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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A26-0177**

Charles Mach and Vicki Mach,
as Trustees for the Next of Kin of Decedent Kailey Lynn Mach,
Plaintiffs,

vs.

LPG & NH3 Supply, Inc.,
Appellant,

Boshart Industries, LLC, et al.,
Defendants,

Anderson Copper and Brass Company, LLC,
Respondent.

**Filed September 8, 2026
Reversed and remanded
Cochran, Judge**

LeSueur County District Court
File No. 40-CV-24-120

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(for appellant)

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Considered and decided by Bentley, Presiding Judge; Ross, Judge; and Cochran,
Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Appellant, a product distributor, challenges the district court's decision granting summary judgment in favor of respondent manufacturer on appellant's third-party claim for contribution or indemnity arising from a failure-to-warn theory. We conclude that the district court erred by granting summary judgment in favor of respondent because there are genuine issues of material fact in dispute. We therefore reverse and remand.

FACTS

The following facts are drawn from the record at summary judgment and are framed in the light most favorable to appellant LPG & NH3 Supply Inc. (LPG) as the nonmoving party.¹

Death of Kailey Mach and Investigation

On February 26, 2022, there was an explosion at the home of Aric and Jessica Holicky in Le Center. Twenty-year-old Kailey Mach, who was housesitting for the Holickys, was tragically killed by the explosion. The Minnesota State Fire Marshal's Office and the Le Sueur County Sheriff's Office investigated the explosion and determined that it was caused by a gas leak into the home from an underground propane supply line. According to an investigative report, the home was heated by a propane furnace located in the basement. Propane was supplied to the furnace from a storage tank located near the

¹ See *Schroeder v. Simon*, 985 N.W.2d 529, 535-36 (Minn. 2023) ("In evaluating a grant of summary judgment, we must view the evidence in the light most favorable to the nonmoving party." (quotation omitted)).

home. An underground copper supply line carried propane from the storage tank to the home.

The underground supply line had been repaired in 2015 after it was accidentally damaged by one of the homeowners during a home improvement project. O’Connell Oil Company (O’Connell Oil), a local propane supplier, repaired the damaged supply line by installing a new section of copper tubing underground and securing the tubing in its location underground with fasteners, including three brass connectors (the brass flare nuts). Pat O’Connell, an O’Connell Oil employee and co-owner, performed the repairs to the Holickys’ propane supply line. After some time, one of the brass flare nuts failed due to corrosion, allowing propane to leak into the ground and enter the home. The leak caused the home explosion in 2022. O’Connell purchased the brass flare nuts used in the 2015 repair from LPG.

Wrongful-Death Action and Third-Party Complaint

In February 2024, Kailey Mach’s parents, plaintiffs Charles and Vicki Mach as trustees for the next of kin of Kailey Mach (the Machs), brought a wrongful-death action against several parties, including LPG, asserting claims for strict product liability and negligence.² The Machs alleged, in relevant part, that LPG received a notice³ from its

² The complaint also asserted claims against defendants Boshart Industries LLC and Boshart Industries Inc. (Boshart), which along with another entity, supplied brass flare nuts to LPG during the relevant time period. The Machs later reached a settlement with Boshart. In addition, the Machs reached a pre-suit settlement with O’Connell Oil.

³ The parties dispute whether the information was a warning. LPG argues that the relevant language is not a warning and, regardless, is not legally adequate. Anderson argues that the language constitutes a warning. Viewing the facts in the light most favorable to LPG

upstream suppliers about the danger of burying the brass flare nuts underground, but failed to pass the notice on to O’Connell Oil.

LPG denied liability.⁴ LPG also brought a third-party complaint against respondent Anderson Copper and Brass Company LLC (Anderson), the manufacturer of the brass flare nut that failed, and against United Brass Manufacturers Inc. and Curtis Marketing LLC, two of the distributors of Anderson’s brass flare nuts. The third-party complaint alleged that, in the event LPG was found liable, the Machs’ damages “were caused, in whole or in part, by the negligence, *failure to warn*, strict liability, product liability, acts, omissions or other fault” of third-party defendants Anderson, United Brass, and Curtis. (Emphasis added.) The third-party complaint further asserted that if LPG is found liable, then “LPG is entitled to contribution or indemnity” from these same third-party defendants. LPG also asserted a negligence claim against the Holickys in its third-party complaint.

