IN THE SUPREME COURT

OF FLORIDA

CASE NO. 78,860

FILED
SID J. WHITE
NOV 20 1991
CLERK, SUPREME COURT
By _____
Chief Deputy Clerk

ED RICKE & SONS, INC.,
a Florida corporation,

Petitioner,

vs.

DEMETRIUS OCTAVIUS GREEN, a minor,
by and through his Guardian of the Property
Edward P. Swan,

Respondent.

ON PETITION FOR DISCRETIONARY REVIEW FROM THE
THIRD DISTRICT COURT OF APPEAL OF FLORIDA

RESPONDENT'S BRIEF ON JURISDICTION

DONALD FELDMAN, ESQ.
1499 W. Palmetto Road
Suite 320
Boca Raton, Florida 33486
-and-
DANIELS & TALISMAN, P.A.
Suite 2401, New World Tower
100 N. Biscayne Boulevard
Miami, Florida 33132
(305) 381-7720

Attorneys for Respondent.

TABLE OF CONTENTS

DANIELS & TALISMAN, P.A.
SUITE 2401 NEW WORLD TOWER, 100 NORTH BISCAYNE BOULEVARD, MIAMI, FL 33132-2513 • TEL. (305) 381-7720

TABLE OF CITATIONS

OTHER AUTHORITIES CITED

DANIELS & TALISMAN, P.A.

SUITE 2401 NEW WORLD TOWER, 100 NORTH BISCAYNE BOULEVARD. MIAMI, FL 33132-2513 • TEL. (305)381-7720

STATEMENT OF THE CASE AND FACTS

In an attempt to create conflict where none exists, the Petitioner has drafted its Statement of the Case and Facts by totally ignoring the decision of the Third District. Although the practice has been condemned as misleading by this Court[1], Ricke has set forth many "facts" not contained within the four corners of the decision[2] and has set forth as "facts" statements which are contradicted by that decision.[3] Of necessity, therefore, respondent Green will set forth below the facts as recited by the Third District.

Ricke takes position it installed the water heater

In 1977, Demetrius Green was seriously burned when he fell into a deep puddle of boiling water which had been discharged from a faulty Vulcan water heater located in building #37 at the James E. Scott housing project. (A.2).[4] In May 1980 -- eleven months before the statute of limitations ran -- he filed suit against Ed Ricke & Sons alleging that Ricke contracted with the Dade County

---

[1] Reaves v. State, 485 So.2d 829, 830 n.3 (Fla. 1986).

[2] The following are just an example: date plans for conversion drawn; date of Joyner contract and inspection; that Ricke's work was approved or accepted by the City; that Dade County took over the project; that Dade County knew of problems with the water heater; and, that Green sued other parties.

[3] Ricke asserts that it expressly denied in its answer that it installed the water heater in question and that it is undisputed that it did not do so. In fact, the answer simply stated that Ricke was without knowledge as to this allegation and the opinion shows that there was evidence that Ricke installed the water heater -- its own superintendent so testified at the last trial.

[4] This court previously described this water as superheated in Ed Ricke & Sons v. Green, 468 So.2d 908 (Fla. 1985). This decision is referred to by the Third District in its opinion and is thus incorporated therein by reference.

DANIELS & TALISMAN, P.A.
SUITE 2401 NEW WORLD TOWER, 100 NORTH BISCAYNE BOULEVARD, MIAMI, FL 33132-2513 • TEL. (305)381-7720

Housing Authority to convert the Scott water heaters from solar power to gas; that the water heater in building #37 was negligently installed; and, that this negligence caused his injury. Ricke answered and pled that it was without knowledge as to who installed the defective heater. (A.2,5).

In 1981, Ricke moved for summary judgment on the basis of the Slavin doctrine, arguing that, although it installed the gas distribution system at the project, this work was turned over to, and accepted by, Dade County prior to the accident, relieving it of liability. The trial court denied the motion. (A.2).

Prior to the first trial, L.R. Hargis, the former director of maintenance for Dade County Housing, was deposed. He testified that the water heaters installed by Ricke were Vulcan water heaters -- as was the one which injured Demetrius. (A.2-3).

