

[Products Liability Law Daily Wrap Up, WARNINGS ISSUES—INDUSTRIAL AND COMMERCIAL EQUIPMENT—N.D. Okla.: Stage hand's fall from hydraulic lift did not make product unreasonably dangerous, \(Nov. 1, 2018\)](#)

Products Liability Law Daily Wrap Up

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By Jordan A. Silver, J.D.

Summary judgment was granted to the manufacturer of a hydraulic lift on a manufacturing defect claim asserted by a stage hand who was injured in a fall from the lift. A federal district court in Oklahoma found that the lift was not unreasonably dangerous, and, therefore, the stage hand's injury was not caused by a product defect ([*Siegel v. Blue Giant Equipment Corp.*](#), October 31, 2018, Kern, T.).

The Cherokee Nation of Oklahoma hired an architecture firm to expand a casino to include a theater. One of the firm's specifications involved purchasing a Blue Giant LoMaster Model #D hydraulic dock lift which, in accordance with industry safety requirements, was to be equipped with a "hinged bridge" with a lifting chain, removable safety handrails, and safety chains at both ends between the hand rails. When the lift was inspected prior to the March 9, 2012 purchase, it was apparently exactly as ordered and in a condition reasonably fit and appropriate for its intended use. Further, at the time of purchase, the manufacturer provided an owner's manual containing warnings and instructions, as well as a laminated placard containing warnings. The manual and placard directed that the guard rails and chains remain securely in place prior to using the lift and cautioned users never to apply weight to the hinged bridge unless it overlapped with a solid surface, and stated that under no condition should users ever use the bridge if it was supported solely by its lifting chain.

Injury. Subsequently, in May 2014, a stage hand at the new theater pulled a wheeled cart off the edge of the stage onto and across the lift. At the time, the hinged bridge was fully lowered and unsupported by anything except for the lifting chain, rather than being stored fully secured in an upright position, as was directed. Instead of stopping the cart on the dock, as required by the product warnings, the stage hand pulled the cart onto the unsupported hinged bridge. Moreover, in further violation of the warnings, the safety chain was not in place at the time. The stage hand was injured as he and the cart fell 46 inches to the floor.

Testimony. The stage hand testified at deposition that he had never been given any instructions about operating the lift. However, as a professional stage hand, he understood the safety risks involved in working at heights. At deposition, the manufacturer's expert testified that had the safety chain been in place as required, the chain would have prevented the stage hand from falling and the accident would not have happened.

Unreasonably dangerous requirement. Granting summary judgment to the manufacturer, the court explained that to hold a manufacturer liable on a products liability claim, a plaintiff must establish that the product caused the injury; that the defect existed at the time the product left the manufacturer's possession and control; and that the defect made the product unreasonably dangerous. "Unreasonably dangerous" is an objective standard defined as being dangerous to an extent beyond that which would be contemplated by the ordinary consumer with ordinary knowledge of its characteristics. In an industrial context, the ordinary consumer is understood to be a skilled operator of the equipment at issue. Further, the court noted that "Oklahoma law presumes ... that a workman using a product is 'skilled at his job.'" To this end, a product which might be unreasonably dangerous to a layperson is not regarded as inherently defective in the hands of a commercial professional.

Consequently, although the court conceded that the stage hand was not solely responsible for the accident, it determined that the accident resulted from the stage hand's actions in contravention of safety procedures, as well as the other safety violations, not from a product defect. Because the manufacturer had built the lift to the

architect's specifications and had provided both instructions on its use as well as safety warning placards, the court concluded that the lift manufacturer was not legally liable for the stage hand's injuries.

The case is No. [15-CV-143-TCK-JFJ](#).

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