

NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

JEROME AND CHEYENNE
MCDONNELL

Appellant

v.

MTD PRODUCTS, INC. AND LOWE'S
HOME CENTERS LLC

: IN THE SUPERIOR COURT OF
: PENNSYLVANIA
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No. 562 MDA 2025

Appeal from the Judgment Entered April 11, 2025
In the Court of Common Pleas of Lancaster County
Civil Division at No(s): CI-19-06173

BEFORE: BOWES, J., DUBOW, J., and NEUMAN, J.

MEMORANDUM BY BOWES, J.:

FILED: AUGUST 24, 2026

Jerome and Cheyenne McDonnell (collectively "Plaintiffs") appeal from the judgment entered on the jury verdict in favor of MTD Products, Inc. ("MTD") and Lowe's Home Centers LLC ("Lowe's") (collectively "Defendants") in this product liability action. We affirm.

In 2015, Jerome purchased an MTD-manufactured Troy-Bilt walk-behind lawnmower at a Lowe's store in Lancaster County. As it was a floor model, it came at a reduced price but without its original packaging or the operator's manual. However, several instructions and warnings appeared on the mower itself, including an advisement to read the operator's manual and an

admonition to mow across slopes rather than up and down them, and, in any event, to not mow slopes greater than fifteen degrees.¹

On an evening in late October 2018, Jerome decided to mow his backyard for the final time that season. The yard included a slope that varied between six and twenty-six degrees of incline with a fence at the top. At a point where he was mowing straight down the slope, Jerome slipped on the wet grass. During his ensuing slide, his left foot went under the back of the

¹ Specifically, the following warnings appeared on the mower:



See Defendant's Trial Exhibit 22 (cropped).

mower, horribly mangling the top of his foot just past his larger toes. He was hospitalized for eighty-eight days, during which he underwent twenty-five surgeries. In all, his medical bills totaled approximately \$650,000.

Plaintiffs filed a complaint against Defendants in June 2019, stating claims of negligence, strict products liability, breach of warranty, and loss of consortium.² Plaintiffs' Restatement (Second) of Torts § 402A strict liability counts alleged that the mower was unreasonably dangerous because it lacked adequate warnings to render it safe for its intended use and due to design defects. The latter included contentions that the design incorporated an insufficient distance between the rear of the mower deck and the rotary blade and lacked a guard to prevent the operator's foot from going under the deck from behind. As developed during the course of the litigation, Plaintiffs' warning theory posited that the on-product instructions should have advised operators to release the mower's operator presence control ("OPC") device and push the machine away immediately upon losing their footing.

Jerome was deposed during the discovery phase of the litigation. In his deposition, Jerome explained that, on the evening in question, he took the mower from a shed situated next to a fence at a high point in his backyard.

² The derivative loss of consortium claim was raised by Cheyenne as Jerome's spouse, and remained as a theory of liability although the parties divorced during the pendency of the action. However, Plaintiffs ultimately elected not to pursue their negligence and warranty claims at trial.

See Deposition of Jerome McDonnell, 5/11/21, at 55.³ He typically mowed this portion of the yard by forming a rectangle on the outer edges of the slanted area, then working his way toward the middle. On this occasion, he first replaced two bolts on the machine, as he had noticed the prior time he used the mower that it had one missing and another loose. He then began his typical pattern, mowing along the fence line. To aid in visualizing the scene, we offer the following image depicting the shed along the fence at the left:



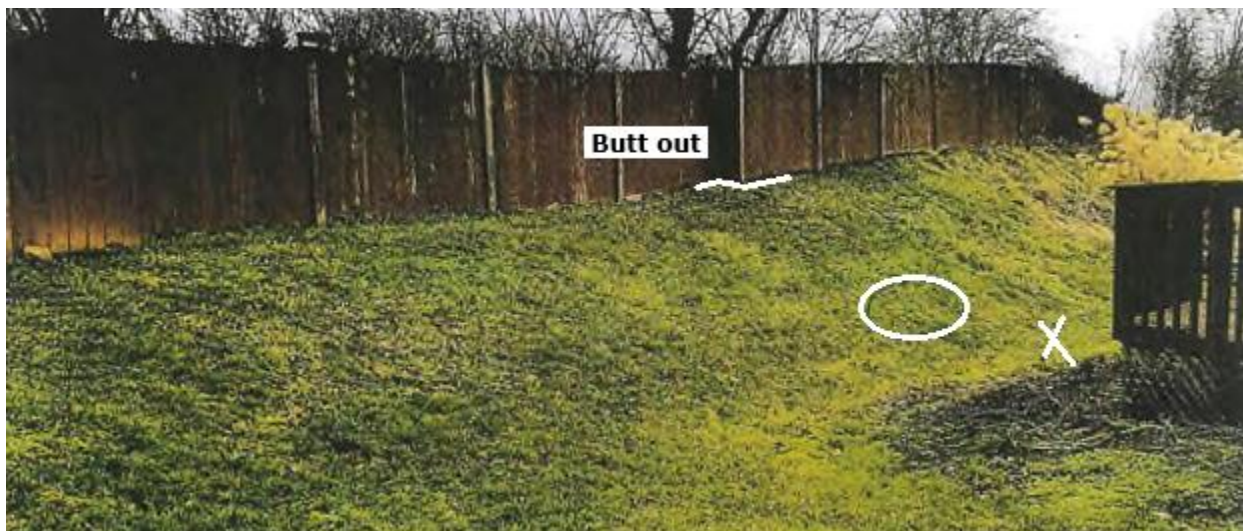
See Appellant's brief at 11 (image lightened). When he reached a spot where the fence butted out around a tree, Jerome turned right and proceeded straight down the slope. **See** Deposition of Jerome McDonnell, 5/11/21, at 80

