IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHRISTOPHER MORRIS,	:	CIVIL ACTION
	:	
Plaintiff,	:	No. 04-1574
v.	:	
	:	
JOHNSON CONTROLS, INC., AMERICAN LIFTS, YALE INDUSTRIAL PRODUCTS, INC., and THE CITY OF PHILADELPHIA,	:	
	:	
Defendants.	:	

MEMORANDUM AND ORDER

JOYNER, J. **March 18, 2005**

Plaintiff brings this personal injury action in diversity for injuries sustained to his left foot while working for Federal Express ("FedEx") at its Philadelphia Airport sorting facility. Defendants American Lifts and Yale Industrial Products, Inc. ("American Lifts") now move for summary judgment. For the reasons that follow, Defendants' motion shall be granted in part and denied in part.

Facts

Plaintiff's Complaint alleges that on May 24, 2001, Plaintiff was unloading a shipping container from a FedEx delivery truck onto a hydraulic scissor lift located at Loading Dock 5 of the Philadelphia Airport facility. Plaintiff was standing on the upper surface of the lift (the "lift table"), with his left foot extending over the edge of the lift table. As

the lift was being raised, Plaintiff sustained severe and permanent injuries when his great toe was crushed between the lift table and the outermost edge of the loading dock area.

Once a container is unloaded from a delivery truck onto the lift table and the lift is raised to the level of the loading dock, a shipping employee will typically pull the container onto the loading dock using an attached strap. The movement of the shipping container from the lift table onto the loading dock is facilitated by four rollers, two of which are set into the far edge of the lift table itself, and two of which are at the edge of the dock area. Thus, when the lift is raised to the level of the loading dock, the two pairs of rollers are merely inches apart.

To limit movement of shipping containers while they are being unloaded and while the lift is in motion, three automatic can stops (also known as pallet stops) are set into the surface of the lift table. A fourth automatic can stop, known as the blade stop, is located on the dock side, between the rollers at the edge of the loading dock and the surface of the loading dock itself.

The dock area rollers are more or less level with the loading dock surface, as is the blade stop when it is in its lowered position. This assembly of the single blade stop and the dock area rollers comprises the upper surface of what is known as

the “safety stop deck assembly,” which is not part of the loading dock itself but is attached to the dock and extends horizontally out past its edge. The lower part of the safety stop deck assembly, below the rollers and blade stop, contains the mechanism which powers the blade stop. This mechanism is somewhat inset from the overhang of the rollers. Thus, when the lift is lowered below the level of the loading dock, a pinch point exists between the lift table and the upper edge of the safety stop deck assembly on the loading dock side.

To protect employees standing on the lift table from this pinch point, three vertical metal shields are attached to the lower part of the safety stop deck assembly. These three shields create a barrier in front of the blade stop mechanism, and span the vertical length of the assembly, from the rollers at the level of the loading dock surface, down past the lift table at its lowest point.

The daily inspection of the lift and dock areas includes a visual examination of the shields to ensure that they are in place and not damaged or bent. Carol Anderson Voyles, who inspected Dock 5 approximately four hours before Plaintiff’s injury occurred, cannot recall anything specific or unusual about her inspection on that date. Directly after Plaintiff’s accident occurred, Ms. Voyles returned to re-inspect the dock and assess any damage, and noted that one of the protective shields was

missing. Ms. Voyles has testified that it is very uncommon for a shield to simply fall off without the exertion of significant force.

Plaintiff contends that the design of the lift and safety stop deck assembly was defective because it did not incorporate a lock or limit switch that would prevent the use of the lift if one of the shields was missing. Plaintiff further contends that the design was defective because it did not include a warning advising employees not to operate the lift if the shields were not in place. Plaintiff seeks to recover against Defendant American Lifts, the alleged designer and manufacturer of the hydraulic lift and safety stop deck assembly, on theories of negligence, strict liability, failure to warn, and breach of warranty. Defendant American Lifts, however, alleges that it supplied only the hydraulic scissor lift and the blade stop, two relatively minor components of the overall docklift system, which Defendant contends was designed by FedEx and assembled on-site by third parties. American Lifts further denies any responsibility with respect to the design, manufacture, or assembly of the protective shields.

