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BLOG

Texas District Court Allows Class Action Against Apple to Proceed

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In August 2018, Robert Franklin bought an iPhone 6 from his local Walmart Supercenter in Sulphur Springs, Texas. A year later, according to Franklin, his phone blew up—but not in the metaphorical sense—injuring his eyes and wrist. Franklin brought design defect, manufacturing defect, failure-to-warn, and unfair practices claims in the U.S. District Court for the Eastern District of Texas on behalf of himself and all other iPhone 6 (and 6 Plus, 6S, and 6S Plus) owners who were injured by exploding iPhones. *Franklin v. Apple Inc.*, 2021 WL 4989952 (E.D. Tex. Oct. 27, 2021).

Apple moved to dismiss under Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6). Apple first argued that Franklin lacked standing to bring claims on behalf of potential class members who had bought different iPhone 6 models. *Id.* at *3. The court relied on several out-of-circuit cases in analyzing the standing issue, loosely adopting the test that "a plaintiff has standing to assert claims for unnamed class members based on products he or she did not purchase so long as the products and alleged misrepresentations are substantially similar." *Id.* at *3-4 (citations omitted). Apple countered that the various iterations of the iPhone 6 were not "substantially similar" and therefore Franklin lacked standing to bring claims on behalf of a class. *Id.* at *4. The court rejected Apple's argument, noting that "Franklin is not asserting standing to sue over injuries he did not suffer. Rather, Franklin asserts that he suffered the same injuries as a result of buying the iPhone 6 that the unnamed class members suffered as a result of buying the other iPhone 6 models." *Id.* The court thus concluded that Franklin had standing to bring claims on behalf of the class.

The court then turned to Apple's argument that each of Franklin's product liability claims should be dismissed under Rule 12(b)(6). In support of his design defect claim, Franklin argued that his iPhone had a "i) lack of a mechanism to prevent overheating, ii) lack of audible or visual warnings or alerts, iii) lack of a functioning mandatory shutdown, and iv) lack of proper component parts." *Id.* at *5. Apple countered that these claims were demonstrably false because they were controverted by "judicially noticeable information," namely, the iPhone User Guide and Apple support page. *Id.* But viewing the allegations in the light most favorable to Franklin, the court concluded that Franklin had plausibly alleged a design defect.

Apple also argued that Franklin's design defect claim should have been dismissed because he failed to allege that a safer, alternative design existed. *Id.* The court observed that "[n]otably absent from Franklin's amended complaint are any specific factual allegations describing the purported safer alternative design." *Id.* at *6. While recognizing that, under Fifth Circuit law, products liability is "an area of [the] law where defendants are likely to exclusively possess the information relevant to making more detailed factual allegations," the court concluded that "Franklin does not

identify an alternative design at all; he merely states in conclusory fashion that an alternative design exists." *Id.* Therefore, the court held that Franklin had not plausibly alleged a design defect and dismissed that claim with leave to amend the complaint.

The court then turned to Franklin's claims under the Texas Deceptive Trade Practices Act. Although the court ultimately concluded that Franklin's complaint did not meet the heightened pleading requirements of Rule 9(b), it allowed the class claims for "purchasers and/or owners of the iPhone 6 series whose devices have not manifested the purported defect" to go forward. *Id.* at *10. The Texas Supreme Court has recognized that Texas law is not particularly well developed on the degree to which a defect must manifest before a claim is actionable. *Id.* at *10 (citing *DaimlerChrysler Corp. v. Inman*, 252 S.W.3d 299, 304 (Tex. 2008)). But the court concluded that Franklin had clearly met his burden. Franklin alleged that at least thirty-four others had had their phones (literally) blow up. That was enough for the court, and the class claims on behalf of the members "who have not experienced the allege defect" were allowed to proceed because Franklin had "sufficiently allege[d] how the class ha[d] not received the benefit of their bargain." *Id.*

In a single sentence with no analysis, the court concluded that "[a]fter reviewing the current complaint, and the arguments contained in the briefing, the Court finds that Franklin has stated plausible claims for manufacturing defect, market defect, and negligence." *Id.* at *11.

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