

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2021 CA 0538

*VOW by ah*

DERRICK DAIGREPONT

VERSUS

EXXON MOBIL CORPORATION, EXXONMOBIL OIL CORPORATION,  
EXXONMOBIL PIPELINE COMPANY, TURNER INDUSTRIES GROUP,  
LLC, TURNER INDUSTRIAL MAINTENANCE, LLC, & FLOWSERVE,  
INC.

*ah*

CONSOLIDATED WITH

NUMBER 2021 CA 0539

RODNEY WANNER

VERSUS

EXXON MOBIL CORPORATION, EXXONMOBIL GLOBAL SERVICES,  
COMPANY, EXXONMOBILE CHEMICAL COMPANY, EXXONMOBIL  
RESEARCH & ENGINEERING COMPANY, BROCK INDUSTRIAL  
SERVICES, LLC, TOTAL SAFETY U. S., INC., UNITED RENTALS  
(NORTH AMERICA), INC., FLOWSERVE US INC., & JOHATHON  
ZACHARY

Judgment Rendered: DEC 30 2021

CHH

Appealed from the  
Nineteenth Judicial District Court  
In and for the Parish of East Baton Rouge  
State of Louisiana  
Docket Number C657026 c/w C658372, Section 27

Honorable Trudy White, Judge Presiding

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**BEFORE: WHIPPLE, C.J., PENZATO, AND HESTER, JJ.**

**WHIPPLE, C.J.**

In this matter arising from a November 22, 2016 explosion and fire at the Exxon Mobil Corporation (Exxon) refinery in Baton Rouge, Louisiana (the Baton Rouge Refinery), plaintiff, Rodney Wanner, appeals the trial court's judgment granting summary judgment in favor of defendant manufacturer, Flowserve US, Inc. (Flowserve) and dismissing all of Wanner's claims against Flowserve with prejudice.

On the date of the incident, Wanner was working for Turner Industries LLC, in the Sulfuric Acid Alkylation Unit (Alky Unit) at the Baton Rouge Refinery. Wanner was working atop scaffolding that was erected directly above various valves in the unit, including the valve at issue in this case. Jonathon Zachary, an employee of Exxon and the Alky Unit operator, was performing work on a plug valve that was connected to a pressurized isobutane line. As pertinent to this lawsuit, Zachary was unable to operate the valve using the handwheel installed on top of the valve. Thus, although the isobutane line was still in use and the valve was pressurized, Zachary began to remove the valve's gearbox in order to gain access to the valve stem, which he intended to open with a pipe wrench. Four vertical bolts secured the L-shaped gearbox bracket to the plug; these four bolts were also used to secure the bonnet/top cap of the valve, which is a pressure-containing component of the valve. When Zachary removed the valve's gearbox, because the line was still pressurized, isobutane escaped the line via the now opened plug valve and entered into the atmosphere. The isobutane reached an ignition source, believed to be a welding machine located north of the valve, causing an explosion and fire that injured several people in the area.

On June 9, 2017, Wanner filed a petition for damages against various defendants, including Flowserve, alleging that he was severely injured in the explosion and forced to undergo "extensive medical treatment." Wanner alleged

that Flowserve manufactured the valve,<sup>1</sup> and that, among other things, it was unreasonably dangerous under the Louisiana Products Liability Act. On Wanner's motion, this action was consolidated with another action stemming from the same events filed by Derrick Daigrepoint, who was also injured in the explosion.

On August 29, 2019, Flowserve filed a motion for summary judgment and/or motion for partial summary judgment, seeking to dismiss all of Daigrepoint's and Wanner's claims against it. Flowserve argued that summary judgment in its favor was proper because the LPLA is the exclusive theory of recovery available to Daigrepoint and Wanner in their claims against Flowserve as the manufacturer of the valve at issue in this case, and Daigrepoint and Wanner would be unable to meet their burden of proof under the LPLA at trial. Daigrepoint and Wanner jointly opposed Flowserve's motion, arguing that the LPLA issues in this case are fact issues that are not appropriate for summary judgment because there is "ample evidence" from which a jury could conclude that "(1) Flowserve reasonably expected an operator like Zachary to use [the] valve in this fashion, (2) Flowserve failed to adequately warn of grave dangers of which it was acutely aware, and (3) Flowserve's valve was unreasonably dangerous in design."

The matter proceeded to a hearing on October 2, 2019, and the trial court orally granted the motion for summary judgment, finding that although Flowserve manufactured the valve, it was "in the custody, care, and control of Exxon... [who was] at all pertinent times...a sophisticated user of the product." On October 18, 2019, the trial court signed two separate judgments in accordance with its oral ruling, granting summary judgment in favor of Flowserve and dismissing all of Daigrepoint's and Wanner's claims against Flowserve with prejudice. Wanner then filed the instant appeal, contending that the trial court erred because "[t]here is

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<sup>1</sup> The valve was manufactured by Flowserve's predecessor in interest, the Duriron Company, Inc. For purposes of this opinion, all references will be to Flowserve.

evidence from which the jury could reasonably conclude in Mr. Wanner's favor on each of his claims."<sup>2</sup>

For the reasons set forth in the companion case, Daigrepoint v Exxon Mobil Corporation, 2021-0534 (La. App. 1<sup>st</sup> Cir. 12/29/21, \_\_\_ So. 3d \_\_\_, the October 18, 2019 judgment of the trial court, granting summary judgment in favor of Flowserve US, Inc. and dismissing Rodney Wanner's claims against Flowserve US, Inc., with prejudice, is hereby reversed. This matter is remanded for further proceedings. Costs of this appeal are assessed against defendant/appellee, Flowserve US, Inc.

**REVERSED AND REMANDED.**

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<sup>2</sup> Daigrepoint also filed a separate appeal from the judgment dismissing his claims against Flowserve with prejudice which was docketed under Docket Number 2021 CA 0534 c/w 2021 CA 0535. That appeal will be handled in a separate opinion.