Summary Judgment Standard

The purpose of summary judgment under Federal Rule of Civil Procedure 56(c) is to avoid a trial in situations where it is

unnecessary and would only cause delay and expense. Goodman v. Mead Johnson & Co., 534 F.2d 566, 573 (3rd Cir. 1976). A court may properly grant a motion for summary judgment only where all of the evidence before it demonstrates that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); Celotex Corp. v. Catrett, 477 U.S. 317, 322-32 (1986). A genuine issue of material fact is found to exist where "a reasonable jury could return a verdict for the non-moving party." Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986).

In making this determination, a court must view the facts, and all reasonable inferences drawn therefrom, in the light most favorable to the non-moving party. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986). The party opposing the motion may not rest upon the bare allegations of the pleadings, but must set forth "specific facts" showing that there is a genuine issue for trial. Fed. R. Civ. P. 56(e); Celotex, 477 U.S. at 324.

Discussion

I. Manufacturer Liability for Design Defects, Failure to Warn, and Breach of Warranty

In order for a manufacturer to be held strictly liable for a design defect under § 402A of the Restatement (Second) of Torts,

the manufacturer must be "responsible for the defective condition." Taylor v. Diamond Shamrock Chem. Co., 516 F.2d 145, 147 (3rd Cir. 1975). The issue of a single manufacturer's responsibility is further complicated if the final assembly is the result of substantial work by more than one party. Where multiple parties contribute to the creation of a finished product that lacks a necessary safety device, a court will determine responsibility for the defect by looking to three factors: trade custom regarding the stage at which the safety device is typically installed, the relative expertise of the parties concerning design and safety features, and the feasibility of installation by each party. Verge v. Ford Motor Co., 581 F.2d 384, 386-87 (3rd Cir. 1978). Typically, however, a defendant manufacturer who provides component parts later inserted into a defective final assembly will escape liability if the manufactured parts themselves are free from defect, produced to the specifications of a buyer with superior knowledge and experience in the field, and if the manufacturer could not reasonably foresee that the parts would be unsafe for the use intended by the buyer. Lesnefsky v. Fischer & Porter Co., Inc., 527 F. Supp 951, 955 (E.D. Pa. 1981); Orion Ins. Co., Ltd. v. United Tech. Corp., 502 F. Supp 173, 175-78 (E.D. Pa. 1980). Similarly, a manufacturer will not be held liable for negligent failure to warn of a defect where the manufacturer merely

supplied component parts of a product later assembled by another party, and the danger is associated only with the use of the finished product. Petrucelli v. Bohringer and Ratzinger, 46 F.3d 1298, 1309 (3rd Cir. 1995); Orion, 502 F. Supp at 177-78; Lesnefsky, 527 F. Supp 956.

A similar standard applies for breach of warranty claims. The manufacturer will be held liable only if it had reason to know of the purpose for which the buyer purchased the product, and recommended the product for such purpose, knowing that the buyer was relying on the manufacturer's expertise. Altronics of Bethlehem, Inc. v. Repco, Inc., 957 F.2d 1102, 1005 (3rd Cir. 1992).

In this action, there are genuine issues of material fact as to whether the items supplied by American Lifts were merely component parts of a docklift system created through substantial work by more than one party. However, a reasonable jury could find, viewing the record in the light most favorable to Plaintiff, that Defendant American Lifts was primarily responsible for the design of the lift and its interface with the safety stop deck assembly, including the protective shields. The parts manual provided by American Lifts to FedEx for the docklift at issue clearly identifies all the components of both the hydraulic lift itself and the safety stop deck assembly. The three protective shields are identified by parts numbers which

are similar in form to the parts numbers issued to other components admittedly manufactured by American Lifts. While some component parts are identified as being supplied by the customer or by a contractor, there is no such indication with respect to the shields. A March 1991 letter from American Lifts senior project manager Rodney Nelson specifically refers to drawings "showing the interface relationship between the dock lift and the safety stop deck." Plaintiffs contend that the docklift system arrived at the FedEx facility generally assembled, and American Lifts employee Charles Reitsma likewise testified that the lift and the safety stop deck are "basically" delivered assembled. Reitsma Deposition, p. 74-75. Taken in conjunction, these facts suggest that Defendant American Lifts may have held primary responsibility for the design and assembly of the docklift system.

