

Sikkelee v. Precision Airmotive Corporation

907 F.3d 701 (3d Cir. 2018), reh'g denied (Dec. 11, 2018)

By Austin Turman

ISSUE:

- (1) Are state-law claims for product liability and negligence against aviation manufacturers conflict-preempted by FAA type certification requirements?

RULE:

- (1) No – An FAA type certification does not preempt state-law product liability and negligence claims.

FACTS:

In July 2005, pilot Davis Sikkelee was killed when his rented Cessna 172, equipped with a Lycoming engine and Marvel-Schebler carburetor, crashed after takeoff. *Sikkelee v. Precision Airmotive Corp.*, 907 F.3d 701, 705 (3d Cir. 2018), reh'g denied (Dec. 11, 2018). In 1966, the Federal Aviation Administration (FAA) issued a type certification for the engine, confirming the engine design satisfied federal regulations. *Id.* The FAA, per Lycoming's request, granted a special exception to the design of the engine's carburetor assembly as the throttle body (top-half) and float bowl (bottom-half) were joined by hex bolts and lock-tab washers instead of the recommended safety wire to prevent loosening. *Id.* The FAA subsequently warned Lycoming that the carburetor's design was ineffective in securing the assembly, citing forty-five reports of bolts loosening. *Id.* at 706. After Precision Airmotive's acquisition of Marvel-Schebler in 2004, Lycoming was again made aware of the carburetor's loosening issue, particularly on the Cessna 172 aircraft. *Id.* That same year, the engine belonging to the aircraft in question was overhauled and included a rebuild of the carburetor but used the original specifications. *Id.* at 707. The plane was placed back into service and one year later, Davis Sikkelee was killed in its crash. *Id.*

PROCEDURAL HISTORY:

The decedent's wife asserted state-law claims for strict liability and negligence in a federal district court. *Sikkelee*, 907 F.3d at 707. The district court held the claims were field-preempted by federal air safety regulation. *Id.* On appeal, the Third Circuit reversed and remanded the issue, holding a state-law may apply subject to conflict-preemption restrictions. *Id.* On remand, the district court held Sikkelee's claims were conflict-preempted. *Id.* at 708. Sikkelee appealed. *Id.*

ANALYSIS AND REASONING:

In reversing, the court evaluated whether conflict-preemption applied when FAA-approved type certification prevented manufacturers from simultaneously complying with federal and state law. *Sikkelee*, 907 F.3d at 712. The court explained that the circumstances and legal question were readily analogized by the Supreme Court decision, *Wyeth v. Levine*, 555 U.S. 555 (2009). *Id.* at 713. In *Wyeth*, a plaintiff's state-law claim against a brand-name drug manufacturer was not preempted because FDA regulation provided flexibility to strengthen their warning labels and no evidence existed that the FDA would have denied the change. *Id.* The court reasoned that the FAA type certification provided Lycoming the same flexibility to change the design of the carburetor and there was nothing to suggest the FAA would have denied its modification. *Id.* at 714. The FAA urged Lycoming to address the issue and originally required the use of safety wire. *Id.* Lastly, the court reasoned that state-law claims complement and promote the federal regulatory scheme to ensure safe aircraft. *Id.* at 714-15.