

BOISE, MONDAY, APRIL 10, 2023 at 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

ADRIAN CARILLO ALCALA, an individual,)

Plaintiff-Appellant,)

and)

SUNRIVER OF IDAHO, INC., an Idaho corporation; EMPLOYERS RESOURCE MANAGEMENT COMPANY, an Idaho corporation; EMPLOYERS RESOURCE OF AMERICA, INC., an Idaho corporation; AMERICAN ZURICH INSURANCE COMPANY, an Illinois corporation,)

Plaintiffs,)

v.)

VERBRUGGEN PALLETIZING SOLUTIONS, INC., a Delaware corporation;)

Defendant-Respondent,)

and)

VERBRUGGEN EMMELOORD B.V., an entity existing under the laws of The Netherlands,)

Defendant-Respondent,)

and)

VOLM COMPANIES, INC., a Wisconsin corporation,)

Defendant.)

SUNRIVER OF IDAHO, INC., an Idaho)

Docket Nos. 49473/49474

corporation; EMPLOYERS RESOURCE)
MANAGEMENT COMPANY, an Idaho)
corporation; EMPLOYERS RESOURCE OF)
AMERICA, INC., an Idaho corporation;)
AMERICAN ZURICH INSURANCE)
COMPANY, an Illinois corporation,)
)
Plaintiffs-Appellants-)
Cross Respondents,)
)
and)
)
ADRIAN CARILLO ALCALA, an)
individual,)
)
Plaintiff,)
)
v.)
)
VERBRUGGEN PALLETIZING)
SOLUTIONS, INC., a Delaware corporation;)
VERBRUGGEN EMMELOORD B.V., an)
entity existing under the laws of The)
Netherlands,)
)
Defendants-Respondents-)
Cross Appellants,)
)
and)
)
VOLM COMPANIES, INC., a Wisconsin)
corporation,)
)
Defendant.)
)
)

Appeal from the District Court of the Seventh Judicial District of the State of Idaho, Bonneville County, Joel E. Tingey, District Judge.

Racine Olson, PLLP, Pocatello, Appellant Adrian Carillo Alcala.

Hawley Troxell Ennis & Hawley, LLP, Pocatello and Idaho Falls, for Appellants/Cross-Respondents SunRiver of Idaho, Inc., Employers Resource Management Company, Employers Resource of America, Inc., and Zurich Insurance Company.

Cooper & Larsen, Chartered, Pocatello, for Respondent/Cross-Appellant
Verbruggen Palletizing Solutions, Inc.

Carpenter Law Firm, PLC, Missoula, Montana, Respondent/Cross-Appellant
Verbruggen Emmeloord B.V.

This appeal arises out of personal injuries suffered by Adrian Carillo Alcala (“Carillo”) at a potato packaging plant when his head and shoulders were crushed by a box palletizer designed, manufactured, and installed by Verbruggen Emmelord, B.V. (“VE”), along with its United States affiliate, Verbruggen Palletizing Solutions, Inc. (“VPS”). The box palletizer was one of many machines SunRiver had purchased through a contract with Volm Companies, Inc. (“Volm”). Because this was a workplace injury, Carillo received worker’s compensation benefits through his direct employers: SunRiver of Idaho, Inc. and Employers Resource Management Company, and surety American Zurich Insurance Company (collectively “the SunRiver Plaintiffs”).

Later, the SunRiver Plaintiffs jointly with and in the name of Carillo sued Volm, VE, and VPS as third parties responsible for Carillo’s injuries in, among other things, negligence and products liability. Following summary judgment motions, the district court concluded that Volm, VE, and VPS were not third parties, and instead were Carillo’s statutory co-employees entitled to immunity from suit under the Idaho Worker’s Compensation Law. The SunRiver Plaintiffs and Carillo moved for reconsideration, while Volm, VE, and VPS moved for attorney fees against the SunRiver Plaintiffs under Idaho Code section 12-120(3). While these motions were pending, Volm was dismissed from the suit pursuant to a stipulation between the SunRiver Plaintiffs, Carillo, and Volm. Subsequently, the district court denied the motion for reconsideration, and denied VE’s and VPS’s motions for attorney fees.

The SunRiver Plaintiffs and Carillo appeal the grant of summary judgment and denial of reconsideration, arguing the district court erred in concluding that VE and VPS were Carillo’s statutory co-employees and immune from suit because, among other things, the contract between SunRiver and Volm for the palletizer was for goods with incidental services, and SunRiver is otherwise not a statutory employer of VE and VPS. VE and VPS cross-appeal against the SunRiver Plaintiffs, arguing that the district court erred in denying attorney fees below.