

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JUANITA L. KAVANAUGH,	:
and GERALD KAVANAUGH, JR.,	:
	:
Plaintiffs,	:
	:
v.	: Civil Action No. 98-556-JJF
	:
KEIPER RECARO SEATING, INC.,	:
et al.,	:
	:
Defendants.	:

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Attorney for Defendants Keiper Recaro Seating, Inc., Keiper
Enterprises, Inc. and Recaro North America, Inc.

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Attorney for Defendants Gillig Corporation and Herrick-Pacific
Corporation.

MEMORANDUM OPINION

March 30, 2001
Wilmington, Delaware.

FARNAN, District Judge

Presently before the Court is a Motion for Summary Judgment (D.I. 124) filed by Defendants Gillig Corporation and Herrick-Pacific Corporation (collectively "Gillig"). For the reasons stated below, the Court will grant Defendants' Motion for Summary Judgment (D.I. 124).

BACKGROUND

At the time of the alleged incident, Plaintiff Juanita Kavanagh was a bus driver for Delaware Area Rapid Transit ("DART"). In the Complaint (D.I. 1), Plaintiff alleges that she was injured while operating a DART bus on September 19, 1996. The DART bus driven by Plaintiff was manufactured by Gillig, and contained a bus driver seat manufactured by Defendant Recaro North America, Inc. ("Recaro"). Gillig did not design, specify or manufacture the Recaro seat.

The Recaro seat was installed in the Gillig bus upon specification by Plaintiff's employer, DART. DART purchased the buses pursuant to specifications written by DART's outside consultant. (D.I. 64, Exh. B, at 62-63). As part of this process, DART inspected drivers' seats manufactured by two different companies, USSC and Recaro. Id. at 64. After this testing and selection of the seats, DART then put out specifications for buses to be supplied with the Recaro seats that DART had selected. Id. at 64-65. Bus manufacturers bid

to supply the buses as specified by DART. Gillig provided the lowest bid to supply the bus per specifications, including the specified Recaro seats, and was awarded the contract. Id. at 62-63.

STANDARD OF REVIEW

Rule 56(c) of the Federal Rules of Civil Procedure provides that summary judgment may be granted if the Court determines "that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed.R.Civ.P. 56(c). In making this determination, "courts are to resolve any doubts as to the existence of genuine issues of fact against the moving parties." Hollinger v. Wagner Mining Equipment Co., 667 F.2d 402, 405 (3d Cir. 1981) (citations omitted). Furthermore, any reasonable inferences drawn from the underlying facts must be viewed in the light most favorable to the non-moving party. Spain v. Gallegos, 26 F.3d 439, 446 (3d Cir. 1994) (citing Petruzzi's IGA Supermarkets, Inc. v. Darling-Delaware Co., 998 F.2d 1224, 1230 (3d Cir. 1993)).

DISCUSSION

Defendant Gillig has moved for summary judgment on all counts of Plaintiffs' Complaint (D.I. 1) asserting that Gillig is not liable for the inclusion of a component part in a finished product when the component part was not designed,

manufactured or specified by Gillig. Plaintiffs contend that Gillig, as manufacturer of the bus in which the Plaintiff was injured, owed a duty to Plaintiff for any defects in the bus, including its component parts.

The manufacturer of a product, built in accordance with plans and specifications of an employer, will not be liable for injury caused by a defect in specifications. Castaldo v. Pittsburgh-Des Moines Steel Co., 376 A.2d 88, 90 (Del. 1977). The manufacturer is not liable when the product has been manufactured in accordance with the plans and specifications of the purchaser, except where such plans "are so obviously dangerous that no reasonable person would follow them." Id.; Restatement (Second) of Torts § 404 comment (a).

By the same rationale, Gillig cannot be held liable for its inclusion of a driver's bus seat specified by Plaintiff's employer, a seat which Gillig did not design, specify or manufacture. Plaintiffs have offered no evidence of a defect in the Gillig bus itself, only the Recaro seat.

Plaintiffs argue that Restatement (Second) of Torts, §§ 395 and 402 defeat Gillig's arguments. The Restatement sections referenced by Plaintiffs refer to the care necessary when the manufacturer selects component parts for inclusion in the manufacturing process. Castaldo, however, deals with wholly different situation where the plaintiff's employer

specifies the use of a particular component. In that situation, the manufacturer has no liability except where the specification is so obviously dangerous that it should not reasonably be followed. Castaldo, 376 A.2d at 90. Upon reviewing the record, the Court concludes that Gillig's Motion for Summary Judgment should be granted.

CONCLUSION

For the reasons discussed, Defendants' Motion For Summary Judgment (D.I. 124) will be granted.

An appropriate Order will be entered.