

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

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CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

SPOKANE SCHOOL DISTRICT
NO. 81, a Washington non-profit
corporation,

Plaintiff - Appellant,

v.

NORTHWEST BUILDING SYSTEMS,
INC., an Idaho corporation; NORDYNE,
INC., a Missouri corporation,

Defendants - Appellees.

No. 06-35308

D.C. No. CV-04-00078-MWL

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Michael Leavitt, Magistrate Judge, Presiding

Argued and Submitted October 17, 2007
Seattle, Washington

Before: REINHARDT and PAEZ, Circuit Judges, and STROM, District Judge.**

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The Honorable Lyle E. Strom, Senior United States District Judge for the District of Nebraska, sitting by designation.

This matter is on appeal from a judgment entered in favor of Northwest Building Systems, Inc. (“NBS”) and Nordyne, Inc. (“Nordyne”) after a full trial on the merits before Magistrate Judge Michael Leavitt. We review for clear error findings of fact made after a bench trial. *Saltarelli v. Bob Baker Group Med. Trust*, 35 F.3d 382, 384 (9th Cir. 1994); *see* Fed. R. Civ. P. 52(a) (“Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses.”). The clear error standard “is significantly deferential, requiring a ‘definite and firm conviction that a mistake has been committed’ before reversal is warranted.” *Mathews v. Chevron Corp.*, 362 F.3d 1172, 1180 (9th Cir. 2004) (quoting *McClure v. Thompson*, 323 F.3d 1233, 1240 (9th Cir. 2003)). We review a trial court’s evidentiary rulings for abuse of discretion. *General Elec. Co. v. Joiner*, 522 U.S. 136, 141-42 (1997). After careful review of the record, the briefs of the parties, and the oral arguments of counsel, we affirm.

Spokane argues variously that the wrong building code was applied in this case, that Nordyne violated the Washington Products Liability Act, Wash. Rev. Code § 7.72.030(1), by not affixing a sticker to the heating unit, that NBS was liable for defective construction, and that both NBS and Nordyne violated the

Washington Consumer Protection Act, Wash. Rev. Code. § 19.86.020. In Judge Leavitt's well written opinion, each of the findings of fact and conclusions of law challenged by Spokane are supported by detailed reference to the trial evidence. Similarly, a review of the record and the applicable law reveals that the court did not abuse its discretion when it concluded that good grounds existed to establish the trustworthiness of the testimony of NBS's expert.

There being no reversible error, the district court's judgment is **AFFIRMED**.