



FEDERAL DISTRICT COURT REJECTS *NICASTRO* HOLDING

Laura Erb Dean • 212.908.1215 • ldean@cozen.com

In *Leja v. Schmidt Mfg., Inc.*, No. 01-5042 (DRD), 2010 U.S. Dist. LEXIS 110907 (D.N.J. Oct. 19, 2010), a federal district court in New Jersey declined to follow the decision of the New Jersey Supreme Court in *Nicastro v. McIntyre Mach. Am., Ltd.*, 201 N.J. 48, 987 A.2d 575 (2010), concluding that, to the extent that the *Nicastro* holding expanded personal jurisdiction beyond the bounds set by the United States Supreme Court, it had to be disregarded. 2010 U.S. Dist. LEXIS 110907, at *1. In *Nicastro*, decided earlier this year, the New Jersey Supreme Court held that “a foreign manufacturer that places a defective product in the stream of commerce through a distribution scheme that targets a national market, which includes New Jersey, may be subject to the in personam jurisdiction of a New Jersey court in a product-liability action.” *Nicastro* 201 N.J. at 73, 987 A.2d at 589.

In *Leja*, Kazimierz Leja and his wife Zofia Leja filed suit against Schmidt Manufacturing, Inc. (Schmidt) in the Superior Court of New Jersey almost a decade ago, on August 31, 2001. Plaintiffs alleged that Mr. Leja sustained severe personal injuries when he attempted to open a bulk sandblasting machine manufactured by Schmidt while it was still pressurized. As a result, the pressure stored inside the machine caused an explosion that propelled the lid of the camlock closure and several pieces of shrapnel upward into Mr. Leja's body. Plaintiffs claimed that the accident was caused by defects in the machine's design and Schmidt's failure to include proper warnings. Schmidt removed the action to federal court based on diversity of citizenship.

On July 13, 2004, Schmidt filed a third-party complaint against Sypris Technologies, Inc. (Sypris), a company incorporated in Delaware with its headquarters and manufacturing facility in Kentucky. Schmidt alleged that Sypris defectively designed the camlock closure which was a component part of the machine. Schmidt contended that if it was found liable to plaintiffs, then Sypris owed it indemnification and contribution.

Sypris moved to dismiss the third-party claims, arguing that New Jersey lacked personal jurisdiction over it. On June 7, 2005, the court granted Sypris' Motion to Dismiss. In the decision, the court found that it had neither specific or general personal jurisdiction over Sypris.

On June 20, 2005, Schmidt moved for reconsideration pursuant to *Federal Rule of Civil Procedure 60(b)* of the court's June 7, 2005 ruling. In support of its motion, Schmidt advanced three principal arguments, each of which related to general personal jurisdiction. The court denied Schmidt's motion on August 17, 2005.

Following the New Jersey Supreme Court's decision in *Nicastro*, Schmidt again moved for reconsideration pursuant to *Federal Rule of Civil Procedure 60(b)*, contending that the *Nicastro* decision contradicts the court's June 7, 2005 and the August 15, 2005 rulings. Schmidt relied on *Nicastro's* holding that

[T]he stream-of-commerce theory supports the exercise of jurisdiction if the manufacturer knew or reasonably should have known of the distribution system through which its products were being sold in the forum state Due process permits this State to provide a judicial forum for its citizens who are injured by dangerous and defective products placed in the stream of commerce by a foreign manufacturer that has targeted a geographical market that includes New Jersey.

Nicastro, 201 N.J. at 52-53, 987 A.2d at 577.

Schmidt also relied on portions of *Nicastro* providing that a manufacturer may not escape the jurisdiction of a state in which it knew or should have known that its products were being sold by routing those products through an independent distributor located outside the state. *Id.* at 76, 987 A.2d at 591. According to the New Jersey Supreme Court, “[i]f a manufacturer distributes its products through

a nationwide network, it will be presumed to know that its products are being sold in New Jersey and will be subject to that state's jurisdiction unless it 'take[s] some reasonable step to prevent the distribution of its products in th[at] State.'" *Leja*, U.S. Dist. LEXIS 110907, at *32 (citing *Nicastro*, 201 N.J. at 77, 987 A.2d at 592).

Judge Dickinson R. Debevoise denied Schmidt's renewed motion for reconsideration, citing three distinct and independent reasons for the denial. *Leja*, U.S. Dist. LEXIS 110907 at *35-*45.

First, Judge Debevoise concluded that Schmidt's motion was untimely. Second, Judge Debevoise held that Schmidt did not assert a proper basis for granting a request for reconsideration. Judge Debevoise noted that Schmidt conceded "that *Nicastro* does not purport to 'announce a new standard for application of the stream-of-commerce theory, but clarifies existing law.'" *Id.* at *39. He concluded that the motion was not based on an intervening change in controlling law and that "by its own admission Schmidt has not asserted a proper basis for reconsideration." *Id.*

Third, Judge Debevoise held that Schmidt's substantive arguments were inapposite, and explained that, "[t]o the extent that *Nicastro* conflicts with our federal precedents relating to the stream of commerce theory by expanding personal jurisdiction beyond the bounds set by the Supreme Court of the United States in its previous decisions, it would violate the *due process clause* and must be disregarded." *Id.* at *41.

Judge Debevoise characterized "the portions of *Nicastro* on which Schmidt relies [as imposing] specific personal jurisdiction under the stream of commerce theory on any manufacturer who distributes its products into a nationwide network on the grounds that it is foreseeable that those products will make their way to New Jersey." *Id.* *42. He did, however, determine that "[t]hat holding is at odds with the

decisions of the Supreme Court of the United States in *World-Wide Volkswagen* and *Asahi*." *Id.* at *42. He concluded "this case falls under the 'insufficient contacts' category identified by Justice Brennan in *Asahi*." *Leja*, U.S. Dist. LEXIS 110907, at *43.

In concluding that the court did not have personal jurisdiction over Sypris, Judge Debevoise reasoned that

[T]his case deals with a machine component custom-built by Sypris that was not sold to consumers in New Jersey, and found its way to that state only after a fortuitous series of events that included five changes in the company by which it was owned and/or operated. In light of the fact that Sypris custom-built the type of closure at issue in this case according to Schmidt's specifications and did not sell similar closures to other manufacturers, Sypris cannot be said to have introduced those closures "into the stream of commerce with the expectation that they w[ould] be purchased by consumers" in New Jersey.

Id. at *44-*45.

Accordingly, the court reaffirmed its earlier rulings that it lacked personal jurisdiction over Sypris and denied Schmidt's Motion for Reconsideration.

Notably, as discussed more fully in our last Alert, the United States Supreme Court granted certiorari in *Nicastro* and another product liability case, which are to be "argued in tandem," on September 28, 2010. See *J. McIntyre Machinery, Ltd. v. Nicastro*, No. 09-1343, 2010 U.S. LEXIS 5747, *1 (U.S. Sept. 28, 2010) and *Goodyear Luxembourg Tires, S.A. v. Brown*, No. 10-76, 2010 U.S. LEXIS 5750, *1 (U.S. Sept. 28, 2010). An argument date has not been set. We will see whether the United States Supreme Court upholds the *Nicastro* decision.