

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

FILED
United States Court of Appeals
Tenth Circuit

MAR - 6 1990

ROBERT L. HOECKER
Clerk

TONY P. MOORE,)
)
Plaintiff-Appellant,)
)
v.)
)
SIGNODE CORPORATION, a)
Delaware corporation,)
)
Defendant-Appellee,)
)
WELDOTRON CORPORATION, a)
New Jersey corporation,)
)
Defendant.)

No. 89-5004
(D.C. No. 82-C-336-E)
(N.D. Okla.)

ORDER AND JUDGMENT*

Before HOLLOWAY, Chief Judge, SETH and McWILLIAMS, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); Tenth Cir. R. 34.1.9. The cause is therefore ordered submitted without oral argument.

*This order and judgment has no precedential value and shall not be cited, or used by any court within the Tenth Circuit, except for purposes of establishing the doctrines of the law of the case, res judicata, or collateral estoppel. 10th Cir. R. 36.3.

Plaintiff sought damages in this diversity action for personal injuries against defendants Signode Corporation and Weldotron Corporation under a theory of products liability. Plaintiff appeals from an order of the district court granting summary judgment to defendant Signode Corporation. We affirm.

Plaintiff was injured when his pant leg and foot were drawn into a conveyor belt at the plant where he worked. The conveyor belt was being used in conjunction with a Pallet Pak Shrink Tunnel. Both the conveyor belt and the Shrink Tunnel were manufactured and designed by Weldotron. Signode sold the Shrink Tunnel to plaintiff's employer in 1971, but was not involved in the sale of the conveyor belt that injured plaintiff. The conveyor belt that injured plaintiff was purchased directly by plaintiff's employer from Weldotron.

Plaintiff admits that it offered no proof that the Shrink Tunnel was defective standing alone. Instead, plaintiff asserts that the Shrink Tunnel, the conveyor belt, and the control and warning devices attached thereto must be considered together as a "system" or "package" of which the Shrink Tunnel is a component or piece. Plaintiff asserts that Signode is liable as the distributor of a component of the defective "system" that caused plaintiff's injuries.

Plaintiff fails to cite a single authority, from any jurisdiction, in support of this quite novel interpretation of the scope of products liability. Plaintiff seeks to impose liability on Signode for injuries caused by a machine it neither

manufactured nor marketed simply because that machine was being used in conjunction with the Shrink Tunnel. Signode had absolutely nothing to do with the design or assembly of the "system" devised by plaintiff's employer. Signode merely acted as the distributor for one non-defective component of that system.

No material issue of fact was raised by the discovery nor otherwise. Plaintiff in substance acknowledges there are no fact issues. The summary judgment was proper under the Rule, the prevailing doctrine and Oklahoma law.

Accordingly, the judgment of the district court is AFFIRMED.

Entered for the Court

Oliver Seth
Circuit Judge