Filed 8/25/11 Woodard v. Crane CA2/4

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

DENNIS H. WOODARD et al., Plaintiffs and Appellants, v. CRANE CO., Defendant and Respondent.	B219366 (Los Angeles County Super. Ct. No. BC387774)

APPEAL from a judgment of the Superior Court of Los Angeles County, Jane L. Johnson, Judge. Affirmed.

Waters, Kraus & Paul, Paul C. Cook, and Michael B. Gurien for Plaintiffs and Appellants.

K&L Gates, Robert E. Feyder, Geoffrey M. Davis, Nicholas P. Vari (Pro Hac Vice), and Michael J. Ross for Defendant and Respondent.

In this asbestos product liability action, defendant Crane Co. successfully moved for judgment notwithstanding the verdict based on *Taylor v. Elliott Turbomachinery Co., Inc.* (2009) 171 Cal.App.4th 564, 570 (*Taylor*), which affirmed a summary judgment for Crane on the ground that it had no duty to warn the United States Navy of the potential dangers of asbestos-containing products manufactured and supplied by third parties. In this appeal fro1m the judgment, plaintiff Dennis H. Woodard argues that *Taylor* was erroneously decided and should not be followed.[1] We reject his contentions and affirm.

FACTS AND PROCEDURAL BACKGROUND

From 1961 to 1965, Woodard served onboard two Navy vessels built between 1943 and 1945: the USS Rogers, a steam-operated destroyer, and the USS Salisbury Sound, a steam-operated sea plane tender. The propulsion systems of both vessels contained metal valves that Crane had manufactured and supplied to the Navy in the 1940's. It is undisputed that all of the asbestos-containing gaskets and packing materials on both vessels were manufactured by others, and that any asbestos-containing materials supplied by Crane in the 1940's had been replaced with similar products manufactured and supplied by third parties prior to Woodard's service in the 1960's. Accordingly, there is no evidence that any of the injury-causing asbestos products was manufactured or supplied by Crane.

Upon being diagnosed with mesothelioma in 2007, Woodard sued Crane (and others not involved in this appeal) for negligence and strict product liability in 2008.

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1 The issue is presently before the California Supreme Court. (*O'Neil v. Crane Co.* (2009) 177 Cal.App.4th 1019, review granted Dec. 23, 2009, S177401; *Merrill v. Leslie Controls, Inc.* (2009) 179 Cal.App.4th 262, review granted Feb. 3, 2010, S178957; *Walton v. The William Powell Co.* (2010) 183 Cal.App.4th 1470, review granted June 30, 2010, S183059.)

Dennis H. Woodard's wife, plaintiff Myra J. Woodard, will not be mentioned in this opinion unless necessary.

This appeal concerns only the strict product liability claim against Crane.[2] Recovery in strict product liability is permitted for three types of defects: manufacturing defects, design defects, and failure to warn. (*Anderson v. Owens-Corning Fiberglas Corp.* (1991) 53 Cal.3d 987, 995.) In his complaint, Woodard alleged that Crane's valves were defective based on theories of defective design and failure to warn. Although the jury found there was no design defect, it found that the valves were defective as a result of Crane's failure to warn the Navy of the dangers of asbestos products manufactured and supplied by third parties. Based solely on a theory of failure to warn, the jury returned a strict liability verdict against Crane. Of the damages award of $14.4 million to Woodard and $2.5 million to his wife, the jury assessed Crane's liability at 0.5 percent.

Crane moved for judgment notwithstanding the verdict based on *Taylor, supra*, 171 Cal.App.4th 564, which affirmed a summary judgment for Crane on the ground that it had no duty to warn the Navy of the dangers of asbestos products manufactured and supplied by third parties. Based on facts indistinguishable from those of this case,[3] the trial court in *Taylor* granted Crane's motion for summary judgment "on the ground that, under California law, a manufacturer's duty to warn extends only to the manufacturer's own products." (*Id.* at p. 571.) The appellate court in *Taylor* affirmed the summary judgment, stating "that the trial court was correct in concluding that California law

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[2] The jury rejected the negligence claim, which is no longer at issue.

[3] In *Taylor*, the plaintiff's late husband (Taylor) had served during the 1960's on the USS Hornet, which was built in the 1940's. The valves in the Hornet's propulsion system had been manufactured and supplied to the Navy by Crane in the 1940's. Taylor was exposed to asbestos fibers on the Hornet during the 1960's, while removing and replacing asbestos-containing gaskets, packing, and insulation materials from the valves. After Taylor was diagnosed with mesothelioma, he and his wife sued Crane (and others) for strict product liability based on theories of defective design and failure to warn. As in this case, it was undisputed that Crane did not manufacture or supply the injury-causing materials, because "by the time Mr. Taylor served aboard the Hornet, all of the original asbestos-containing parts of [Crane's] equipment would have been removed." (*Taylor, supra*, 171 Cal.App.4th at p. 572.)

imposed no duty on respondents to warn of the hazards inherent in defective products manufactured or supplied by third parties." (*Ibid.*)

The trial court in this case granted Crane's motion for judgment notwithstanding the verdict, stating that it "has reviewed Taylor and agrees with Defendant; it is controlling precedent. [¶] Each of Plaintiffs' arguments in opposition to the motion fails. First, Plaintiffs argue that Taylor applies only to failure to warn causes of action. The Court need not determine whether this is true, as the only theory on which Plaintiffs prevailed against Crane was failure to warn. Plaintiffs go on to argue that Taylor is distinguishable, but fail to point to any actual facts upon which the two cases can be distinguished. Plaintiffs next argue that Taylor was wrongly decided. This Court, of course, cannot make that determination. Taylor is the only appellate authority that is directly on point with respect to the issue before the Court today, and the Court is bound by Taylor. [¶] The motion for judgment notwithstanding the verdict is granted."