Testimony further indicates that the American Lifts designers and employees working on the docklift at issue were well aware of the purpose for which the lift would be used, and understood that a pinch point might exist in the interface between the lift and the safety stop deck assembly. The evidence of record suggests that American Lifts may have been more knowledgeable than FedEx with respect to the functioning of the hydraulic lift and its interface with the docklift assembly. Viewing the facts in the light most favorable to Plaintiff, a

reasonable juror could find that FedEx was not a buyer with superior knowledge of lift safety, and in fact relied on American Lifts' expertise in this area.

Moreover, this court cannot resolve as a matter of law the issue of whether the docklift design was materially modified after delivery by American Lifts. The record indicates that, at some point in the development of the docklift design, there was to be only one shield spanning the length of the safety stop deck assembly. However, there are genuine factual questions as to who made the decision to modify the original design to the existing three-shield configuration, and when this change occurred.[1]

For the above reasons, Defendants' motion for summary judgment must be denied with respect to Count I, alleging negligence in failing to warn of the defect; Count II, for design defects pursuant to Rest. 2d Torts § 402A; Count IV, alleging breach of warranty; and Count V, for failure to warn pursuant to Rest. 2d Torts § 388. Defendants' motion for summary judgment will be granted, however, with respect to Count III, for misrepresentation pursuant to Rest. 2d Torts § 402B, as there is

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[1] Defendant American Lift further contends that it should be absolved of liability because Plaintiff's injuries were caused by a superseding cause, the removal or disappearance of the protective shields. An intervening act qualifies as a superseding cause only where it is "so extraordinary as not to have been reasonably foreseeable." Powell v. Drumheller, 653 A.2d 619, 623 (Pa. 1995). This determination is typically made by a jury, and is not appropriate for resolution at the summary judgment stage. Powell, 653 A.2d at 624.

no evidence of record tending to suggest that Defendant American Lifts misrepresented any material facts concerning the quality or character of the supplied products.

II. Punitive Damages

In order to recover for punitive damages, a plaintiff must establish that the defendant's conduct was wanton or reckless, or that the defendant acted intentionally while having reason to know that his conduct created a high probability of unreasonable risk. Ivins v. Celotex Corp., 115 F.R.D. 159, 162 (E.D. Pa. 1986). While negligence, no matter how gross or wanton, will not rise to the level of conduct required for punitive damages, there is no theoretical inconsistency in pursuing punitive damages in a strict products liability case. Acosta v. Honda Motor Co., 717 F.2d 828, 835, 840 (3rd Cir. 1983).

Plaintiff's expert, Russ Rasnic, has opined that Defendant American Lifts anticipated the pinch point hazard at the interface area, but did not make accommodations to reduce or eliminate this hazard in accordance with established safety design priorities. Based on Mr. Rasnic's testimony, a reasonable jury could find that American Lifts recklessly disregarded a high probability of unreasonable risk to operators using docklifts with missing shields. Thus, we will deny Defendant's motion for summary judgment with respect to Count VI.

An appropriate Order follows.

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Defendants.	:	

ORDER

AND NOW, this 18th day of March, 2005, upon consideration of the Motion for Summary Judgment of Defendants American Lifts and Yale Industrial Products, Inc. (Doc. No. 48), and all responses thereto (Doc. No. 52), it is hereby ORDERED that the Motion is GRANTED in part and DENIED in part, as follows:

(1) Defendants' Motion is GRANTED with respect to Count III, alleging strict liability for misrepresentation pursuant to Rest. 2d Torts § 402B;

(2) Defendants' Motion is DENIED with respect to all other counts.

BY THE COURT:

s/J. Curtis Joyner
J. CURTIS JOYNER, J.