At trial in 1982, Ricke read Hargis's deposition testimony into evidence. Ricke also requested two jury instructions, which the court gave, that stated that the issues for determination were whether Ricke was negligent with respect to the installation of the water heater and whether, after the installation by Ricke, there was any intervening and supervening negligence. (A.3).

The jury returned a verdict for Ricke. On appeal, the Third District reversed and remanded for a new trial finding that Ricke violated an order in limine. Green v. Ed Ricke & Sons, Inc., 438 So.2d 25 (Fla. 3d DCA 1983). In so ruling the court found: "This action was then instituted against the general contractor, Ed Ricke and Sons, Inc., which installed the water heaters. . . on grounds that the defect which caused the leakage was due to the negligent installation." Id. at 26. This Court affirmed, Ed Ricke & Sons,

DANIELS & TALISMAN, P.A.
SUITE 2401 NEW WORLD TOWER, 100 NORTH BISCAYNE BOULEVARD, MIAMI, FL 33132-2513 • TEL. (305)381-7720

Inc. V. Green, 468 So.2d 908 (Fla. 1985), and remanded the case for a new trial. (A.3).[5]

Ricke's surprise about face

The next trial began on April 7, 1986. Ricke took the same position in opening statement that it had taken for the last 6 years -- it was not negligent in installing the water heater. (A.3). Ricke's superintendent, who oversaw the work done by Ricke, testified that Ed Ricke and Sons had installed the heater that injured Green. (A.3, n.2). Then, three days into the trial, Ricke's expert presented evidence that another construction company had performed the installation for the water heater in question. (A.3). A mistrial was granted and a new trial was set. (A.4).

Prior to that Ricke moved for summary judgment alleging that there was undisputed evidence that it had not done the work complained of and, alternatively, that it was not liable under the Slavin doctrine. The trial court entered summary judgment in Ricke's favor, finding no genuine issues of material fact on the issue of who installed the water heater. It denied summary judgment on Ricke's alternative theory. (A.4).

The Third District's holding

The Third District reversed the granting of summary judgment holding that Ricke was estopped from introducing evidence inconsistent with its prior position in the litigation. (A.4). As the court found:

> It is difficult to imagine a case to which estoppel would more clearly apply. Green filed a complaint against Ricke in May, 1989, eleven months before the statute of limita-

[5] This Court stated: "Ed Ricke & Sons, Inc. installed the water heater." 468 So.2d at 909.

DANIELS & TALISMAN, P.A.
SUITE 2401 NEW WORLD TOWER, 100 NORTH BISCAYNE BOULEVARD, MIAMI, FL 33132-2513 • TEL (305) 881-7720

> tions ran. Ricke answered that it was without knowledge as to whether it installed the water heater and, in the first trial, never defended on the ground that it had not installed it. In fact, Ricke asked the court to instruct the jury in the first trial that it had installed the heater and maintained this position on appeal and during its opening statement in the second trial. Then, six years after suit was filed and five years after the statute of limitations had run, Ricke changed its position based upon "newly discovered evidence" which absolved it from liability.
>
> Ricke had a full and fair opportunity to litigate the issue of who installed the water heater. Having elected not to dispute this issue at the first trial or on appeal, Ricke is precluded from offering evidence that it did not install the heater in question. Our decision is in keeping with this court's condemnation of a "gotcha school of litigation." Salcedo v. Asociacion Cubana, Inc., 368 So.2d 1337 (Fla. 3d DCA), cert. denied, 378 So.2d 342 (Fla. 1979). See also Sobel v. Jefferson Stores, Inc., 459 So.2d 433 (Fla. 3d DCA 1984).

(A.5-6).

The Third District also affirmed the trial court's denial of summary judgment based on the Slavin doctrine:

> The work in question was the installation of a gas water heater system. Florida courts have consistently held that instrumentalities connected with gas are inherently dangerous. Seitz v. Zac Smith & Co., 500 So.2d 706 (Fla. 1st DCA 1987); Farber v. Houston Corp., 150 So.2d 732 (Fla. 3d DCA 1962). This case falls within the exception to Slavin, and the trial court correctly denied the motion.

Ed Ricke moved for and was denied rehearing. It is now seeking review based on alleged conflict with Slavin v. Kay, 108 So.2d 462 (Fla. 1958), Edward M. Chadbourne, Inc. v. Vaughn, 491 So.2d 551 (Fla. 1986), and Palm Beach County v. Palm Beach Estates, 148 So. 544 (Fla. 1933).