LPG later resolved its third-party claims against each of the third-party defendants except for Anderson. Because the only remaining claim at issue on appeal is LPG’s third-party claim against Anderson, the following facts focus on these two parties.

Product Distribution and Notices

As stated, an investigation concluded that one of the three underground brass flare nuts used by O’Connell Oil in the 2015 repair failed after corroding. The three brass flare nuts used by O’Connell Oil included two brass flare nuts that were manufactured by

as the nonmoving party, we refer to the information as a notice for purposes of our analysis, although we acknowledge that the parties disagree on this issue.

⁴ Following commencement of the suit, the Machs resolved the remainder of the wrongful-death claims by way of a settlement with LPG.

Anderson. Anderson's brass flare nuts were distributed to O'Connell Oil through the following distribution chain involving United Brass, Curtis, and LPG.⁵

Anderson sold its brass flare nuts to United Brass for further distribution. The brass flare nuts came packaged in boxes of approximately 300-400 pieces. In about 2007, United Brass began printing a notice on the side of the shipping boxes containing the brass flare nuts. The notice provided:

These fittings are designed for use by technically trained personnel only. Specialized knowledge and training in the use of these fittings is necessary because misapplication of this product could result in injury or death. The manufacturer expressly warns against the sale to or use of this product by other than professionally trained personnel.

Do NOT bury brass fittings underground as soil conditions may cause deterioration of fittings leading to stress corrosion cracking or other problems resulting in product failure or leaking which could result in serious injury or death.

United Brass sold brass flare nuts to Curtis in boxes bearing this notice. Curtis, in turn, sold brass flare nuts to LPG in 2015. The record is unclear as to whether LPG received brass flare nuts from Curtis in a United Brass shipping box. LPG in turn sold the brass flare nuts to O'Connell Oil in 2014 and 2015, prior to the repairs at the Holickys' home. The brass flare nuts that O'Connell Oil received from LPG came packaged "in a clear plastic bag." LPG did not give any notice to O'Connell Oil about the risk of burying brass flare nuts underground. O'Connell Oil used brass flare nuts to repair the propane supply

⁵ The third brass flare nut was manufactured by Boshart.

line at the Holickys' home. An expert later identified Anderson as the manufacturer of the defective brass flare nut used in the repair, based on the markings on the brass flare nut.⁶

Summary-Judgment Motion and Decision

In August 2025, Anderson moved for summary judgment on the claim raised in LPG's third-party complaint. In a joint memorandum of law with United Brass, Anderson argued that LPG "fail[ed] to state a claim for failure to warn."⁷ And it further argued that the undisputed facts showed that LPG could not prove causation between any alleged failure to warn on Anderson's part and the damages allegedly arising from O'Connell Oil's use of Anderson's brass flare nuts in repairing the propane line.⁸ Anderson raised two independent arguments in support of its position. First, Anderson argued that LPG had a practice of not passing along warnings or notices to its customers, interrupting the causal

⁶ As noted, O'Connell used three brass flare nuts during the 2015 repair: two Anderson brass flare nuts and one Boshart brass flare nut. The Anderson and Boshart brass flare nuts had different markings. The investigation report stated that 3A-1 was the brass flare nut that failed and resulted in the propane leak. The report further concluded that the faulty brass flare nut, 3A-1, was manufactured by Anderson based on the markings on the brass flare nut.

⁷ As noted above, LPG filed a third-party complaint against Anderson and others asserting a claim for contribution or indemnification based on allegations that, if LPG was found liable for damages caused by the explosion, then the damages "were caused, in whole or in part, by the negligence, *failure to warn*, strict liability, product liability, acts, omissions or other fault" of Anderson and other third-party defendants. (Emphasis added.) While Anderson's summary-judgment motion characterizes LPG's third-party claim as a "failure to warn" claim, we note that the failure-to-warn theory arises out of a claim for contribution or indemnification.

