Fifth Circuit Court of Appeal
State of Louisiana

No. 25-CA-500

IVY CAVALIER AND ASHLEY RENE CARBO

versus

ST. JAMES PARISH, STAR PIPE PRODUCTS, LTD, STAR PIPE USA, LLC, PROVIDENCE ENGINEERING AND DESIGN, LLC, ACBI TRANSPORTATION SERVICES, LLC AND RICHARD BUHLER

ON APPEAL FROM THE TWENTY-THIRD JUDICIAL DISTRICT COURT
PARISH OF ST. JAMES, STATE OF LOUISIANA
NO. 39,152, DIVISION "E"
HONORABLE KEYOJUAN G. TURNER, JUDGE PRESIDING

March 25, 2026

MARC E. JOHNSON

JUDGE

Panel composed of Judges Marc E. Johnson,
Stephen J. Windhorst, and Timothy S. Marcel

REVERSED AND REMANDED

MEJ
SJW
TSM

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JOHNSON, J.

Plaintiffs/Appellants, Ivy Cavalier and Ashley Rene Carbo, appeal the 23rd Judicial District Court's May 28, 2025 judgment granting Defendant/Appellee's, Star Pipe Products, LTD, Motion for Summary Judgment. For the following reasons, we reverse the district court's judgment and remand the matter for further proceedings.

FACTS AND PROCEDURAL HISTORY

On January 25, 2018, Plaintiff, Ivy Cavalier, a pipefitter employed by RES Contractors, LLC, was working on a project to complete construction of intake pumps at a St. James Parish municipal water treatment plant. Part of the project involved connecting a horizontal 16-inch PVC pipe to a vertical ductile iron ("DI") pipe through a 90-degree elbow connection pipe. The pipe connections to the elbow pipe were secured at each end with a pipe joint restraint manufactured by Star Pipe Products, LTD ("Star Pipe Products"). As part of the hydrostatic pressure test of the installed piping, Mr. Cavalier monitored test gages. During testing, a connection between the elbow pipe and the 16-inch DI pipe failed, ejecting the DI pipe upwards from the elbow pipe. The force from the ejected pipe caused other piping nearby to shift upward then fall on Mr. Cavalier's foot; the injuries he sustained as a result led to a nineteen-day hospital stay and the partial amputation of one of his feet. During the post-incident investigation process, it was discovered that RES used PVC mechanical joint restraints on both ends of the elbow pipe instead of using a PVC joint restraint on one end and a flanged connection between the other end of the 16-inch flanged 90-degree elbow and the 16-inch DI vertical pipe.

Plaintiffs, Mr. Carbo and his spouse, Ashley Rene Carbo, filed suit against multiple defendants. Plaintiffs asserted claims of negligence, premises liability, negligent infliction of emotional distress against St. James, Parish, Providence

Engineering & Design, LLC, ACBL Transportation Services, LLC and Richard Buhler, Mr. Cavalier's supervisor, As to Star Pipe Products, Plaintiffs alleged its Stargrip 4000 PVC joint restraint was defective and unreasonably dangerous under the Louisiana Products Liability Act ("LPLA").

Star Pipe Products successfully moved for summary judgment on all Plaintiffs' LPLA claims against it. After a hearing in May 2025, the court found that Plaintiffs failed to meet their burden under the LPLA: Plaintiffs did not present competent summary judgment evidence demonstrating the series 4000 restraint was unreasonably dangerous at the time it left the factory, or that it was used in a reasonably anticipated manner. Further the district court found "the record established that Star Pipe Products provided adequate warnings and the failure resulted from improper installation [of a PVC joint restraint, instead of a DI joint restraint] and also third-party error." In the written judgment that followed, the district court dismissed all Plaintiffs' claims against Star Pipe Products. Plaintiffs then took this timely appeal.

ASSIGNMENTS OF ERROR

Appellants assign the trial court's judgment granting Star Pipe Products' Motion for Summary Judgment as error. Citing *McLin v. HI HO, Inc.,* 119 So.3d 830 (La. App. 1 Cir. 2013), they argue that the disputed issues in this case "require the determination of [the]reasonableness of acts and conduct of parties under all facts and circumstances of the case [which] cannot ordinarily be disposed of by summary judgment." Appellants urge that Star Pipe Products was unable to show an absence of factual support for any factual element of their causes of action under the LPLA. Appellants maintain that genuine issues of material fact exist regarding Star Pipe Products' failure to provide an adequate warning, and this is an issue of fact that only the factfinder should determine. Consequently, they argue

the issue is not suitable for determination via summary judgment and ask this Court to reverse the trial court's grant of summary judgment.

