

OHIO COURT OF APPEALS, ELEVENTH APPELLATE DISTRICT, LAKE COUNTY

Whiting v. PetSmart, L.L.C.

2026-Ohio-1915 · No. 2025-L-128 · Decided May 26, 2026

SUMMARY

The Ohio Eleventh District Court of Appeals affirmed summary judgment for PetSmart in an action arising from the death of a cat during a nail-trimming service. The court held that the plaintiffs failed to present evidence of a wrongful act causing the animal’s death sufficient to support a conversion claim or a claim under R.C. 2307.61. The court also rejected arguments concerning conflicting testimony, res ipsa loquitur, and alleged deviations from prior grooming practices.

CASE DETAILS

COURT	Ohio Court of Appeals, Eleventh Appellate District, Lake County
WRITING FOR THE COURT	Scott Lynch, J.; Matt Lynch, P.J.; Eugene A. Lucci, J.
JURISDICTION	Ohio Court of Appeals, Eleventh Appellate District, Lake County
DECIDED	May 26, 2026
DOCKET	2025-L-128
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed the Lake County Court of Common Pleas' grant of summary judgment to PetSmart on claims arising from the death of their cat during a nail-trimming service.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The appellate court independently reviews the evidence without deference to the trial court, construes the evidence most strongly in favor of the nonmoving party, and may not weigh evidence or determine witness credibility.
PRECEDENTIAL VALUE	published
PARTIES	Christopher Whiting, Rachael Whiting v. PetSmart, L.L.C.

TOPICS

- conversion
- summary judgment
- standard of review
- evidence
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court improperly weighed evidence or resolved credibility disputes in granting summary judgment.
2. Whether a conversion claim based on an animal's death requires proof that the animal died as a result of the defendant's wrongful act.
3. Whether the evidence created a genuine issue of material fact concerning a wrongful exercise of dominion sufficient to submit the conversion claim to a jury.
4. Whether *res ipsa loquitur* could establish or create a factual issue on the Whittings' conversion claim.

HOLDINGS

1. The trial court did not improperly weigh evidence or determine credibility because the affidavits supplemented rather than contradicted the depositions, and the evidence did not create a genuine issue of material fact.
2. A conversion claim based on the death of an animal requires proof that the animal died as a result of the defendant's actions; without such proof, there is no wrongful act and therefore no conversion.
3. The evidence did not create a genuine issue of material fact because differing grooming methods, use of one groomer, use of a harness, and assistance by a non-certified cat groomer did not establish a wrongful act, harm, or causation.
4. *Res ipsa loquitur* did not support the conversion claim because it is an evidentiary rule permitting an inference of negligence, whereas conversion requires more than negligence; in any event, the Whittings failed to show that Strudel's death ordinarily would not have occurred absent a lack of ordinary care.

KEY QUOTATIONS

“A trial court’s decision to grant summary judgment is reviewed by an appellate court under a de novo standard of review.” (§ 17)

“conversion is the wrongful exercise of dominion over property to the exclusion of the rights of the owner, or withholding it from his possession under a claim inconsistent with his rights.” (§ 18)

“Otherwise, there is no wrongful act; the death of the animal due to no fault of the person who possesses it at the time of the death cannot be said to involve a wrongful act.” (§ 33)

“The present matter is a claim for conversion rather than negligence and more than negligence is required to prevail on the Whittings’ claim.” (§ 39)

FACTUAL BACKGROUND

The Whittings brought their four-year-old cat, Strudel, to PetSmart for routine nail trimming on October 6, 2023. During the service, PetSmart groomers used a slip-lead harness, one groomer initially worked alone, and a second employee assisted with holding the cat; Strudel became unresponsive after the trimming and could not be

revived. The Whittings presented evidence that the procedure differed from prior visits but did not present evidence that the handling violated PetSmart policy, harmed Strudel, or caused her death.

PROCEDURAL HISTORY

The Whittings sued PetSmart after their cat died during grooming services, asserting, among other claims, conversion, willful damage of property under Ohio Revised Code 2307.61, and negligent and intentional infliction of emotional distress. The trial court granted judgment on the pleadings as to the emotional-distress claims and later granted PetSmart summary judgment on the remaining claims, finding no evidence of a wrongful act or willful conduct. The Eleventh District affirmed.

DISPOSITION

affirmed

CASES CITED

- Peer v. Sayers, 2011-Ohio-5439, ¶ 27 (11th Dist.)
- Grafton v. Ohio Edison Co., 77 Ohio St.3d 102, 105 (1996)
- Joyce v. Gen. Motors Corp., 49 Ohio St.3d 93, 96 (1990)
- Martin v. MAHR Machine Rebuilding, Inc., 2017-Ohio-1101, ¶¶ 13, 17 (11th Dist.)
- Beder v. Cerha Kitchen and Bath Design Studio, LLC, 2022-Ohio-4463, ¶ 27 (11th Dist.)
- Hahn v. Farmakis-King, 2024-Ohio-786, ¶¶ 52-53 (11th Dist.)
- Turner v. Turner, 1993-Ohio-176, paragraph one of the syllabus
- State ex rel. Ware v. Fankhauser, 2023-Ohio-3939, ¶ 10 (11th Dist.)
- Byrd v. Smith, 2006-Ohio-3455, syllabus
- Zara v. Gabrail, 1999 WL 4497, *2 (5th Dist. Dec. 21, 1999)
- Sec. Fed. S. & L. Assn. of Cleveland v. Keyes, 1990 WL 93135, *2 (11th Dist. June 29, 1990)
- Anzalone v. Kragness, 826 N.E.2d 472, 476 (Ill. App. 2005)
- Tinter v. Lucik, 2007-Ohio-4437 (8th Dist.)
- Hake v. George Wiedemann Brewing Co., 23 Ohio St.2d 65, 66 (1970)
- Fleegle v. Funtime, Inc., 1999 WL 960575, *2 (11th Dist. Sept. 20, 1999)