plaintiff used the insecticide on the plaintiff’s garden. The plaintiff brought suit under theories of strict liability and negligence in the formation, manufacture and failure to warn of the dangerous characteristics of the insecticide. The defendant sought a summary judgment based upon preemption of the claims by FIFRA. The court held that the strict liability claim for design defect was preempted by FIFRA because, under Florida law, a trier of fact would need to consider the amount of warning and issues involving warning are preempted by FIFRA. The court also held that the negligence claim for design defect would be preempted by FIFRA because it would be based upon the effectiveness of the warnings on the label. The court held that the strict liability claim for defective manufacturing was not preempted by FIFRA; however, the court held that the plaintiff had not provided sufficient minimum evidence of a manufacturing defect to prevent summary judgment. Oken v. The Monsanto Co., 218 F. Supp.2d 1361 (S.D. Fla. 2002).

In January 2001, the debtor granted a security interest to another creditor in any proceeds of the lawsuit. The bank claimed a priority security interest in the lawsuit proceeds as a general intangible. The debtor argued that the lawsuit involved a “commercial tort” and was excluded form the definition of general intangible under Idaho Code § 28-9-102(42) (Revised U.C.C. § 9-102(42)). The court held that the lawsuit did not arise from a commercial tort because the initial transaction was a contract for electrical repair services. In addition, the court held that the proceeds of the lawsuit would be proceeds of other collateral, the dairy cows, because most of the damage claimed in the lawsuit was to the cows and expenses related to the cows. In re Wiersma, 283 B.R. 294 (Bankr. D. Idaho 2002).

**IN THE NEWS**

GENETICALLY MODIFIED ORGANISMS. The European Union agriculture ministers have approved lowering to 0.9 percent the minimum amount of genetically modified organisms (GMOs) in a product before it must be labeled as containing GMOs. Japan has set its labeling requirements at 5 percent. Oregon voters recently rejected a labeling requirement for products with 5 percent GMOs. The EU currently has a moratorium on approving any new products containing GMOs and the United States is contemplating a challenge of that moratorium to the World Trade Organization. U.S. officials claim the moratorium costs corn growers alone over $200 million in lost annual exports. Associated Press, Nov. 27, 2002.
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