

SUPREME COURT OF ARKANSAS

Cooper Tire & Rubber Co. v. Phillips County Circuit Court

381 S.W.3d 67 (Ark. 2011) · Decided April 28, 2011

SUMMARY

The Arkansas Supreme Court granted Cooper Tire & Rubber Co. a writ of certiorari challenging a circuit court order compelling responses to extensive discovery requests and denying protective orders. The court held that Cooper preserved its objections by timely seeking protective relief under Arkansas Rules of Civil Procedure 26(c) and 37(d), and that the circuit court grossly abused its discretion by finding waiver. Because the discovery implicated trade-secret protections and related state and federal property interests, the court vacated the circuit court’s order.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Jim Gunter
JURISDICTION	Arkansas
DECIDED	April 28, 2011
DISPOSITION	vacated
PROCEDURAL POSTURE	Cooper Tire petitioned for extraordinary relief from an interlocutory discovery order compelling production and denying protective orders. The Arkansas Supreme Court granted a writ of certiorari and vacated the circuit court's order.
STANDARD OF REVIEW	A writ of certiorari requires that no other adequate remedy exist and that the record show a plain, manifest, and gross abuse of discretion, lack of jurisdiction, an act in excess of jurisdiction, or error apparent on the face of the record. The court ordinarily does not use certiorari to review discovery rulings, factual findings, or discretionary authority, but an exception applies when the discovery dispute implicates another area of law, here the protection of trade secrets.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Cooper Tire & Rubber Co. v. Phillips County Circuit Court, Lee Andrew Tucker, as Administrator of the Estate of Mary Tucker, deceased, Lee Andrew Tucker, individually, Lee Andrew Tucker, as

next kin of Lee Andrew Tucker, Jr., a minor, Nadine Coleman, as Administratrix of the Estate of Olivia Coleman, deceased

TOPICS

writ of certiorari

discovery dispute

civil procedure

trade secrets

takings clause

PRACTICE AREAS

civil procedure

discovery

trade-secret protection

appellate extraordinary writs

QUESTIONS PRESENTED

1. Whether a writ of certiorari was an appropriate remedy for review of the discovery order because the dispute implicated the protection of trade secrets rather than presenting merely an ordinary discovery issue.
2. Whether Cooper Tire waived its objections to the requests for production by failing to provide individual responses within the applicable thirty-day period despite having timely filed motions for protective order.
3. Whether the circuit court grossly abused its discretion by compelling production and denying protective orders on the ground that Cooper Tire had waived its objections.

HOLDINGS

1. A writ of certiorari was appropriate because the discovery dispute implicated state and federal protections for trade secrets and therefore was not merely an ordinary discovery matter.
2. Cooper Tire did not waive its objections because it filed motions for protective order concerning the objectionable discovery, and Arkansas Rule of Civil Procedure 37(d) excuses a failure to respond when the party has applied for a protective order under Rule 26(c).
3. The circuit court grossly abused its discretion by finding that Cooper Tire waived its objections and compelling disclosure of potentially confidential documents containing protected trade secrets.

KEY QUOTATIONS

“The circuit court grossly abused its discretion in this instance where it found that petitioner waived any objection to the discovery requested by failing to individually respond to those requests within the thirty-day period.”

“Therefore, a writ of certiorari is appropriate relief in this instance, where the issue is not merely the resolution of a discovery matter but how that resolution interacts with state and federal law protecting trade secrets.”

FACTUAL BACKGROUND

The Tucker Plaintiffs alleged that a February 6, 2009 one-car accident was caused by a defective tire manufactured by Cooper Tire. Between April 26 and June 2, 2010, they served seven sets of discovery

containing 467 requests for production, including requests for protected or trade-secret materials produced in other cases. Cooper Tire had already responded to 58 requests and produced more than 5,000 pages, and it sought protective orders based on the volume, burden, relevance, and possible disclosure of trade secrets and confidential business information.

PROCEDURAL HISTORY

In a pending negligence action arising from a one-car accident allegedly caused by a defective Cooper Tire, the Phillips County Circuit Court compelled Cooper Tire to respond fully to 467 requests for production and denied two motions for protective order on the ground that Cooper Tire had waived its objections. Cooper Tire sought a writ of certiorari, mandamus, prohibition, or other supervisory relief. The Supreme Court granted certiorari, held that the circuit court had grossly abused its discretion, and vacated the October 1, 2010 order.

DISPOSITION

vacated

CASES CITED

- Baptist Health v. Circuit Court of Pulaski County, 373 Ark. 455, 284 S.W.3d 499 (2008)
- Jordan v. Circuit Court of Lee County, 366 Ark. 326, 235 S.W.3d 487 (2006)
- Ark. Game & Fish Comm'n v. Herndon, 365 Ark. 180, 226 S.W.3d 776 (2006)
- Chiodini v. Lock, 373 Ark. 88, 281 S.W.3d 728 (2008)
- Ark. State Highway Comm'n v. Ponder, 239 Ark. 744, 393 S.W.2d 870 (1965)
- Ark. Democrat-Gazette, Inc. v. Brantley, 359 Ark. 75, 194 S.W.3d 748 (2004)
- Lupo v. Lineberger, 313 Ark. 315, 855 S.W.2d 293 (1993)
- Ballard v. Martin, 349 Ark. 564, 79 S.W.3d 838 (2002)
- Banks v. Jackson, 312 Ark. 232, 848 S.W.2d 408 (1993)
- Ford Motor Co. v. Harper, 353 Ark. 328, 107 S.W.3d 168 (2003)
- Farm Service Co-op. of Fayetteville v. Cummings, 262 Ark. 810, 561 S.W.2d 317 (1978)
- Carpenter v. United States, 484 U.S. 19, 108 S. Ct. 316, 98 L. Ed. 2d 275 (1987)
- Ruckelshaus v. Monsanto Co., 467 U.S. 986, 104 S. Ct. 2862, 81 L. Ed. 2d 815 (1984)
- Webb's Fabulous Pharmacies, Inc. v. Beckwith, 449 U.S. 155, 101 S. Ct. 446, 66 L. Ed. 2d 358 (1980)
- In re Remington Arms Co., 952 F.2d 1029 (8th Cir. 1991)
- Iowa Beef Processors, Inc. v. Bagley, 601 F.2d 949 (8th Cir. 1979)
- Dunkin v. Citizens Bank of Jonesboro, 291 Ark. 588, 727 S.W.2d 138 (1987)