DANIELS & TALISMAN, P.A.
SUITE 2401 NEW WORLD TOWER, 100 NORTH BISCAYNE BOULEVARD, MIAMI, FL 33132-2513 • TEL. (305)381-7720

JURISDICTIONAL ISSUES

Although Ricke has stated only one issue, it contends that the opinion contains two separate conflicts. Therefore, Green restates the issues as follows:

I.

WHETHER THE DECISION BELOW EXPRESSLY AND DIRECTLY CONFLICTS WITH THIS COURT'S DECISIONS IN SLAVIN AND CHADBOURNE?

II.

WHETHER THE DECISION BELOW EXPRESSLY AND DIRECTLY CONFLICTS WITH THIS COURT'S DECISION IN PALM BEACH COUNTY?

SUMMARY OF ARGUMENT

The decision **sub** judice does not expressly and directly conflict with this Court's earlier decisions on the Slavin doctrine. It simply applies a clearly recognized exception to that doctrine to a new fact situation. Further, it is clear that the work performed -- installation of a gas hot **water** heater system -- clearly fits within the 'inherently dangerous' exception. Thus, there is no conflict and no reason for this Court to accept jurisdiction to review this decision.

Further, the Third District expressly found that Ricke, throughout *6* years of litigation, had successfully assumed the position that it had installed the water heater in question and that, as a result, it was estopped from asserting that it had not done so after the statute of limitations had run. This ruling is entirely consistent with the dictates of Palm Beach County. Again, there is no express and direct conflict.

DANIELS & TALISMAN, P.A.
SUITE 2401 NEW WORLD TOWER, 100 NORTH BISCAYNE BOULEVARD, MIAMI, FL 33132-2513 . TEL. (305) 381-7720

ARGUMENT

A. No express and direct conflict with Slavin or Chadbourne.

Conflict jurisdiction under Article V, Section 3(b)(3) of the Florida Constitution exists only where the conflict between decisions is "express and direct." Such a conflict does not exist if the facts or the issues decided in the case at bar are distinguishable from those in the cases cited as being in conflict. Department of Revenue v. Johnston, 442 So.2d 950 (Fla. 1983); In Re Interest of M.P., 472 So.2d 732 (Fla. 1985).

Here, the facts sub judice are entirely different from those in Slavin and Chadbourne. Slavin dealt with liability where a sink fell off a wall and Chadbourne with liability for construction of a road. This case, on the other hand, centers on installation of a gas hot water heater system. The issues involved are also different. Neither Slavin nor Chadbourne dealt with the inherently dangerous exception to the doctrine -- it was not contended that installation of either a sink or a road involved inherently dangerous elements. Thus, there is no express and direct conflict between the opinions.

Rather, the Third District's opinion is fully in accord with Slavin and the cases which follow it. In Slavin, this Court recognized the

> clear exception to the ordinary rule by which all parties dealing with inherently dangerous elements are held jointly liable without regard to termination of contract or acceptance of the work.

108 So.2d at 465. Here, the Third District simply applied this exception:

DANIELS & TALISMAN, P.A.
SUITE 2401 NEW WORLD TOWER, 100 NORTH BISCAYNE BOULEVARD. MIAMI, FL 33132-2513 • TEL (305)381-7720

> The work in question was the installation of a gas water heater system. Florida courts have consistently held that instrumentalities connected with gas are inherently dangerous. Seitz v. Zac Smith & Co., 500 So.2d 706 (Fla. 1st DCA 1987); Farber v. Houston Corp., 150 So.2d 732 (Fla. 3d DCA 1963). This case falls within the exception to Slavin, and the trial court correctly denied the motion.

Natural gas is inherently dangerous -- Ricke does not even deny this. All Ricke claims is that hot water is not inherently dangerous and that since it was **water** not gas which caused the injury the inherent danger exception does not apply. This argument does not create express and direct conflict.

