SIMPSON THACHER
REPORT FROM WASHINGTON

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The Supreme Court Finds No Conflict Pre-emption Based on Federal Seatbelt Regulation

February 24, 2011

INTRODUCTION

Yesterday, in *Williamson v. Mazda Motor of America, Inc.*, No. 08-1314, the United States Supreme Court limited implied pre-emption of state law claims under the National Traffic and Motor Vehicle Safety Act ("NTMVSA") to circumstances in which preservation of a manufacturer's ability to choose among specified safety options is a significant objective of the federal scheme, and held that a suit asserting state law claims against a vehicle manufacturer for installing a lap-belt instead of a lap-and-shoulder belt is not pre-empted under that standard.[1]

BACKGROUND

Plaintiffs-Petitioners, the estate and survivors of Thanh Williamson, alleged that Mazda Motor of America, Inc. and affiliates ("Mazda") were liable in tort for Ms. Williamson's death from injuries suffered in a car accident while she was wearing a lap-only seatbelt. Plaintiffs maintained that Mazda's failure to install three-point seatbelts (also known as lap-and-shoulder seatbelts) caused Ms. Williamson's death when the minivan in which she was a rear-seat passenger collided with another vehicle.

The trial court determined that Plaintiffs' state common-law tort claims based on Mazda's decision to install a lap-belt were pre-empted by a federal regulation, FMVSS 208. A panel of the California Court of Appeal affirmed, reasoning that implied pre-emption was mandated by *Geier v. American Honda Motor Co.*, 529 U.S. 861 (2000), in which the Supreme Court concluded that an earlier version of FMVSS 208's "passive restraints" (*e.g.*, airbags) provisions pre-empted state common law suits based on defective design because application of state law "would have presented an obstacle to the variety and mix of devices that the federal regulation sought." Although it acknowledged that *Geier* was factually distinguishable because that case dealt with passive restraints, not seatbelts, the California Court of Appeal noted that several other state and federal courts applying *Geier* have held that FMVSS 208 pre-empts lawsuits challenging manufacturers' installation of lap-belts, and was persuaded by the rationale of those decisions.

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[1] *Williamson* marks the second decision of the Supreme Court this week on the subject of federal preemption of state tort law claims. In *Bruesewitz v. Wyeth,* No. 09-152, handed down on February 22, 2011, the Court found that the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. § 300aa-1 *et seq.*, preempts all design defect claims against vaccine manufacturers brought by plaintiffs seeking compensation for injury or death caused by a vaccine's side effects.

The California Supreme Court denied Plaintiffs' petition for review, and the United States Supreme Court granted certiorari with respect to the defective design claim only.

SUMMARY OF THE DECISION

"[E]ven though state tort suit may restrict the manufacturer's choice, it does not stand as an obstacle to the accomplishment . . . of the full purposes and objectives of federal law."

OPINION OF THE COURT

In an opinion written by Justice Breyer, and joined by all other Justices except Justice Thomas, who concurred in the judgment, and Justice Kagan, who recused herself, the Supreme Court held that "even though the state tort suit may restrict the manufacturer's choice, it does not stand as an obstacle to the accomplishment . . . of the full purposes and objectives of federal law" and therefore "[FMVSS 208] does not pre-empt this tort action." (Internal quotation marks and citation omitted.)

First, the Court concluded that two findings in *Geier* "apply directly to the case before us": (1) *Geier's* recognition that Congress' inclusion of a saving clause in the enabling statute, the NTMVSA, to preserve a substantial role for state tort law in compensating accident victims and promoting safety in automobile design made "clear that Congress intended state tort suits to fall outside the scope of the express pre-emption clause"; and (2) "the saving clause does not foreclose or limit the operation of ordinary pre-emption principles, grounded in longstanding precedent." The Court explained that in *Geier*, the "history, agency's contemporaneous explanation, and the Government's current understanding of the regulation convinced us that manufacturer choice was an important regulatory objective." A state tort suit there would have limited a manufacturer's choice about which type of passive restraint system to install in a vehicle posed an "obstacle to the accomplishment of that objective" and therefore was pre-empted.

"[T]he agency's own views should make a difference."

OPINION OF THE COURT

"But unlike *Geier*," the Court held, "we do not believe here that choice is a significant regulatory objective." The Court instead found that DOT's reasons for allowing manufacturers a choice in the type of seatbelts installed in certain seats "differed considerably from its . . . reasons for permitting manufacturers a choice in respect to [passive restraints at issue in *Geier*]." The Court concluded that the DOT "was not concerned about consumer acceptance; . . . was convinced that lap-and-shoulder belts would increase safety; . . . did not fear additional safety risks associated arising from the use of those belts; [and] had no interest in assuring a mix of devices . . . ."

"Geier does not stand . . . for the proposition that any time an agency gives manufacturers a choice between two or more options, a tort suit that imposes liability on the basis of one of the options is an obstacle to the achievement of a federal regulatory objective and may be pre-empted."

JUSTICE SOTOMAYOR, concurring

Finally, the Court reemphasized its statement in *Geier* that "the agency's own views should make a difference," and noted that in this case "the Solicitor General tells us that DOT's regulation does not pre-empt this tort suit."

Justice Sotomayor issued a concurring opinion "to emphasize the Court's rejection of an overreading of *Geier* that has developed since that opinion was issued." Justice Sotomayor admonished other courts that "*Geier* does not stand . . . for the proposition that any time an agency gives manufacturers a choice between two or more options, a tort suit that imposes liability on the basis of one of the options is an obstacle to the achievement of a federal regulatory objective and may be pre-empted." Rather, "[a] link between a regulatory objective and the need for manufacturer choice to achieve that objective is the lynchpin of implied pre-emption when there is a saving clause."

IMPLICATIONS

The Court allowed the Plaintiffs to proceed with their state law claims even though Mazda was in compliance with the federal regulation by installing a lap-belt in the Williamsons' vehicle. The mere existence of manufacturer choice in a regulatory scheme, the Court ruled, does not dictate pre-emption of a state law suit that would limit that choice. When applying "ordinary conflict pre-emption principles," courts must consider the objectives of the agency in proscribing that choice. Defendants seeking to dismiss state law tort claims on grounds of conflict pre-emption, therefore, should be prepared to demonstrate that allowing the state law tort claim to proceed would contradict the regulation's objective, as set forth in the regulation's plain language and the administrative record.

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