

Appellate Victory of Children's Products Manufacturer Shows the Importance of Understanding State Products Liability Laws

Insight

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By Michelle Corrigan

On July 5, 2016, the U.S. Court of Appeals for the Eighth Circuit affirmed a jury verdict in favor of Dorel Juvenile Group, Inc. (Dorel) in a case involving claims that a defective doorknob cover manufactured by Dorel caused a toddler's death. *James Coterel, et al. v. Dorel Juvenile Group, Inc.*, case number 15-2353, Eighth Circuit Court of Appeals. As set forth in the [Eighth Circuit's Opinion](#), the toddler tragically drowned in a pond in 2010 after he climbed out of his crib and exited his family's home through the front door in the middle of the night. Prior to the accident, his parents had placed a Dorel doorknob cover on the front door to keep the toddler from opening the door. A week or so before the accident, when the toddler started to get out of his crib on his own, the parents also installed a chain lock on the front door. On the night of the accident, the toddler's mother testified that she locked the tab lock on the front doorknob, but forgot to latch the new chain lock. A representative of the Missouri Department of Social Services assigned to the case following the accident indicated in her written investigation report that the toddler's father told her that the toddler learned how to defeat the doorknob cover prior to the accident, which prompted the parents to install the chain lock on the door.¹

The parents of the toddler (appellants) sued Dorel for wrongful death damages under the theories of strict products liability and negligence, pursuant to Missouri Revised Statute § 537.080. Dorel asserted several affirmative defenses, including the "sole cause" defense under Missouri law, which absolves the defendant of liability if the acts of someone other than the defendant were the sole cause of the accident. *Simpson v. Smith*, 771 S.W.2d 368, 373 (Mo. Ct. App. 1989). Prior to trial, through a motion in limine, Appellants argued that any reference to their own comparative fault in causing the accident should be excluded at trial. In support of their motion, Appellants relied upon *Teeter v. Missouri Highway & Transportation Commission*, 891 S.W.2d 817, 819 (Mo. 1995), in which the Missouri Supreme Court held that a defendant could not invoke comparative fault principles to reduce its liability "on account of the fault of one of several beneficiaries of a wrongful death action." In other words, in Missouri, a

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defendant in a wrongful death action cannot reduce its own liability by arguing that the plaintiff beneficiaries share some percentage of the fault for the injury. The trial court granted Appellant's motion.

A key issue at trial was whether Dorel could present evidence of 1) Appellants' failure to secure the chain lock on the front door, and 2) Appellants' prior knowledge of the toddler's ability to defeat the doorknob cover. Dorel argued that this evidence was relevant to its sole cause defense, and necessary for it to refute Appellants' strict liability and negligence claims against it. Appellants argued that this evidence would be prejudicial to them, and that their actions were at most contributing causes of the accident, not the sole cause. Over Appellants' objection, the trial court allowed the evidence to be introduced at trial.

Upon hearing all of the evidence at trial, the jury unanimously found in favor of Dorel. On appeal, the Appellants argued that the trial court erred in admitting evidence that they failed to secure the chain lock on the night of the accident, and that they knew before the accident that the toddler could defeat the Dorel doorknob cover. Appellants argued that these evidentiary errors tainted the jury's verdict, and the trial court abused its discretion by permitting it. The Eighth Circuit found that, even if the evidence at issue should not have been admitted, the Appellants failed to establish that the trial court's error "prejudicially influenced the outcome of the trial." *Regions Bank v. BMW N. Am., Inc.*, 406 F.3d 978, 980 (8th Cir. 2005). Specifically, the Eighth Circuit found: "[W]e cannot 'know' the jury used the challenged evidence for an improper and impermissibly compared fault in some way when deciding Dorel was not liable for [the toddler's] death. ... In finding Dorel was not at fault, the jury, based on the evidence adduced at trial, reasonably might have found, among other things, 'there was no defect or negligence' or that [A]ppellants failed to prove causation or some other element of their claims." As such, the Eighth Circuit refused to set aside the jury's verdict in favor of Dorel.

What is the burden of proof in a products liability case in your state?

The Eighth Circuit's opinion in the Coterel case provides a good example of the importance of knowing and understanding the burden of proof in a products liability case pending in any given state. As the Eighth Circuit noted in Coterel, Missouri law requires a plaintiff in a strict products liability case to prove that:

- a. The defendant sold a product in the course of its business.
- b. The product was then in a defective condition, unreasonably dangerous when put to a reasonably anticipated use.
- c. The product was used in a manner reasonably anticipated.
- d. The plaintiff was damaged as a direct result of such defective condition as it existed when the product was sold.

See, *Columbia Mut. Ins. Co. v. Epstein*, 239 S.W.3d 667, 671 (Mo. Ct. App. 2007); see also Mo. Rev. Stat. § 537.760. In Missouri, a plaintiff seeking to prove that a defendant was negligent must show that the defendant "had a duty to protect plaintiff from injury, the defendant failed to

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perform that duty, and the plaintiff's injury was proximately caused by the defendant's failure." *Jarrett v. Jones*, 258 S.W.3d 442, 448 (Mo. 2008).

As evaluated by the Eighth Circuit in *Cotere*, Missouri also has its own nuances regarding comparative fault. As stated above, a defendant in a wrongful death action cannot reduce its own liability by arguing that the wrongful death beneficiaries share some percentage of fault. However, in non-wrongful death cases, any fault chargeable to the plaintiff shall diminish proportionately the amount awarded to him as compensatory damages. In Missouri, "fault" is limited to:

- a. Failing to use the product as reasonable anticipated by the manufacturer
- b. Use of the product for a purpose not intended by the manufacturer
- c. Use of the product with knowledge of a danger, and the voluntary and unreasonable exposure to said danger
- d. Unreasonable failure to appreciate the danger involved in use of the product
- e. Failure to undertake precautions that a reasonably careful user would take to protect himself against the danger
- f. Failure to mitigate damages

See, Mo. Rev. Stat. § 537.765. Interestingly, the Missouri Supreme Court has held that the fault of a child should be determined based on the degree of care exercised by children of the same or similar age, judgment and experience. Only if the child is so young, or the evidence of incapacity so overwhelming that reasonable minds could not differ on the issue, will the Court determine that the child cannot be capable of fault. *Lester v. Sayles*, 850 S.W.2d 858 (Mo. 1993).

Impressions

While Missouri law on strict products liability, negligence and comparative fault may be similar to the laws of other states, you should expect that each state will have slight (or even drastic) differences in the laws governing these concepts. Children's products manufacturers should be aware of these laws in any state in which they manufacture or sell products. As was evident in the recent *Cotere* case in Missouri, substantive issues related to products liability (particularly as they relate to the introduction of evidence) may be the key element at trial and on subsequent appeals.

For more information on the *Cotere* decision and the relevant products liability law in Missouri, please contact [Michelle Corrigan](#) or the Stinson Leonard Street contact with whom you regularly work.

1. At trial, the father denied making this statement.

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