



Ankin Law Office LLC

Protecting the Rights of Injured Workers

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The importance of strong expert testimony in a products liability case

By Admin - BN on December 1st, 2011



The United States Court of Appeals for the Seventh Circuit recently considered whether a plaintiff in a products liability case had met his burden on a summary judgment motion in *Bielskis v. Louisville Ladder Inc.*, 2011 WL 5829771.

In this case, the plaintiff, an acoustical ceiling carpenter, was injured while working at a construction site located in Libertyville, Illinois. He was working on a mini-scaffold when it collapsed, causing him to fall and sustain injuries. He claimed that a fracture in the caster stem of the device caused it to collapse and that the fracture occurred due to defective product design.

In support of his claim, he offered the expert testimony of a mechanical engineer who based his opinion that the scaffold was defective on his visual inspection of the scaffold. At issue on appeal was whether Bielskis had offered sufficient expert evidence to sustain his burden in defense of a summary judgment motion.

The Court of Appeals reviewed the plaintiff's expert's testimony and concluded that, more than anything, his "methodology sounded more like ... [t]alking off the cuff," especially when compared to the evidence offered by the defendant's expert, who not only conducted a visual examination, but also conducted extensive testing and reconstructed the accident.

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After rejecting the evidence offered by the plaintiff's expert, the court concluded that in the absence of expert proof, the plaintiff had simply failed to meet his burden of establishing that the scaffold was defective:

(The plaintiff) had owned the scaffold for seven years at the time of the accident, and...advanced no particular evidence about its condition when it was received from the manufacturer. Thus, Bielskis has not marshaled sufficient evidence that the mini-scaffold was defective at the time it left Louisville Ladder's control. Without evidence that the mini-scaffold was defective at the outset or that it was free in the 7-year interim period from any abnormal use, Bielskis needs more than the failure of the caster stem to prove his case... And with no expert testimony, he lacks evidence to support his product liability allegations of strict liability and negligence.

The Court of Appeals thus affirmed the dismissal of the plaintiff's [personal injury case](#) based on allegations of products liability, thus confirming the importance of having strong, reliable expert testimony that is based upon rigorous testing, rather than simply visual observation. A personal injury lawsuit can stand or fall based solely on the strength of an expert's testimony, as occurred in this case.

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