³ The full deposition transcript is included in the certified record, *inter alia*, as Exhibit D to Defendants' July 29, 2024 Motion for Summary Judgment.

("I went to the butt-out, turned, down the slope."). He described what happened as he mowed down the incline thusly:

I was getting ready to turn the mower at the bottom of it, and I hadn't physically gone like that yet, but I was nearing the end of where -- where I would turn to make the bottom part of the rectangle that I spoke of, and that's where I slipped. You know, it happened extremely quickly. It was like sliding into second base. You know, I went down, and, I mean, honestly, the next thing I knew, you know, I'm -- my butt is flat on the ground, and my foot is under the mower.

Id. at 82-83. Presented with a photograph of that portion of his yard, Jerome circled the approximate spot where he slipped, and placed an X where his foot came in contact with the blade:



See Deposition of Jerome McDonnell, 5/11/21, at Exhibit 5 (text and butt-out graphic added; circle and X emphasized).

Jerome was questioned about the fact that he was not provided an owner's manual for the mower. He testified that he did not seek one out because he did not think that he needed one. **Id.** at 113; **see also id.** at 99

("I mean, it's -- it's a lawnmower. You start it. You cut the grass. You put it away."). Indeed, Jerome indicated that he did not consult the instruction manuals to use any of his lawn tools because they were not complicated pieces of equipment. **Id.** at 50-52. Rather, he looked at a manual only insofar as he required instructions to assemble the equipment. **Id.** at 52. Jerome was not aware that the manual for the mower contained a slope guide, did not know the slope of rise in his yard, and never took steps to ascertain the degree of incline. **Id.** at 110-12.

When asked if he read the on-product warnings on his Troy-Bilt MTD mower before electing to mow straight down the slope, Jerome answered:

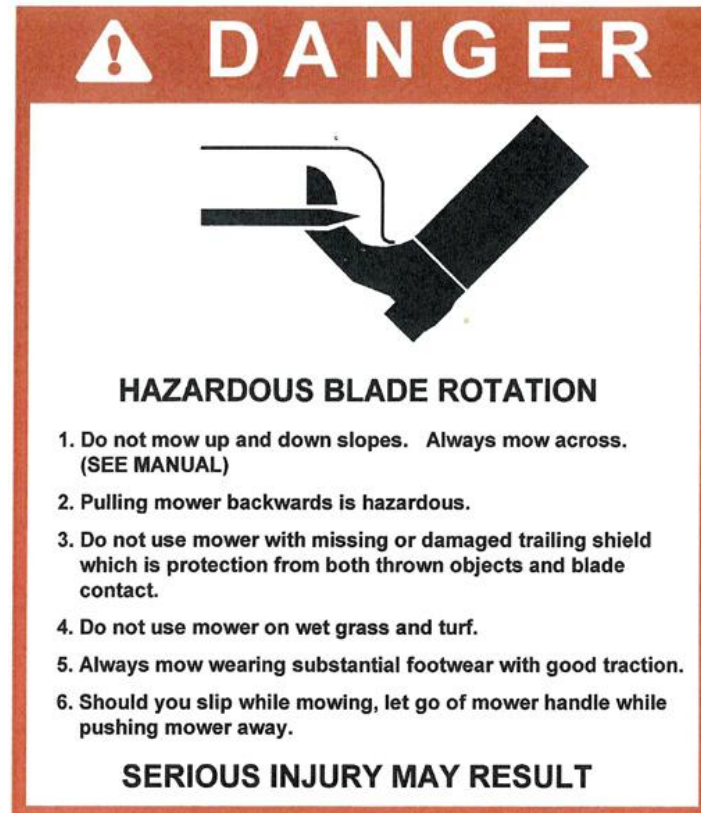
Not in depth, no. I mean, I saw the pictures there. You can't miss "danger, keep hands and feet away" in the middle there, but it's not like I sat down and said, oh, let me read this. You know, again, it's a lawnmower. You start it. You cut the grass. Put it away.

