

COURT OF APPEALS OF THE STATE OF GEORGIA

Southeast Centerline, Inc. v. Patty Howze

Southeast Centerline · No. A24I0068; A24I0069; A24I0070 · Decided November 30, 2023

SUMMARY

The Georgia Court of Appeals granted Southeast Centerline, Inc.’s applications for interlocutory review in three related cases arising from a fatal vehicular accident. Because the trial court had granted partial summary judgment to Patty Howze, the court held that the order was directly appealable and directed Southeast to file a notice of appeal within ten days if it had not already done so.

CASE DETAILS

COURT	Court of Appeals of the State of Georgia
JURISDICTION	Georgia
DECIDED	November 30, 2023
DOCKET	A24I0068; A24I0069; A24I0070
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Southeast sought interlocutory review of an order granting Howze partial summary judgment, denying Southeast's motion to exclude expert testimony, and denying Southeast's motion for summary judgment. The Court of Appeals granted the interlocutory applications because the partial summary judgment ruling was directly appealable.
PRECEDENTIAL VALUE	published
PARTIES	Southeast Centerline, Inc. v. Patty Howze, individually and as administrator of the Estate of Donald Howze, et al.

TOPICS

- interlocutory appeal
- appellate jurisdiction
- summary judgment
- appellate procedure
- civil procedure

PRACTICE AREAS

- civil procedure
- appellate procedure
- torts

QUESTIONS PRESENTED

1. Whether an order granting partial summary judgment on any issue or as to any party is directly appealable under OCGA § 9-11-56 (h).

2. Whether rulings denying an evidentiary motion and a motion for summary judgment may be reviewed in a direct appeal from the same order under OCGA § 5-6-34 (d).
3. Whether Southeast was required to file interlocutory applications rather than proceed by direct appeal.

HOLDINGS

1. A trial court's grant of summary judgment on any issue or as to any party is reviewable by direct appeal under OCGA § 9-11-56 (h).
2. All rulings within the order granting partial summary judgment, as well as other non-final rulings entered in the case, may be raised as part of the direct appeal.
3. Because the trial court granted partial summary judgment, the order was directly appealable and Southeast was not required to file interlocutory applications for review.

KEY QUOTATIONS

“Because the trial court granted Howze’s motion for partial summary judgment, the order is directly appealable and Southeast was not required to file these applications for interlocutory appeal.”

“This Court will grant a timely application for interlocutory review if the order complained of is subject to direct appeal and the applicants have not otherwise filed a notice of appeal.”

FACTUAL BACKGROUND

Donald Howze was fatally injured in a vehicular accident. Patty Howze, individually and as administrator of his estate, sued Southeast Centerline and other defendants. The trial court found on partial summary judgment that Southeast failed to comply with certain Georgia Department of Transportation specifications.

PROCEDURAL HISTORY

After Donald Howze was fatally injured in a vehicular accident, Patty Howze sued Southeast and other defendants. The trial court granted Howze partial summary judgment based on Southeast's failure to comply with certain Georgia Department of Transportation specifications and denied Southeast's evidentiary and summary-judgment motions. Southeast obtained certificates of immediate review and filed three interlocutory applications. The Court of Appeals held that the partial summary judgment ruling was directly appealable, granted the applications, and directed Southeast to file a notice of appeal in the trial court within ten days if it had not already done so.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

Southeast was given ten days from November 30, 2023, to file a notice of appeal in the trial court if it had not already done so. The trial-court clerk was directed to include a copy of the order in the record transmitted to the

Court of Appeals.

CASES CITED

- Olympic Dev. Group v. American Druggists' Ins. Co., 175 Ga. App. 425, 425 (1) (333 SE2d 622) (1985)
- Southeast Ceramics, Inc. v. Klem, 246 Ga. 294, 295 (1) (271 SE2d 199) (1980)
- Spivey v. Hembree, 268 Ga. App. 485, 486, n. 1 (602 SE2d 246) (2004)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/georgia-court-of-appeals-of-the-state-of-georgia/2023/southeast-centerline-inc-v-patty-howze-htmb7dts>