

Into the Flood: ONSC Rules on the Duty to Warn in Remote Scenarios and the Need for Reliable Evidence in Product Liability Claims

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In the recent decision of *Pelton v. Maytag*, the Ontario Superior Court of Justice dismissed a plaintiff's product liability claim based on negligent manufacture and the duty to warn, for damages totalling \$250,000.¹ This decision clarifies evidentiary requirements necessary to establish a manufacturing defect claim, as well as the scope of a manufacturer's duty to warn of foreseeable risks.

Facts

The plaintiff and his family were on vacation in January 2014, when a neighbour checked on the plaintiff's home and discovered water "pouring out" of the Maytag dishwasher located in the kitchen, flooding the entirety of the main floor and causing the basement ceiling to collapse (among other damage).² At the time of the flood, the dishwasher was 10 years old, and well within its intended life expectancy. It was agreed that the source of the leak was a solenoid valve. The purpose of a solenoid valve is to allow water into the machine at a specific flow rate when power is applied to its coil. When no power is applied to the solenoid, no water should flow. At the time of the leak, the dishwasher was not in use, nor had it been used immediately before the leak.³ In Toronto, where the plaintiffs' home was located, the average temperature in the days leading up to the flooding event fluctuated between -17.2°C and 2°C.⁴ The home was maintained just below normal room temperature while the plaintiff and his family were away, but the dishwasher was installed against an exterior wall.

The plaintiff sued the manufacturer of the dishwasher as well as the manufacturer of the valve, claiming that the solenoid valve had been negligently manufactured and that it had failed under normal use due to chemical degradation over time. He claimed as well that the defendants had failed to warn of the potential risk of failure due to freezing. The defendants denied all liability, claiming that the failure of the solenoid valve was likely due to a freezing event rather than a defect, and that a frozen solenoid valve was an unforeseeable and remote mechanism of injury.⁵

The Decision

Cassels

The Court reaffirmed the general principles governing the duty to warn as set out in the Supreme Court of Canada decision of *Hollis v. Dow Corning Corp.*, [1995] 4 S.C.R. 634. Such general principles include that “a manufacturer of a product has a duty in tort to warn consumers of dangers inherent in the use of its product of which it has knowledge or ought to have knowledge,” and that manufacturers also “owe a duty to consumers of their products to see that there are no defects in manufacture which are likely to give rise to injury in the ordinary course of use.”⁶

The Court ultimately held that while the experts for both sides were clear and credible, the defence “poked enough holes” in the plaintiff’s theory that the judge could not find on the balance of probabilities that a defective solenoid valve caused the dishwasher to leak.

The plaintiffs’ argument that there was a significant chemical degradation of the plastic that caused the valve to fail was undermined by specialized chemical testing largely inconsistent with their theory. The Court was also concerned that the plaintiff’s comparison testing was conducted against recently manufactured valves, whereas the solenoid valve in this case had been used for 10 years, stored for five more, and then subjected to secondary testing for another three years.

Conversely, the Court found that the defendant’s freezing theory was more plausible, holding that while there was evidence that the solenoid valve *could* burst if introduced to freezing circumstances, the number of valves manufactured each year compared to the reported failure rates (10 to 20 failures in every ten million units, for any reason including freezing) made the risks seem too remote to give rise to the duty to warn.

Accordingly, it was not necessary for the defendants to warn of this *remote* or *merely possible* event because the assessment of risk required specific facts unknown to the defendant.⁷

Key Takeaways

This is a rare trial-level decision in which competing, credible and reasonable explanations for a component failure were fully argued by qualified experts. The effect of the decision is to reinforce that a manufacturers’ duty to warn does not extend to every potential risk that may be associated with their product, and that liability does not follow from every case of idiosyncratic product failure. Where a risk or danger is remote or merely possible and depends on specific circumstances to come to fruition; then even if that risk is one that is known to the defendant, there may be no duty to warn consumers of that risk.

¹ *Pelton v. Maytag*, 2024 ONSC 3016 (*Pelton*).

² *Pelton* at paras 17-18.

Cassels

³ *Pelton* at para 19.

⁴ *Pelton* at para 24.

⁵ *Pelton* at paras 1-2.

⁶ *Pelton* at para 35.

⁷ *Pelton* at para 48.

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