

COURT OF APPEALS OF OHIO, TWELFTH APPELLATE DISTRICT,
FAYETTE COUNTY

Schmauch v. Walnut Lake Campground, L.L.C.

2023-Ohio-1848 (Ohio Ct. App. 2023) · No. CA2022-12-015 · Decided June 5, 2023

SUMMARY

The Twelfth District Court of Appeals of Ohio affirmed a municipal court judgment awarding Miles Schmauch \$4,530.31 plus interest and costs after a dead tree fell on his camper at Walnut Lake Campground. The court held that the trial court's allocation of fault and rejection of Walnut Lake's release-of-liability defense were supported by competent, credible evidence and were not against the manifest weight of the evidence. The court also declined to apply statutory qualified immunity for camp operators because the statute became effective after the underlying incident.

CASE DETAILS

COURT	Court of Appeals of Ohio, Twelfth Appellate District, Fayette County
WRITING FOR THE COURT	S. Powell, P.J.; Piper, J.; Byrne, J.
JURISDICTION	Ohio
DECIDED	June 5, 2023
DOCKET	CA2022-12-015
DISPOSITION	affirmed
PROCEDURAL POSTURE	Walnut Lake Campground appealed a judgment entered after a two-day bench trial in favor of Miles Schmauch for property damage caused when a tree fell on his camper.
STANDARD OF REVIEW	For a civil appeal from a bench trial, the court reviews the judgment under the manifest-weight-of-the-evidence standard. The appellate court weighs the evidence and reasonable inferences, considers witness credibility, and asks whether the factfinder clearly lost its way and created a manifest miscarriage of justice. A judgment will not be reversed if supported by some competent, credible evidence going to all essential elements, and the trial court's determination will be upheld unless no reasonable person could have reached the same conclusion.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Walnut Lake Campground, LLC v. Miles Schmauch

TOPICS

premises liability negligence comparative fault standard of review appellate procedure

PRACTICE AREAS

premises liability negligence civil procedure appellate procedure

QUESTIONS PRESENTED

1. Whether the municipal court's judgment awarding Schmauch damages was against the manifest weight of the evidence.
2. Whether Ohio's campground qualified-immunity statute, R.C. 3729.15(B), required reversal even though it became effective after the accident and after the complaint was filed.
3. Whether a purported release of liability executed by Zink on behalf of Schmauch barred Walnut Lake's liability.

HOLDINGS

1. The judgment was not against the manifest weight of the evidence because competent, credible evidence supported the trial court's finding that Walnut Lake's failure to timely remove the dangerous tree was the predominant cause of the damage.
2. The statutory-immunity argument did not establish reversible error because R.C. 3729.15(B) did not become effective until May 30, 2022, after the August 11, 2021 accident and after Schmauch filed his complaint.
3. The purported release did not require reversal because the trial court was entitled to credit testimony that the document had been altered and that the signatures had been copied and pasted from another source.

KEY QUOTATIONS

"[T]his court typically applies [a manifest weight of the evidence standard] when reviewing civil appeals from bench trials." (¶ 11)

"A judgment will not be reversed as being against the manifest weight of the evidence where the judgment is supported by some competent, credible evidence going to all essential elements of the case." (¶ 12)

"Walnut Lake's single assignment of error is overruled and the trial court's decision granting a judgment in favor of Schmauch in the amount of \$4,530.31 plus interest and costs is affirmed." (¶ 17)

FACTUAL BACKGROUND

Miles Schmauch and Marilyn Zink leased a seasonal camping site at Walnut Lake and placed Schmauch's camper on Lot 4, despite knowing that a dead tree on the lot could fall on the camper. Walnut Lake's owner advised them that the tree was dangerous and stated that it would be removed, and Walnut Lake contracted with a local farmer to remove dangerous trees. Before the tree was removed, an August 11, 2021 storm caused it to fall on the camper, which was deemed a total loss. The trial court found Walnut Lake primarily responsible for

failing to remove the tree as promised and reduced damages by 20% for Schmauch's comparative fault; it also found the purported release form unreliable because the signatures appeared to have been copied and pasted.

PROCEDURAL HISTORY

Schmauch filed a civil complaint in the Washington Court House Municipal Court seeking damages after a tree fell on his camper at Walnut Lake's campground. Following a bench trial, the municipal court awarded Schmauch \$4,530.31 plus interest and costs, representing 80% of the damages after assigning him 20% comparative fault, and rejected Walnut Lake's release-form defense. Walnut Lake appealed, arguing that the judgment was against the manifest weight of the evidence, that statutory campground immunity applied, and that a release barred liability. The Twelfth District overruled the sole assignment of error and affirmed.

DISPOSITION

affirmed

CASES CITED

- Investor Support Servs., L.L.C. v. Dawoud, 12th Dist. Warren No. CA2020-09-060, 2021-Ohio-2293
- Chasteen v. Dix Rd. Prop. Mgt. LLC, 12th Dist. Butler Nos. CA2020-04-055 and CA2020-04-056, 2021-Ohio-463
- Skyward Learning Servs. v. Gray, 12th Dist. Butler No. CA2019-08-140, 2020-Ohio-1182
- Eastley v. Volkman, 132 Ohio St.3d 328, 2012-Ohio-2179
- Duke Energy Ohio, Inc. v. Hamilton, 12th Dist. Butler No. CA2021-03-023, 2021-Ohio-3778
- McCartney v. Universal Electric Power Corp., 9th Dist. Summit No. 21643, 2004-Ohio-959
- Total Quality Logistics, LLC v. Alliance Shippers, Inc., 12th Dist. Clermont No. CA2020-06-031, 2021-Ohio-781
- Garringer v. Gen. Motors Acceptance Corp., 12th Dist. Fayette No. CA92-06-011, 1992 Ohio App. LEXIS 6313
- Myocare Nursing Home, Inc. v. Hohmann, 8th Dist. Cuyahoga No. 105907, 2018-Ohio-1195