Id. at 105. Examining the warning after the fact, he understood it to indicate that slopes in excess of fifteen degrees should be mowed across rather than up and down. **Id.** at 114.

As the case proceeded towards trial, the parties obtained expert witness reports. Plaintiffs' expert Kevin B. Severt, P.E., opined that the mower was defective in multiple respects. Mr. Severt indicated that it was unreasonably dangerous in that it presented a known risk of serious injury without utilizing feasible alternative designs that would have enhanced safety without affecting the utility of the machine, such as extending the rear of the deck or

incorporating a longer handle. He also asserted that the mower failed to align with consumer expectations, as ordinary users would not appreciate that the OPC device was not designed to prevent injuries in a slip and fall by causing the blade to come to a complete stop before their foot went under the rear of the deck. Mr. Severt further opined that the existing product warning was inadequate and proffered an improved one that included an instruction to immediately release the OPC mechanism and push the mower away in the event of a slip and fall. **See** Severt Report, 3/28/22, at 2-4.⁴

⁴ Mr. Severt's report is in the certified record, among other places, as Exhibit C to Plaintiffs' April 14, 2023 pretrial memorandum. Appended to it is the following label that he indicated would have rendered the product safe:



Meanwhile, Defendants obtained expert reports from consulting engineers Daniel J. Martens and Dan E. Neilsen. Mr. Martens opined that the Troy-Bilt mower was safe for its intended use, and contained adequate warnings that would have prevented the injury had Jerome heeded them. **See** Martens Report, 8/18/22, at 17.⁵ Mr. Martens further asserted that the alternative warning developed by Mr. Severt would not have made any difference in this case. **Id.**

Mr. Neilsen likewise stated the opinion that the incident would not have occurred if Jerome had followed the on-product instructions. **See** Neilsen Report, 8/22/22, at 53.⁶ He cited Jerome's choice to mow up and down a slope that was in part as steep as 26.2 degrees as "a clear misuse of the lawn mower." **Id.** at 54. Mr. Neilsen indicated that Jerome likely held onto the handle and the OPC mechanism when he slipped on the steep grade, causing him to pull the back of the machine off the ground while his foot slid under. **Id.** at 55. Mr. Neilsen concluded that there were no known designs in the industry that that would prevent this type of incident when the mower was misused on such steep slopes. **Id.** at 56.

⁵ Mr. Martens' report can be found in the record as Exhibit E to Plaintiffs' August 28, 2024 Brief in Support of Motion *in Limine* (Martens).

⁶ **See** Brief in Support of Motion *in Limine* (Neilsen), 8/28/24, at Exhibit E. We note that, while Mr. Neilsen's report was referenced in litigation of the summary judgment motions, Defendants did not call him to testify at trial.

Plaintiffs and Defendants each filed dispositive motions prior to trial raising various theories. Pertinent to this appeal, Defendants sought summary judgment on the failure-to-warn aspect of Plaintiffs' § 402A claim on the basis that "Pennsylvania law does not require a manufacturer to warn against dangers that arise only where, as here, the plaintiff does not heed the existing warnings already conveyed by the on-product labels." Motion for Summary Judgment, 7/29/24, at ¶ 18 (citing ***Davis v. Berwind Corp.***, 690 A.2d 186, 190 (Pa. 1997)). Defendants further asserted that Plaintiffs lacked evidence to establish a causal link between Jerome's injuries and the absence of the proposed alternate warning about pushing the mower away. ***Id.*** at ¶ 20. Likewise, given Jerome's deposition testimony that he does not read operator's manuals unless he requires product assembly instructions, Defendants maintained that the failure of Lowe's to supply the manual could not be a cause of the harm sustained by Plaintiffs. ***Id.*** at ¶ 21.

In their response, Plaintiffs insisted that Jerome fell on a flat part of the yard rather than on the steep slope; that Mr. Martens admitted that the warning proposed by Plaintiffs "would be one way of minimizing the risk of blade contact in the scenario of a slip and fall;" and that the failure by Lowe's to provide the manual was not "somehow unimportant, given that Defendants' own experts extensively quote the manual throughout their reports, and Defendants' corporate designees' admissions that the operator's manual was

integral to the safety of the mower.” Plaintiffs’ Response to Defendants’ Motion for Summary Judgment, 8/16/24, at ¶¶ 18, 20-21.