Star Pipe Products counters that its product was not unreasonably dangerous under the LPLA. It also avers: (1) the incorrect installation was not a reasonably anticipated use; and (2) Appellants did not provide any evidence in support of their failure to warn claim. Further, it maintains that typical users of its joint restraint products are sophisticated users. An installation tag on every series 4000 joint restraint advises it "is a 'PVC Stargrip' and '[f]or use on IPS PVC pipe'. The joint restraint is color-coded to indicate which pipe material it is rated for. Also, there are online instructions and warnings available, and the product's catalogue also includes "instructions, specifications, and warnings." Lastly, Star Pipe Products urges that RES incorrectly connected the PVC joint restraint to the DI pipe, and RES's failure to use the proper joint restraint for DI pipe caused the accident and Mr. Cavalier's injuries.

LAW AND DISCUSSION

An appellate court reviews a motion for summary judgment *de novo*, using the identical criteria that govern the trial court's consideration of whether summary judgment is appropriate, *i.e.* whether there is any genuine issue of material fact, and whether the movant is entitled to judgment as a matter of law. *Samaha v. Rau*, 07-1726 (La. 2/26/08), 977 So.2d 880, 883. "A fact is material if it potentially insures or precludes recovery, affects a litigant's ultimate success, or determines the outcome of the legal dispute." *Yokum v. 615 Bourbon St., L.L.C.*, 07-1785, p. 26 (La. 2/26/08), 977 So.2d 859, 877. "A genuine issue of material fact exists 'if reasonable persons could disagree. If on the state of the evidence, reasonable persons could reach only one conclusion, there is no need for a trial on that issue.'" *Walker v. Manitowoc Co., Inc.*, 16-897, p. 9 (La. App. 3 Cir. 10/10/18), 259 So.3d

465, 473 (citing *Smith v. Our Lady of the Lake Hosp., Inc.,* 93-2512, p. 27 (La. 7/5/94), 639 So.2d 730, 751).

A motion for summary judgment "shall be granted if the motion, memorandum, and supporting documents show that there is no genuine issue as to material fact and that the mover is entitled to judgment as a matter of law." La. C.C.P. art. 966(A)(3); *Hatzgionidis v. DG Louisiana, LLC*, 24-224, p. 4 (La. App. 5 Cir. 11/27/24), 410 So.3d 843, 847. "[I]f the mover will not bear the burden of proof at trial on the issue that is before the court on the motion for summary judgment, the mover's burden on the motion does not require him to negate all essential elements of the adverse part's claim, action, or defense, but rather to point out to the court the absence of factual support for one or more elements essential to the adverse party's claim, action, or defense." La. C.C.P. art. 966(D)(1). "The burden is on the adverse party to produce factual support sufficient to establish the existence of a genuine issue of material fact or that the mover is not entitled to judgment as a matter of law." *Hatzgionidis*, *supra*.

Even though summary judgment procedure is favored, it is not a substitute for trial and is rarely appropriate for judicial determination of subjective facts such as motive, intent, good faith or knowledge. *Boros v. Lobell*, 15-55, p. 6 (La. App. 5 Cir. 9/23/15), 176 So.3d 689, 693. Subjective facts call for credibility evaluations, and the weighing of testimony and summary judgment is inappropriate for such determinations. *Id.* In determining whether an issue is genuine for purposes of a summary judgment, courts cannot consider the merits, make credibility determinations, evaluate testimony or weigh evidence. *Id.*

To maintain a successful products liability action under the Louisiana Products Liability Act ("LPLA"), a plaintiff must establish four elements:

(1) the defendant is a manufacturer of the product;

(2) the claimant's damage was proximately caused by a characteristic of the product;

(3) this characteristic made the product "unreasonably dangerous;" and

(4) the claimant's damage arose from a reasonably anticipated use of the product by the claimant or someone else.

Jack v. Alberto-Culver USA, Inc., 06-1883 (La. 2/22/07), 949 So.2d 1256, 1258, *citing* La. R.S. 9:2800.54(A).

