

SUPREME COURT OF OHIO

State Automobile Mutual Insurance v. Titanium Metals Corp.

108 Ohio St. 3d 540 (Ohio 2006) · Decided April 19, 2006

SUMMARY

The Ohio Supreme Court held that the trial court's unexplained denial of a Civ.R. 12(B)(6) motion did not constitute a final, appealable order under the political-subdivision immunity statute. The court vacated the court of appeals' judgment and remanded for further proceedings, declining to decide whether the amended version of R.C. 2744.02(C) applied prospectively.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Stratton, J.; Moyer, C.J.; Resnick, J.; Pfeifer, J.; O'Connor, J.; O'Donnell, J.; Lanzinger, J.
JURISDICTION	Ohio
DECIDED	April 19, 2006
DISPOSITION	vacated
PROCEDURAL POSTURE	Discretionary appeal from the court of appeals' affirmance of the trial court's denial of a Civ.R. 12(B)(6) motion to dismiss a third-party complaint. The Supreme Court of Ohio reviewed whether the order was final and appealable.
STANDARD OF REVIEW	De novo review of the jurisdictional question whether the trial court's order was final and appealable; a Civ.R. 12(B)(6) motion tests the sufficiency of the complaint's allegations.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion; precedential
PARTIES	Oakwood Village, Jack Maji v. Ohio Briquetting, L.L.C.

TOPICS

[appellate jurisdiction](#)[final judgment rule](#)[motions to dismiss](#)[municipal law](#)[civil procedure](#)

PRACTICE AREAS

[Civil procedure](#)[Appellate jurisdiction](#)[Political-subdivision immunity](#)[Insurance subrogation](#)[Tort contribution and indemnity](#)

QUESTIONS PRESENTED

1. Whether the trial court's unexplained denial of Oakwood Village's Civ.R. 12(B)(6) motion to dismiss was a final, appealable order.
2. Whether the court of appeals had jurisdiction to adjudicate immunity and public-duty-doctrine issues based on the trial court's denial of the motion to dismiss.
3. Whether the April 9, 2003 version of R.C. 2744.02(C) applied retroactively or prospectively to authorize the appeal.

HOLDINGS

1. An unexplained order denying a Civ.R. 12(B)(6) motion is not a final, appealable order when the trial court has not determined whether immunity applies, whether an exception to immunity exists, or whether R.C. 2744.05(B)(1) bars the claim.
2. The court of appeals lacked jurisdiction to consider the immunity and public-duty-doctrine issues because the trial court had not entered a final, appealable order; those issues were considered prematurely.
3. The court expressed no opinion on whether the April 9, 2003 version of R.C. 2744.02(C) applies prospectively or otherwise because the issue was not ripe for decision.

KEY QUOTATIONS

“Because the trial court’s journal entry was not a final, appealable order, we vacate the judgment of the court of appeals and remand to the trial court for further proceedings.” (¶ 1)

“There being no final, appealable order, the court of appeals lacked jurisdiction to consider this matter.” (¶ 12)

FACTUAL BACKGROUND

A fire occurred on November 15, 2002, at a building where Ohio Briquetting, L.L.C., was a tenant and State Auto's insureds conducted business. State Auto alleged that Ohio Briquetting's failure to inspect titanium used in its briquetting process caused the fire and sought to recoup insurance payments. Ohio Briquetting brought a third-party complaint against Oakwood Village and its fire chief, alleging that their use of an improper fire suppressant caused explosions and substantially worsened the fire.

PROCEDURAL HISTORY

State Auto filed a negligence complaint seeking to recoup insurance proceeds paid after a fire. Ohio Briquetting filed a third-party complaint for contribution and/or indemnity against Oakwood Village and its fire chief. The trial court denied Oakwood's Civ.R. 12(B)(6) motion without explanation, and the court of appeals affirmed. The Supreme Court accepted a discretionary appeal, held that the trial court's order was not final and appealable, vacated the appellate judgment, and remanded.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The judgment of the court of appeals and all conclusions regarding the public-duty doctrine were vacated. The matter was remanded to the trial court for further proceedings consistent with the opinion, including development of the record before the immunity issue is adjudicated.

CASES CITED

- Gen. Acc. Ins. Co. v. Ins. Co. of N. Am. (1989), 44 Ohio St. 3d 17, 20, 540 N.E.2d 266
- Polikoff v. Adam (1993), 67 Ohio St. 3d 100, 103, 616 N.E.2d 213
- State ex rel. Hanson v. Guernsey Cty. Bd. of Commrs. (1992), 65 Ohio St. 3d 545, 548, 605 N.E.2d 378
- Fahnbulleh v. Strahan (1995), 73 Ohio St. 3d 666, 667, 653 N.E.2d 1186