The trial court granted Defendants’ motion and dismissed Plaintiffs’ failure to warn claim with prejudice. **See** Order, 9/26/24. However, Plaintiffs’ design defects claim proceeded to trial.

The parties filed pretrial motions *in limine* seeking, *inter alia*, to preclude each others’ experts from proffering particular testimony at trial, and also to exclude evidence of negligence concepts. The court granted Plaintiffs’ motion regarding evidence of Defendants’ compliance with industry standards and government regulations, but declined to prevent Defendants from seeking to prove that Jerome misused the mower. The court’s review of the myriad pretrial motions prompted the court to *sua sponte* order that the trial be bifurcated into liability and damages phases, with Plaintiffs’ medical experts only being permitted to testify if the jury found Defendants liable for the injuries. The court did, however, allow Plaintiffs to offer evidence during the liability phase, including a graphic photograph of his wound, to demonstrate the nature and extent of his injuries to allow the jury to assess the seriousness of the harm at issue when deciding the design defect claim.

At trial, both Plaintiffs testified about the incident and the injuries as so constrained. Additionally, the court qualified both Messrs. Severt and Marten as experts. The court summarized their evidence as follows:

Mr. Severt testified that he had inspected the mower and the area of [Plaintiffs’] yard where the accident occurred. He concluded

that the mower was defective in design and unreasonably dangerous for its intended, anticipated, and expected uses. Mr. Severt specified that the mower was defective because it had insufficient spacing between the blade tip and the rear edge of the mower and lacked proper guarding to prevent exposure to the rotating blade during a slip-and-fall accident. He presented to the jury an exemplar mower that featured an extended rear mower deck, patented in the 1960s and described as an add-on guard, that provided a [thirteen]-inch clearance between the rear edge of the housing and blade. According to Mr. Severt, this alternative design was available and feasible at the time that the mower was designed and would have essentially created an effective distance barrier. The jury saw pictures of Mr. Severt holding a mower similar to the exemplar with an add-on guard, including still-frame photographs of Mr. Severt mimicking different postures of a fall-down accident to show the alleged ability for the guard to prevent the user's foot from contacting the mower blade. Mr. Severt clearly conveyed, however, that he did not try to recreate [Jerome]'s accident using the exemplar mower.

[Mr.] Martens, who was qualified as a mechanical engineering expert in walk-behind mowers and as an accident reconstruction expert for MTD, opined that mowing down a 25.6 degree slope constituted misuse of the mower. The jury watched a video of Mr. Martens recreating the accident using a tilt table positioned at an approximately [twenty-four]-degree slope and a mower similar to [Jerome]'s. Mr. Martens explained that when a mower operator slips on such a steep decline, the operator instinctively clings to the mower, pulling and lifting it toward himself as a result of the slope angle. Resultantly, the back wheels leave the ground and expose the blade. Mr. Martens opined that the mower was safe for its intended use and that [Jerome]'s accident and injuries could have occurred even when using the exemplar mower equipped with Plaintiffs' proposed alternative designs.

Trial Court Opinion, 8/19/25, at 4-5 (cleaned up).

This testimony was not admitted without interruption. Of note, Plaintiffs asserted that Mr. Martens lacked the qualifications to offer expert testimony on accident reconstruction. They also complained that Defendants improperly introduced evidence concerning: (1) the adequacy of their warnings when

Plaintiffs were prevented from doing the same, given the dismissal of the failure-to-warn claim, as well as (2) MTD's exercise of due care in designing the mower that was not relevant to the § 402(A) claim. Further, Plaintiffs attempted to cross-examine Mr. Martens about incidents where other consumers were injured by MTD mowers, but the trial court disallowed it, finding that Plaintiffs did not establish that the other accidents were sufficiently similar.

Following closing arguments and instructions, the jury deliberated for approximately two hours before returning with a defense verdict finding that the mower did not have an unreasonably dangerous design defect at the time of the accident. **See** N.T. Trial, 10/30/24, at 527. Plaintiffs filed a timely post-trial motion which the trial court denied following briefing. Plaintiffs filed a *praecipe* for entry of judgment on the verdict on April 11, 2025, and this timely appeal followed. The court ordered Plaintiffs to file a Pa.R.A.P. 1925(b) statement of errors complained of on appeal, and they complied. The court filed a responsive Rule 1925(a) opinion addressing those issues on August 19, 2025.

