

APPELLATE COURT OF ILLINOIS, FIFTH DISTRICT

Linder v. A.W. Chesterton Co.

2020 IL App (5th) 200101 · No. 5-20-0101 · Decided August 24, 2020

SUMMARY

The Illinois Appellate Court, Fifth District, reviewed an interlocutory appeal from a protective order restricting the plaintiffs' use outside the litigation of GIW Industries' Bills of Material produced in discovery. The court held that it had jurisdiction to review the order, denied GIW's motion to dismiss or stay, and affirmed the protective order because the circuit court acted within its discretion in regulating discovery.

CASE DETAILS

COURT	Appellate Court of Illinois, Fifth District
WRITING FOR THE COURT	James R. Moore; Thomas M. Welch; David K. Overstreet
JURISDICTION	Illinois
DECIDED	August 24, 2020
DOCKET	5-20-0101
DISPOSITION	affirmed
PROCEDURAL POSTURE	Interlocutory appeal under Illinois Supreme Court Rule 307(a)(1) from an order granting GIW Industries, Inc.'s motion for a protective order restricting the plaintiffs' use and dissemination of discovery materials.
STANDARD OF REVIEW	The appellate court reviews a protective order for abuse of discretion and will alter it only if no reasonable person could adopt the circuit court's view. The court reviewed the Rule 307(a)(1) interlocutory appeal under the applicable interlocutory-appeal framework.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Joel Linder, Linda Linder v. GIW Industries, Inc.

TOPICS

discovery dispute personal jurisdiction interlocutory appeal appellate procedure civil procedure

PRACTICE AREAS

Civil procedure Personal jurisdiction Discovery

QUESTIONS PRESENTED

1. Whether the appellate court could exercise jurisdiction over an interlocutory appeal from a protective order before the circuit court resolved GIW's personal-jurisdiction challenge.
2. Whether the circuit court abused its discretion by entering a protective order restricting the plaintiffs from publishing or using the Bills of Material outside the litigation.
3. Whether proof that GIW committed a tortious act in Illinois was the only means of establishing specific personal jurisdiction under Illinois law.

HOLDINGS

1. The appellate court had jurisdiction under Illinois Supreme Court Rule 307(a)(1) to review the protective order even though the circuit court had not yet resolved GIW's personal-jurisdiction challenge.
2. Proof that GIW committed a tortious act in Illinois under section 2-209(a)(2) was not the only way to establish specific personal jurisdiction; purposeful direct sales of the pumps at issue to Illinois locations were sufficient at this stage.
3. The circuit court did not abuse its discretion by prohibiting the plaintiffs from publishing or using the Bills of Material outside the litigation without GIW's consent or leave of court.

KEY QUOTATIONS

"We will alter the terms of a protective order only if no reasonable person could adopt the view taken by the circuit court." (¶ 13)

"Without being presented with a competing need or interest of the plaintiffs for use of this information, this court cannot say that the circuit court abused its discretion in issuing the protective order." (¶ 15)

FACTUAL BACKGROUND

The plaintiffs alleged that asbestos dust from industrial pumps manufactured by GIW contributed to Robert H. Linder IV's terminal mesothelioma. GIW sold industrial pumps to the decedent's employer, Peabody Coal Company, at two Illinois locations and maintained Bills of Material recording pump specifications and whether asbestos-containing packing was specified or shipped. During jurisdictional discovery, the plaintiffs sought all such records for pumps sold worldwide over a broad period, and the circuit court ordered production for pumps sold to Peabody between 1967 and 1986. GIW sought protection for the records based on proprietary customer, sales, and technical information, and the circuit court limited their use to the litigation.

PROCEDURAL HISTORY

The plaintiffs brought an asbestos-related lawsuit against numerous defendants in the Circuit Court of Madison County. During jurisdictional discovery concerning GIW's contacts with Illinois, the circuit court ordered GIW to produce Bills of Material for pumps sold to Peabody Coal Company between 1967 and 1986. The circuit court then granted GIW's motion for a protective order limiting use of those materials to the litigation. The plaintiffs appealed, and GIW moved to dismiss or stay the appeal pending resolution of personal jurisdiction; the appellate court denied that motion and affirmed the protective order.

DISPOSITION

affirmed

CASES CITED

- Skolnick v. Altheimer & Gray, 191 Ill. 2d 214, 221, 223-24 (2000)
- In re A Minor, 127 Ill. 2d 247, 261 (1989)
- Russell v. SNFA, 2013 IL 113909, ¶ 40
- Burger King Corp. v. Rudzewicz, Burger King Corp. v. Rudzewicz, 471 U.S. 462, 472 (1985)
- Hall v. Sprint Spectrum L.P., 368 Ill. App. 3d 820, 823, 826 (2006)
- Willeford v. Toys “R” Us-Delaware, Inc., 385 Ill. App. 3d 265 (2008)