⁸ United Brass joined in Anderson's summary-judgment motion. But, as noted, LPG and United Brass settled their claims. As such, we address the district court's summary-judgment order only insofar as it bears on Anderson's arguments.

chain between Anderson's alleged failure to adequately warn of the risks associated with underground use of its brass flare nuts and the explosion allegedly tied to the use of the Anderson brass flare nuts. Second, Anderson argued that, even if LPG had passed along a warning or notice to O'Connell Oil about the risks of using the brass flare nuts, O'Connell Oil would still have installed the brass flare nuts when repairing the propane line. In support of the motion, Anderson relied on deposition testimony from LPG's president and O'Connell Oil's representatives.

LPG opposed the motion for summary judgment, asserting that disputed issues of material fact precluded the grant of summary judgment and raising legal arguments in opposition to the motion. LPG highlighted testimony of these same individuals, including the testimony of LPG's president that LPG has a policy of passing along warning sheets to customers, as well as other testimony. The district court agreed with Anderson's arguments and granted summary judgment in favor of Anderson and against LPG on LPG's third-party claim against Anderson.

LPG appeals.

DECISION

Summary judgment is appropriate only "if the movant shows that there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law." Minn. R. Civ. P. 56.01. "A genuine issue of material fact exists when there is sufficient evidence regarding an essential element [of a claim] to permit reasonable persons to draw different conclusions." *St. Paul Park Refin. Co. v. Domeier*, 950 N.W.2d 547, 549 (Minn. 2020) (quotations omitted). To defeat summary judgment, "[a] genuine issue of

material fact ‘must be established by substantial evidence.’” *McBee v. Team Indus., Inc.*, 925 N.W.2d 222, 230 (Minn. 2019) (quoting *DLH, Inc. v. Russ*, 566 N.W.2d 60, 69-70 (Minn. 1997)).

We “review the grant of summary judgment de novo to determine whether there are genuine issues of material fact and whether the district court erred in its application of the law.” *Montemayor v. Sebright Prods., Inc.*, 898 N.W.2d 623, 628 (Minn. 2017) (quotation omitted). “We view the evidence in the light most favorable to the nonmoving party . . . and we do not weigh facts or make credibility determinations.” *Kenneh v. Homeward Bound, Inc.*, 944 N.W.2d 222, 228 (Minn. 2020). “Any doubt as to whether issues of material fact exist is resolved in favor of the party against whom summary judgment was granted.” *Lubbers v. Anderson*, 539 N.W.2d 398, 401 (Minn. 1995). “Summary judgment is a blunt instrument that is inappropriate when reasonable persons might draw different conclusions from the evidence presented.” *Kenneh*, 944 N.W.2d at 232 (quotations and citations omitted).

At issue is LPG’s demand in its third-party complaint for contribution and/or indemnification⁹ on a failure-to-warn theory in the product-liability context. LPG asserts

⁹ In its third-party complaint, LPG asserted a claim for contribution and/or indemnification against the third-party defendants, including Anderson. “Contribution is an equitable remedy that allows one who has discharged more than [their] fair share of a common liability or burden to recover from another who is also liable the proportionate share which the other should pay or bear.” *In re Individual 35W Bridge Litig.*, 806 N.W.2d 811, 815 (Minn. 2011) (quotation omitted). Indemnity is an equitable remedy that applies when one party has a primary or greater duty to bear a burden between parties. See *United Prairie Bank-Mountain Lake v. Haugen Nutrition & Equip., LLC*, 813 N.W.2d 49, 56 n.2 (Minn. 2012).