The trial court entered judgment for Crane. Woodard filed a timely appeal from the judgment.

DISCUSSION

"It is settled that a motion for judgment notwithstanding the verdict should be granted only if a motion for directed verdict should have been granted (*DeVault v. Logan* (1963) 223 Cal.App.2d 802, 810) and that the cardinal requirement for the granting of either motion is the absence of any substantial conflict in the evidence. (*Robinson v. North American Life & Cas. Co.* (1963) 215 Cal.App.2d 111, 118.) Stated differently, a directed verdict or judgment notwithstanding the verdict may be sustained only when it can be said as a matter of law that no other reasonable conclusion is legally deducible from the evidence and that any other holding would be so lacking in evidentiary support that the reviewing court would be compelled to reverse it or the trial court would be required to set it aside as a matter of law. (*Scott v. John E. Branagh & Son* (1965) 234

Cal.App.2d 435, 437.)" (*Spillman v. City etc. of San Francisco* (1967) 252 Cal.App.2d 782, 786.)

Woodard's theory of strict liability for failure to warn is based on the following factors: (1) the valves were intended to transport steam and other superheated materials through the ship's propulsion system; (2) the valves could not perform their intended function without the addition of asbestos-containing gaskets, packing, and insulation materials that were manufactured and supplied by third parties; (3) the asbestos-containing gaskets, packing, and insulation materials required periodic replacement due to wear; (4) during the removal and replacement of the asbestos-containing gaskets, packing, and insulation materials, Woodard was exposed to hazardous asbestos fibers; and (5) because the "operation and required maintenance of the valves directly contributed to creating the asbestos-related hazard, . . . Crane was therefore required to warn of the hazard."

With the above factors in mind, we turn to the issues on appeal.

I. Crane Did Not Manufacture or Supply a Defective Product That Caused Woodard's Injury

There is no evidence in this case that Crane manufactured or supplied an asbestos-containing product or defective valve that caused Woodard's injury. Woodard did not allege in his complaint a manufacturing defect claim, and he does not challenge on appeal the jury's rejection of the design defect claim. On this record, Woodard's injury could not have been caused by a defect in any product manufactured or supplied by Crane. The facts of this case are therefore indistinguishable from those in *Taylor*, *supra*, 171 Cal.App.4th 564.

In granting the motion for judgment notwithstanding the verdict, the trial court concluded that Crane is not subject to strict liability for failing to warn of the potential hazards of products manufactured and supplied by others, because California law restricts such liability to the manufacturers, retailers, and others in the manufacturing or marketing chain of a defective product. (*Taylor, supra*, 171 Cal.App.4th at p. 576; *Peterson v.*

Superior Court (1995) 10 Cal.4th 1185, 1188.) As a court of inferior jurisdiction, the trial court was bound to follow the appellate court's decision in *Taylor*. (*Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 455.) As there is no factual basis for distinguishing *Taylor*, the trial court correctly granted the motion for judgment notwithstanding the verdict. We see no reason to depart from *Taylor*, which we believe was correctly decided.

II. The Component Part Doctrine

Woodard contends that Crane may not avoid liability under the component part doctrine. We disagree.

When Crane supplied the Navy with asbestos-containing gaskets and packing materials in the 1940's, it did so in compliance with the Navy's specifications. In designing the propulsion systems of its vessels, the Navy specified the addition of asbestos-containing insulation, packing, and gaskets to the valves so that steam and superheated fluids could be transported through the system. The fact that asbestos-containing materials were supplied by Crane pursuant to the Navy's specifications does not mean that the valves were defective in manufacture or design, or that the valves did not perform their intended function.

As explained in *Taylor*, *supra*, 171 Cal.App.4th at page 585, "California law makes the liability of a component part manufacturer dependent on two factors: (1) whether the component itself was defective when it left the component manufacturer's factory, and (2) whether these defects caused injury. [Citations.]"

Neither factor is present in this case. There was no claim of a manufacturing defect and the jury rejected the design defect claim. There was no claim that Crane's valves released the asbestos that caused Woodard's injuries. We agree with the appellate court's determination in *Taylor* that Crane is not liable under the component part doctrine: "[I]t is undisputed that [Woodard's] injuries were caused by his exposure to asbestos fibers released from gaskets, packing, and insulation manufactured by other companies, and installed long after [Crane's] products were supplied to the Navy. [Fn.

omitted.] Further, there is no evidence that [Crane] participated in the integration of their components into the design of the [ships'] propulsion system. [Citation.] Instead, it is undisputed that [Crane] provided components in accordance with Navy specifications. On these facts, [Crane is] not liable as a matter of law." (*Taylor, supra*, 171 Cal.App.4th at p. 585.)

