

Harnden v. Jayco, Inc.
Consumer (P) v. Manufacturer (D)
496 F.3d 579 (6th Cir. 2007).

NATURE OF CASE: Appeal of district court's grant of summary judgment to manufacturer.

RULE OF LAW: The admission of an expert report is harmless error where the opposing party knew the contents of the report, and remanding the case would result only in a change in format of the report.

FACTS: Glenn Harnden (P) bought a Jayco Eagle Recreational Vehicle. He returned it several times for repair of defects, but the defects were never fixed. He filed a complaint against Jayco Inc. (D), the manufacturer, for breach of contract, violation of the Michigan Consumer Protection Act, breach of written warranty, revocation of acceptance, breach of implied warranty, breach of express warranty, breach of implied warranty of merchantability, and violation of the Michigan Motor Vehicle Service and Repair Act of 2004. An expert report prepared by Randy Zonker, a Jayco (D) employee, determined the problems were only minor and did not stem from the manufacturer, and Harnden (P) did not rebut Zonker's conclusions. The district court granted Jayco (D) summary judgment. On appeal, Harnden's (P) attorney objected to the admission of the expert report because it was not in the form of an affidavit or sworn statement as required by Federal Rule of Civil Procedure 56(e), and was therefore inadmissible hearsay.

ISSUE: Is the admission of an expert report harmless error where the opposing party knew the contents of the report, and remanding the case would result only in a change in format of the report?

HOLDING AND DECISION: (Boyce, J.) Yes. The admission of an expert report is harmless error where the opposing party knew the contents of the report, and remanding the case would result only in a change in format of the report. The admission of Zonker's report is harmless because it does not affect Harnden's (P) substantial rights. Harnden (P) always knew of the contents of the report, and could have rebutted it, but did not.

ANALYSIS: Note that the error committed by the district court may not have been harmless. Consider that Harnden's lawyer may not have expected the district court to consider a report that did not comply with the Federal Rules, and therefore did not prepare rebuttal at that stage. The lawyer might have planned to rebut the report's conclusions once it was properly formatted and admitted into evidence.