



TEXAS SUPREME COURT: DESIGN DEFECT CAN BE A QUESTION OF LAW

Under Texas law, a product is unreasonably dangerous when its risks outweigh its utility. Whether a design defect renders a product unreasonably dangerous is *ordinarily* a question for the jury—the jury is tasked with balancing the utility of a product against the risks involved in its use to determine whether the product is unreasonably dangerous. In its opinion last week in *Genie Industries, Inc. v. Matak*, the Texas Supreme Court found that in some circumstances, this becomes a question of law for the court. The Texas Supreme Court reversed a significant jury award in a wrongful death case against a manufacturer, and rendered judgment in favor of the manufacturer.

The jury in *Genie Industries Inc. v. Matak* concluded that an aerial lift manufactured by the defendant was unreasonably dangerous and therefore defectively designed. Conducting its own risk-utility analysis, the Texas Supreme Court's 6-3 majority held that the lift was *not* unreasonably dangerous, as a matter of law, and rendered judgment in favor of the manufacturer. A strong dissent by three members of the Court argued that this decision is a clear departure from the deference ordinarily given to a jury's role in assessing the risks and utility associated with a product, and constituted a substitution of the Court's judgment on this issue for the judgment of the jury.

Walter Pete Logan Matak, an electrician, died after falling from a fully extended 40-foot stationary aerial lift while attempting to complete some high-ceiling electrical work at a church in Beaumont, Texas. His family sued Genie Industries (the manufacturer of the lift), the electric company (his employer), and the church (the owner of the lift) claiming that Matak's fatal workplace injury was caused by a design defect in the lift. The church and the electric company eventually settled with the family, leaving Genie as the only defendant in the case.

At trial, Genie demonstrated that: (a) the lift was being intentionally misused; (b) there were adequate warnings concerning the specific misuse; and (c) the risk of injury from the misuse was open and obvious. Genie also established that the lift complied with controlling national and international safety standards. Matak's family maintained that the lift was defective because there were safer alternative designs, and, specifically, presented four possible safer alternative designs. The family claimed the lift was defective because it allowed for intentional, foreseeable misuse, and the proposed alternative designs would eliminate or minimize such misuse.

The jury agreed with the family, finding that the lift was defective, and awarded more than \$1.3 million in compensatory damages. The Corpus Christi Court of Appeals affirmed the jury's finding as to liability, finding sufficient evidence of at least one safer alternative design to support the jury verdict.

The court also found sufficient evidence to support the jury's risk-utility analysis in concluding that the lift was unreasonably dangerous.

Texas Supreme Court disagreed. The Court's majority reversed, and held that, as a matter of law, the lift was not unreasonably dangerous. In reaching its decision, the Court reviewed the evidence in the record supporting the jury's defect finding. The Court found, like the court of appeals, at least a scintilla of evidence supporting possible alternative designs for the lift. But, the Court ultimately concluded there was no evidence in the record indicating that the lift was unreasonably dangerous. The Court explained that the risk-utility balancing test is ordinarily for the jury *unless* the evidence allows only one reasonable conclusion. In this case, according to the Court, the evidence only allowed one reasonable conclusion: that the utility of the product outweighed any risks associated with its use.

This opinion reflects that the issue of whether a product is unreasonably dangerous may be in some circumstances summarily decided by a court as a matter of law. A defendant facing design defect liability claims could prevail on a motion for summary judgment where the evidence conclusively establishes that the utility of the product outweighs any risks associated with the product's use.

If you have questions about the information contained in this Client Alert, please contact the Thompson & Knight attorney with whom you regularly work or one of the attorneys listed below for more information.

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