

SUPREME COURT OF UTAH

Layne Kay and Emily Kay v. Barnes Bullets

Kay v. Barnes Bullets, 2021 UT 64 (2021) · No. No. 20180821 · Decided November 4, 2021

SUMMARY

The Utah Supreme Court vacated and remanded a district court order denying Barnes Bullets' motion for summary judgment in an employee's lawsuit alleging intentional lead poisoning. The court held that the district court must first determine whether the employee's condition is an accidental injury under the Workers' Compensation Act or an occupational disease under the Occupational Disease Act. If the condition is an occupational disease, the district court must also consider whether the intentional-injury exception applies.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Chief Justice Durrant; Associate Chief Justice Lee; Justice Himonas; Justice Pearce; Justice Petersen
JURISDICTION	Utah
DECIDED	November 4, 2021
DOCKET	No. 20180821
DISPOSITION	vacated
PROCEDURAL POSTURE	Interlocutory appeal from the district court's denial of Barnes Bullets' motion for summary judgment in an employee's tort action alleging intentional workplace poisoning.
STANDARD OF REVIEW	The denial of summary judgment is reviewed de novo, with no deference to the district court's conclusions. The facts and reasonable inferences are viewed in the light most favorable to the nonmoving party.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Barnes Bullets v. Layne Kay, Emily Kay

TOPICS

workers compensation

interlocutory appeal

summary judgment

appellate procedure

employment law

PRACTICE AREAS

workers compensation

employment law

appellate procedure

civil procedure

QUESTIONS PRESENTED

1. Whether Kay's lead poisoning was an accidental injury governed by the Workers' Compensation Act or an occupational disease governed by the Occupational Disease Act.
2. Whether the Workers' Compensation Act's intentional-injury exception extends to claims governed by the Occupational Disease Act.
3. Whether the district court properly denied Barnes Bullets' motion for summary judgment based on the evidence of intentional injury.

HOLDINGS

1. The court could not properly decide the intentional-injury and summary-judgment issues before determining whether Kay's lead poisoning was an accidental injury under the Workers' Compensation Act or an occupational disease under the Occupational Disease Act.
2. The court had not extended, and in this case did not extend, the Workers' Compensation Act's intentional-injury exception to claims governed by the Occupational Disease Act.
3. The district court's denial of Barnes Bullets' motion for summary judgment was vacated, and the case was remanded for further determinations concerning the statutory classification of Kay's lead poisoning and the potential application of the intentional-injury exception.

KEY QUOTATIONS

“In sum, we have yet to extend the intentional-injury exception to occupational disease claims.” (§ 23)

“We therefore remand this case so the district court can determine in the first instance whether Mr. Kay’s lead poisoning is actually an occupational disease and, if it is, whether the intentional-injury exception should be extended to cover his claim.” (§ 24)

FACTUAL BACKGROUND

Layne Kay worked for Barnes Bullets and, between November 2012 and May 2013, melted more than 40,000 pounds of scrap lead for the company's lead-core bullets. Barnes required employees to use some protective equipment but did not provide respirators until after 2013 safety tests showed unsafe airborne lead levels. During and after this period, Kay developed respiratory distress, tremors, mood swings, chronic fatigue, neurological difficulties, and severe, permanently disabling lead poisoning.

PROCEDURAL HISTORY

Layne Kay sued Barnes Bullets after developing severe lead poisoning while working for the company. The parties stayed the litigation while Kay pursued a workers' compensation claim before the Utah Labor Commission, which awarded him \$337,500. After the stay was lifted, Barnes moved for summary judgment on the ground that the Workers' Compensation Act's exclusivity provision barred the tort claim. The district court

denied the motion, finding that a reasonable juror could infer intentional injury, and the Utah Supreme Court granted Barnes's petition for interlocutory appeal. The Supreme Court vacated the denial and remanded for the district court to determine whether Kay's condition was an accidental injury under the Workers' Compensation Act or an occupational disease under the Occupational Disease Act.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The district court must determine whether Kay's lead poisoning is an accidental injury under the Workers' Compensation Act or an occupational disease under the Occupational Disease Act. If it is an occupational disease, the district court must determine whether the intentional-injury exception should extend to the claim. If the Workers' Compensation Act applies, the district court must reevaluate Barnes Bullets' summary-judgment request in light of the clarifications to the intentional-injury exception announced in *Christiansen v. Harrison Western Construction Corp.* The district court must also determine what, if any, deference is owed to the Utah Labor Commission's prior classification of Kay's claim as an accidental injury under the Workers' Compensation Act.

CASES CITED

- *Graves v. N. E. Services, Inc.*, 2015 UT 28, 345 P.3d 619
- *R & R Industrial Park, L.L.C. v. Utah Property & Casualty Insurance Guaranty Association*, 2008 UT 80, 199 P.3d 917
- *Rueda v. Utah Labor Commission*, 2017 UT 58, 423 P.3d 1175
- *Helf v. Chevron U.S.A., Inc. (Helf I)*, 2009 UT 11, 203 P.3d 962
- *Helf v. Chevron U.S.A., Inc. (Helf II)*, 2015 UT 81, 361 P.3d 63
- *Bryan v. Utah International*, 533 P.2d 892 (Utah 1975)
- *Munteer v. Utah Power & Light Co.*, 823 P.2d 1055 (Utah 1991)
- *Dale T. Smith & Sons v. Utah Labor Commission*, 218 P.3d 580 (Utah 2009)
- *Young v. Salt Lake City*, 90 P.2d 174 (Utah 1939)
- *Paxman v. King*, 2019 UT 37, 448 P.3d 1199
- *Christiansen v. Harrison Western Construction Corp.*, 2021 UT __