that if it is found liable to the Machs for damages arising out of the explosion, then those damages were the result of “the negligence, failure to warn, strict liability, product liability, acts, omissions or other fault” of Anderson and other third-party defendants. Negligence and strict liability “merge” into a single products-liability theory in failure-to-warn cases such as this, which requires proof of a manufacturer’s or supplier’s duty of care. *Bilotta v. Kelley Co.*, 346 N.W.2d 616, 622-23 (Minn. 1984); *see also Hauenstein v. Loctite Corp.*, 347 N.W.2d 272, 274 (Minn. 1984) (“As a practical matter, where the strict liability claim is based on . . . failure to warn . . . there is essentially no difference between strict liability and negligence.” (quotation omitted)). “In general, a supplier has a duty to warn end users of a dangerous product if it is reasonably foreseeable that an injury could occur in its use.” *Glorvigen v. Cirrus Design Corp.*, 796 N.W.2d 541, 550 (Minn. App. 2011) (quotation omitted), *aff’d*, 816 N.W.2d 572 (Minn. 2012). This “includes providing adequate instructions for the safe use of the product.” *Id.* Additionally, to prevail, a plaintiff must establish that the lack of an adequate warning caused the plaintiff’s injuries. *See J & W Enters., Inc. v. Econ. Sales, Inc.*, 486 N.W.2d 179, 181 (Minn. App. 1992) (recognizing that under “any theory of products liability, the plaintiff must show a causal link between the alleged defect and the injury” (quotation omitted)); *Marcon v. Kmart Corp.*, 573 N.W.2d 728, 731 (Minn. App. 1998) (stating in a strict-liability failure-to-warn case that the plaintiff must prove that the alleged “defect was the proximate cause of the injury sustained”), *rev. denied* (Minn. Apr. 14, 1998).

Anderson's summary-judgment motion before the district court was limited to the element of causation. Generally, causation is a question of fact for the jury. *Westbrock v. Marshalltown Mfg. Co.*, 473 N.W.2d 352, 360 (Minn. App. 1991) (“[F]ailure to warn causation issues involve fact questions usually left for the trier of fact.”), *rev. denied* (Minn. Sep. 13, 1991); *Hauenstein*, 347 N.W.2d at 275 (noting in a product-liability case that “[t]he issue of causation is for the jury to decide”). However, causation may be resolved as a matter of law “when reasonable minds could reach only one conclusion.” *Johnson v. Paynesville Farmers Union Co-op. Oil Co.*, 817 N.W.2d 693, 712 (Minn. 2012) (quotation omitted).

The district court granted summary judgment in favor of Anderson after concluding that LPG could not establish causation because: (1) LPG had an established practice of not passing along warnings it received from suppliers and manufacturers to its customers, interrupting the causal link between the home explosion and Anderson's alleged failure to warn about the dangers of burying brass flare nuts; and (2) the causal chain was also broken because LPG could not establish that a warning would have induced O'Connell Oil to *not* repair the underground propane line with the brass flare nuts. Because Anderson's motion was limited to the element of causation, the district court did not consider the other elements of Anderson's failure-to-warn claim.

Based on our de novo review and viewing the facts in the light most favorable to LPG, we conclude that the district court erred by granting summary judgment in favor of Anderson on the issue of causation. As discussed below, genuine issues of material fact

exist as to both bases relied on by the district court to conclude that LPG could not establish causation. We address each basis in turn.

LPG's Established Practice

LPG first argues that the district court erred by concluding that the undisputed facts show that “LPG’s established practice is *not* to convey warnings” and granting summary judgment on that basis. (Emphasis added.) LPG argues that it presented evidence showing that it does convey warnings that it receives from manufacturers and suppliers, creating a disputed issue of material fact. We agree.

The summary judgment record includes testimony from which a reasonable person could conclude that LPG does convey certain warnings that it receives from suppliers and manufacturers to its customers. In his deposition, LPG’s president explained that “the manufacturers would typically supply a warning sheet with each product, and *that is passed along with the product.*” (Emphasis added.) The president further stated that “[i]f we have it in a warning sheet form . . . that could be passed along, then we would.” This testimony contradicts the district court’s factual finding that the undisputed facts show that “LPG’s established practice is not to convey warnings.”

