

SUPREME COURT OF CONNECTICUT

Raspberry Junction Holding, LLC v. Southeastern Connecticut Water Authority

Raspberry Junction · Decided December 14, 2021

SUMMARY

In this concurring opinion, Justice Ecker agrees with the result but criticizes the use of the four-factor duty test from *Jaworski v. Kiernan* to analyze negligence claims involving purely economic loss. He argues that the test is ill-suited to commercial economic-loss cases and suggests that contract principles, including rules governing consequential damages, more appropriately control the plaintiff's claim. The concurrence agrees that public policy does not support imposing a duty on the defendant under the circumstances presented.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Ecker, J.
JURISDICTION	Connecticut
DECIDED	December 14, 2021
DISPOSITION	other
PROCEDURAL POSTURE	Concurrence in the result in an appeal involving a negligence claim for purely economic loss arising from a contractual relationship.
PRECEDENTIAL VALUE	Published concurrence; the concurrence's reasoning is nonbinding, while the majority's disposition is controlling.

TOPICS

duty of care negligence commercial litigation contracts consequential damages

PRACTICE AREAS

torts contracts commercial litigation remedies

QUESTIONS PRESENTED

- Whether public policy supports imposing a negligence duty for purely economic losses arising from the parties' contractual relationship.

2. Whether the four-factor duty framework from *Jaworski v. Kiernan* is an appropriate method for analyzing negligence claims involving pure economic loss.

HOLDINGS

1. The concurrence agreed with the majority that public policy did not support imposing a duty on the defendant under the circumstances of the case.
2. The concurrence stated that the *Jaworski* four-factor test is ill-suited to determining whether policy considerations favor recovery for pure economic loss, although it did not ask the court to abandon that test in this case because the issue had not been briefed or deliberated as an alternative framework.

KEY QUOTATIONS

“The tort claim is a breach of contract case dressed up in negligence garb, and it seems to me that any recovery of lost profits under these particular circumstances should be controlled by contract principles governing consequential damages.”

“In the meantime, I agree with the majority that “public policy does not support the imposition of a duty on the defendant under the circumstances of this case,” and, therefore, I respectfully concur.”

“The effort to fit the square peg of the claimed economic loss into the round hole of physical health and safety is doomed to fail because the cost-benefit considerations that inform the relevant “policy” analysis in the present case do not relate to health or safety; instead, they relate to commercial concerns involving risk allocation, market alternatives, and whatever other economic consequences may flow from the proposed legal rule.”

FACTUAL BACKGROUND

Raspberry Junction Holding, LLC and Southeastern Connecticut Water Authority had a direct contractual relationship. Raspberry Junction sought lost business profits or other purely economic damages allegedly caused by the Authority's negligence in performing its contractual obligations. The claim involved economic loss without accompanying personal injury or property damage, and the concurrence characterized the tort claim as a breach of contract claim dressed in negligence terminology.

PROCEDURAL HISTORY

The case had previously been before the Supreme Court of Connecticut, which remanded for adjudication of the defendant's claim that damages for purely economic loss were barred by the economic loss doctrine. In this separate concurrence, Judge Ecker agreed with the majority's result that public policy did not support imposing a duty on the defendant under the circumstances presented.

DISPOSITION

other

CASES CITED

- *Jaworski v. Kiernan*, 241 Conn. 399, 696 A.2d 332 (1997)
- *Lawrence v. O & G Industries, Inc.*, 319 Conn. 641, 126 A.3d 569 (2015)
- *Raspberry Junction Holding, LLC v. Southeastern Connecticut Water Authority*, 331 Conn. 364, 203 A.3d 1224 (2019)
- *Mueller v. Tepler*, 312 Conn. 631, 95 A.3d 1011 (2014)
- *Greenwald v. Van Handel*, 311 Conn. 370, 88 A.3d 467 (2014)
- *Rardin v. T & D Machine Handling, Inc.*, 890 F.2d 24 (7th Cir. 1989)
- *Hadley v. Baxendale*, 9 Ex. 341, 156 Eng. Rep. 145 (1854)
- *Grenier v. Commissioner of Transportation*, 306 Conn. 523, 51 A.3d 367 (2012)
- *Monk v. Temple George Associates, LLC*, 273 Conn. 108, 869 A.2d 179 (2005)
- *Maloney v. Conroy*, 208 Conn. 392, 545 A.2d 1059 (1988)
- *Raymond v. Paradise Unified School District*, 218 Cal. App. 2d 1, 31 Cal. Rptr. 847 (1963)
- *Hall v. Burns*, 213 Conn. 446, 569 A.2d 10 (1990)
- *Kowal v. Hofher*, 181 Conn. 355, 436 A.2d 1 (1980)