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1. Did the court err in seating Juror #5

California Superior Court - Personal Jurisdiction

The California Superior Courts power to hear a matter over persons, must satisfy due process or long arm statute.

Here, Palma is suing Motor in California Superior Court, who allegedly manufactured a defective seat. Therefore, Palma, must satisfy due process procedure, or if possible, the court can issue personal jurisdiction via their long arm statute.

Long Arm Statute

California's long arm statute allows for service of process on persons *while present* in the state of California.

Here, Palma properly filed, and served a complaint in California Superior Court against Motor. Since the matter went to trial, it can be assumed that personal jurisdiction was exercised properly.

Traditional Basis - Due Process

Due process requires that the defendant have domicile within the state of California, or the defendant has minimum contacts with California.

Motor is a car manufacturer. It is not clear where Motor's *principal place of business is located, or headquartered* which would determine domicile. Since the matter went to trial, it may be presumed that the California Superior Court has properly exercised person jurisdiction under either the long arm statute, or possibly minimum contacts, meaning Motor has *purposefully availed* itself to the protection of the state.

Service of Process

In California, the requirement is that the defendant be served with the complaint and summons to appear in court. This may be done by certified mail, with a return prepaid consent waiver, or the regular mail. Since the matter went to trial, it can be that Palma served Motor properly with complaint and summons.

Court Power to Excuse Jurors

The court may on their own accord excuse jurors prior to *voire dire* if the juror states they are impartial, and could not participate fairly. However, the court still has the power to excuse jurors if there is credible proof that the juror may prejudice the litigation process.

Here, Juror #5 stated that she could be fair and impartial, meaning Juror #5 believed they could participate fairly. However, Juror #5 was a longtime employee of Motor, and received 2% of her financial income based on the 50 shares she owned. The court could have exercised their power to excuse Juror #5 because there was credible proof that Juror#5 had stake in the

outcome of the case. Since P suffered serious injuries, from a product defect, it is possible a class action may result from the case, and thus affect the value of Juror #5's shares in the company. Though Juror #5 may reasonably believed she could be fair and impartial, the court has a responsibility to ensure fairness in trial.

Therefore, the court erred in allowing juror #5.

Voir Dire

Voire dire is the process of "jury selection," where the parties may dismiss jurors for strategic reasons. The parties typically receive a number of jurors that they can dismiss without intervention from the court.

When Juror #5 revealed that she worked as a Motor engineer before retiring, Palma challenged the seating for cause. Unless Palma had already used up all of her challenges, this would have been proper, as parties may dismiss jurors during jury selection for strategic purposes. Additionally, Palm received 2% of her total financial assets from the 50 shares of stock she still owned in Motor.

The court denied the challenge, which the court typically can only do if the parties are excusing jurors for reasons such as race or gender, and there is a pattern of this. Because there was no pattern to Palma's attempt to remove Juror #5, the court acted improperly in denying P.

Therefore, it appears the court erred.

2. Did the court correctly deny Palma's motion for directed verdict?

Directed Verdict

A directed verdict in California comes at the close of evidence of a party, having presented their case in chief. The motioning party asks the court to take the decision away from the jury and make a determination whether *no reasonable jury* could find for the non moving party, due to a *lack of sufficiency of evidence*. In California, the directed verdict is similar to a motion for judgment as matter of law in federal court.

Here, Motor presented evidence that the seat was not defective. Palma then submitted evidence that at the time of the accident, a bookshelf was in the backseat, which contradicted Motor's defense that the serious injuries were caused by excessive reclining. At the close of evidence, Palma moved to have the court determine whether *no reasonable jury* could find that Motor's seat was in fact defective because Palma had rebutted the defense that the accident was caused by excessive reclining.

Sufficiency of Evidence

The issue of whether the seat was defective, was rebutted only by the theory that Paula was excessively reclining which was the actual cause of her injuries. P argued that misusing a product is not a defense to defective design when the misuse was foreseeable. If this jury instruction is the right one, the court could conclude that a reasonable jury could not find that based upon the placing of the bookshelf to prevent excessive reclining.

Therefore, it doesn't appear the court err'ed in not directing the verdict in favor of P.

3. How should the court rule on Palma's motion for a new trial?

Post Judgment Notwithstanding the Verdict

A party in California may motion to the court with a motion for a new trial, a post judgment notwithstanding the verdict. Unlike the Federal Rules, California does not require the moving party to have moved for a directed verdict during trial. This must be motioned for within 28 days.

Typically when a party is motioning for a new trial, based on sufficiency of the evidence, they will also motion for a post judgment notwithstanding the verdict. Since, P has already filed for a directed verdict on this issue, it would make sense for P to also file a post judgement notwithstanding the verdict.

Motion for New Trial

A party may motion for a new trial based on grounds of newly discovered evidence that would lead a reasonable jury to determine the case was wrongly decided. The motion must be filed within 28 days.

Here, one week after receiving "the reports" Palm filed a motion for a new trial. This was 21 days after the verdict, so within time frame. The reports support P's claim that the severe injuries were likely regardless of the seat angle. However, since the matter has already been decided, the court must determine whether there is a res judicata or collateral estoppel issue, to prevent re-litigation of matters already decided between parties.

Discovery of New Evidence

Newly discovered evidence may be used if the evidence was not discoverable at trial, or was wrongfully withheld from discovery.

Here, P received anonymous reports of Motor safety tests conducted three years earlier, showing serious injuries regardless of the angle of the seats. Since P theory was that the seats were defective, and the defect was the cause of P's injuries, not the overall safety of the vehicle, this evidence seems to be a new claim, which should have been litigated initially.

Therefore, the court must determine whether the newly discovered evidence is admissible under new claim.

Plain Error

Where the court or jury makes a determination in plain error, effecting the substantial rights of a party, the matter may be appealable.

The court is considering the motion for a new trial. Based on the fact that Paula is asserting newly discovered evidence under a negligence claim, it does not seem that the court made plain error, meaning the matter is not appealable.

Therefore, the matter was not in plain error.

Discovery - Privilege - Work Product

Evidence of a parties privileged communications internally are only discoverable if they are *relevant* and there is a *substantial need* for the information. Generally any evidence is discoverable if it leads to admissible evidence.

The anonymous reports were given to P after trial. The information seems to be privileged internal communications of M. Prior to trial, P may have motioned for accident reports, if they could prove to the court there was a *substantial need* for the evidence.

Therefore, since P may have acquired the reports anonymously, the court will have to determine whether to consider the otherwise privileged work product information.

Res Judicata

Res judicata prevents the same parties from re-litigating the same matter that has already reached a final judgment on the merits.

Motor and Paula litigated a product defect lawsuit, which Paula claimed serious injuries. Now, Paula is motioning for a new trial, involving the same parties, and the same matter. In California the courts determine the same matter based on **primary rights theory**. Since P and M had their day in court, and *there is nothing left to do but execute the judgment*, the issue is whether a new trial on new evidence is the same matter.

Primary Rights

Primary rights means the party is litigating for the same damages, or type of injury.

P is arguing for serious injuries in her new motion. This would be considered the same matter, under the California primary rights requirement.

Therefore, Paula could not re-litigate under res judicata.

Question #4 Final Word Count = 1538

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