



Court of Appeals Upholds Summary Judgment for Heating Pad Manufacturer

A recent ruling by the Georgia Court of Appeals reaffirmed a plaintiff's burden in product liability cases that allege a design defect.

In *Sheffield v. Conair*, a woman fell asleep while lying on a new heating pad. She woke up with her bed in flames. The fire chief determined the fire started near the heating pad, but could not say what caused the fire. The trial court granted the heating pad manufacturer's Motion for Summary Judgment, finding the plaintiff had not put forth evidence that the heating pad was defective. "Unlike cases involving allegations of a manufacturing defect, a design defect case does not allege that the product in question was uniquely defective, but instead calls into question an entire product line."

The Appellate Court analyzed three questions:

- (1) Was there sufficient evidence giving rise to a triable issue of fact that the fire was the result of an improper design?
- (2) Did the plaintiff meet her burden of identifying specific evidence establishing a causal connection between the fire and a design defect?
- (3) Did the manufacturer fail to warn of the design defect?

On the first question, the appellate court noted that in order to fulfill its basic function, a heating pad necessarily contains a heating element that by its very nature, is capable of producing a dangerous condition. The appellate court concluded no evidence was presented by the plaintiff that the fire, even if caused by the heating pad, was the result of an improper or defective design. This finding alone entitled the manufacturer to summary judgment.

In response to the second question, the Court of Appeals reiterated a plaintiff's burden of establishing proximate cause and found the evidence in the record only allowed for an inference that the heating pad caused the fire. That inference did not extend to the cause being the result of a design defect. Inferences "must be based on probabilities rather than mere possibilities." To satisfy his or her burden of proof by inference, "that inference must not only tend in some proximate degree to establish the conclusion, but render less probable all inconsistent conclusions."

Finally, the Court of Appeals addressed the third question by pointing out the failure of the plaintiff to point to any evidence of a design defect necessarily defeated the failure to warn claim, which only arises when the manufacturer knows or reasonably should know of the danger arising from the use of its product.

If you wish to further discuss this case or have any questions, please contact a Swift, Currie, McGhee & Hiers attorney at 404.874.8800 or via our website, swiftcurrie.com.

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