UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 91-3723

CRYSTAL KILLEBREW, Individually and as Personal Representative of Decedent John Killebrew, and as Representative of the Minors, Jessica Killebrew and Kelly Killebrew,

Plaintiffs-Appellants Cross-Appellees,

versus

DARROW FLEETING & SWITCHING, INC.,

Intervenor/Plaintiff-Appellant,

versus

FERRUZZI U.S.A., INC., ET AL.,

Defendants/Third Party Plaintiffs-Appellants/ Cross-Appellees,

versus

W.W. PATTERSON & COMPANY, INC.,

Third Party Defendant-Appellee/Cross-Appellant.

Appeal from the United States District Court
For the Eastern District of Louisiana
(88 CV 5369 M)

(November 27, 1992)

Before POLITZ, Chief Judge, WISDOM and WIENER, Circuit Judges.

PER CURIAM:*

All parties to this action appeal the district court's judgment entered after a bench trial. Crystal Killebrew, Darrow Fleeting & Switching, Inc., and Ferruzzi U.S.A., Inc. challenge the district court's judgment against them on their products liability claims. W.W. Patterson & Co., Inc. and Alliance Insurance Group, Ltd. challenge the district court's order requiring all parties to bear their own costs. We vacate the judgment of the district court and remand.

Background

This case arose from an accident on the Mississippi River in the early morning hours of December 1, 1988, which resulted in the death of John Killebrew, a longshoreman in the employ of Darrow. The accident occurred when, in the course of linking a string of ten loaded barges to an existing tow of 14 empty barges, a ratchet manufactured by Patterson broke. A piece of the ratchet allegedly struck Killebrew's head, inflicting an injury which caused his death.

Crystal Killebrew, John Killebrew's widow, filed the instant lawsuit, naming Patterson, Ferruzzi, Darrow and AIG as defendants. Before trial, Crystal, Darrow and Ferruzzi entered into a "Mary Carter" agreement under which they settled all claims among them,

---

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

while Ferruzzi and Darrow continued to seek recovery from Patterson and AIG. The district court conducted a two-day bench trial on the products liability claims against Patterson and AIG, entered judgment for Patterson and AIG, and ordered that each party bear its own costs. All parties timely appealed.

Analysis

As the Supreme Court has long and consistently admonished, "appellate courts must constantly have in mind that their function is not to decide factual issues *de novo*."[1] Rather, in our proper role, we must review district court fact findings against the clearly erroneous standard.[2] We repeatedly have noted that it is the district court fact findings required by Fed.R.Civ.P. 52(a)[3] after a bench trial which make that deferential review possible.[4] Rule 52(a) does not require the district court to address in minute detail the evidence adduced at trial.[5] Rather, Rule 52(a) requires

---

[1] **Zenith Radio Corp. v. Hazeltine Research, Inc.**, 395 U.S. 100, 123 (1969); see also, e.g., **Icicle Seafoods, Inc. v. Worthington**, 475 U.S. 709 (1986) (quoting **Anderson v. Bessemer City**, 470 U.S. 564 (1985)).

[2] Fed.R.Civ.P. 52(a).

[3] Rule 52(a) requires the district court to "find the facts specially and state separately its conclusions of law thereon."

[4] E.g., **Lopez v. Current Director of Texas Economic Dev. Comm'n**, 807 F.2d 430, 433 (5th Cir. 1987) (citing **Ratliff v. Governor's Highway Safety Program**, 791 F.2d 394, 400 (5th Cir. 1986)).

[5] See **Curtis v. Commissioner**, 623 F.2d 1047, 1051 (5th Cir. 1980) ("Courts need not indulge in exegetics, or parse or declaim

fact findings which "afford the reviewing court a clear understanding of the factual basis for the trial court's decision."[6] Here, the district court made extremely limited findings of fact[7] in support of its conclusion that "plaintiff [had] not proven a manufacturing or design defect in the . . . ratchet was a proximate cause of the accident." In light of the conflicting evidence and factual complexity in this case, these scant findings do not give us the understanding of the district court's decision which proper appellate review requires. We must therefore VACATE the district court's judgment and REMAND for

---

every fact and each nuance and hypothesis." (quoting **Gulf King Shrimp Co. v. Wirtz**, 407 F.2d 508, 516 (5th Cir. 1969)); **Armstrong v. Collier**, 536 F.2d 72, 77 (5th Cir. 1976).

[6] See **Interfirst Bank of Abilene, N.A. v. Lull Mfg.**, 778 F.2d 228, 234 (5th Cir. 1985); compare **Lopez**, 807 F.2d at 433 ("conclusionary [fact] finding frustrates our appellate review."); **Armstrong**, 536 F.2d at 77 (remand for factfinding unnecessary where record affords appellate court clear understanding of issues).

[7] The trial judge found as fact that: (1) John Killebrew was employed by Darrow on December 1, 1988; (2) on December 1, 1988, Killebrew and several co-employees engaged in an operation attempting to connect ten loaded barges to a tow of fourteen empty barges which the M/V MR. JOEY was transporting; (3) Darrow Fleetmate Charles Nelson connected a chain strap to one of the barges, connected one end of a ratchet to the chain strap and the other end of the ratchet to a wire, and instructed Killebrew to connect the far end of the wire to one of the empty barges in the tow of the Mr. Joey; (4) during the connecting process, the ratchet fractured and flew apart, one portion striking John Killebrew and inflicting a fatal injury; (5) Patterson manufactured the ratchet used in that incident; and (6) Patterson had minimum contacts with Louisiana such as to bring it within the court's personal jurisdiction.

additional consideration consistent herewith.[8]

[8] Because we vacate the district court's judgment on the merits, its order as to costs under Fed. R. Civ. P. 54(d) is also vacated. See **Furman v. Cirrito**, 782 F.2d 353 (2d Cir. 1986) (dictum); 10 Charles A. Wright et al., Federal Practice and Procedure § 2668, at 213-14 (2d ed. 1983). As the district court failed to state reasons for its order under Rule 54(d), we direct its attention, when revisiting the costs issue on remand, to our opinion in **Schwarz v. Folloder**, 767 F.2d 125 (5th Cir. 1985). In **Schwarz**, we held that, as a consequence of the "strong presumption" created by Rule 54(d) favoring award of costs to the prevailing party, a court declining to award costs to the prevailing party must state its reasons for so ruling. See, e.g., **id**. at 131-32 (citations omitted); compare **Sheets v. Yamaha Motors Corp., U.S.A.**, 891 F.2d 533 (5th Cir. 1990) (district court order taxing costs against prevailing party without stating reasons not vacated where district court clearly indicated grounds for order on record).