First, as Ed Ricke admits, there is no Florida case holding that boiling water -- water heated to such a high temperature that even after discharge it is hot enough to cause severe burns upon contact -- is not inherently dangerous. Certainly, it fits within the definition of that concept. **See** Seitz **v.** Zac Smith & **Co.**, Inc., 500 So.2d 706, 710 (Fla. 1st DCA 1987). Superheated water is so imminently dangerous in kind as to imperil the life or limb of any person who uses it. Further, the danger -- burning -- inheres in the substance at all times and requires special precautions to prevent injury to anyone coming in contact with or using it. Thus, there is no express and direct conflict on this point.

Second, again as Ricke admits, no case in Florida has ever held that a plaintiff cannot recover for damages **caused** by an instrumentality connected with gas where the gas itself is not the cause of the **injury.**[6] Moreover, this argument ignores the fact that Ricke undertook to install an entire gas water heater system.

---

[6] Ricke actually argues that in so holding the Third District has created new law. This is not sufficient to create an express and direct conflict.

DANIELS & TALISMAN, P.A
SUITE 2401 NEW WORLD TOWER, 100 NORTH BISCAYNE BOULEVARD, MIAMI, FL 33132-2513 • TEL. (305)381-7720

Thus, its work involved inherently dangerous elements. That is sufficient under Slavin. Further, the superheated water in question was spewing out of the relief valve in order to prevent an explosion of the heater. Thus, there is a link between the inherent danger of the gas and the injury in this case. Again, there is no express and direct conflict. Rather, the decision sub judice is consistent with the entire line of Slavin cases.

B. No express and direct conflict with Palm Bench County.

Finally, Ed Ricke asserts that the decision in question expressly and directly conflicts with Palm Beach County v. Palm Beach Estates, 148 So. 544 (Fla. 1933) because it was held to be estopped even though it had never successfully assumed any factual position on the record but had lost all of the way down the line. Ricke is mistaking success in litigation with success in assuming a factual position. As this Court fully explained in Palm Beach County:

> [A] party, who in an earlier suit on the same cause of action, or in an earlier proceeding setting up his status or relationship to the subject-matter of his status or relationship successfully assumes a factual position on the record to the prejudice of his adversary, whether by verdict, findings of fact, or admissions in his adversary's pleadings operating as a confession of facts he has alleged, cannot, in a later suit on the same cause of action, change his position to his adversary's injury, whether he was successful in the outcome of his former litigation or not.

148 So. at 549.

Here, as the Third District found, for 6 years Ricke never defended on the ground it had not installed the water heater in question. Rather, it took the opposite position -- it argued and

DANIELS & TALISMAN, P.A.
SUITE 2401 NEW WORLW TOWER, 100 NORTH EISCAYNE BOULEVARD, MIAMI, FL 33132-2513 • TEL. (305)381-7720

presented testimony showing that it had done the work; it requested and received jury instructions to that effect; and, it led both the Third District and this Court to find in an earlier appeal that it had installed the water heater in question. Further, it was only after the statute of limitations had run that Ricke changed its position. Thus, it is clear from the opinion both that Ricke had originally successfully asserted the factual position that it installed the water heater and that the change in position after 6 years would prejudice the plaintiffs.[7] Thus, the Third District followed the dictates of Palm Beach Co. The two decisions are consistent; they do not expressly and directly conflict.

CONCLUSION

Based on the reasons and authorities set forth above, it is respectfully submitted that no express and direct conflict exists and, accordingly, this Court should decline to accept jurisdiction over this cause.

Respectfully submitted,

DONALD FELDMAN, ESQ.
1499 W. Palmetto Road, Suite 320
Boca Raton, Florida 33486
-and-
DANIELS & TALISMAN, P.A.
Suite 2401, New World Tower
100 N. Biscayne Boulevard
Miami, Florida 33132

BY: Patrice A. Talisman
PATRICE A. TALISMAN
Florida Bar No. 314511

[7] In this regard, the decision is similar to and consistent with this Court's recent holding in Ingersoll v. Hoffman, 16 F.L.W. S626 (Fla. Sept. 26, 1991), that it would unfairly prejudice a plaintiff to allow a defendant health care provider to amend his answer to deny a plaintiff's failure to give pre-suit notice after the statute of limitations had run -- thereby depriving plaintiff of the opportunity to correct his mistake.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Respondent's Brief on Jurisdiction and Appendix was mailed this 19th day of November 1991 to: John Hamilton, Esq., Wicker, Smith, Blomqvist, Tutan, O'Hara, McCoy, Graham & Lane, 5th Floor, 2900 Middle Street, Miami, Florida 33133; and Richard A. Sherman, Esq., Suite 302, 1777 South Andrews Avenue, Ft. Lauderdale, Florida 33316.