III. Reasonably Foreseeable Modifications

Woodard contends that because it was reasonably foreseeable that the asbestos-containing gaskets and packing supplied by Crane would require replacement with similar products from other manufacturers, Crane's failure to supply the replacement products is not a defense to a claim of strict liability. Woodard states that "[p]roduct modification is a defense to a claim of strict liability *only* if the modification was unforeseeable, . . . and 'foreseeability is a question for the jury unless undisputed facts leave no room for a reasonable difference of opinion.'" We are not persuaded.

Under California's product liability law as enunciated in *Taylor*, Crane is not subject to strict liability for asbestos-containing products with which it had no connection. (*Taylor*, *supra*, 171 Cal.App.4th at p. 579.) According to *Taylor*, "*Peterson* [*v. Superior Court*, *supra*, 10 Cal.4th 1185] and *Cadlo* [*v. Owens-Illinois, Inc.* (2004) 125 Cal.App.4th 513] make clear that respondents cannot be strictly liable for failing to warn of the dangers inherent in the asbestos-containing materials that were used with their products. Respondents were not part of the 'chain of distribution' of the gaskets, packing, discs, and insulation that Mr. Taylor encountered during his service on the *Hornet* in the 1960's. It is undisputed that all of the original asbestos-containing materials that may have been supplied when respondents delivered their equipment to the Navy in 1943 had been removed by the time Mr. Taylor served aboard the Hornet. Even if respondents were part of the chain of distribution of these original materials, they were certainly not part of the chain of distribution for the asbestos-containing materials to which Mr. Taylor was exposed." (*Taylor*, *supra*, at p. 579.)

Woodard's reliance on *Thompson v. Package Machinery Co.* (1971) 22 Cal.App.3d 188 (*Thompson*) is misplaced. *Thompson* involved an injury caused by a machine that, due to alleged design defects, prematurely closed on the plaintiff's hand. The plaintiff sued the manufacturer in strict liability. Following a jury trial, the manufacturer obtained a defense verdict. The appellate court reversed on several grounds of instructional error. In light of the plaintiff's expert testimony that tended to support her design defect theory, the appellate court in *Thompson* concluded the instructional errors were prejudicial. (*Id.* at pp. 192-195.) In this case, unlike *Thompson*, there is no claim of instructional error and Woodard does not challenge the sufficiency of the evidence to support the jury's rejection of his design defect claim. *Thompson* is thus distinguishable and irrelevant to this appeal.

IV. *Taylor* Does Not Conflict With Established Precedent

Woodard contends that *Taylor* conflicts with established precedent such as *Tellez-Cordova v. Campbell-Hausfeld/Scott Fetzger Co.* (2004) 129 Cal.App.4th 577 (*Tellez-Cordova*), *Wright v. Stang Manufacturing Co.* (1997) 54 Cal.App.4th 1218 (*Wright*), and *DeLeon v. Commercial Manufacturing & Supply Co.* (1983) 148 Cal.App.3d 336 (*DeLeon*). He states that "[i]n each of these cases, a dangerous condition was created by the combination of the defendant's product with a product supplied by another; the defendant, however, was subject to liability because the danger created by the combination was foreseeable. To affirm the [judgment notwithstanding the verdict] in favor of Defendant Crane, this Court would have to reject these precedents. It should not do so. These cases are in harmony with California products liability law and they should be followed here." We are not persuaded.

None of the cited cases considered whether defendants who are absolved of liability as to their own products may be held strictly liable for failing to warn of the potential risks of other products manufactured and supplied by third parties. As none of the cited cases considered the issue addressed in *Taylor*, they do not conflict with *Taylor*. "'An appellate decision is not authority for everything said in the court's opinion but only

"for the points actually involved and actually decided." [Citations.]' (*Santisas v. Goodin* (1998) 17 Cal.4th 599, 620.)" (*Cellphone Fee Termination Cases* (2011) 193 Cal.App.4th 298, 325.)

In addition, all three cases are distinguishable on procedural grounds. In *Tellez-Cordova*, the appellate court reinstated a complaint that had been dismissed on demurrer, and in *Wright* and *DeLeon*, the appellate court reversed summary judgments for the defendant manufacturers. As a result, viable design defect claims remained to be litigated in all three cases. In light of the unresolved factual issues, the defendants could not prevail by arguing that because their own products were free of defects, they had no duty to warn of defects existing solely in the products of others. In this case, however, the jury rejected the design defect claim and no manufacturing defect claim was alleged in the complaint. Accordingly, the cited cases do not preclude Crane from arguing that because its valves are free of defects, it had no duty to warn of defects existing solely in the products of others.

DISPOSITION

The judgment is affirmed. Crane is awarded its costs on appeal.

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SUZUKAWA, J.

We concur:

WILLHITE, Acting P.J. MANELLA, J.