James v. Niemann

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NOT TO BE PUBLISHED

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Plaintiff Stacey Leigh James brought this personal injury action against defendants Donald and Anita Niemann and their daughter, Aja Niemann,[1] for injuries James sustained in an automobile accident in August 2002. James alleged the accident occurred when Aja, who was driving a vehicle owned by her parents while intoxicated, crossed over the center line and struck James's vehicle head-on. James alleged the Niemanns were liable because they "knew, or should have known, Aja . . . was not fit to drive the vehicle."

The Niemanns moved for summary judgment on the ground (among others) that they could not be held liable for negligently entrusting the vehicle to Aja because Aja was not a reckless or irresponsible driver before the accident or, at the very least, they had no notice she was. The trial court granted their motion, concluding there was "no evidence from which Donald or Anita Niemann knew or could have known of any propensity on their daughter's part to drink and drive."

On appeal James contends there was a triable issue of fact as to whether the Niemanns "had the information from which they could draw an inference of unfitness and [therefore] had an affirmative duty to inquire." According to James, a reasonable inference can be drawn from the evidence that Aja "had previously driven the vehicle while intoxicated" and that "her parents, under the circumstances, should have inquired about her drinking and driving habits."

We disagree. As will be shown, James has failed to identify any evidence from which a reasonable jury could have found the Niemanns knew or should have known that Aja was driving while intoxicated. Accordingly, we will affirm the judgment in favor of the Niemanns.

DISCUSSION

Initially, James complains that the trial court's order granting summary judgment did not comply with subdivision (g) of Code of Civil Procedure section 437c because the order did not refer to all of the evidence she offered to establish a triable issue on whether the Niemanns negligently entrusted their vehicle to Aja.[2] Any such error, however, provides no basis for reversal because "[t]he sole

question properly before us on review of the summary judgment is whether the judge reached the right result--i.e., entry of judgment in favor of [the Niemanns]-- . . . and we decide that question independently of the trial court." (Carnes v. Superior Court (2005) 126 Cal.App.4th 688, 694.) Thus, any insufficiency in the trial court's order granting summary judgment is immaterial.

James also contends the trial court should have denied the Niemanns' summary judgment motion because the Niemanns "control the evidence regarding their knowledge about their daughter's drinking/driving habits." In support of this argument, James cites subdivision (e) of Code of Civil Procedure section 437c, contending that provision "authorizes the court to deny [a summary judgment] motion when the moving party controls critical evidence." What that provision actually provides, however, is that the trial court may, "in [its] discretion," deny summary judgment to "a party . . . otherwise entitled to a summary judgment" "where the only proof of a material fact offered in support of the summary judgment is an affidavit or declaration made by an individual who was the sole witness to that fact; or where a material fact is an individual's state of mind, or lack thereof, and that fact is sought to be established solely by the individual's affirmation thereof."

In her one-paragraph, three-sentence argument on this point, James makes no effort to explain how that provision applies here, nor does she refer to the deferential abuse of discretion standard of review that would apply in reviewing a trial court's decision not to exercise its authority under this provision. James's "failure to develop this claim in any meaningful manner justifies its rejection." (People v. Dennis (1998) 17 Cal.4th 468, 546.)

That brings us to the heart of this appeal -- whether the evidence was sufficient to create a triable issue of fact on James's claim for negligent entrustment against the Niemanns. We agree with the trial court that it was not.

"[I]t has generally been held that the owner of an automobile is under no duty to persons who may be injured by its use to keep it out of the hands of a third person in the absence of facts putting the owner on notice that the third person is incompetent to handle it." (Richards v. Stanley (1954) 43 Cal.2d 60, 63.) "An owner of an automobile may be independently negligent in entrusting it to an incompetent driver." (Syah v. Johnson (1966) 247 Cal.App.2d 534, 538.) "[I]n order to impose liability for negligent entrustment, the lending owner must know, or from facts known to him should know, that the entrustee driver was intoxicated, incompetent, or reckless." (Hartford Accident & Indemnity Co. v. Abdullah (1979) 94 Cal.App.3d 81, 91.) "Liability for negligent entrustment is determined by applying general principles of negligence, and ordinarily it is for the jury to determine whether the owner has exercised the required degree of care . . . ." (Allen v. Toledo (1980) 109 Cal.App.3d 415, 421.)

Here, the question is whether there was sufficient evidence in the record for a reasonable jury to find that the Niemanns were negligent, i.e., failed to exercise the requisite degree of care in entrusting their vehicle to Aja. The evidence on which James relies to create a triable issue of fact as to the Niemanns' negligence may be summarized as follows:

Aja turned 21 years old in May 2002, approximately three months before the accident. At the time of the accident, she was living in South Lake Tahoe, California, in a house her parents owned. She was driving a Toyota 4-Runner that was registered in hers and Anita's names and was insured in Donald's name.

James points to evidence of Aja's social life in the summer of 2002, which involved frequent visits to casino nightclubs where she would drink alcohol. James contends that a reasonable inference can be drawn from this evidence that Aja drove home from those nightclubs while intoxicated on more than one occasion. Even if we assume this to be true, however, the critical question is whether the Niemanns knew or should have known -- before the accident in August 2002 -- that Aja was driving while intoxicated. The evidence on that point basically amounts to this: Donald knew Aja had gone to a nightclub called Nero's, which is a nightclub at a casino. At some unidentified point in time, he had seen Aja drinking. Anita had also seen Aja drinking wine at dinner.

In addition to the foregoing evidence, James points to evidence that the Niemanns made no inquiry into Aja's use of alcohol or whether she was drinking and driving. That evidence is of no use, however, in determining the critical issue here, which is whether the Niemanns had a duty to make any such inquiry. Their failure to inquire may have been negligent, but only if they had a duty to inquire because they were aware of facts that would have led a reasonably prudent person to make such an inquiry. Thus, the dispositive question remains, has James identified evidence from which a reasonable jury could find that the Niemanns knew, or from facts known to them should have known, that Aja was driving while intoxicated? The answer to that question is "no." The mere fact that Donald had seen Aja drinking at some unidentified point in time and Anita had seen Aja drinking at dinner was not sufficient to give either of them constructive knowledge that (or, stated, another way, a duty to inquire as to whether) Aja was driving while intoxicated. And the additional fact that Donald knew Aja had gone to a nightclub at a casino in Nevada, when she lived in California, does not alter this conclusion. Absent knowledge of further facts tending to suggest that Aja might be driving after drinking to the point of intoxication, we do not believe any reasonable jury could find that the Niemanns "had information from which they could draw an inference" that Aja was unfit to drive. Accordingly, the trial court did not err in granting the Niemanns' motion for summary judgment.

DISPOSITION

The judgment is affirmed. The Niemanns shall recover their costs on appeal. (Cal. Rules of Court, rule 8.276(a).)

We concur: DAVIS, Acting P.J., RAYE, J.

1. We will refer to Aja, Donald, and Anita Niemann individually by their first names and will refer to Donald and Anita jointly as the Niemanns.

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2. Subdivision (g) of Code of Civil Procedure section 437c provides in relevant part that "[u]pon the grant of a motion for summary judgment, on the ground that there is no triable issue of material fact, the court shall, by written or oral order, specify the reasons for its determination. The order shall specifically refer to the evidence proffered in support of, and if applicable in opposition to, the motion which indicates that no triable issue exists."