

Contribution and Indemnity Application Dismissed in Workplace Accident Claim

December 2024

The High Court has dismissed a claim for contribution and indemnity made by a supermarket chain against a repair contractor in respect of an injury to an employee caused by a defective pallet cage trolley (**Trolley**).

In *Davidovic v Apleona HSG Limited & ors [2024] IEHC 596*, the lack of a process to track or secure unsafe trollies, along with insufficient evidence regarding repairs to the Trolley, resulted in the supermarket being held fully liability for the accident.

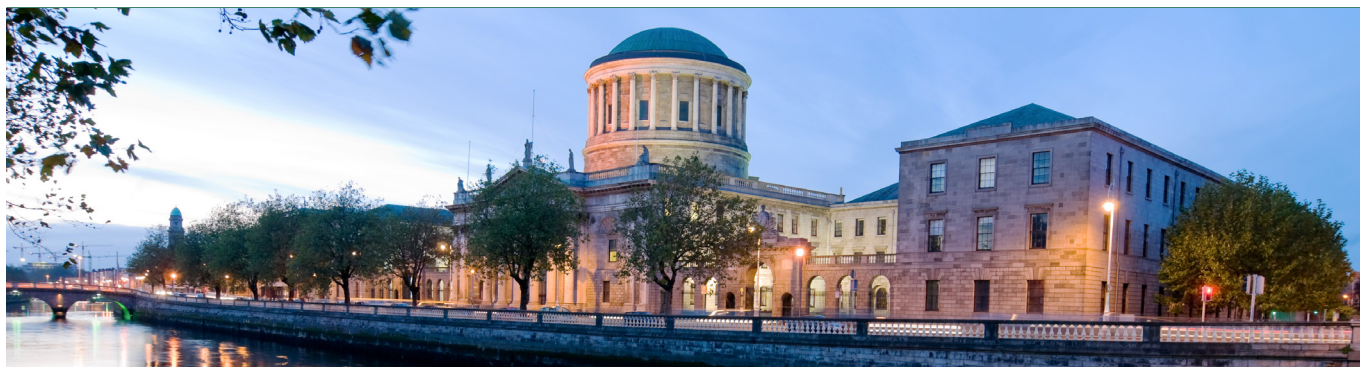
Background

The plaintiff sustained an injury at work, when pushing and pulling two trollies simultaneously, her heel was pierced by a sharp object at the base of the Trolley resulting in a severed achilles tendon.

The High Court was asked to apportion liability between the supermarket employer, Aldi Stores (Ireland) Limited (**Aldi**) and an entity which had a contract with Aldi to repair trollies (**Repairer**). Aldi contended that the Repairer had left the Trolley in a dangerous state, which contributed to the injury sustained.

The court had to consider whether Aldi had breached its duty to the plaintiff by failing to provide adequate training and





supervision to its employees regarding the use of trollies of this type. The court also had to ascertain whether the Repairer had, in fact, carried out a repair to the Trolley in question before the accident and if it had, could a causal link be established between the alleged failure to properly repair the Trolley and the injury suffered by the plaintiff.

Court's Findings

The court, as supported by expert evidence from engineers, found that Aldi had not met its duties concerning training and supervision, particularly in respect of pushing and pulling trollies simultaneously.

In terms of repair work to the Trolley, the court found the CCTV evidence to be of little persuasive value, as although it did show the engineer for the Repairer working on trollies, it did not assist the court in determining whether it had repaired the Trolley which Aldi alleged caused the plaintiff's injury.

An area manager for Aldi took photographs of trollies which were in the store on the day of the accident but it was accepted that there were possibly more than had been photographed, while another employee was unable to identify the Trolley in photographs taken from the CCTV footage. Evidence was given that Aldi did not tag or track trollies and they were not routinely viewed once repaired.

Decision

After an examination of the evidence, including testimonies from various witnesses and analysis of CCTV footage, the court concluded that on the balance of probabilities, there was insufficient evidence that the Repairer had worked on the Trolley prior to the accident. The absence of a process to track, count or secure unsafe trollies, along with inconsistent evidence, lead the court to dismiss the claim for contribution and indemnity made by Aldi against the Repairer.

Conclusion

Aldi failed to meet certain duties owed to the plaintiff, as its employee, in the area of training and supervision while the evidence which it presented was not sufficient to satisfy the court that alleged negligence by the Repairer caused or contributed to the accident. As such, Aldi was found to be wholly liable for the injury sustained.

CONTACT US

Our Offices

Dublin

33 Sir John Rogerson's Quay
Dublin 2
Ireland
Tel: +353 1 667 0022

Cayman Islands

Landmark Square
West Bay Road, PO Box 775
Grand Cayman KY1-9006
Cayman Islands
Tel: +1 345 949 0022

New York

33 Irving Place
New York
NY 10003
United States
Tel: +1 646 770 6080

Tokyo

12th Floor,
Yurakucho Itocia Building
2-7-1 Yurakucho, Chiyoda-ku
Tokyo 100-0006,
Japan
Tel: +813 6860 4885

CONTACT POINTS

For more details on how we can help you, to request copies of most recent newsletters, briefings or articles, or simply to be included on our mailing list going forward, please contact any of the team members below.



Lorna Kennedy
Partner | Dublin

E lorna.kennedy@dilloneustace.ie
T + 353 1 667 0022



Audrey Burke
Senior Associate | Dublin

E audrey.burke@dilloneustace.ie
T + 353 1 667 0022

DISCLAIMER:

This document is for information purposes only and does not purport to represent legal advice. If you have any queries or would like further information relating to any of the above matters, please refer to the contacts above or your usual contact in Dillon Eustace.

Copyright Notice:

© 2024 Dillon Eustace. All rights reserved.