

Civil Procedure

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Room 206

Mondays, Wednesdays, & Fridays, 1:30 – 3:15 pm

Preclusion

Problem 1

The Sterling Cooper advertising agency (a citizen of the State of Hudson) recently gained a new client, Elke Corp., (incorporated and headquartered in the state of Quinnipiac) which manufactures a line of gardening and lawn care equipment. To celebrate, the agency holds an office party, at which several employees, including Ken (a citizen of Hudson) and Lois (a citizen of the State of Quinnipiac), consume excessive quantities of liquor. Ken urges Lois to take an Elke riding lawn mower for a spin around the office. Lois passes out and loses control of the mower, driving it into another Sterling Cooper employee, Guy (a citizen of Hudson), whose foot is shredded into mulch-sized bits by the mower's blades. Trudy (a citizen of Hudson), a guest at the party, is splattered with blood and bits of flesh from Guy's foot, and is terribly distraught. The mower finally comes to a stop when it collides into a wall. Lois is thrown from the mower, breaking her leg in the fall.

Under Hudson state law, a claim by an employee for injuries sustained in the course of employment as a result of a fellow employee's negligence is within the exclusive jurisdiction of the state Workers' Compensation Claims Board. The workers' compensation statute bars any claim by the employee against the employer or fellow employees for negligence, but does not bar claims against third parties who may be responsible (in whole or in part) for the employee's injuries. Claimants before the Board may recover actual damages to compensate for the cost of medical treatment for their injuries, but may not recover damages for emotional distress or punitive damages. Proceedings before the Board are relatively informal; there is no pre-hearing discovery process, and the Board may consider evidence that would not be admissible in court under the Hudson Rules of Evidence.

Guy brings a timely workers' compensation claim for the injury to his foot. Sterling Cooper

defends against the workers' compensation claim on two grounds:

- Guy negligently failed to move out of the way from the approaching mower.
- The accident was the fault of Elke, which designed and manufactured the mower without an adequate safety device to prevent operation by an unconscious driver, and failed to warn against operating the mower indoors or while intoxicated.

The Workers' Compensation Claims Board makes the following findings of fact & conclusions of law:

- Guy was injured while attending a work-related function at Sterling Cooper's office.
- The proximate cause of Guy's injury was the operation of a riding mower in the office by another Sterling Cooper employee, who was intoxicated.
- Guy could not have anticipated that Lois would drive the mower over his foot, and could not readily have moved out of the way in time to avoid the accident.
- While an injured employee's contributory negligence may provide an employer with a defense to a claim under the worker's compensation statute, Guy was not negligent in connection with the accident.
- The mower was not defective in its design or manufacture.
- The mower did not include any warning against operation indoors or while intoxicated.
- As a matter of law, neither the defective condition of the mower nor the absence of a warning against unsafe operation provides a defense against an employer's liability for on-the-job injuries to its employee under the workers' compensation statute.

Based on these findings, the Board granted Guy's claim. Sterling Cooper appeals the Board's decision to the Hudson Court of Appeals, which affirms the Board's ruling. Under Hudson law, when a decision by the Board has been affirmed on appeal, the Board's decision has the same preclusive effect as a court judgment.

Guy then files a lawsuit in Hudson federal court against Elke Corp., asserting that the design, manufacturing, and/or warning defects in the mower were responsible for his injury.

- a) May Elke rely on the decision of the Workers' Compensation Claims Board to preclude Guy from arguing that the mower was defective?
- b) May Guy rely on the decision of the Workers' Compensation Claims Board to preclude Elke from disputing that there was no warning against operating the mower indoors or while intoxicated?

Problem 2

Peggy (a citizen of the State of Hudson) is fired from her job at Sterling Cooper. Her boss, Don (a citizen of Hudson) told her the reason for her firing was poor performance, but Peggy believes the real reason was her refusal to have an affair with Don, who made repeated and unwelcome advances.

Peggy sues Sterling Cooper in Hudson state court, asserting a claim for wrongful discharge. Sterling Cooper moves to dismiss on the grounds that Hudson law does not recognize a claim for wrongful discharge, except where the plaintiff was employed under a contract requiring cause for termination. The court, finding that complaint did not allege

that Peggy had such an employment contract, granted the motion to dismiss with prejudice.

Peggy then brings another suit, this time in Hudson federal court, against both Sterling Cooper and Don, asserting claims for employment discrimination under Title VII (a federal statute). In her new complaint, Peggy alleges that she was fired because she rejected Don's unwanted sexual advances. In the federal suit, Peggy seeks damages for emotional distress, punitive damages, and attorney fees (as permitted under Title VII).

Each defendant files an answer denying all of the factual allegations in Peggy's complaint. Each defendant then moves for summary judgment, based on the state court judgment in Peggy's original suit. Neither Sterling Cooper nor Don offers any evidence concerning the merits of Peggy's discrimination claim.

How should the court rule on the two summary judgment motions?