

**IN THE COURT OF APPEALS
OHIO FIRST APPELLATE DISTRICT
HAMILTON COUNTY, OHIO**

ELEANOR MCCLELLAN,	:	APPEAL NO. C-080492
	:	TRIAL NO. 07CV-26071
Plaintiff-Appellant,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
	:	
VALVOLINE INSTANT OIL CHANGE,	:	
	:	
Defendant-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Eleanor McClellan sued Valvoline Instant Oil Change, alleging that the company had negligently performed an oil change on her van, causing the front main oil seal to break. Repairs would have cost about \$4,500. A magistrate determined that Valvoline was not at fault—McClellan objected to the magistrate’s decision. The trial court overruled her objections and entered judgment for Valvoline. McClellan now appeals.

I. Oil Change and Breakdown

McClellan testified that when she had taken her van to Valvoline for an oil change, although it had 191,746 miles on it, the van had been running well. But about a mile after she left the Valvoline facility, the van broke down and had to be towed. Kings Ford inspected the van and determined that two connecting rods had been thrown through the oil pan as a result of insufficient oil supplied to the crankshaft. The front main seal had leaked. The total cost to repair the van would have been nearly \$4,500. The van had been at Kings Ford from the day it had

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

stopped running until the trial. Although McClellan brought a letter from Kings Ford describing the problem, it had not been authenticated, and no one from Kings Ford testified.

David Smith, an area manager for Valvoline, testified about Valvoline's extensive certification process for newly hired mechanics and described Valvoline's oil-change procedures. He testified that the problem with McClellan's van was a major leak in the front main seal, and that, in his extensive experience as a mechanic, he had never seen an oil change cause a front main seal leak.

Robert Stifford was the manager of the Valvoline store where McClellan had her oil changed. He had been a mechanic for about 12 years. After McClellan's car had broken down, Stifford reviewed a videotape of the oil change. He testified that the tape showed that the oil dipstick had been shown to McClellan after the oil change. He drove out to where the van had broken down and saw that oil had leaked. He put enough oil in the van to make sure that he could start the van. But before he had a chance to start the van, the oil he had just poured in was flowing out of the front main seal. Stifford testified that checking the front main seal was not part of Valvoline's procedures unless a customer specifically asked for it. Finally, Stifford testified that it was not uncommon for a front main seal to fail on a car with almost 200,000 miles of use.

II. Judgment Was Supported by Competent, Credible Evidence

McClellan asserts that the trial court erred by entering judgment for Valvoline. We review the judgment to determine if it was against the manifest weight of the evidence.

In a civil case, we affirm the trial court’s judgment if it was “supported by some competent, credible evidence.”² In this case, the trial court, as the trier of fact, was in the best position to resolve factual issues and to judge the credibility of the witnesses.³

Because McClellan’s van broke down just after it had been serviced at Valvoline, a trier of fact could have found that Valvoline was liable for the damages to McClellan’s van. But in this case, the magistrate found that Valvoline was not negligent. And because Valvoline presented “some competent, credible evidence”—the testimony of two mechanics with many years of experience—we must defer to the trial court. Therefore, we affirm the trial court’s judgment.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App. R. 27. Costs shall be taxed under App.R. 24.

HENDON, P.J., HILDEBRANDT and PAINTER, JJ.

To the Clerk:

Enter upon the Journal of the Court on March 11, 2009

per order of the Court _____.
Presiding Judge

² *C.E. Morris Co. v. Foley Constr. Co.* (1978), 54 Ohio St.2d 279, 376 N.E.2d 578, syllabus.

³ *State v. Mills* (1992), 62 Ohio St.3d 357, 366, 582 N.E.2d 972.