LPG’s president did acknowledge that, when a warning or notice is printed on a box, LPG is “not able to pass this on” because of the form—here, its location on the box. But this testimony does not conflict with his other testimony that when LPG receives warnings printed on individual pieces of paper (warning sheets) in the shipping boxes with the product, LPG passes along those warning sheets to its customers. This testimony from LPG’s president creates a genuine issue of material fact regarding whether LPG has a

practice of not conveying warnings from manufacturers and suppliers to its customers, as alleged by Anderson.

In determining otherwise, the district court relied on LPG's president's testimony that LPG does not pass along warnings that are printed on boxes and ignored the testimony that LPG does pass along warning sheets that it receives to its customers. In so doing, the district court erred by failing to view the evidence in the light most favorable to LPG and by weighing the evidence. *See Hoyt Props., Inc. v. Prod. Res. Grp., LLC*, 736 N.W.2d 313, 320 (Minn. 2007) (cautioning that "[w]eighing the evidence and assessing credibility on summary judgment is error"). At oral argument, Anderson's counsel agreed that there were genuine issues of material fact in dispute in this regard. We therefore conclude the district court erred by granting summary judgment in favor of Anderson based on its determination that LPG had an "established practice" of not passing on manufacturer or supplier warnings to its customers.¹⁰

O'Connell Oil's Repair Practices

LPG also challenges the district court's determination that Anderson was separately entitled to summary judgment on the issue of causation because the undisputed facts showed that O'Connell Oil would not have changed its practice of burying brass flare nuts underground even if LPG had provided a warning to O'Connell Oil. LPG argues that

¹⁰ Anderson also argued that LPG's practice not to pass on warnings to its installers was a superseding cause of the accident. The district court did not address this argument. Anderson's argument related to superseding causation seems virtually identical to the argument discussed above. Because there is a disputed issue of material fact regarding LPG's practice of conveying warnings, Anderson's superseding-cause argument does not provide an independent basis for affirmance.

genuine issues of material fact exist concerning whether O’Connell Oil would have buried the brass flare nuts underground if it had received an adequate warning. We again agree with LPG.

To prevail on the causation element of a failure-to-warn claim, the plaintiff must establish that the lack of an adequate warning caused the injuries in question. *J & W Enters., Inc.*, 486 N.W.2d at 181; *see also Gardner v. Brillion Iron Works, Inc.*, 120 F. Supp. 3d 928, 939-40 (D. Minn. 2014) (denying the defendant’s summary-judgment motion on a failure-to-warn claim because “whether or not a warning would have been futile . . . is a material disputed fact that must be presented to the jury”). This generally requires a showing that the individual who should have received the warning would have acted differently if they had received an adequate warning. *See, e.g., Balder v. Haley*, 399 N.W.2d 77, 81-82 (Minn. 1987) (determining as a matter of law that there was no causal link between the manufacturer’s alleged failure to warn and the plaintiff’s injuries from a water-heater explosion because “[t]he foolishness of attempting to fix a gas line that was leaking significant amounts of gas is apparent” and “[t]here is no reason to believe that a warning label would have done anything more” to warn the plaintiff of the danger).

Here, viewing the evidence in the light most favorable to LPG, the record shows there is a disputed issue of material fact regarding whether O’Connell Oil would have changed its practice of burying brass flare nuts underground if LPG had provided a warning. The record reflects that reasonable minds could draw different conclusions from the evidence presented. *See DLH, Inc.*, 566 N.W.2d at 69 (noting “that summary judgment

is inappropriate when reasonable persons might draw different conclusions from the evidence presented”).