Patrice A. Talisman

PATRICE A. TALISMAN

DANIELS & TALISMAN, P.A.
SUITE 2401 NEW WORLD TOWER, 100 NORTH BISCAYNE BOULEVARD, MIAMI, FL 33132-2513 • TEL. (305) 381-7720

APPENDIX

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL

OF FLORIDA

THIRD DISTRICT

JULY TERM, A.D. 1991

DEMETRIUS OCTAVIUS GREEN, a minor, by and through his Guardian of the Property, EDWARD P. SWAN, ESQUIRE,

Appellant/Cross-Appellee,

vs.

ED RICKE & SONS, INC., a Florida corporation,

Appellee/Cross-Appellant.

CASE NO, 89-1900

Opinion filed August 20, 1991.

An Appeal and Cross-Appeal from the Circuit Court for Dade County, John A. Tanksley, Judge.

Donald Feldman (Fort Lauderdale); Daniels & Hicks, P.A., and Patrice A. Talisman, for appellant/cross-appellee.

Richard A. Sherman, P.A., Richard A. Sherman and Rosemary B. Wilder (Fort Lauderdale), for appellee/cross-appellant.

Before BASKIN, JORGENSON, and LEVY, JJ.

JORGENSON, Judge.

The guardian for Demetrius Green, a minor, appeals from a final summary judgment in favor of Ed Ricke and Sons, Inc., in an

A.1

action for negligence in performing general contracting duties. Ricke cross-appeals an order denying its motion for summary judgment on alternative grounds. For the following reasons, we reverse in part, affirm in part, and remand.

In 1977, Green was seriously burned when he fell into a deep puddle of boiling water which was discharged from a faulty Vulcan water heater located in building # 37 at the James E. Scott housing project. Green's complaint alleged that in January, 1966, Ricke contracted with the Dade County Housing Authority to convert Vulcan water heaters from solar power to gas at the Scott Homes project. Green further alleged that the water heater in building # 37 was negligently installed and that this negligence caused his injury. Ricke answered and pled that it was without knowledge as to who installed the defective heater.

In 1981, Ricke moved for summary judgment on the basis of the Slavin doctrine,[1] arguing that, although it installed the gas distribution system at the project, this work was turned over to, and accepted by, Dade County prior to the accident, relieving it of liability. The trial court denied the motion for summary judgment.

Prior to the first trial, L. R. Hargis, the former director of maintenance for Dade County Housing, was deposed. Hargis testified that the water heaters installed by Ricke and

---

[1] Slavin v. Kay, 108 So. 2d 462 (Fla. 1958) (generally, contractor is relieved of liability for injuries to third parties occurring after owner has accepted project if owner could have discovered and remedied dangerous condition). We note that there was no cross-appeal in the initial appellate proceedings on the issue of Slavin.

A. 2

maintained by the county were Vulcan water heaters and that they had been installed for all of the work done on the project.

At trial in 1982, Ricke's attorney read Mr. Hargis's deposition testimony into evidence. He also requested two jury instructions, which the court gave, that stated that the issues for determination were whether Ricke was negligent with respect to the installation of the water heater and whether, after the installation by Ricke, there was any intervening and supervening negligence.

The jury returned a verdict for Ricke. On appeal, this court reversed and remanded for a new trial finding that Ricke's attorney violated an order in limine. Green v. Ed Ricke & Sons, Inc., 438 So. 2d 25 (Fla. 3d DCA 1983;. In so ruling, this court stated: "This action was then instituted against the general contractor, Ed Ricke and Sons, Inc., which installed the water heaters. . . on grounds that the defect which caused the leakage was due to the negligent installation." Id. at 26. The Florida Supreme Court affirmed, ~~Ed Ricke & Sons, Inc. v. Green~~, 468 So. 2d 908 (Fla. 1985), and the case was remanded for a new trial.

