

SUPREME COURT OF OHIO

DeVries Dairy, L.L.C. v. White Eagle Cooperative Association, Inc.

DeVries Dairy, L.L.C. v. White Eagle Coop. Assn., Inc., 132 Ohio St. 3d 516, 2012-Ohio-3828 (Ohio 2012) · No. 2011-1995 · Decided August 28, 2012

SUMMARY

The Supreme Court of Ohio answered in the negative a certified question asking whether Ohio recognizes a cause of action for tortious acts in concert under Restatement (Second) of Torts, Section 876. The per curiam majority declined to recognize the claim under the circumstances, while Justice Pfeifer dissented, concluding that Ohio case law had effectively recognized the tort.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per curiam; Maureen O'Connor, C.J.; Lundberg Stratton, J.; Terrence O'Donnell, J.; Evelyn Lundberg Stratton, J.; William M. O'Neill, J.; Judith Ann Lanzinger, J.; William M. Cupp, J.; McGee Brown, J.; Paul E. Pfeifer, J.
JURISDICTION	Ohio
DECIDED	August 28, 2012
DOCKET	2011-1995
DISPOSITION	other
PROCEDURAL POSTURE	The United States District Court for the Northern District of Ohio, Western Division, certified a question of Ohio law to the Supreme Court of Ohio under S.Ct.Prac.R. 18.6.
STANDARD OF REVIEW	Certified-question review of a question of state law
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Ohio; precedential.
PARTIES	DeVries Dairy, L.L.C. v. White Eagle Cooperative Association, Inc., T.C. Jacoby & Co., Inc., Dairy Support, Inc.

TOPICS

[torts](#)[appellate procedure](#)[civil procedure](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Under the applicable circumstances, does Ohio recognize a cause of action for tortious acts in concert under Restatement (Second) of Torts § 876?

HOLDINGS

1. Ohio does not recognize a cause of action under Restatement (Second) of Torts § 876 under the circumstances presented.

KEY QUOTATIONS

“The certified question is answered in the negative. This court has never recognized a claim under Restatement 2d of Torts, Section 876 (1979), and we decline to do so under the circumstances of this case.” (¶ 2)

FACTUAL BACKGROUND

The opinion contains little factual discussion because the case came to the Supreme Court of Ohio solely on a certified question of law. The underlying federal action involved claims concerning whether defendants could be liable for tortious acts in concert under Restatement (Second) of Torts § 876. The federal district court asked whether Ohio recognizes that cause of action if the underlying facts were otherwise sufficient to establish liability.

PROCEDURAL HISTORY

The federal district court certified whether Ohio recognizes a cause of action for tortious acts in concert under Restatement (Second) of Torts § 876. The Supreme Court of Ohio accepted the certified question, heard oral argument, and answered it in the negative.

DISPOSITION

other

CASES CITED

- Great Cent. Ins. Co. v. Tobias, 37 Ohio St. 3d 127, 524 N.E.2d 168 (1988)
- Pierce v. Bishop, 4th Dist. No. 10CA6, 2011-Ohio-371
- Boyd v. Lincoln Elec. Co., 179 Ohio App. 3d 559, 2008-Ohio-6143, 902 N.E.2d 1023
- Schuerger v. Clevenger, 8th Dist. No. 85128, 2005-Ohio-5333