

STATE OF MICHIGAN
COURT OF APPEALS

LESLIE EMANUELE,

Plaintiff-Appellant,

v

UNPUBLISHED

July 9, 1996

No. 182452

LC No. 93-302253 NO

NATIONAL GARAGES INCORPORATED and
FEDERAL APD INCORPORATED,

Defendants-Appellees.

Before: Gibbs, P.J., and Saad and J. P. Adair,* JJ.

PER CURIAM.

Plaintiff appeals as of right from a January 4, 1995 order granting summary disposition to both defendants in this product and premises liability case. We affirm.

As plaintiff was entering a parking garage at Detroit City Airport, she crossed in front of a car waiting to enter the garage and was struck by a descending parking gate arm. Defendant Federal APD manufactured the parking gate arm and the motor which raised and lowered the parking gate arm used in this system. However, the motor unit was integrated into an operating system manufactured and designed by another company, Traffic Safety and Control Systems (TSCS).

Plaintiff sued Federal APD under a failure to warn and defective design theory. Summary disposition was appropriate on both grounds.

Federal APD, as a component manufacturer, was not responsible for or involved with the design of other portions of the equipment, such as the triggering mechanisms or the bells, lights, and other warning signals. Therefore, it had no duty to warn plaintiff of the dangers posed by the completed system.

Although the trial court did not provide an explicit justification for its decision to grant Federal APD's motion for summary disposition with respect to the defective design claim, the lower court record supports this decision. Under Michigan law, a component manufacturer is not liable for dangers

* Circuit judge, sitting on the Court of Appeals by assignment.

created by the use, foreseeable or not, of a component part which is not inherently defective or dangerous. *Childress v Gresen Mfg Co*, 888 F2d 45, 48-49 (CA 6, 1989); *Nowak v EI DuPont de Nemours & Co, Inc*, 827 F Supp 1334, 1337 (WD Mich, 1993). While a product may be defectively designed because it lacks appropriate safety features, *Scott v Allen Bradley Co*, 139 Mich App 665, 670; 362 NW2d 734 (1984), the failure to include a rebound mechanism in the motor unit does not constitute a defective design. The unit could be used safely without a rebound device in some systems and was designed to allow the inclusion of this feature. Federal APD is not liable for TSCS' decision not to do so. See *Antcliff v State Emp Credit Union*, 95 Mich App 224, 230-231; 290 NW2d 420 (1980); *Jordan v Whiting Corp (On Reh)*, 49 Mich App 481, 488; 212 NW2d 324 (1973), rev'd in part on other grounds 396 Mich 145; 240 NW2d 468 (1976).

Plaintiff's claim that the unit was defectively designed because the gate arm was unpadded also fails. Given the uniformity in design of these gate arms and the relatively small risk of being struck by one, reasonable minds could not differ as to whether the design was unreasonably dangerous. See *Prentis v Yale Manufacturing Co*, 421 Mich 670, 692-693; 365 NW2d 176 (1984). In addition, several companies produced gate arms which could be used interchangeably and plaintiff failed to present evidence showing that the one which struck her was manufactured by Federal APD.

Plaintiff also argues that the trial court erred in granting summary disposition to National Garages on her premises liability claim. We disagree. National Garages staffed the parking garage, managed the receipts, stocked the ticket machine, performed regular equipment checks, and contacted TSCS or the parking garage's owner, the City of Detroit, when repairs were needed. National Garages was not responsible for the design, repair, or maintenance of the parking gate system nor for the placement of warning signs, crosswalks, or pedestrian barriers within the parking garage. Since National Garages did not have control of or the legal right to abate the dangers of which plaintiff complains, it cannot be held liable for failure to protect plaintiff from those hazards. See *Detroit Bd of Educ v Celotex Corp*, 196 Mich App 694, 712-713; 493 NW2d 513 (1992).

Affirmed.

/s/ Roman S. Gribbs

/s/ Henry William Saad

/s/ James P. Adair