The manufacturer of a product shall be liable to a claimant for damage proximately caused by a characteristic of the product that renders the product unreasonably dangerous when such damage arose from a reasonably anticipated use of the product by the claimant or another person or entity. La. R.S. 9.2800.54(A). "Whether a particular warning or instruction is adequate is a question for the trier of fact." *Jack*, *supra* at 1259, *citing Bloxom v. Bloxom,* 512 So.2d 839, 844 (La. 1987), *superseded by statute on other grounds as stated in Payne v. Gardner*, 10-2627 (La. 2/18/11), 56 So. 3d 229, 231

Reasonable Use of the Joint Restraint and Sophisticated Users

> In *Payne v. Gardner*, [*supra*, the Supreme Court] explained the use of the term "reasonably anticipated use" in the LPLA was intended to narrow the prior law:
>
> **Notably, this definition is narrower in scope than its pre-LPLA counterpart, "normal use," which included "all reasonably foreseeable uses and misuses of the product**," *see Bloxom*[, *supra*,] (definition of "normal use"), but, like "normal use," what constitutes a reasonably anticipated use is ascertained from the point of view of the manufacturer at the time of manufacture.

Hardisty v. Walker, 25-239 (La. 6/3/25), 410 So.3d 774, 778. (Emphasis in original). Unlike its "normal use" counterpart, though, the use of the words "reasonably anticipated" effectively discourages the factfinder from using hindsight. *Id*.

"Reasonably anticipated use" also effectively conveys the important message that "the manufacturer is not responsible for accounting for every

conceivable foreseeable use" of its product. *Id.* at 779. (Emphasis in original). **Likewise, "knowledge of the potential and actual intentional abuse of its product does not create a question of fact on the question of reasonably anticipated use."** *Id.* (Emphasis in original). The manufacturer of a product who, after the product has left its control, acquires knowledge of a characteristic of the product that may cause damage and the danger of such characteristic, or who would have acquired such knowledge had it acted as a reasonably prudent manufacturer, is liable for damage caused by the manufacturer's subsequent failure to use reasonable care to provide an adequate warning of such characteristic and its danger to users and handlers of the product. La. R.S. 9.2800.57(A).

Upon review, we disagree with the trial court's finding that there was no genuine issue of material regarding whether RES's use of the product was a reasonably anticipated use. The Court believes that it is impossible to make that determination in this case without weighing the evidence. Here, the joint restraint was used to attach a straight pipe section to an elbow; a use for which it is designed. Although RES incorrectly attached the elbow to the DI pipe section with a PVC joint restraint, there is no evidence that the RES employee intentionally installed the wrong joint restraint. *But see Dunne v. Wal-Mart Stores, Inc.*, 95-2047, p. 6 (La. App. 1 Cir. 9/10/96), 679 So.2d 1034, 1037 (finding trial court committed manifest error when it found that the use of a stationary bicycle (designed for use by individuals weighing up to 250 lbs.) by a plaintiff who weighed 450-500 lbs. was not a "reasonably anticipated use"). There is also no evidence presented that the PVC joint restraint was modified in some way to affix it to the DI pipe. *But see Blanchard v. Midland Risk Ins.*, 01-1251, p. 4 (La. App. 3 Cir. 5/8/02), 817 So.2d 458, 461, *writ denied,* 02-1517 (La. 9/20/02), 825 So.2d 1178, and *writ denied,* 02-1594 (La. 9/20/02), 825 So.2d 1181 (affirming trial court's decision that plaintiff's son's death was not caused by a reasonably

anticipated use of manufacturers' product: a milk delivery van equipped with only one seat for the driver modified by the buyer to allow the attachment of a harness for use by a second standing passenger).

Further, we find that there is enough evidence to find there is at least one genuine issue of material fact regarding whether the use of the PVC joint restraint was reasonable in this case. Both Star Pipe Products and the Plaintiffs' experts found a root cause of the accident was the fact that a Star Pipe 4000 PVC joint restraint was used to affix the elbow pipe to a DI pipe section. In addition to both sides' technical experts' reports, the manufacturer's corporate representative discussed color coding the valves to signify their use with a particular pipe material. The evidence shows manufacturers industry-wide have considered the possibility of connecting pipe using an incompatible joint restraint and have taken precautions (the color-coding system), besides online instruction manuals and product tags, to prevent such an occurrence. Thus, we find whether RES's use of the PVC joint restraint with the DI pipe was reasonably anticipated is not an issue ripe to resolve via summary judgment.

