

Case Name: Maria T. Aceves v. Catellus Development Corp. et al.

Date Decided: February 8th, 2011

Originally Filed in: California (state)

Decided by: California 2nd District Court of Appeals (State)

Court: Court of Appeal, Second District, Division 2, California

Judge: Judge Doi Todd, Judge Ashmann-Gerst

Citation: 2011 WL 387211

Background:

Plaintiff-appellant, Maria T. Aceves ("Aceves") brought suit under [FELA](#) and common-law negligence for [damages](#) for injuries she sustained from a slip-and-fall against defendant-appellees, Catellus Development Corp. ("Catellus") and National Railroad Passenger Corp., doing business as Amtrak ("Amtrak"). Aceves was employed by Amtrak in the [railroad industry](#) as a food and beverages clerk. When using an employee restroom, Aceves slipped on a puddle of water and sustained [neck and shoulder injuries](#) requiring surgery and physical therapy. Aceves alleged that her employer Amtrak, and their sub-contractor responsible for maintaining train facilities, Catellus, were negligent in providing a safe workplace under theories of FELA negligence and common-law negligence, respectively. Following trial, the jury rendered a verdict for Catellus, finding that it did not breach the applicable standard of care, and was not negligent. Aceves then dismissed her claims against Amtrak and the Trial Court later entered a judgment in their favor. On appeal, to support her contention that the Trial Court erred in finding Amtrak and Catellus were not negligent, Aceves alleges the following errors: (1) the Trial Court deprived her of an impartial jury; (2) the Trial Court exhibited judicial bias; (3) the Trial Court improperly excluded evidence; (4) the Trial Court did not properly instruct the jury, and; (5) the Trial Court improperly imposed discovery sanctions.

Issue:

(1) Did the Trial Court abuse its discretion in failing to give a curative instruction to a jury member exhibiting a bias? (2) Was the trial judge's admonishment of Aceves' counsel regarding submission of certain documents evidence of bias or prejudice? (3) Did the Trial Court's exclusion of various pieces of evidence deprive Aceves of a more favorable outcome? (4) Did the Trial Court give incomplete instructions to the jury regarding the appropriate standard of care under FELA? (5) Did the Trial Court inappropriately sanction Aceves' counsel for filing a motion for a protective order?

Overall Issues Discussed or Touched Upon in this Case:

- *Applicability of FELA at Issue*
- *Insufficient Evidence of Negligence*
- *Procedural Issues - State*

Held:

In affirming the Trial Court's ruling that Amtrak and Catellus were not negligent as a matter of law, the appellate court held the following in response to Aceves' assignments of error: (1) No, there was no abuse of discretion in failing to give the jury a curative instruction. Aceves argues that during voir dire, a jury member exhibited an unfair bias against her case because the juror expressed an aversion to holding an employer responsible for workplace injuries. Here, the Court rejected Aceves' argument reasoning that upon further questioning, the juror stated she would not make up her mind until hearing all the facts of the case. The Court noted that jury members are not required to be completely indifferent to the matter before them, and only when juror mental attitudes about law or policy are "crystallized" will there be grounds for disqualification. (2) No, the trial judge did not act impartially. Here, the Court summarily rejected Aceves' argument reasoning she did not object to the judge's actions at trial, and thus lost her right to challenge them on appeal. The Court further noted that had Aceves objected, her argument would still fail because the judge's actions were in response to counsel's persistence in submitting hearsay, and cumulative testimony that could have risen to the level of contempt. (3) No, the Trial Court used appropriate discretion in precluding certain testimony. Aveces first argues that testimony regarding the National Safety Council's standard's manual for accident prevention should have been admitted to show that Amtrak and Catellus were under a heightened standard of care. Industry standards are sometimes adopted by courts when the standards reflect a shift in industry practices such that a change in the law is required. Here, the standards manual emphasized the "immediacy" of responding to hazardous conditions, such as slippery surfaces, and the need to hold regular meetings to educate employees as to slip-and-fall prevention. However, the Court rejected Aceves' argument reasoning that industry standard's manuals, while helpful, do not have the force of law, and that the manual at issue did not describe any standard of care with enough specificity to submit to a jury. The Court held instead that Amtrak and Catellus were subject to the FELA standard of a "reasonably prudent person under like circumstances." Applied to this case, that standard would not indicate negligence on the part of the defendants where, as the facts show, the report of water on the bathroom floor was allegedly (hearsay testimony) made only 15 minutes prior to Aceves' fall. The Court rejected the remainder of Aceves' arguments regarding improper exclusion of testimony, reasoning that hearsay, inapplicability of the business records exemption, cumulative evidence, and the Trial Court's interest in an efficient trial all applied to support the Trial Court's preclusion of certain of Aveces' evidence. (4) No, there was no instructional error. Aveces argues that the Trial Court failed to give certain instructions regarding Amtrak's duty to oversee reasonable procedures used by its employees in performing work and to take reasonable precautions to ascertain the existence of dangerous conditions. Here, the Court rejected this argument reasoning Aveces' instructions were "repetitious," and only served to over-emphasize their theory of the case. The Court upheld the Trial Court's instructions reasoning they were an accurate statement of the law regarding maintenance of the workplace and the use of reasonable care and foreseeability to prevent

injuries. (5) No, the Trial Court properly sanctioned Aveces' counsel. During discovery, Aveces' counsel filed a motion for a protective order to control defendants' counsel during depositions. The Court upheld the Trial Court's imposition of a \$1,750 fine for filing a frivolous motion reasoning that defendant counsels' conduct, though at times "juvenile," did not require a protective order. For the above reasons, mainly those detailing the applicable standard of care, and evidence appropriate to establish the standard of care, the Appellate Court affirmed the Trial Court's rulings on the relevant issues, and affirmed the judgment finding Amtrak and Catellus were not negligent as a matter of law.

Comments:

Industry custom plays a role in courts of law, but will be deferred to only under special circumstances. In the famous case of *The TJ Hooper*, a tug boat company was held liable for damages that could have been avoided had it issued commonly used radios to its tug boat operators. Judge Learned Hand opined that the standard of care is a relative concept that changes with advances in technology and the law will recognize such advances where they are prevalent in industry.

However, courts are reluctant to hold parties to heightened standards of care simply because industry watchdogs, or even the parties themselves aspire to excellence.

The legal standard of care is "the reasonably prudent person under the circumstances" and until technological advances upend what the law considers reasonable conduct, parties may defer to the language of statute.