

**COURT OF APPEALS OF OHIO, EIGHTH APPELLATE DISTRICT,
CUYAHOGA COUNTY**

Hornyak v. Res. Alloys, L.L.C.

2016-Ohio-8489 (Ohio Ct. App. 2016) · No. 104302 · Decided December 29, 2016

SUMMARY

The Eighth District Court of Appeals of Ohio reversed a summary judgment entered for Reserve Alloys and related defendants in a personal injury action arising from a temporary worker’s burn injuries at an aluminum recycling facility. The court held that genuine issues of material fact existed regarding which corporate entity contracted with the staffing agency and paid the workers’ compensation premiums, affecting the defendants’ immunity under Ohio’s Workers’ Compensation Act. The case was remanded for further proceedings.

CASE DETAILS

COURT	Court of Appeals of Ohio, Eighth Appellate District, Cuyahoga County
WRITING FOR THE COURT	Mary Eileen Kilbane, P.J.; Mary J. Boyle, J.; Frank D. Celebrezze, Jr., J.
JURISDICTION	Ohio
DECIDED	December 29, 2016
DOCKET	104302
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs appealed from the Cuyahoga County Court of Common Pleas's order granting defendants summary judgment on personal-injury, workplace-intentional-tort, premises-liability, negligence, and loss-of-consortium claims.
STANDARD OF REVIEW	De novo review of summary judgment. Summary judgment is proper when there is no genuine issue of material fact, the moving party is entitled to judgment as a matter of law, and reasonable minds can reach only a conclusion adverse to the nonmoving party, with evidence construed most strongly in that party's favor.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion

PARTIES

Darrell Hornyak, Pam Hornyak v. Reserve Alloys, L.L.C., Reserve CA Twinsburg, L.L.C., Chris Iaconna, Tony Zola, Wayne Clemmons, Gene Farrell, Eric Pyles

TOPICS

workers compensation

personal injury

summary judgment

appellate procedure

civil procedure

PRACTICE AREAS

workers compensation

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QUESTIONS PRESENTED

1. Whether summary judgment was proper on the ground that Darrell Hornyak was a borrowed employee of Reserve Alloys and that the defendants therefore enjoyed workers' compensation immunity.
2. Whether the evidence created a genuine issue of material fact concerning which corporate entity contracted with Alliance Staffing Solutions and paid the workers' compensation premiums necessary to establish immunity under Ohio law.
3. Whether the individual defendants were entitled to summary judgment based on the same borrowed-employee and workers' compensation immunity theory.

HOLDINGS

1. Summary judgment was improper because genuine issues of material fact existed concerning whether Reserve Alloys was the customer-employer that contracted with Alliance and paid the workers' compensation premiums for Darrell.
2. The individual defendants were not entitled to summary judgment because their immunity theory also depended on a finding that Darrell was a borrowed employee of Reserve Alloys, and that factual issue remained unresolved.
3. The appellate court reviews summary judgment de novo and construes the evidence most strongly in favor of the nonmoving party.

KEY QUOTATIONS

“Pursuant to Civ.R. 56, summary judgment is appropriate when (1) there is no genuine issue of material fact, (2) the moving party is entitled to judgment as a matter of law, and (3) reasonable minds can come to but one conclusion and that conclusion is adverse to the nonmoving party, said party being entitled to have the evidence construed most strongly in his favor.” (§12)

“Where an employer employs an employee with the understanding that the employee is to be paid only by the employer and at a certain hourly rate to work for a customer of the employer and where it is understood that that customer is to have the right to control the manner or means of performing the work, such employee in doing that work is an employee of the customer within the meaning of the Workmen’s Compensation Act; and, where such customer has complied with the provisions of the Workmen’s Compensation Act, he will not be

liable to respond in damage for any injury received by such employee in the course of or arising out of that work for such customer.” (§16)

FACTUAL BACKGROUND

Darrell Hornyak worked at Reserve Alloys through Alliance Staffing Solutions, although Reserve Alloys interviewed and hired him for the position and exclusively directed his work. While he was helping clear a jam in an aluminum shredder, the machine emitted smoke and then erupted in flames, causing second-degree burns over approximately 20 percent of his body. The defendants asserted that Darrell was a borrowed employee and that Ohio workers' compensation immunity barred his common-law claims. The record contained conflicting evidence concerning the identities and relationships of Reserve Alloys, Regency Technologies, RSR Partners, Reserve CA, and Alliance, and concerning which entity contracted with Alliance and paid the workers' compensation premiums.

PROCEDURAL HISTORY

Darrell Hornyak was injured by a fire and explosion while working at Reserve Alloys through temporary staffing agency Alliance Staffing Solutions. The plaintiffs sued the corporate and individual defendants. The trial court granted summary judgment on all counts, concluding that no genuine issues of material fact existed and that defendants were entitled to judgment as a matter of law. The appellate court reversed and remanded because the record contained factual inconsistencies concerning which corporate entity contracted with the staffing agency and paid the workers' compensation premiums.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter was remanded for further proceedings consistent with the opinion; the court directed the common pleas court to carry the judgment into execution.

CASES CITED

- Grafton v. Ohio Edison Co., 77 Ohio St. 3d 102, 105, 1996-Ohio-336, 671 N.E.2d 241
- Zemcik v. LaPine Truck Sales & Equip. Co., 124 Ohio App. 3d 581, 585, 706 N.E.2d 860 (8th Dist. 1998)
- Zivich v. Mentor Soccer Club, 82 Ohio St. 3d 367, 369-370, 1998-Ohio-389, 696 N.E.2d 201
- Horton v. Harwick Chem. Corp., 73 Ohio St. 3d 679, 653 N.E.2d 1196
- Dresher v. Burt, 75 Ohio St. 3d 280, 292-293, 662 N.E.2d 264
- Mootispaw v. Eckstein, 76 Ohio St. 3d 383, 385, 1996-Ohio-389, 667 N.E.2d 1197
- Murphy v. Reynoldsburg, 65 Ohio St. 3d 356, 358-359, 1992-Ohio-95, 604 N.E.2d 138
- Daniels v. MacGregor Co., 2 Ohio St. 2d 89, 206 N.E.2d 554 (1965)
- Carr v. Cent. Printing Co., 2d Dist. Montgomery No. 16091, 1997 Ohio App. LEXIS 2526 (June 13, 1997)
- Russell v. Interim Personnel, Inc., 135 Ohio App. 3d 301, 733 N.E.2d 1186 (6th Dist. 1999)

- Nielsen v. Andersons, Inc., 6th Dist. Lucas No. L-06-1073, 2006-Ohio-5118
- Donnelly v. Herron, 88 Ohio St. 3d 425, 2000-Ohio-372, 727 N.E.2d 882

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