Similarly, we find that genuine issues of material fact remain as to whether RES was a sophisticated user of the PVC joint restraint. "A sophisticated user is defined as one who is "familiar with the product," or as one who "possesses more than a general knowledge of the product and how it is used." *Roux v. Toyota Material Handling, U.S.A., Inc.*, 19-75 (La. App. 5 Cir. 10/23/19), 283 So.3d 1068, 1074, *writ denied,* 19-2052 (La. 5/1/20), 295 So.3d 942, and *writ denied,* 20-30 (La. 5/1/20), 295 So.3d 953. (Citations omitted). As a result of their familiarity with a product, sophisticated users are presumed to know the dangers presented by the product; hence, there is no duty to warn them. *Id.*

Providence's Resident Project Representative (RPR) David Jenks testified via affidavit that he was not present at installation, or testing, and he only learned

of the color-coding system to differentiate PVC- from DI-compatible equipment after the subject incident. Mr. Cavalier's employer RES was responsible for job safety and executing the project per Providence's plans and specifications; here, RES deviated from the plans provided and substituted one part for another which turned out not to be a safe equivalent. Although Providence argued in its re-urged motion for summary judgment that it was not obligated to maintain a constant presence or observe the entire installation process, we feel that it is significant that the engineering design firm's employee, the RPR, onsite to provide some oversight, did not realize the PVC and DI joint restraints were color-coded until after the pipe section was repaired after the incident. Therefore, we find that genuine issues of material fact also remain as to whether RES was a sophisticated user as contemplated by the LPLA, thereby absolving Star Pipe Products of its duty to warn, and defeating Mr. Cavalier's claim under the statute.

Certainly Providence, the engineering firm who designed the system and specified the equipment to be used for the project, knows that PVC and DI pipe sections require different joint restraints. However, the district court did not make a specific finding that RES was a sophisticated user. Did the RES pipefitters know that the Stargrip 4000 PVC restraint was for use with pipe made of "PVC only"? We question whether the evidence presented to show the improper supervision of the installation project, or prove Providence or RES's status as sophisticated users, prohibits a finding that Star Pipe Products failed to adequately warn the actual laborers not to secure a DI pipe to the elbow with a PVC joint restraint. Accordingly, we find that deciding whether the RES employees who installed the pipe section were sophisticated users who knew or should have known about the Star Pipe Products color-coding system, and how to correctly install the pipe section with the proper joint restraint, is a fact-intensive inquiry. Thus,

determination of the knowledge of the parties in this matter is not appropriately settled by summary judgment. *See Boros*, 176 So.3d at 693.

The Failure to Warn

Further, a product may be "unreasonably dangerous" because an adequate warning about the product has not been provided if, at the time the product left its manufacturer's control, the product possessed a characteristic that may cause damage and the manufacturer failed to use reasonable care to provide an adequate warning of such characteristic and its danger to users **and handlers** of the product. La. R.S. 9.2800.57(A). (Emphasis added). The LPLA defines "adequate warning" as "a warning or instruction that would lead an ordinary reasonable user or handler of a product to contemplate the danger in using or handling the product and either decline to use or handle the product or, if possible, to use or handle the product in such a manner as to avoid the damage for which the claim is made." La. R.S. 9:2800.53(9); *Weiss v. Mazda Motor Corp.*, 10-608, p. 9 (La. App. 5 Cir. 11/23/10), 54 So.3d 724, 729, *writ denied,* 10-2835 (La. 2/11/11), 56 So.3d 1006.

Whether a particular warning was "adequate" depends on all relevant considerations including the severity of the danger, the likelihood of successful communication of the warning to foreseeable consumers, the intensity and form of the warning, and the cost of improving the strength or mode of the warning. *Bloxom*, 512 So.2d at 841. "Once a plaintiff proves that the lack of an adequate warning or instruction rendered the product unreasonably dangerous, his cause in fact burden is assisted by a presumption: when a manufacturer fails to give adequate warnings or instructions, a presumption arises that the user would have read and heeded such admonitions." *Id.* at 850. The presumption may, however, be rebutted if the manufacturer produces contrary evidence which persuades the trier of fact that an adequate warning or instruction would have been futile under the circumstances. *Id.*

"A sophisticated user is defined as one who is "familiar with the product," or as one who "possesses more than a general knowledge of the product and how it is used." *Roux*, 283 So.3d at 1074. (Citations omitted). As a result of their familiarity with a product, sophisticated users are presumed to know the dangers presented by the product; hence, there is no duty to warn them. *Id.*

"As commentators have noted, the "warning" under the LPLA must both alert and instruct in that "the warning must both lead the ordinary user or handler to contemplate the danger in using the product (the warning component) and to either use it safely (the instruction component) or decline to use it." *Jack*, 949 So.2d at 1259, n.2, *citing* Frank L. Maraist and Thomas C. Galligan, Jr., *Louisiana Tort Law,* 2004 Edition, § 15.11, p. 15–31.

