

SUPREME COURT OF INDIANA

Degussa Corp. v. Mullens

744 N.E.2d 407 (Ind. 2001) · No. No. 49S05-9812-CV-763 · Decided March 16, 2001

SUMMARY

The Indiana Supreme Court held that Lenita Mullens’s products-liability claims were timely under Indiana’s discovery rule because, when she filed suit, her physicians had not yet informed her of a reasonable possibility that workplace chemicals caused her lung disease. The court affirmed denial of the defendants’ summary judgment motion on the statute-of-limitations issue. The court was evenly divided on whether Agritek was Mullens’s co-employer under the Indiana Workers’ Compensation Act, so it affirmed the trial court’s denial of Agritek’s motion to dismiss.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Sullivan, Justice; Shepard, Chief Justice; Dickson, Justice; Boehm, Justice
JURISDICTION	Indiana
DECIDED	March 16, 2001
DOCKET	No. 49S05-9812-CV-763
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition to transfer from the Indiana Court of Appeals following reversal of the trial court's denial of defendants' summary-judgment motion; Agritek separately challenged denial of its motion to dismiss on workers' compensation exclusivity grounds.
STANDARD OF REVIEW	Summary judgment was reviewed under the applicable statute-of-limitations accrual rules. The denial of Agritek's motion to dismiss was reviewed de novo because the trial court decided disputed factual issues on a paper record without an evidentiary hearing; the trial court's ruling was presumptively correct, and reversal based on an incorrect factual finding required showing that the balance of the evidence was against the trial court's findings.
PRECEDENTIAL VALUE	Published Indiana Supreme Court opinion; precedential as to Part I. The Part II merits analysis is not a majority holding because the participating justices were evenly divided.

PARTIES

Degussa Corporation, Pigment Division, North American Silica Company, P.Q. Corporation, Agritek Bio Ingredients, Inc. v. Lenita Mullens

TOPICS

products liability

negligence

workers compensation

appellate procedure

standard of review

PRACTICE AREAS

products liability

personal injury

workers compensation

appellate procedure

QUESTIONS PRESENTED

1. When did Mullens's products-liability cause of action accrue for purposes of Indiana's two-year statute of limitations?
2. Whether the medical information available to Mullens on March 17, 1992, established a reasonable possibility or probability that workplace chemicals caused her injury and therefore triggered the limitations period.
3. Whether Agritek was Mullens's employer or joint employer such that the Indiana Workers' Compensation Act provided her exclusive remedy for work-related injuries.
4. Whether the trial court's denial of Agritek's motion to dismiss should be affirmed when the participating justices were evenly divided.

HOLDINGS

1. A products-liability claim accrues when the plaintiff knew or should have discovered both that she suffered an injury and that the injury was caused by the product or act of another.
2. The limitations period was not shown to have been triggered on March 17, 1992, because the physician merely identified workplace chemicals as one of several possible causes and did not inform Mullens of a reasonable possibility or probability that the chemicals caused her ailments.
3. The trial court's denial of Agritek's motion to dismiss was affirmed under Indiana Appellate Rule 59(B) because the participating justices were evenly divided on whether Mullens was Agritek's employee and therefore limited to workers' compensation remedies.

KEY QUOTATIONS

"The two-year statute of limitations begins "to run from the date the plaintiff knew or should have discovered that she suffered an injury or impingement, and that it was caused by the product or act of another." (409)

"Once a plaintiff's doctor expressly informs the plaintiff that there is a "reasonable possibility, if not a probability" that an injury was caused by an act or product, then the statute of limitations begins to run and the issue may become a matter of law." (411)

“Although “[e]vents short of a doctor’s diagnosis can provide a plaintiff with evidence of a reasonable possibility that another’s” product caused his or her injuries, a plaintiff’s mere suspicion or speculation that another’s product caused the injuries is insufficient to trigger the statute.” (412)

“Where two employers so associate themselves that both are in direct control of an employee, and the employee is made accountable to both employers, we consider the employee to have two employers.” (414)

FACTUAL BACKGROUND

Mullens worked at a facility producing Agritek feed additives, where she physically mixed dusty liquid and dry ingredients and used paper masks and later a respirator. She developed a persistent cough and breathing problems, but physicians initially identified several possible causes and could not determine whether workplace chemical exposure caused or merely aggravated her condition. In March 1994, she received the first unequivocal medical statement linking her lung disease to chemical exposure consistent with products used at work, and she filed suit on March 25, 1994. Agritek exercised substantial control over her work, supplied most equipment and materials, directed her daily tasks, and shared supervisory responsibilities with the company that formally paid her.

PROCEDURAL HISTORY

The trial court denied defendants' motion for summary judgment based on the two-year products-liability statute of limitations and denied Agritek's motion to dismiss. The Court of Appeals reversed on the limitations issue and rendered the Agritek appeal moot. The Indiana Supreme Court granted transfer, vacated the Court of Appeals opinion, affirmed the denial of summary judgment, and affirmed the denial of Agritek's motion to dismiss because the participating justices were evenly divided on that issue.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The case was remanded to the trial court for proceedings consistent with the opinion.

CASES CITED

- Barnes v. A.H. Robins Co., 476 N.E.2d 84, 87-88 (Ind. 1985)
- Wehling v. Citizens Nat'l Bank, 586 N.E.2d 840, 842-43 (Ind. 1992)
- Degussa Corp. v. Mullens, 695 N.E.2d 172, 178 (Ind. Ct. App. 1998)
- Van Dusen v. Stotts, 712 N.E.2d 491, 499 (Ind. 1999)
- United States v. Kubrick, 444 U.S. 111, 122-23 (1979)
- Evenson v. Osmose Wood Preserving Co. of Am., 899 F.2d 701, 705 (7th Cir. 1990)
- GKN Co. v. Magness, 744 N.E.2d 397, 401-02, 404 (Ind. 2001)
- Hale v. Kemp, 579 N.E.2d 63, 66-67 (Ind. 1991)

- U.S. Metalsource Corp. v. Simpson, 649 N.E.2d 682, 685-86 (Ind. Ct. App. 1995)
- Nowicki v. Cannon Steel Erection Co., 711 N.E.2d 536, 541, 543-44 (Ind. Ct. App. 1999), transfer denied
- Walters v. Modern Aluminum, 699 N.E.2d 671, 673 (Ind. Ct. App. 1998), transfer denied
- Jackson Trucking Co. v. Interstate Motor Freight Sys., 122 Ind. App. 546, 557, 104 N.E.2d 575, 580 (1952)

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