemplation standard in § 895.047(1)(b).” (¶52)

“We disagree with the court of appeals' conclusion that the legislature discarded the consumer-contemplation test by incorporating the risk-utility balancing test.” (¶52)

FACTUAL BACKGROUND

Matthew Murphy, a utility line technician, was injured when a thirty-foot utility pole fell from CMC-manufactured Dixie lifting tongs while he was loading used poles onto a trailer. The Dixie tongs used a single pointed contact on each side of the pole, while the proposed Hogg-Davis alternative design used multiple teeth and a locking mechanism. Murphy alleged that the Dixie tongs had a defective design under Wisconsin's product-liability statute and were negligently designed. Expert evidence supported Murphy's theory that the Hogg-Davis design could reduce the risk of a pole slipping or falling, while the parties disputed how Murphy used the tongs and whether the alternative design would have prevented the accident.

PROCEDURAL HISTORY

The circuit court initially denied summary judgment, finding genuine disputes of material fact, but later reconsidered the motion and granted summary judgment to CMC. The court of appeals affirmed summary judgment on Murphy's abandoned choker-design theory but reversed summary judgment on the Hogg-Davis alternative-design theory and related claims. The Wisconsin Supreme Court affirmed the court of appeals and remanded for further proceedings.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The case was remanded to the Sauk County Circuit Court for further proceedings on Murphy's claims, including the statutory defective-design and common-law negligent-design claims, consistent with the genuine disputes of material fact identified by the court.

CASES CITED

- *Andruss v. Divine Savior Healthcare Inc.*, 2022 WI 27, 401 Wis. 2d 368, 973 N.W.2d 435
- *Butler v. Advanced Drainage Systems, Inc.*, 2006 WI 102, 294 Wis. 2d 397, 717 N.W.2d 760
- *State ex rel. Kalal v. Circuit Court for Dane County*, 2004 WI 58, 271 Wis. 2d 633, 681 N.W.2d 110
- *Dippel v. Sciano*, 37 Wis. 2d 443, 155 N.W.2d 55 (1967)
- *Vincer v. Esther Williams All-Aluminum Swimming Pool Co.*, 69 Wis. 2d 326, 230 N.W.2d 794 (1975)
- *Sumnicht v. Toyota Motor Sales, U.S.A., Inc.*, 121 Wis. 2d 338, 360 N.W.2d 2 (1984)
- *Green v. Smith & Nephew AHP, Inc.*, 2001 WI 109, 245 Wis. 2d 772, 629 N.W.2d 727
- *Sharp v. Case Corp.*, 227 Wis. 2d 1, 595 N.W.2d 380 (1999)

- Godoy ex rel. Gramling v. E.I. du Pont de Nemours & Co., 2009 WI 78, 319 Wis. 2d 91, 768 N.W.2d 674
- Horst v. Deere & Co., 2009 WI 75, 319 Wis. 2d 147, 769 N.W.2d 536
- Tietsworth v. Harley-Davidson, Inc., 2004 WI 32, 270 Wis. 2d 146, 677 N.W.2d 233
- Kozlowski v. John E. Smith's Sons Co., 87 Wis. 2d 882, 275 N.W.2d 915 (1979)
- Collins v. Eli Lilly Co., 116 Wis. 2d 166, 342 N.W.2d 37 (1984)
- Jankee v. Clark County, 2000 WI 64, 235 Wis. 2d 700, 612 N.W.2d 297
- Ceplina v. South Milwaukee School Board, 73 Wis. 2d 338, 243 N.W.2d 183 (1976)
- Schuh v. Fox River Tractor Co., 63 Wis. 2d 728, 218 N.W.2d 279 (1974)
- State v. Mark, 2006 WI 78, 292 Wis. 2d 1, 718 N.W.2d 90
- Murphy v. Columbus McKinnon Corp., 2021 WI App 61, 399 Wis. 2d 18, 963 N.W.2d 837

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