

SUPREME COURT OF LOUISIANA

Calbert v. Batiste

29 So. 3d 1240 (La. 2010) · No. 2009-C-2647 · Decided March 12, 2010

SUMMARY

The Louisiana Supreme Court held that two virtually identical wrongful-death and survival actions arising from the same occurrence were pending between the same parties in the same capacities. Applying Louisiana Code of Civil Procedure article 531, the court reinstated the district court's judgment sustaining exceptions of lis pendens and dismissing the later claims.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Louisiana
DECIDED	March 12, 2010
DOCKET	2009-C-2647
DISPOSITION	reversed
PROCEDURAL POSTURE	The Supreme Court of Louisiana reviewed the Court of Appeal's reversal of a district court judgment sustaining exceptions of lis pendens.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Mary Ann Charles Calbert, Major Calbert v. Orlando J. Batiste, Lafayette City-Parish Consolidated Government, State of Louisiana through Department of Transportation and Development

TOPICS

- civil procedure
- wrongful death
- appellate procedure

PRACTICE AREAS

- civil procedure
- torts
- appellate procedure

QUESTIONS PRESENTED

1. Whether exceptions of lis pendens were properly sustained when two virtually identical tort suits arising from the same transaction or occurrence were pending in the same Louisiana district court between the same parties in the same capacities.
2. Whether Major Calbert could intervene in the later-filed action despite his earlier-filed separate action.

HOLDINGS

1. Louisiana Code of Civil Procedure article 531 required dismissal of all but the first-filed suit because Major had two virtually identical civil tort suits pending in the same court, involving the same transaction or occurrence, the same causes of action, and the same defendants in the same capacities.
2. The district court properly sustained the exceptions of lis pendens and dismissed Major Calbert's claims with prejudice; the Court of Appeal erred in reversing that judgment.

KEY QUOTATIONS

“In accordance with Article 531, DOTD and Lafayette are entitled to have all but the first suit dismissed.”
(29 So. 3d at 1241)

“Therefore, we find the District Court properly sustained the exceptions of lis pendens, and the Court of Appeal erred in its reversal.” (29 So. 3d at 1241)

FACTUAL BACKGROUND

Raymond Calbert died from injuries sustained when he was struck by a vehicle driven by Orlando Batiste. His surviving spouse, Mary Ann Calbert, filed a wrongful-death action, and his surviving son, Major Calbert, filed a separate wrongful-death and survival action arising from the same accident against overlapping defendants. Major later sought to intervene in Mary Ann's action and add the Department of Transportation and Development and Lafayette as defendants.

PROCEDURAL HISTORY

Mary Ann Calbert filed a wrongful-death action against Orlando Batiste. Major Calbert later filed a separate wrongful-death and survival action arising from the same occurrence against Batiste, the Department of Transportation and Development, and Lafayette, then sought to intervene in Mary Ann's action and add the latter defendants. The district court sustained exceptions of lis pendens and dismissed Major's claims with prejudice; the Court of Appeal reversed. The Supreme Court granted the writ, reversed the Court of Appeal, and reinstated and rendered the district court's judgment.

DISPOSITION

reversed

REMAND INSTRUCTIONS

None stated; the Supreme Court reinstated and rendered the district court's judgment.

