

Indiana Court Finds Plaintiff Barred from Recovery as a Matter of Law

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Indiana is a modified comparative fault state, which means that if the Plaintiff is more than 50% at fault then a defense verdict is to be rendered.

The Indiana Court of Appeals held in *Evansville Auto., LLC v. Labno-Fritchley*, 2023 Ind. App. LEXIS 108 (Ind. Ct. App. Apr. 12, 2023) as a matter of law a Plaintiff could be found more than 50% at fault under Indiana's modified comparative fault statute which would preclude recovery by the Plaintiff.

The Plaintiff brought a lawsuit that was rooted in the Indiana Products Liability Act as the result of an explosion of a fifty-five gallon metal drum. The Plaintiff sued several entities connected to the drum, including an individual who only collected empty drums for resale.

The Court of Appeals heard this matter as the result of a denied Motion for Summary Judgment. The Appellant argued that it had no duty to the Plaintiff, that the Indiana Products Liability Act did not apply, and that the designated evidence established that the Plaintiff was more than 50% at fault.

The Court held that even though the apportionment of fault is uniquely a question of fact to be decided by a jury, that when there is no dispute in the evidence and the jury can come to only one logical conclusion, then the apportionment of fault becomes an issue of law solely for the court. The Court found that the designated evidence showed that the Plaintiff was more than 50% at fault and that Plaintiff was precluded from recovery.

In Indiana for a party to prevail on a Summary Judgment, they must show there are no issues of material fact and that judgment can be issued in favor of the moving party as a matter of law. The significance of the Court's ruling in *Evansville Auto., LLC* is that the Indiana Court of Appeals has provided a set of facts under which a Court can review a case and determine as a matter of law that a Plaintiff is precluded from recovery, thus ending the case. The holding is unusual because generally negligence and comparative fault are issues of facts, and if there is any disagreement between the parties on those facts, summary judgment cannot be granted.

This case will be cited by any litigant requesting a Court to grant them Summary Judgment. It is a virtual certainty that Plaintiff's counsel will take up

this issue with the Indiana Supreme Court due to the potential implications of this ruling.

If you would like a full copy of the opinion or if you have any other questions related to Summary Judgment in Indiana, please contact one of Reminger's General Liability Practice Group attorneys.