

Eighth Circuit Reverses Summary Judgment for Manufacturer in Product Defect Claim

The U.S. Court of Appeals for the Eighth Circuit recently reversed a district judge's grant of summary judgment to a manufacturer in a product defect claim for an explosion at an ethanol plant. In *Green Plains Otter Tail, LLC v. Pro-Environmental, Inc.*, the court affirmed the trial court's grant of summary judgment on the plaintiff's failure to warn claim but reversed the decision as to a claim for defective design under Minnesota law.

Plaintiff produced ethanol at its plant, which results in pollutants. Those pollutants are burned off in a Regenerative Thermal Oxidizer (RTO). Dampers control the flow of vapors in and out of the RTO. The dampers were hydraulically controlled by a pump (HPU). In an emergency, the damper for vapors coming in should close and the damper releasing vapors should open.

The HPU has an accumulator that supplies hydraulic fluid for the RTO's regular cycles. If a hydraulic pump within the HPU fails, the accumulator should force its fluid back into the system, moving the dampers to safe positions. In order to operate, the accumulator must be recharged with nitrogen.

The HPU's hydraulic pump is connected to the other parts of the HPU by couplings. In 2014, a coupling failed, causing a loss of hydraulic pressure to the HPU. Several alarms sounded. Green Plains' staff discovered that the dampers did not move to safe positions. An hour later, an explosion damaged the RTO, other equipment, and buildings. The RTO's dampers could move to safe positions only if the accumulator was sufficiently precharged. Post explosion investigations showed almost no precharge of the HPU's accumulator.

Green Plain's staff never completely read the manual that suggested the nitrogen in the accumulator be checked one week after installation and then once a month thereafter. As such, the nitrogen had not been checked in the six years between installation and the explosion. Green Plains filed suit alleging damages in negligence and products liability caused by a design defect and failure to warn under Minnesota law. The district court granted summary judgment on all theories.

The Eighth Circuit reversed and remanded the design defect claim holding that Green Plains submitted sufficient evidence of a defective design to survive summary judgment. That evidence involved a safer alternative design that the dampers did not need to be controlled by hydraulic pressure (which design did not have to be tested because it was in existence). The court acknowledged a design that meets industry standards is some evidence of reasonableness but was not conclusive proof. The court also rejected the trial court's reasoning that the failure to precharge the system was a superseding intervening cause. Both were issues for the jury. The court did uphold summary judgment on the failure to warn claim finding that additional warnings would not have changed the behavior of plaintiff's employees based on the uncontroverted evidence. The decision is instructive that instructions and warnings are not a substitute for a safe design.



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