

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

David A. McDougall, Individually and as Trustee for the Next-of-Kin
of Decedent Cynthia A. McDougall v. CRC Industries, Inc.

McDougall v. CRC Industries, Inc. · No. 24-3614 · Decided February 10, 2026

SUMMARY

The United States Court of Appeals for the Eighth Circuit reversed a jury verdict against CRC Industries in a Minnesota products-liability case involving a duster containing difluoroethane gas. The court held that the plaintiff failed to present evidence of a safer alternative design or show that the product was so dangerous it should be removed from the market, as required to establish an unreasonably dangerous defective design under Minnesota law. The court vacated the judgment and remanded for entry of judgment as a matter of law in CRC’s favor.

CASE DETAILS

COURT	United States Court of Appeals for the Eighth Circuit
WRITING FOR THE COURT	Kobes; Loken; Smith
JURISDICTION	United States Court of Appeals for the Eighth Circuit
DECIDED	February 10, 2026
DOCKET	24-3614
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	CRC Industries, Inc. appealed the denial of its motion for judgment as a matter of law following a jury verdict for McDougall on a Minnesota defective-design product-liability claim.
STANDARD OF REVIEW	De novo review of the denial of a motion for judgment as a matter of law, viewing the evidence in the light most favorable to the verdict.
PRECEDENTIAL VALUE	published
PARTIES	CRC Industries, Inc. v. David A. McDougall, Individually and as Trustee for the Next-of-Kin of Decedent Cynthia A. McDougall

TOPICS

- products liability
- standard of review
- appellate procedure
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the evidence provided a legally sufficient basis for the jury to find that CRC's duster was unreasonably dangerous under Minnesota's defective-design product-liability law.
2. Whether a plaintiff asserting a Minnesota defective-design claim must present evidence of a feasible safer alternative design or, in a rare case, evidence that the product should be removed from the market.

HOLDINGS

1. To establish that a product is unreasonably dangerous under Minnesota law, a plaintiff ordinarily must present evidence of a safer alternative design; in the rare case where no feasible alternative design exists, the plaintiff must assert and support that the product should be removed from the market altogether.
2. CRC was entitled to judgment as a matter of law because McDougall presented neither evidence of a safer alternative design nor evidence that the duster was so dangerous that it should be removed from the market.

KEY QUOTATIONS

“Kallio clarified that in those “rare cases” where there is no feasible alternative design, the jury can weigh the product’s potential harm against the burden of removing the product from the market.” (at 2)

“So there was no evidentiary basis for the jury to balance the dangerousness of the duster against either the burden of an alternative design or its removal from the market.” (at 3)

FACTUAL BACKGROUND

David McDougall's wife was killed in a car accident caused by a driver who was high on difluoroethane gas huffed from a can of duster manufactured by CRC Industries, Inc. McDougall sued CRC under Minnesota law for failure to warn and defective design. The jury found CRC's warning adequate but found the duster defectively designed.

PROCEDURAL HISTORY

McDougall sued CRC Industries in the United States District Court for the District of Minnesota, alleging failure to warn and defective design. The jury found that CRC's warning was adequate but that its duster was defectively designed. The district court denied CRC's motion for judgment as a matter of law, and the Eighth Circuit reversed, vacated the judgment, and remanded for entry of judgment as a matter of law in CRC's favor.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the judgment and remand for entry of judgment as a matter of law in CRC Industries, Inc.'s favor.

CASES CITED

- *Klingenberg v. Vulcan Ladder USA, LLC*, 936 F.3d 824, 830 (8th Cir. 2019)
- *Green Plains Otter Tail, LLC v. Pro-Env't, Inc.*, 953 F.3d 541, 545 (8th Cir. 2020)
- *Kallio v. Ford Motor Co.*, 407 N.W.2d 92, 96-97 & n.8 (Minn. 1987)
- *Bilotta v. Kelley Co.*, 346 N.W.2d 616, 621 (Minn. 1984)
- *Wagner v. Hesston Corp.*, 450 F.3d 756, 760 (8th Cir. 2006)
- *Kapps v. Biosense Webster, Inc.*, 813 F. Supp. 2d 1128, 1161 (D. Minn. 2011)
- *Stults v. Am. Pop Corn Co.*, 815 F.3d 409, 415 (8th Cir. 2016)
- *Am. Fam. Ins. Co., S.I. v. Pecron, LLC*, No. 21-cv-1749, 2023 WL 8654202, at *4 (D. Minn. 2023)

OPINION

PER CURIAM.

United States Court of Appeals For the Eighth Circuit _____ No. 24-3614 _____ David A. McDougall, Individually and as Trustee for the Next-of-Kin of Decedent Cynthia A. McDougall Plaintiff - Appellee v. CRC Industries, Inc. Defendant - Appellant John Doe Company Defendants #1-10 Defendant _____ Appeal from United States District Court for the District of Minnesota _____ Submitted: December 17, 2025 Filed: February 10, 2026 _____ Before LOKEN, SMITH, and KOBES, Circuit Judges. _____ KOBES, Circuit Judge.