"Under the LPLA, a manufacturer is liable only for those uses it should reasonably expect of an ordinary consumer." *Butz v. Lynch*, 99-1070, p. 7 (La. App. 1 Cir. 6/23/00), 762 So.2d 1214, 1218, *writ denied*, 00-2660 (La. 11/17/00), 774 So.2d 980; *Walker*, 259 So.3d at 474. "[Under the LPLA,] a product is not unreasonably dangerous because no warning is given against uses which are not reasonably anticipated." *Kelley v. Hanover Ins. Co.*, 98-506, p. 7 (La. App. 5 Cir. 11/25/98), 722 So.2d 1133, 1137, *writ denied,* 98-3168 (La. 2/12/99), 738 So.2d 576. "There is no legal duty to warn against all dangers which might exist for all conceivable uses which might be made of a product, but only a duty to warn against dangers which exist for reasonably anticipated uses." *Id.*, *citing Delphen v. Department of Transportation and Development,* 94–1261 (La. App. 4 Cir. 5/24/95), 657 So.2d 328.

We disagree with the trial court's determination Plaintiffs did not present competent summary judgment evidence and there were no genuine issues of material fact whether the Series 4000 restraint was unreasonably dangerous due to Star Pipe Products' failure to warn about the dangerousness of the joint restraint.

Plaintiffs' expert opined in his affidavit/report that the warnings on the joint restraint as it left the factory were insufficient; the defense's expert found that the warnings were, in fact, adequate.

Star Pipe Products' corporate representative testified via deposition that every joint restraint that leaves the factory has a warning tag affixed to the restraint; on the other hand, two RES employees testified that they did not see the warning tag as the joint restraints were being installed. This controverted testimony must be weighed by the factfinder at trial. Further, Plaintiffs' expert opined that: Star Pipe Products did not correctly assess the risk of using the PVC joint restraint with DI pipe; the color-coding schematic (red for PVC and black for DI) was not consistent across the industry (and there are also restraint clamps designed for use with both materials); and the product safety signs and labels "shall be placed where they will: (1) be readily visible to the intended viewer, and (2) alert the viewer to the hazard in time to take appropriate action." Plaintiffs' expert stated, "the viewer" is the person installing the 16-inch STARGRIP 4000 (PVC) and insufficient markings on the restraint itself "significantly contributed to the water transmission pipe joint failure and resulting injury."

"Whether a particular warning or instruction is adequate is a question for the trier of fact." *Jack*, 949 So.2d at 1259. Several factors come into play in determining the adequacy of the warning, namely: (1) "the severity of the danger," (2) the likelihood of successful communication of the warning to foreseeable consumers, (3) "the intensity and form of the warning," and (4) "the cost of improving the strength or mode of the warning." *Walker*, 259 So.3d at 477. Again, we find this fact-intensive inquiry is both case-specific and industry-specific as the duty itself is one of "a reasonably prudent manufacturer." *Id*., *citing* La. R.S. 9:5800.57(C). Therefore, we find that this issue cannot be determined at this stage of the proceedings via summary judgment. *See Walker*, *supra*

(observing that the trial court justified granting summary judgment by relying on a cited case where "the factfinder reached its conclusion as to the insufficiency of the warning after a six-day bench trial on the merits.")

DECREE

Considering the foregoing, we reverse the district court's judgment granting summary judgment in favor of Star Pipe Products. The matter is remanded for further proceedings.

REVERSED AND REMANDED

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NOTICE OF JUDGMENT AND CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE OPINION IN THE BELOW-NUMBERED MATTER HAS BEEN DELIVERED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 2-16.4 AND 2-16.5** THIS DAY **MARCH 25, 2026** TO THE TRIAL JUDGE, CLERK OF COURT, COUNSEL OF RECORD AND ALL PARTIES NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

Curtis B. Pursell

CURTIS B. PURSELL
CLERK OF COURT

25-CA-500

E-NOTIFIED

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