Plaintiffs present us with the following questions, which we have re-ordered for ease of disposition:

1. Did the trial court err in dismissing Plaintiffs' strict product liability failure to warn claims on summary judgment, and precluding Plaintiffs' liability expert, Kevin Severt, P.E., from offering testimony and opinions on the Troy-Bilt mower's lack of adequate warnings and instructions at trial?

2. Did the trial court err and abuse its discretion in its evidentiary rulings whereby Defendants, but not Plaintiffs, were permitted to introduce evidence and argument at trial concerning the adequacy of the Troy-Bilt mower warnings and instructions, and allowing Defendants to cross-examine Plaintiffs' expert on his improved warning label excluded by the trial court's pre-trial order?
3. Whether the trial court erred in allowing Defendants to introduce inadmissible negligence concepts at trial of Plaintiffs' strict product liability case, including MTD's reasonable care in designing the subject mower and the mower's compliance with "state of the art" industry standards and government regulations, in violation of ***Sullivan v. Werner Company***, 306 A.3d 846 (Pa. 2023)[,] and the court's orders excluding such evidence, as well as [Jerome]'s alleged negligence?
4. Whether the trial court erred in admitting Defendant MTD's liability expert, Daniel Martens, to testify as an expert in accident reconstruction despite his lack of relevant professional background, skill, experience, education, training, or specialized knowledge as required under Pa.R.E. 702?
5. Whether the trial court erred in preventing Plaintiffs from cross-examining Defendants' expert Daniel Martens regarding his knowledge of prior similar incidents and claims involving the same or similar model walk-behind mower in which an individual suffered blade injuries in a slip and fall accident while operating the mower on a slope?
6. Did the trial court err and abuse its discretion in bifurcating trial as to the issues of liability and damages, where the evidence concerning the specific nature, severity, and extent of [Jerome]'s injuries and treatment resulting from his contact with the mower's blade was fundamentally relevant to and intertwined with the jury's determination of design defect under the risk-utility test and consumer expectations test as set forth in ***Tincher v. Omega Flex, Inc.***, 104 A.3d 328 (Pa. 2014), and as evidence to support the disputed issue that Plaintiff's injuries were caused when his foot slid under the mower deck, and there was a lack of competing justification for bifurcation?

Plaintiffs' brief at 5-7 (cleaned up).

Plaintiffs' first question challenges the trial court's decision to dismiss their failure to warn claim. The following principles govern our resolution of this issue:

Our standard of review of an order granting summary judgment is well settled:

We view the record in the light most favorable to the nonmoving party, and all doubts as to the existence of a genuine issue of material fact must be resolved against the moving party. Only where there is no material fact and it is clear that the moving party is entitled to judgment as a matter of law will summary judgment be entered. Our scope of review of a trial court's order granting or denying summary judgment is plenary, and our standard of review is clear: the trial court's order will be reversed only where it is established that the court committed an error of law or abused its discretion.

. . . .

Where the non-moving party bears the burden of proof on an issue, he may not merely rely on his pleadings or answers in order to survive summary judgment. Further, failure of a non-moving party to adduce sufficient evidence on an issue essential to his case and on which he bears the burden of proof establishes the entitlement of the moving party to judgment as a matter of law.

Thus, our responsibility as an appellate court is to determine whether the record either establishes that the material facts are undisputed or contains insufficient evidence of facts to make out a *prima facie* cause of action, such that there is no issue to be decided by the fact-finder. If there is evidence that would allow a fact-finder to render a verdict in favor of the non-moving party, then summary judgment should be denied.

Harris v. Hutchinson Sportsmen's Club, 352 A.3d 1063, 1070-71

(Pa.Super. 2026) (cleaned up).

Turning to the substantive law, we observe:

A strict liability claim pursuant to § 402A of the Restatement (Second) of Torts, allows recovery where a product in a defective condition unreasonably dangerous to the user or consumer causes harm to the plaintiff. There are three different types of defective conditions that can give rise to a strict liability claim: design defect, manufacturing defect, and failure-to-warn defect. For all three theories of liability, the plaintiff must prove that the product's defect caused harm.

L.T. v. Kubota Mfg. of Am. Corp., 332 A.3d 47, 58–59 (Pa.Super. 2025) (cleaned up).

Plaintiffs in the case *sub judice* raised claims of design defect and failure to warn. While the former was decided by the jury, the trial court granted summary judgment to Defendants on the latter. A failure-to-warn claim is founded upon the principle that “[a] dangerous product can be considered ‘defective’ for strict liability purposes if it is distributed without sufficient warnings to notify the ultimate user of the dangers inherent in the product.” ***Davis***, 690 A.2d at 190.

