

No cause in fact and borrowed servant doctrine relied on by Northern District to grant summary judgment for FGPPR's client Ambitech

Recently, FGPPR successfully moved for summary judgment in the Northern District of Illinois in favor of Ambitech Engineering Corporation. In that case, Ambitech's client, a multinational oil company, sued Amex Construction, a mechanical contractor, for damages that occurred when a welded plastic pipe ruptured at a Midwest refinery. Amex filed a third-party complaint for contribution against Ambitech, the designer of the piping system. Judge Kendall awarded Ambitech summary judgment because of the absence of any fact supporting proximate cause that the wall thickness of the plastic pipe allegedly was insufficient for its intended use. This was the only aspect of the testimony of Amex's expert which withstood our Daubert challenge. Judge Kendall, after an exhaustive review of the record, found no evidence to suggest that the allegedly insufficient wall thickness was a cause-in-fact of the loss since Amex's expert provided nothing to suggest that the facility's operating heat and pressure variables ever exceeded the designed pipe's capacities. Accordingly, and as a matter of law, the absence of proximate cause evidence supporting the alleged design negligence claim mandated summary judgment.

Additionally, FGPPR obtained a favorable ruling for Ambitech on its dispositive motion based on the "borrowed servant" doctrine. The court held, as a matter of law, that an Ambitech engineer assigned to the client's refinery was acting as the client's employee relative to this welded plastic pipe project, and thus was loaned to the client from Ambitech. As such, the court found that that the actions of the Ambitech engineer were attributable to the client under the borrowed servant doctrine. This opinion may be one of a handful in Illinois which discusses the borrowed servant doctrine outside of a workers compensation setting, which gives the opinion a legal vitality and significance not readily apparent or anticipated with a construction defect case.

For more information or an in-house presentation of this case, please contact either Douglas Palandech (312.863.5045) or Zachary Ransel (312.863.5006).