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CT Supreme Court Clarifies Pleading Requirements for Products Liability Claims

A plaintiff who raises a products-liability claim must ordinarily come forward with evidence of some *specific* design or manufacturing defect in the product at issue. In cases where evidence of a specific defect is unavailable, however, plaintiffs often attempt to get past summary judgment by arguing that the product must have had some unspecified and indeterminate defect under the "malfunction theory" of products liability.[1] Thanks to the successful advocacy of Day Pitney's Paul Williams and John Cerreta, plaintiffs' ability to inject the malfunction theory into products-liability cases at the summary-judgment stage should now be more limited, under the Connecticut Supreme Court's September 15 decision in *White v. Mazda Motor of America, Inc.*, 2014 WL 4548058 (Conn. 2014).

In *White*, the plaintiff claimed that, as he was checking the conditions under the hood of his automobile, his vehicle caught fire and ignited a "small blast," which then caused the plaintiff to fall down and injure his knee. In his complaint, the plaintiff alleged this "blast" had been caused by a specific design defect in the fuel lines and fuel rail of his automobile. But on summary judgment, the trial court rejected this claim because the plaintiff had failed to come forward with any competent expert testimony establishing this specific defect.

The plaintiff appealed and argued that, even without proof of a specific defect, his products-liability claim should still have survived summary judgment because the evidence raised an inference of some unspecified dangerous condition under the malfunction theory of products liability. In a split decision, the Connecticut Appellate Court declined to consider this argument and held that the plaintiff forfeited any malfunction claim by failing to raise the point in his opposition to summary judgment.[2] The Connecticut Supreme Court then granted the plaintiff's petition for further review, limited to two issues: (1) whether the plaintiff adequately preserved his malfunction claim in the trial court, and (2) on the merits, whether the plaintiff had presented enough evidence to get past summary judgment under the malfunction theory.[3]

In a 5-2 decision, the Connecticut Supreme Court affirmed the lower court's judgment and again rejected the plaintiff's claims. In a majority opinion penned by Justice Zarella, the state high court clarified that "[a] product liability claim under the malfunction theory is distinct from an ordinary product claim." In order to rely on this distinct theory at the summary-judgment stage, the court continued, a products-liability plaintiff must first plead facts in the complaint that tend to establish the malfunction theory's distinct elements?- namely, (1) that the incident causing the alleged injury would not ordinarily occur absent some product defect, and (2) that this unspecified defect was most likely attributable to the manufacturer and not some other "reasonably possible cause."[4] The court concluded that, because the plaintiff's complaint had pleaded only a *specific* defect in the vehicle's fuel system, the pleading had failed to "put the trial court and the defendant on notice" of the plaintiff's intent to rely on the malfunction theory's "alternative burden of proof."[5] As a result, the plaintiff was barred from injecting the malfunction theory into the case in opposition to the defendants' motion for summary judgment.[6]

While the majority's decision in *White* avoided making any broad pronouncements on the malfunction theory's substantive requirements, its clarification of the pleading standards for malfunction claims should still be an important precedent for defendants facing products-liability claims in Connecticut. Under *White*, no more will plaintiffs be permitted to plead and attempt to prove a specific product defect, only to fall back on an un-pleaded claim under the malfunction theory at the summary-judgment stage.

To read the court's opinion in *White*, click here. For Justice Eveleigh's dissent, click here. Earlier news coverage of the briefing and oral argument in *White* is also available here.

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[1] *See Metropolitan Prop. & Cas. Ins. Co. v. Deere*, 302 Conn. 123, 131, 133-34 & n.5 (2011).

[2] *White v. Mazda Motor of Am., Inc.*, 139 Conn. App. 39, 46 n.9 (2012).

[3] *White v. Mazda Motor of Am.*, Inc., 307 Conn. 949 (2013).

[4] *White v. Mazda Motor of America, Inc.*, __ Conn. __, 2014 WL 4548058, *6 (Conn. 2014).

[5] *Id.* at *7.

[6] *Id.*