To establish the causation element of a failure-to-warn claim, “the plaintiff must demonstrate that the user of the product would have avoided the risk had he or she been warned of it by the seller.” ***L.T.***, 332 A.3d at 59 (cleaned up). In that vein, Pennsylvania law grants a plaintiff the benefit of a rebuttable presumption that, had an adequate warning been provided, the plaintiff would have heeded it. ***See, e.g., Maya v. Johnson & Johnson***, 97 A.3d 1203, 1218 (Pa.Super. 2014).

In order to rebut the heeding presumption, the defendant need only produce evidence “sufficient to support a finding contrary to the presumed fact.” **Goldstein v. Phillip Morris, Inc.**, 854 A.2d 585, 588 (Pa.Super. 2004). Once so rebutted, “the burden of production shifts back to the plaintiff to produce evidence that he would have acted to avoid the underlying hazard had the defendant provided an adequate warning.” **Id.** (cleaned up). A plaintiff’s failure to come forward with evidence that he would have heeded an adequate warning is fatal to his claim. **Id.**

Where the given warnings are sufficient to make a product safe for its intended use, a plaintiff cannot recover for injuries sustained as a result of his failure to heed them, for manufacturers and sellers are also entitled to a presumption that consumers will heed it. Consequently, “[a] manufacturer is not required to warn against dangers that may arise if the stated warnings are not heeded.” **Gigus v. Giles & Ransome, Inc.**, 868 A.2d 459, 463 (Pa.Super. 2005).

Here, the trial court concluded that “Plaintiffs’ arguments ‘present a prototypical instance of requesting a manufacturer to warn against dangers that may arise if the stated warnings are not heeded.’” Trial Court Opinion, 8/19/25, at 12-13 (quoting **Davis**, 690 A.2d at 190). It explained:

The specific risk of injury that [Jerome] faced is precisely what the graphic and written on-product warnings and instructions addressed. It is undisputed that the existing on-product instructions cautioned that the warnings must be followed to avoid serious injury or death. The prohibition symbol depicted an operator’s foot sliding under the mower during a slip-and-fall

accident on a slope and the written instructions advised to never mow down a slope and to refrain entirely from mowing slopes greater than [fifteen] degrees. Thus, the existing on-product warnings specifically instructed against operation of the mower down any grade of slope and advised the user of the precise harm that [Jerome] ultimately suffered if the warning is ignored.

. . . .

[Since] the existing on-product warnings so specifically addressed the risk of harm, the record establishes that [Jerome] was fully aware of the exact risk of bodily injury that he ultimately suffered before he chose to mow directly down a steep slope. Because Defendants are entitled to a heeding presumption regarding existing on-product warnings and because the mower's warnings fully apprised [Jerome] of the specific risk of harm that he ultimately suffered by ignoring the existing warnings, Plaintiffs cannot demonstrate that [Jerome] would have avoided his injuries if the mower included an additional instruction to push the mower away when falling.

Id. at 13-15 (cleaned up).

Plaintiffs argue that, in ruling on Defendants' summary judgment motion, the trial court improperly resolved issues of fact by adopting the conclusions of Defendants' experts about where in the yard Jerome fell, the degree of slope in that location, and how his foot came to make contact with the blade. They maintain that "Defendants' experts' claims as to where Plaintiffs' accident occurred were wholly untethered to the factual record and [Jerome]'s testimony identifying the location where he fell near the back porch." Plaintiffs' brief at 40. As stated in their opposition to the motion for summary judgment, Plaintiffs' position is that the experts' supposition that Jerome held on to the handle when he slipped and pulled the mower back over his foot, "in addition to being wholly illogical and contrary to the laws of

physics, is simply not what happened.” Plaintiffs’ Response to Defendants’ Motion for Summary Judgment, 8/16/24, at ¶ 12.

They further assert that the court “mischaracterized the ‘danger’ at issue as the danger of operating of the mower **on a slope in excess of fifteen degrees**, a conclusion which itself unquestionably required [the] court’s adoption of the claims of Defendants’ experts that the portion of the lawn where Plaintiff fell exceeded fifteen degrees.” Plaintiffs’ brief at 39-40 (cleaned up, emphasis in original). They insist that the danger of which he was not adequately warned was “the specific risk of blade injuries that could result in a slip-and-fall accident[,], and which could occur notwithstanding operation on a slope[,]⁷” coupled with “the potential misunderstanding the user may have that the OPC device will effectively function to prevent blade contact injuries under those circumstances.” *Id.* at 43. Plaintiffs contend that if the mower or a properly-supplied manual instructed him “to immediately release the mower handle and push the mower away to avoid the risk of blade contact in the event of a slip and fall,” then Jerome would not have been injured. *Id.* at 44.

