

SUPREME COURT OF NEW JERSEY

Gannon v. American Home Products, Inc.

211 N.J. 454 (2012) · Decided August 15, 2012

SUMMARY

The New Jersey Supreme Court reviews a product-liability action alleging that a polio vaccine caused brain cancer. The Court holds that federal law governs the collateral-estoppel effect in state court of the prior federal judgment rejecting the plaintiffs’ causation evidence, and reverses the Appellate Division. The Court does not reach the sufficiency of the plaintiffs’ product-identification evidence.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Justice Hoens; Hoens; Wefing
JURISDICTION	New Jersey
DECIDED	August 15, 2012
DISPOSITION	reversed
PROCEDURAL POSTURE	Plaintiffs appealed the Appellate Division's reversal of summary judgment entered for pharmaceutical defendants. The Supreme Court of New Jersey granted certification and reviewed whether a prior federal judgment had collateral-estoppel effect on plaintiffs' state product-liability claims.
STANDARD OF REVIEW	De novo review of the legal effect of a prior federal judgment and the grant or denial of summary judgment.
PRECEDENTIAL VALUE	Published, precedential New Jersey Supreme Court opinion
PARTIES	Jamie Gannon, Rebecca Gannon v. American Home Products, Inc., American Cyanamid Company, Lederle Laboratories, WyethLederle Vaccines

TOPICS

- summary judgment
- civil procedure
- products liability
- federalism

PRACTICE AREAS

- civil procedure
- torts
- products liability
- federalism
- health law

QUESTIONS PRESENTED

1. Whether federal or New Jersey law governs the collateral-estoppel effect in New Jersey of a judgment rendered by a federal court.
2. Whether plaintiffs had a full and fair opportunity to litigate general and specific causation in the prior federal proceeding.
3. Whether equitable considerations under Restatement (Second) of Judgments sections 28 and 29 permitted plaintiffs to relitigate causation despite the prior federal judgment.

HOLDINGS

1. The preclusive effect in a state-court proceeding of a judgment rendered by a federal court is determined under federal, not state, collateral-estoppel principles.
2. The federal judgment precluded plaintiffs from relitigating general and specific causation because the identical issues were decided, the federal judgment was final and on the merits, the parties were the same or in privity, and plaintiffs had a full and fair opportunity to litigate those issues.
3. The equitable considerations identified in Restatement (Second) of Judgments sections 28 and 29 did not permit plaintiffs to relitigate causation after a full and fair adjudication of that issue.

KEY QUOTATIONS

“(1) the identical issue was decided in a prior adjudication; (2) there was a final judgment on the merits; (3) the party against whom the bar is asserted was a party or in privity with a party to the prior adjudication; and (4) the party against whom the bar is asserted had a full and fair opportunity to litigate the issue in question.” (471-472)

“The mere speculation that, given a second chance, plaintiffs might be able to make a better record cannot equate with “compelling circumstances” in the face of a full and fair opportunity to litigate the precise issue in the federal proceeding.” (478)

“Courts applying the equitable considerations identified in the Restatement must be careful in their performance of that task. They must not regard those considerations to be a license to substitute generalized concerns about the imposition of collateral estoppel when the clearly established elements have been met.” (480-481)

FACTUAL BACKGROUND

Jamie Gannon received five doses of polio vaccine between 1973 and 1976 and was diagnosed with medulloblastoma in 2000. Plaintiffs alleged that the vaccine was contaminated with SV40 and that SV40 caused Jamie's cancer, but the manufacturer of the administered vaccine was disputed. In the federal action, plaintiffs were fully heard on general and specific causation, and the federal court found that they failed to prove either that SV40 causes cancer in humans or that it caused Jamie's tumor. The state action asserted product-liability claims against pharmaceutical entities allegedly associated with the vaccine.

PROCEDURAL HISTORY

Plaintiffs pursued parallel federal and state actions arising from Jamie Gannon's alleged brain cancer following childhood polio vaccinations. The federal action against the United States was dismissed after a bench trial under Federal Rule of Civil Procedure 52(c), and the Third Circuit affirmed. The New Jersey trial court granted defendants summary judgment both because plaintiffs lacked sufficient product-identification evidence and because the federal judgment collaterally estopped their causation claims. The Appellate Division reversed both grounds and remanded; the New Jersey Supreme Court reversed the Appellate Division based on collateral estoppel and did not reach product identification.

DISPOSITION

reversed

CASES CITED

- Gannon v. United States, 571 F. Supp. 2d 615 (E.D. Pa. 2007)
- Gannon v. United States, 292 F. App'x 170 (3d Cir. 2008)
- Gannon v. American Home Products, Inc., 414 N.J. Super. 507, 999 A.2d 522 (App. Div. 2010)
- Campagna v. American Cyanamid Co., 337 N.J. Super. 530, 767 A.2d 996 (App. Div. 2001)
- Shackil v. Lederle Laboratories, 116 N.J. 155, 561 A.2d 511 (1989)
- Sholtis v. American Cyanamid Co., 238 N.J. Super. 8, 568 A.2d 1196 (App. Div. 1989)
- Namm v. Charles E. Frosst & Co., Inc., 178 N.J. Super. 19, 427 A.2d 1121 (App. Div. 1981)
- In re Dawson, 136 N.J. 1, 641 A.2d 1026 (1994)
- Watkins v. Resorts International Hotel & Casino, Inc., 124 N.J. 398, 591 A.2d 592 (1991)
- Semtek International, Inc. v. Lockheed Martin Corp., 531 U.S. 497, 121 S. Ct. 1021, 149 L. Ed. 2d 32 (2001)
- Del Piano v. Merrill Lynch, 372 N.J. Super. 503, 859 A.2d 742 (App. Div. 2004)
- Tricarico v. Board of Review, 147 N.J. 581, 689 A.2d 124 (1997)
- Paramount Aviation Corp. v. Agusta, 178 F.3d 132 (3d Cir. 1999)
- Delaware River Port Authority v. FOP, Penn-Jersey Lodge 30, 290 F.3d 567 (3d Cir. 2002)
- Board of Trustees of Trucking Employees of North Jersey Welfare Fund, Inc. v. Centra, 983 F.2d 495 (3d Cir. 1992)
- Olivieri v. Y.M.F. Carpet, Inc., 186 N.J. 511, 897 A.2d 1003 (2006)
- In re Coruzzi, 95 N.J. 557, 472 A.2d 546 (1984)
- Duvall v. Attorney General of the United States, 436 F.3d 382 (3d Cir. 2006)
- National Railroad Passenger Corp. v. Pennsylvania Public Utility Commission, 288 F.3d 519 (3d Cir. 2002)
- Wells v. Rockefeller, 728 F.2d 209 (3d Cir. 1984)
- O'Shea v. Amoco Oil Co., 886 F.2d 584 (3d Cir. 1989)
- Yamaha Corp. of America v. United States, 961 F.2d 245 (D.C. Cir. 1992)
- Herbert v. Reinstein, 976 F. Supp. 331 (E.D. Pa. 1997)
- Rivard v. American Home Products, Inc., 391 N.J. Super. 129, 917 A.2d 286 (App. Div. 2007)
- Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 113 S. Ct. 2786, 125 L. Ed. 2d 469 (1993)

- Selective Insurance Co. of America v. Rothman, 208 N.J. 580, 34 A.3d 769 (2012)
- Nieder v. Royal Indemnity Insurance Co., 62 N.J. 229, 300 A.2d 142 (1973)

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