

Products Liability Law Daily Wrap Up, EVIDENTIARY ISSUES—MOTOR VEHICLES—9th Cir.: Chrysler documents may not be protected by ‘under seal’ order , (Jan. 12, 2016)

By Pamela C. Maloney, J.D.

A federal district judge incorrectly applied the “just cause” standard to a request by The Center for Auto Safety (CAS) to unseal confidential discovery documents filed in support of a motion for a preliminary injunction ordering Chrysler Group, LLC, to disclose to its customers an alleged defect in a vehicle component, the U.S. Court of Appeals for the Ninth Circuit ruled. The more stringent “compelling reason” standard should have been applied to the request because the preliminary injunction motion was more than tangentially related to the merits of the underlying class action (*Center for Auto Safety v. Chrysler Group, LLC*, January 11, 2016, Owens, J.).

In 2013, a putative class action was filed against Chrysler alleging that certain Chrysler vehicles contained defective ignition switches. As part of that litigation, the putative class moved for a preliminary injunction to require Chrysler to provide adequate notification to its customers that a part in their vehicles could require replacement and could be dangerous if it failed. Both the putative class and Chrysler attached confidential discovery documents to their memorandum on the motion. Consistent with the parties’ stipulated protective order, the district court granted their requests to file these documents under seal.

CAS filed a motion to intervene and to unseal the confidential documents filed in support of or in opposition to the preliminary injunction, arguing that only “compelling reasons” could justify keeping these documents under seal. The district court denied CAS’s request, reasoning that because the preliminary injunction motion was non-dispositive, Chrysler need only show “good cause” to keep the records under seal. Finding that good cause existed to keep these documents from the public view, the district court denied CAS’s request and CAS appealed.

Compelling reasons standard. Stressing that a party seeking to seal a judicial record bears the burden of overcoming a strong presumption in favor of access to court records by showing “compelling reasons” to keep the judicial record secret, the Ninth Circuit clarified that public access to judicial documents does not turn on whether the motion to which they are attached is technically non-dispositive or dispositive of the underlying action. Instead, access to documents under seal turns on whether the motion is more than tangentially related to the merits of the case. According to the court, application of the compelling reasons standard was consistent with Ninth Circuit precedent and with the case law of other circuits.

In applying the compelling reasons standard to the preliminary injunction in this case, the court emphasized that preliminary injunctions are extraordinary and drastic remedies that affect litigants’ substantive rights. The Ninth Circuit added that case law is replete with examples of preliminary motions that reflect the need for more public right of access. Specifically, as applied in this case, if the plaintiffs had succeeded in their motion for a preliminary injunction, the putative class would have won a portion of the injunctive relief they requested in their underlying complaint and that portion of their claims would have been resolved.

In light of the district court’s application of the wrong standard, the Ninth Circuit vacated the lower court’s opinion and remanded the case for the lower court to consider the documents under the compelling reasons standard.

Dissent. Judge Ikuta dissented, expressing her belief that the majority opinion had overruled circuit precedent and annulled Rule 26, which governs the issuance of protective orders in the discovery process. Judge Ikuta would employ the so-called “binary approach” which holds that the public’s presumed right of access applies to sealed discovery documents attached to a dispositive motion, but does not apply to sealed discovery documents attached to a non-dispositive motion.

Concurrence. District Judge Sessions wrote separately to express his belief that reversal was warranted even under the binary approach endorsed by Judge Ikuta in her dissent because the preliminary injunction at issue was literally “dispositive” of the putative class’s request that Chrysler issue notice to its customers.

The case is No. 15-55084.

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Companies: The Center for Auto Safety; Chrysler Group, LLC.

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