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5-29-2018

Luis Antonio Aguilar Marquinez v. Dole Food Company Inc

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 14-4245

LUIS ANTONIO AGUILAR MARQUINEZ, et al.

v.

DOLE FOOD COMPANY INC., et al.

Luis Antonio Aguilar Marquinez, et al., Appellants

On Appeal from the United States District Court
for the District of Delaware
(D.C. No. 1-12-cv-00695)
District Judge: Honorable Leonard P. Stark

Submitted Under Third Circuit LAR 34.1(a)
March 9, 2017

Before: HARDIMAN and KRAUSE, *Circuit Judges*, and STENGEL,* *District Judge*.

(Filed: May 29, 2018)

ORDER

In this appeal from a judgment entered by the United States District Court for the District of Delaware (Stark, J.), the panel (Hardiman, Krause, and Stengel, JJ.) certified a

* The Honorable Lawrence F. Stengel, United States District Judge for the Eastern District of Pennsylvania, sitting by designation.

question of law to the Delaware Supreme Court pursuant to Third Circuit Local Appellate Rule Misc. 110.1. The Delaware Supreme Court accepted certification and issued an opinion holding that under Delaware law, the dismissal of Plaintiffs' claims in 1995 by the U.S. District Court for the Southern District of Texas, *Delgado v. Shell Oil Co.*, 890 F. Supp. 1324, 1375 (S.D. Tex. 1995), did not end the tolling of the Delaware statute of limitations on personal injury actions, 10 Del. C. § 8119. *See Marquinez v. Dow Chem. Co.*, A.3d, No. 231, 2017, 2018 WL 1324178, at *1 (Del. Mar. 15, 2018). The opinion of the Delaware Supreme Court requires us to vacate the summary judgment that had been entered in favor of Defendants.

While this appeal was pending, this Court decided a related case, *Chavez v. Dole Food Co.*, 836 F.3d 205 (3d Cir. 2016) (en banc). There, we held that the District Court had erred in dismissing the plaintiffs' claims in that case on first-filed grounds under circumstances materially identical to those in which it dismissed the claims of fourteen plaintiffs in this case on September 19, 2013. In light of *Chavez*, the District Court's dismissal order was erroneous.

Upon consideration of the record before us, the Delaware Supreme Court's opinion in *Marquinez*, and this Court's opinion in *Chavez*,

IT IS HEREBY ORDERED that the District Court's orders entered September 19, 2013, and May 27, 2014, and its final judgment entered September 22, 2014, are VACATED.

IT IS FURTHER ORDERED that this appeal is REMANDED to the District Court for further proceedings consistent with the Delaware Supreme Court's opinion in *Marquinez* and this Court's opinion in *Chavez*.

BY THE COURT:

/s/ Thomas M. Hardiman
Circuit Judge

Dated: May 29, 2018