

SUPREME COURT OF VIRGINIA

Ahari v. Morrison, 275 Va. 92

654 S.E.2d 891 (2008) · No. 070146 · Decided January 11, 2008

SUMMARY

The Supreme Court of Virginia held that an amended complaint requiring leave of court is not legally effective until the court grants leave to amend. Because the amended complaint adding new defendants became operative after the applicable statute of limitations expired, the Court affirmed dismissal of the claims against those defendants.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Cynthia D. Kinser; All the Justices
JURISDICTION	Virginia
DECIDED	January 11, 2008
DOCKET	070146
DISPOSITION	affirmed
PROCEDURAL POSTURE	The plaintiff appealed from a circuit court judgment granting the defendants' plea of the statute of limitations and dismissing the action with prejudice.
STANDARD OF REVIEW	The operative filing-date issue was a question of law reviewed de novo.
PRECEDENTIAL VALUE	Published, precedential decision of the Supreme Court of Virginia
PARTIES	Marissa Ahari, as Administrator and Representative of Alexandra Ahari, Deceased v. Dennis C. Morrison, Robert Driscoll, John Doe I, II, and III

TOPICS

- statute of limitations
- motion to amend
- pleadings
- civil procedure
- appellate procedure

PRACTICE AREAS

- Civil procedure
- Statute of limitations
- Appellate procedure

QUESTIONS PRESENTED

1. Whether an amended complaint is deemed filed for purposes of the statute of limitations when the plaintiff files a motion for leave to amend and tenders the proposed amended complaint, or only when the trial court grants leave to amend.
2. Whether the defendants' statute-of-limitations plea was properly sustained when the trial court granted leave to amend after the limitations period expired.

HOLDINGS

1. Under Virginia Rule 1:8, an amended complaint filed after the original pleading has no legal efficacy and is not deemed filed until the trial court grants leave to amend.
2. When a new party is added by amended pleading, the action is commenced as to that party only when the amendment becomes operative; the statute of limitations continues to run until that date.

KEY QUOTATIONS

“Because Rule 1:8 requires leave of court to amend any pleading after it is filed, we conclude that the circuit court did not err by holding that an amended complaint is not deemed filed, and is thus without legal efficacy, until a trial court grants leave to amend.” (275 Va. at 92, 654 S.E.2d at 891)

“Until July 28, 2006, when the circuit court granted Ahari's motion for leave to amend, the amended complaint had no legal efficacy.” (275 Va. at 96, 654 S.E.2d at 893)

FACTUAL BACKGROUND

Ahari alleged that roadway and street-surface defects caused Alexandra Ahari to lose control of her vehicle on May 18, 2004, and that Alexandra died from injuries sustained in the accident. Ahari filed the original complaint on March 1, 2006, and moved for leave to amend on May 15, 2006, three days before the applicable statute of limitations expired. The proposed amended complaint added Virginia Department of Transportation employees as defendants, but the circuit court did not grant leave to amend until July 28, 2006.

PROCEDURAL HISTORY

Ahari filed an original complaint against Fairfax County and the Commonwealth of Virginia. Three days before the statute of limitations expired, she moved for leave to file an amended complaint and tendered the proposed amendment adding Morrison, Driscoll, and several John Doe defendants. The circuit court granted leave on July 28, 2006, ruled that date was the operative filing date, sustained the statute-of-limitations plea, and dismissed the action with prejudice. The Supreme Court of Virginia affirmed.

DISPOSITION

affirmed

CASES CITED

- Westgate at Williamsburg Condominium Ass'n v. Philip Richardson Co., 270 Va. 566, 621 S.E.2d 114 (2005)

- Mechtensimer v. Wilson, 246 Va. 121, 431 S.E.2d 301 (1993)
- Harrell v. Harrell, 272 Va. 652, 636 S.E.2d 391 (2006)
- Bowie v. Murphy, 271 Va. 127, 624 S.E.2d 74 (2006)
- Mendenhall v. Cooper, 239 Va. 71, 387 S.E.2d 468 (1990)
- Webb v. United States Fidelity & Guar. Co., 165 Va. 388, 182 S.E. 557 (1935)
- Neff v. Garrard, 216 Va. 496, 219 S.E.2d 878 (1975)

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