At the outset of addressing Plaintiffs’ arguments, we observe that they misconstrue the summary judgment record. In their motion, Defendants

⁷ We take this to mean that such incidents could occur regardless of whether the operator was using the mower on a slope, not that they happen even though a slope is involved.

asserted: "On the day of his accident, [Jerome] testified that he operated the subject lawnmower straight down a steep slope located on his residential property, said slope later measured to be as steep as 26.2 degrees." Defendants' Motion for Summary Judgment, 7/29/24, at ¶ 9. Plaintiffs answered this allegation with the following:

Denied as a complete misrepresentation of [Jerome]'s deposition testimony and the factual record. [Jerome] did not operate the lawnmower "straight down a steep slope." Defendants' ongoing attempt to recreate the facts in a light more favorable to them is easily dispelled by even cursory review of [Jerome]'s deposition testimony. The slope measurement cited by Defendants was taken at a different part of the lawn by the fence of the property line and is not where [the] accident occurred. Rather, [Jerome]'s accident occurred at the flat area of his property just near his rear deck as he was about to turn his mower to his right. Furthermore, according to [Cheyenne]'s testimony, the mower was found by her after her husband's accident next to the railroad tie by the flower bed just to the left of the wooden deck, nowhere near or on the slope.

Plaintiffs' Response to Defendants' Motion for Summary Judgment, 8/16/24, at ¶ 9 (citation omitted).

Plaintiffs' insistence that the slope played no role in the incident was facilitated by the persistent inclusion in their filings of only select portions of Jerome's deposition testimony, omitting the critical pages cited above where Jerome plainly stated that he mowed from the fence straight down the slope and slipped before he reached the flat part of the yard to make his turn. **See** Deposition of Jerome McDonnell, 5/11/21, at 79-82. We find these omissions particularly vexing considering the vehement allegations of mendacity they level at Defendants.

We next note that the disputed fact of the degree of slope at the particular spot where Jerome slipped is immaterial. The on-product warning that he failed to heed generally advised the use of extra caution on slopes and specifically stated: “MOW ACROSS NEVER UP AND DOWN.” **See** Defendants’ Trial Exhibit 22. That admonition applied to grades of any degree. If the slope of the hillside exceeded fifteen degrees, the warning instructed the user not to mow it at all.

As such, it was the manner in which Jerome mowed the hillside, not its steepness, that was material, and there was no dispute as to that fact. The evidence before the court at summary judgment unequivocally indicated that Jerome was injured when he slipped and fell while mowing straight down a slope, in direct contravention of the explicit on-product warning.

Mindful of the laws of physics invoked by Plaintiffs, it is plain that if Jerome had heeded Defendants’ warning and mowed across the slope and never down it, gravity would have caused him to slide away from the mower rather than towards and under it. Thus, as the trial court properly indicated, Jerome’s injuries were caused not by the absence of an additional warning, but by his decision not to heed the on-product instruction that Defendants had already provided to refrain from mowing down slopes “precisely because of the unchangeable—and dangerous—reality of how the operator will inevitably interact with the mower when he slips down a hill.” Trial Court Opinion, 8/19/25, at 14.

Furthermore, glaringly absent from Plaintiffs' discussion of the material issues of fact concerning the how and why of the accident is any argument that the evidence before the court was sufficient to allow a jury to conclude that Jerome would have heeded the additional warning that Plaintiffs maintain was necessary to render the mower safe. Initially, they were entitled to the presumption that, if Defendants had used their proposed warning, instead of the allegedly-inadequate one that was provided, then he would have heeded it. However, the evidence submitted by Defendants in moving for summary judgment, in particular Jerome's deposition testimony, amply rebutted that presumed fact. As recounted above, Jerome repeatedly eschewed any need to consult a manual to operate lawn equipment he believed that he knew how to use, and for the same reason only glanced at the pictures included on the machine instead of reading them thoroughly. **See, e.g.**, Deposition of Jerome McDonnell, 5/11/21, at 105 ("I saw the pictures there. You can't miss 'danger, keep hands and feet away' in the middle there, but it's not like I sat down and said, oh, let me read this. You know, again, it's a lawnmower. You start it. You cut the grass. Put it away.").

Critically, Plaintiffs did not produce evidence to opposition Defendants' motion indicating that Jerome would have avoided the injury if Defendants had provided Mr. Severt's proposed warning, such as an affidavit from Jerome attesting that it would have prompted him to sit down, read it, and follow the last of its six instructions even if he elected to mow straight down the hill in

contravention of the label's primary warning. On appeal, the best he can offer are the observations that Jerome did not affirmatively testify that he would not have read and followed the warnings, and that he might have consulted a manual, if he had one, to attach the new bolts he installed that evening, although he did not do so when looking up the replacement part online. **See** Plaintiffs' brief at 47. That does not constitute the production of evidence sufficient to allow a jury to conclude that it was more likely than not he would have heeded the ungiven additional warning.

