

SUPREME COURT OF LOUISIANA

Moreau v. Moreau's Material Yard, LLC

98 So. 3d 297 (La. 2012) · Decided September 21, 2012

SUMMARY

The Louisiana Supreme Court considered whether an employee’s surviving spouse could pursue a tort action against the employer based on alleged unsafe working conditions and inadequate safety equipment. The court held that the allegations did not establish an intentional act or substantial certainty of injury sufficient to overcome workers’ compensation exclusivity, reversed the district court, and granted summary judgment for the employer.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Louisiana
DECIDED	September 21, 2012
DISPOSITION	reversed
PROCEDURAL POSTURE	The defendant sought supervisory review of the district court's denial of its motion for summary judgment asserting that the plaintiff's exclusive remedy was workers' compensation. The court of appeal denied supervisory writs, and the Louisiana Supreme Court granted the defendant's application.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion; precedential
PARTIES	Moreau v. Moreau's Material Yard, LLC

TOPICS

workers compensation summary judgment wrongful death personal injury appellate procedure

PRACTICE AREAS

workers' compensation tort law employment law civil procedure

QUESTIONS PRESENTED

1. Whether the plaintiff sufficiently alleged an intentional act under La. R.S. 28:1032(B) to avoid the workers' compensation exclusive-remedy provision.

2. Whether the employer was entitled to summary judgment because unsafe working conditions, inadequate safety equipment, and knowledge of risk did not establish that the injury was substantially certain to occur.

HOLDINGS

1. An intentional act requires either a conscious desire to produce the physical result or knowledge that the result is substantially certain to follow. Allegations that an employer required work under unsafe conditions and failed to provide safety equipment, without facts showing that injury was inevitable or incapable of failing to occur, do not satisfy the substantial-certainty requirement.

KEY QUOTATIONS

“ ‘Substantially certain to follow’ requires more than a reasonable probability that an injury will occur and ‘certain’ has been defined to mean ‘inevitable’ or ‘incapable of failing’ ” (98 So. 3d at 297)

“Accepting plaintiffs allegations as true, we do not find the accident was substantially certain to occur.” (98 So. 3d at 297)

FACTUAL BACKGROUND

The plaintiff alleged that her husband's employer required him to work under unsafe conditions and failed to provide necessary safety equipment. She asserted that his injuries and death were substantially certain to follow from the employer's conduct, thereby satisfying the intentional-act exception to workers' compensation exclusivity. The court held that, even accepting those allegations as true, the accident was not substantially certain to occur.

PROCEDURAL HISTORY

The plaintiff sued her husband's employer for allegedly failing to follow proper safety procedures, resulting in his death. The district court denied the employer's motion for summary judgment, and the court of appeal denied supervisory writs. The Louisiana Supreme Court granted the writ, reversed the district court, and rendered summary judgment for the employer.

DISPOSITION

reversed

CASES CITED

- Bazley v. Tortorich, 397 So. 2d 475 (La. 1981)
- Reeves v. Structural Preservation Systems, 731 So. 2d 208 (La. 1999)
- Jasmin v. HNV Central Riverfront Corp., 642 So. 2d 311 (La. App. 4 Cir. 1994)
- Armstead v. Schwegmann Giant Super Markets, Inc., 618 So. 2d 1140 (La. App. 4 Cir. 1993), writ denied, 629 So. 2d 347 (La. 1993)
- Tapia v. Schwegmann Giant Supermarkets, Inc., 590 So. 2d 806 (La. App. 4 Cir. 1991)

- **Simoneaux v. Excel Group, LLC**, 936 So. 2d 1246 (La. 2006)

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