The following evidence could support a finding that O’Connell Oil would have changed its practice of burying brass flare nuts underground if it had received a warning from LPG about the risks associated with burying brass flare nuts. First, Brandon O’Connell, who is the vice president and an owner of O’Connell Oil, testified that, if LPG had received a warning from its supplier that brass flare nuts could cause serious injury or death if buried in the ground, O’Connell Oil would have wanted to receive such a warning from LPG. Second, Pat O’Connell, a co-owner of the company and the person who performed the repairs at the Holickys’ home, agreed in response to a deposition question that “one thing O’Connell Oil has determined is that if that brass flare nut or nuts has with it information stating that it should not be buried underground, then [O’Connell Oil is] not going to bury it underground.” Pat O’Connell further agreed that O’Connell Oil would “follow that directive.” Third, Pat O’Connell agreed that he would have utilized other fittings in performing the work if he had “been informed that there was a safety issue with burying brass fittings in the soil prior to the [propane line] repair.” Based on this testimony from the O’Connell brothers, a reasonable mind could draw the conclusion that O’Connell Oil would have changed its practice and not buried the brass flare nuts if it had received a warning about the risks of burying the brass flare nuts underground. *See id.*

There is other evidence in the record suggesting that a reasonable person could conclude otherwise—that O’Connell Oil would not have changed its practices even if it received a warning from LPG. For example, at his deposition, Pat O’Connell was asked if

he would still bury the brass flare nuts underground if he “had received safety information like what is written [on the side of the United Brass box]” about the risks associated with that repair. Pat O’Connell responded, “Don’t know.” The attorney asked, “You don’t know?” Pat O’Connell responded, “No.”¹¹ Additionally, Brandon O’Connell testified that O’Connell would “likely” still follow the practice of using brass flare nuts on copper tubing for underground propane installations. And Brandon O’Connell agreed that he had not yet instructed his employees not to bury brass flare nuts underground and noted that O’Connell Oil “doesn’t use any other practice.” Based on this evidence, a reasonable mind could find that O’Connell Oil’s practice of installing brass flare nuts underground would not have changed even if it had received a warning from LPG.

The evidence in the summary-judgment record could support two different conclusions: O’Connell Oil would have utilized different fittings if it had received a warning from LPG, or O’Connell Oil would have used and buried the brass flare nuts even if it had received a warning. Summary judgment is improper if reasonable people can draw different conclusions from the evidence presented. *St. Paul Park Refin. Co.*, 950 N.W.2d at 549.

In arguing otherwise, Anderson describes Pat O’Connell’s testimony that he would not have buried the brass flare nuts if he received a warning as “speculative” and asserts that the testimony is “insufficient to prove causation as a matter of law.” Anderson also points us to testimony from Brandon O’Connell, who stated that the company has not

¹¹ It is noteworthy, that in asking the question, the attorney characterized the label as containing “safety information,” rather than as a “warning.”

instructed its employees not to bury brass flare nuts in the time since the home explosion. Anderson urges us to place great weight on Brandon O’Connell’s testimony and reject Pat O’Connell’s testimony as speculative.

We acknowledge that “a finding of causation cannot be based upon mere speculation or conjecture.” *Ryggwall v. ACR Homes, Inc.*, 6 N.W.3d 416, 430 (Minn. 2024). But Anderson fails to explain how Pat O’Connell’s testimony is speculative. Moreover, it is for the jury, and not this court, to weigh conflicting evidence and make credibility assessments. *See Hoyt Props., Inc.*, 736 N.W.2d at 320; *Warren v. Dinter*, 926 N.W.2d 370, 375 (Minn. 2019) (recognizing that “summary judgment is inappropriate when reasonable persons might draw different conclusions from the evidence presented” (quotation omitted)). We therefore conclude there is a disputed issue of material fact as to whether a legally adequate warning would have changed O’Connell Oil’s practice of burying brass flare nuts underground when repairing a propane line.

In sum, there are genuine issues of material fact regarding the causation issues raised by Anderson on summary judgment because reasonable persons could draw different conclusions from the evidence presented. *See St. Paul Park Refin. Co.*, 950 N.W.2d at 549. Consequently, the district court erred by granting summary judgment in favor of Anderson on LPG’s third-party claim for contribution or indemnification based on a failure-to-warn theory.

Reversed and remanded.