As it was, the heeding presumption was rebutted and Plaintiffs offered no evidence that would allow a jury to conclude that it was more likely than not that Jerome would have treated the warning he maintained should have been given any differently than all the others that he ignored. **Accord Goldstein**, 854 A.2d at 588 (affirming dismissal of failure to warn claims where the heeding presumption was rebutted by evidence that the plaintiff continued to smoke after mandatory warnings were added to packages of cigarettes, and the plaintiff failed to produce evidence that he would have changed his behavior had the defendant earlier given adequate warnings fully apprising him of the extent of the risk).

For these reasons, we conclude that Plaintiffs failed to meet their burden of production for establishing the causation element of their failure-to-warn claim. They produced neither evidence that the absence of a warning to immediately release the OPC mechanism and push the mower away in the

event of a slip created a defect in the product that caused his injuries, nor proof to substantiate a finding that he would have heeded that warning if it had been given. Therefore, the trial court did not err in granting Defendants' judgment as a matter of law on Plaintiffs' failure to warn claim.

Plaintiffs' remaining challenges concern the trial court's decision to bifurcate the trial and its rulings on the admissibility of evidence. We review these issues for an abuse of discretion. **See, e.g., *Martin v. Chevrolet***, 357 A.3d 1232, 1246 (Pa.Super. 2026) ("The admission or exclusion of evidence is within the sound discretion of the trial court, and in reviewing a challenge to the admissibility of evidence, we will only reverse a ruling by the trial court upon a showing that it abused its discretion or committed an error of law." (cleaned up)); ***Carlini v. Glenn O. Hawbaker, Inc.***, 219 A.3d 629, 637 (Pa.Super. 2019) ("The decision whether to bifurcate is entrusted to the sound discretion of the trial court, which is in the best position to evaluate the necessity for such measures." (cleaned up)). This court will not find an abuse of discretion "unless there is a showing of manifest unreasonableness, or partiality, prejudice, bias, or ill-will, or such lack of support as to be clearly erroneous." ***Carlini***, 219 A.3d at 637 (cleaned up).

Upon thorough examination of the applicable law, the parties' briefs, and the certified record, we affirm the court's rulings on these issues on the basis of the corresponding portions of the opinion that the Honorable Jeffery D. Wright entered on August 19, 2025. Specifically, Judge Wright detailed a

reasonable basis for *sua sponte* bifurcating the trial, allowing Plaintiffs to present a photograph and their own testimony about Jerome's injuries, and the extensive treatment he received, sufficient to allow the jury to assess Plaintiffs' design defects claim in the liability phase of the trial, but reserving the medical expert witness testimony for the damages phase since their reports contained no opinions pertinent to how the injury occurred. **See** Trial Court Opinion, 8/19/25, at 38-44.

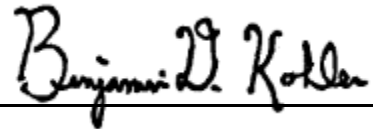
Likewise, Judge Wright's explanations for his evidentiary rulings evince no abuse of discretion. The court offered multiple sound reasons for rejecting Plaintiffs' claim that it improperly allowed Defendants to introduce evidence about product warnings, including Plaintiffs' failure to adequately articulate and pursue an objection or to establish prejudice. **Id.** at 18-19. Judge Wright ably expressed how his rulings ensured that the jury did not receive or rely upon negligence or state-of-the-art evidence that would violate our High Court's **Sullivan** decision. **Id.** at 21-26. We further perceive no manifest unreasonableness, partiality, prejudice, bias, or ill-will in the trial court's elucidation of its determination that Mr. Martens had specialized knowledge about how lawnmower accidents occur that satisfied Pennsylvania's liberal standard for qualifying expert witnesses. **Id.** at 35-38. Finally, Judge Wright cogently explained how he "did not abuse the wide discretionary latitude afforded to [him]" in preventing Plaintiffs from questioning Mr. Martens about

other slip-and-fall suits against MTD because Plaintiffs failed to establish that those cases involved substantially similar incidents. ***Id.*** at 44-47.

We therefore affirm Plaintiffs' final five issues on the basis of the trial court's August 19, 2025 opinion, which we adopt as our own as to the points stated and which the parties shall attach hereto in the event of further proceedings. Based on the foregoing, we affirm the judgment.

Judgment affirmed.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

Date: 08/24/2026