The second trial commenced on April 7, 1986. Ed Ricke took the same position in opening statement that it took at the first trial, namely that it was not negligent in installing the water heater. Then, three days into the trial, Ricke's expert presented evidence that another construction company, Joyner, had performed the installation for the water heater in question.[2]

---

[2] Ricke's superintendent, who oversaw the work done by Ricke, testified at the same trial that Ed Ricke and *Sons* had installed the heater that injured Green.

A.3

Ed Ricke also contended that it had just found the permits for the work done on building # 37. Green moved for and was granted a mistrial. Green then asked this court to enforce its mandate, alleging that our prior decision and the Supreme Court's decision established law of the case and, alternatively, that Ricke was estopped to deny the fact that it had installed the water heater. This court denied, Green's motion, finding no showing of noncompliance with the mandate.

A third trial was set for February, 1989. Ricke moved for summary judgment, alleging that there was undisputed evidence that it had not done the work complained of and, alternatively, that it was not liable under the Slavin doctrine. The trial court entered summary judgment in Ricke's favor, finding no genuine issues of material fact on the issue of who installed the water heater. The trial court denied summary judgment on Ricke's alternative theory.

The trial court erred in entering summary judgment as Ricke was estopped from introducing evidence inconsistent with the earlier position in the litigation. It is well settled that:

> [A] party, who in an earlier suit on the same cause of action, or in an earlier proceeding setting up his status or relationship to the subject-matter of his suit, successfully assumes a factual position on the record to the prejudice of his adversary, whether by verdict, findings of fact, or admissions in his adversary's pleadings operating as a confession of facts he has alleged, cannot, in a later suit on the same cause of action, change his position to his adversary's injury, whether he was successful in the outcome of his former litigation or not.

A. 4

Pa m Beach Co. v. Palm Beach Estates, 110 Fla. 77, 148 So. 544, 549 (1933)(citations omitted). This rule of estoppel forbids the assertion of inconsistent positions in litigation. It is difficult to imagine a case to which estoppel would more clearly apply. Green filed a complaint against Ricke in May, 1980, eleven months before the statute of limitations ran. Ricke answered that it was without knowledge as to whether it installed the water heater and, in the first trial, never defended on the ground that it had not installed it. In fact, Ricke asked the court to instruct the jury in the first trial that it had installed the heater and maintained this position on appeal and during its opening statement in the second trial. Then, six years after suit was filed and five years after the statute of limitations had run, Ricke changed its position based upon "newly discovered evidence"[3/] which absolved it from liability.

Ricke had a full and fair opportunity to litigate the issue of who installed the water heater. Having elected not to dispute this issue at the first trial or on appeal, Ricke is precluded from offering evidence that it did not install the heater in question. Our decision is in keeping with this court's condemnation of a "gotcha school of litigation." Salcedo v. Asociacion Cubana, Inc., 368 So. 2d 1337 (Fla. 3d DCA), cert.

3/ This evidence which Ricke claims to be newly discovered was evidence of public record located in the Dade County Building and Zoning Department. It was not the plaintiff's burden to discover this evidence given the fact that Ricke never alleged *that* a third party may have been responsible.

A.5

denied, 378 So. 2d 342 (Fla. 1979). See also Sobel v. Jefferson Stores, Inc., 459 So. 2d 433 (Fla. 3d DCA 1984).

Accordingly, we reverse the order of summary judgment that was based upon evidence introduced by Ricke that was inconsistent with Ricke's prior position.

On Ricke's cross-appeal, we affirm the trial court's order denying summary judgment based on the Slavin doctrine.[4] The work in question was the installation of a gas water heater system. Florida courts have consistently held that instrumentalities connected with gas are inherently dangerous. Seitz v. Zac Smith & Co., 500 So. 2d 706 (Fla. 1st DCA 1987); Farber v. Houston Corp., 150 So. 2d 732 (Fla. 3d DCA 1963). This case falls within the exception to Slavin, and the trial court correctly denied the motion.

Affirmed in part, reversed in part, and remanded for further proceedings.

---

[4] In Florida Freight Terminals, Inc. v. *Cabanas*, 354 So. 2d 1222, 1225 (Fla. 3d DCA 1978), this court defined the Slavin rule as follows: "An independent contractor is not liable for injuries to third parties after the contractor has completed his work and turned the project over to the owner . . . and it has been accepted *by* him unless the parties were dealing with inherently dangerous elements. . . ."

A. 6