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Summary of Cafe Moda v. Palma, 128 Nev. Adv. Op. No. 7

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TORTS – COMPARATIVE NEGLIGENCE

Summary

The Court considered a defendant’s appeal of a District Court’s judgment which held the tortfeasors jointly and severally liable for the plaintiff’s damages.

Disposition/Outcome

The Supreme Court of Nevada reversed the District Court’s judgment which found Café Moda jointly and severally liable for the plaintiff’s damages. The Court held that the District Court misinterpreted NRS 41.141(4) because it failed to recognize the legislature’s intent to limit tort liability for negligent defendants.

Factual and Procedural History

The issue before the Court arose from a tort claim from Donny Palma against Café Moda and Matt Richards. While patronizing Café Moda, Richards and Palma had an altercation that resulted in Richards stabbing Palma repeatedly. When Palma sued for damages, the jury found that Palma had not been comparatively negligent and allocated 80% of the fault to Richards and 20% to Café Moda. The District Court changed this allocation when it entered the judgment and found each defendant jointly and severally liable. Café Moda appealed, arguing NRS 41.141 allows liability to be allocated between negligent and intentional tortfeasors.

Discussion

Justice Parraguirre wrote for the Court sitting in a three-justice panel. The Court first noted that in issues of statutory application, the Court must start its analysis with the statute’s plain language.² After finding that reading NRS 41.141 could lead to two different, reasonable conclusions about the apportionment of liability between negligent and intentional tortfeasors, the Court looked to the legislative intent of the statute.³ Specifically, it examined subsections 4 and 5(b):

4. Where recovery is allowed against more than one defendant in such an action, except as otherwise provided in subsection 5, each defendant is severally liable to the plaintiff only for that portion of the judgment which represents the percentage of negligence attributable to that defendant.

¹ By Colin Seale

² See *Arguello v. Sunset Station, Inc.*, 127 Nev. ___, ___, 252 P.3d 206, 209 (2011).

³ See *Hardy Co. v. SNMARK*, 126 Nev. ___, ___, 245 P.3d 1148, 1153 (2010).

5. This section does not affect the joint and several liability, if any, of the defendants in an action based upon:

...

b) An intentional tort[.]⁴

The Court found that, originally, the legislature drafted NRS 41.141 in 1973 to eliminate contributory negligence as a complete bar to recovery and to limit the liability of each defendant to his or her proportion of fault. After analyzing four subsequent amendments, the Court noted that in 1987, the legislature created five exceptions to joint and several liability, which preserved joint and several liability for all but merely negligent defendants. When the legislature revised the statute in 1989, it maintained this basic framework. The Court therefore concluded that legislative intent favored Café Moda's interpretation of NRS 41.141.

The Court also stated that had the legislature anticipated the interpretation proffered by Palma, which was that the statute allowed joint and several liability only for suits based wholly on a negligence theory, and that such an interpretation would lead to absurd results. In the case at hand, applying Palma's interpretation would lead Café Moda's liability for negligence to depend on co-defendant Richards' state-of-mind. By applying Café Moda's proposed interpretation, these results were avoided.

Conclusion

NRS 41.141 allows liability to be apportioned between intentional and negligent tortfeasors.

⁴ NEV. REV.STAT. § 41.141 (2007).