

***Alaniz v. Sun Pacific Shippers, L.P.* (2DCA/6) No. B290013, Feb. 5, 2020**

Trial court prejudicially erred when it omitted 'Privette and Hooker' doctrine limitations from its instructions on negligence and premises liability.

FACTS/PROCEDURE

Sun Pacific grows mandarins at its orchard outside Fillmore, CA. It hires independent contractors to deliver empty bins to the orchard, pick the fruit, and deliver full bins to the packing house. Each contractor provides its own pickers, truck drivers, and forklift operators. In February 2012, Jesus Alaniz, a truck driver employed by Navarro Trucking, delivered a truckload of empty bins to Sun Pacific's orchard. A forklift driven by Roberto Reynosa—who was employed by another independent contractor—unloaded bins from the north side of the trailer. Alaniz climbed onto the trailer and pulled bins over so Reynosa could unload them. Alaniz then fell off the truck and onto the ground, and Reynosa drove forward with the forklift crushing Alaniz's leg. Alaniz sued Sun Pacific for general negligence and premises liability. The court instructed the jury on the general principles of negligence and premises liability but refused to give the jury instruction that limited liability for hirers of independent contractors pursuant to the "*Privette/Hooker doctrine*." The jury found for Alaniz and Sun Pacific appealed and contended: (1) the trial court erred when it did not instruct the jury on the Privette/Hooker doctrine, (2) the court erred when it did not instruct on mitigation of damages, (3) the court improperly denied its motion for judgment notwithstanding the verdict (JNOV), and (4) substantial evidence does not support the award of future medical expenses.

HOLDING/DISCUSSION

Reversed and Remanded. The appellate court reversed the judgment, remanded for a new trial on the negligence cause of action, and directed judgment for Sun Pacific on the premises liability cause of action.

The "*Privette/Hooker doctrine*" limits the circumstances in which the hirer of an independent contractor can be liable for injuries to the contractor's employees. (*Privette v. Superior Court* (1993) 5 Cal.4th 689; *Hooker v. Department of Transportation* (2002) 27 Cal.4th 198.) "In a negligence action, the hirer of an independent contractor may be liable to the contractor's employee only if 'the hirer retained control over safety conditions at the work site' and that 'exercise of retained control *affirmatively contributed* to the injury.'" (*Hooker*, at p. 202, original italics.) In *Kinsman v. Unocal Corp.* (2005) 37 Cal.4th 659, an employee of an independent contractor was injured while scaffolding for others. The jury was instructed on the general principles for exercising ordinary care, but the court also noted pursuant to *Privette v. Superior Court*, general liability for hirers of independent contractors only attaches if the hirer retained control over safety conditions. Similarly, here, the trial court instructed that Sun Pacific was liable if it failed to use reasonable care but the court failed to instruct that liability only applied to the hirer of an independent contractor *if he retained control over the safety conditions*. Thus, the instruction given was an incorrect statement of the law. The appellate panel concluded that the trial court prejudicially erred when it omitted these limitations from its instructions on negligence and premises liability.