David McDougall's wife was killed in a car accident. The driver who hit her was high on difluoroethane gas he huffed from a can of duster manufactured by CRC Industries, Inc. McDougall sued CRC for failure to warn and defective design under Minnesota law.

The jury returned a verdict in favor of McDougall, finding that while CRC's warning was adequate, its duster was defectively designed. The district court denied CRC's motion for judgment as a matter of law. We reverse.

We review the denial of CRC's motion for judgment as a matter of law de novo, viewing the evidence in the light most favorable to the verdict. *Klingenberg v. Vulcan Ladder USA, LLC*, 936 F.3d 824, 830 (8th Cir. 2019) (standard of review). CRC is entitled to judgment if there is no "legally sufficient evidentiary basis" for a reasonable jury to find in McDougall's favor.

Fed. R. Civ. P. 50(a)(1). We apply Minnesota law in this diversity case. *Green Plains Otter Tail, LLC v. Pro-Env't, Inc.*, 953 F.3d 541, 545 (8th Cir. 2020). To prove a defective design, McDougall "must establish not only that the product was in a defective condition, but also that it was unreasonably dangerous." *Kallio v. Ford Motor Co.*, 407 N.W.2d 92, 96 (Minn.

1987) (emphasis omitted). Deciding whether the duster is unreasonably dangerous requires balancing “the likelihood of harm, and the gravity of harm if it happens, against the burden of the precaution which would be effective to avoid the harm.” *Bilotta v. Kelley Co.*, 346 N.W.2d 616, 621 (Minn. 1984) (citation omitted).

To satisfy this requirement, “the plaintiff ordinarily has the burden of showing the existence of an alternative design that was safer.” *Kallio*, 407 N.W.2d at 96. CRC claims it is entitled to judgment as a matter of law because McDougall failed to present evidence from which the jury could find that its duster was unreasonably dangerous. McDougall responds that under Minnesota law he didn’t have to present alternative design evidence.

The district court agreed with McDougall, relying on a sentence from the Minnesota Supreme Court’s decision in *Kallio* explaining that “evidence of a safer alternative design... is not necessarily required in all cases.” *Id.* at 96–97. But the footnote immediately following that sentence explains its limited application: “Conceivably, rare cases may exist where the product may be judged unreasonably dangerous because it should be removed -2- from the market rather than be redesigned.” *Id.* at 97 n.8; see *Wagner v. Hesston Corp.*, 450 F.3d 756, 760 (8th Cir.

2006) (cautioning that it’s “a bit misleading” to read *Kallio* as dispensing with the alternative design evidence requirement in product liability cases). *Kallio* clarified that in those “rare cases” where there is no feasible alternative design, the jury can weigh the product’s potential harm against the burden of removing the product from the market. But it is still the plaintiff’s burden to either present alternative design evidence or assert that the product is so unreasonably dangerous it should be removed from the market altogether.

See *Kapps v. Biosense Webster, Inc.*, 813 F. Supp. 2d 1128, 1161 (D. Minn. 2011) (“*Kallio* simply explains that in conducting the reasonable-care balancing test... the relative costs and benefits of an allegedly defective design must be weighed against... either (1) a proposed alternative design, or (2) the removal of the challenged product from the market.”); *Wagner*, 450 F.3d at 760 (“[Plaintiff] did not assert that his was the rare case involving a product so dangerous that it should be removed from the market entirely” so “the District Court would have acted properly even if it had required the proffered experts to establish the existence of a feasible alternative [design].” (cleaned up)).

McDougall concedes he “did not rely on the existence of an alternative design.” Nor did he present evidence CRC’s duster is “so dangerous that it should be removed from the market entirely.” 1 *Wagner*, 450 F.3d at 760. So there was no evidentiary basis for the jury to balance the dangerousness of the duster against either the burden of an alternative design or its removal from the market.

See Kapps, 813 F. Supp. 2d at 1161 (granting summary judgment where plaintiff had “no evidence to show” that the product “should have been designed differently or taken off of the 1 McDougall argues the jury could have found the duster was “so dangerous it should be removed from the market” based on counsel’s closing argument, which told the jury that if CRC can’t make their duster safe, “then get rid of it or you pay the price.” But the jury was instructed that statements by lawyers are not evidence, and we presume it followed those instructions.

Stults v. Am. Pop Corn Co., 815 F.3d 409, 415 (8th Cir. 2016). -3- market”); Am. Fam. Ins. Co., S.I. v. Pecron, LLC, No. 21-cv-1749, 2023 WL 8654202, at *4 (D. Minn. 2023) (similar). We vacate the judgment and remand for entry of judgment as a matter of law in CRC’s favor.