

COURT OF APPEALS OF OHIO, SECOND APPELLATE DISTRICT, DARKE
COUNTY

Worch Lumber, Inc. v. Fetzer

2026-Ohio-2006 · No. 2025-CA-23 · Decided May 29, 2026

SUMMARY

The Ohio Second District Court of Appeals affirmed the Darke County Common Pleas Court’s partial summary judgment for Worch Lumber, Inc. in a dispute over improvements to an existing residence. The court held that the version of the Home Construction Service Suppliers Act in effect before September 20, 2024 did not cover repairs, improvements, remodels, or renovations to existing homes, and therefore did not apply to the parties’ 2023 transaction. The court overruled Fetzer’s sole assignment of error.

CASE DETAILS

COURT	Court of Appeals of Ohio, Second Appellate District, Darke County
WRITING FOR THE COURT	Robert G. Hanseman, J.; Mary E. Lewis, P.J.; Christopher B. Epley, J.
JURISDICTION	Ohio Court of Appeals, Second Appellate District, Darke County
DECIDED	May 29, 2026
DOCKET	2025-CA-23
DISPOSITION	affirmed
PROCEDURAL POSTURE	Fetzer appealed a certified final appealable order granting Worch partial summary judgment on Fetzer's Home Construction Service Suppliers Act counterclaims and denying Fetzer's motion for summary judgment. The appellate court previously denied Worch's motion to dismiss for lack of appellate jurisdiction and addressed the certified issue on the merits.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The appellate court applies the same standard as the trial court and determines whether genuine issues of material fact preclude judgment as a matter of law.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Cathryn M. Fetzer v. Worch Lumber, Inc.

TOPICS

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QUESTIONS PRESENTED

1. Whether the original version of the Home Construction Service Suppliers Act applied to contracts for improvements and renovations to an existing home.
2. Whether the trial court properly granted Worch partial summary judgment on Fetzer's HCSSA-related counterclaims.
3. Whether the appellate court had jurisdiction to review the certified summary judgment order.

HOLDINGS

1. The trial court's partial summary judgment order was a final, appealable order because it completely disposed of Fetzer's HCSSA-related counterclaims and qualified under R.C. 2505.02(B)(1) and, alternatively, R.C. 2505.02(B)(2); the trial court's Civ.R. 54(B) certification was appropriate.
2. Under the original version of R.C. 4722.01(B), the term "home construction service" referred to construction of a new residential building and did not include repairs, improvements, remodels, or renovations to an existing home.
3. The amended definition of "home construction service" applies only to home construction service contracts entered on or after September 20, 2024, because the amendment contains no express statement of retroactivity.
4. Because Fetzer's 2023 transaction concerned improvements and renovations to an existing home rather than construction of a new home, it was not a home construction service contract under the original HCSSA, and Fetzer could not prevail on her HCSSA-related counterclaims.

KEY QUOTATIONS

"It is well established that "[a] statute is presumed to be prospective in its operation unless expressly made retrospective." (¶ 26)

"Because the contracted work in this case did not call for the construction of a new home, but rather improvements and renovations to an existing home, Fetzer did not enter into a home construction service contract as defined by the HCSSA." (¶ 28)

FACTUAL BACKGROUND

Worch performed more than \$25,000 in improvements and renovations to Fetzer's existing residence under contracts signed in July 2023. Fetzer asserted that Worch violated the HCSSA and brought counterclaims seeking statutory remedies, contractual and declaratory relief, and damages for slander of title. Because the work involved improvements and renovations to an existing home rather than construction of a new home, the court held that the version of the HCSSA in effect when the contracts were formed did not apply.

PROCEDURAL HISTORY

Worch sued Fetzer in the Darke County Common Pleas Court for breach of contract, action on account, unjust enrichment, and foreclosure of a mechanic's lien arising from home improvements. Fetzer asserted four counterclaims, including claims under the HCSSA, breach of contract, declaratory relief, and slander of title. The trial court granted Worch partial summary judgment on the HCSSA-related counterclaims after determining that the HCSSA did not apply to the transaction, while leaving other matters for trial; it certified the order as final and appealable. The appellate court affirmed.

DISPOSITION

affirmed

CASES CITED

- Dayton Children’s Hosp. v. Garrett Day LLC, 2018-Ohio-5466, ¶ 20 (2d Dist.)
- Celebrezze v. Netzey, 51 Ohio St.3d 89, 90 (1990)
- Capital One, N.A. v. Campbell, 2026-Ohio-1, ¶ 23 (2d Dist.)
- Miller v. Bike Athletic Co., 80 Ohio St.3d 607, 617 (1998)
- Temple v. Wean United, Inc., 50 Ohio St.2d 317, 327 (1977)
- Mitseff v. Wheeler, 38 Ohio St.3d 112, 115 (1988)
- Dresher v. Burt, 75 Ohio St.3d 280, 293 (1996)
- Oasis Home Buyers LLC v. Estate of Thomas, 2026-Ohio-487, ¶¶ 7-8 (2d Dist.)
- Norris v. Ohio Std. Oil Co., 70 Ohio St.2d 1, 2 (1982)
- GNFH, Inc. v. W. Am. Ins. Co., 2007-Ohio-2722, ¶ 16 (2d Dist.)
- Ward v. Bond, 2015-Ohio-4297, ¶ 8 (2d Dist.)
- Leatherbury v. Reagan, 34 Ohio App. 3d 291, 293 (2d Dist. 1987)
- Orion Mgt., Inc. v. Kaeka, 2025-Ohio-1047, ¶¶ 16, 29-33 (9th Dist.)
- Estate of Tomlinson v. Mega Pool Warehouse, Inc., 2023-Ohio-229, ¶ 17 (5th Dist.)
- A1 Heating and Cooling, Inc. v. Thomas, 2024-Ohio-109, ¶¶ 55-61 (5th Dist.)
- Beder v. Cerha Kitchen and Bath Design Studio, LLC, 2022-Ohio-4463, ¶¶ 7-18 (11th Dist.)
- State ex rel. Celebrezze v. Natl. Lime & Stone Co., 68 Ohio St.3d 377, 380, 382 (1994)
- Tax Comm. of Ohio v. Sec. Sav. Bank & Trust Co. of Toledo, 117 Ohio St. 443, 450 (1927)
- Lambright v. New Age Dome Construction, LLC, 2026 WL 681726 (N.D. Ohio Mar. 11, 2026)
- Van Fossen v. Babcock & Wilcox Co., 36 Ohio St.3d 100, 105 (1988)
- State ex rel. Romans v. Elder Beerman Stores Corp., 2003-Ohio-5363, ¶ 11
- State ex rel. Kilbane v. Indus. Comm., 91 Ohio St.3d 258, 259 (2001)

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