

Lamprecht v. Schluntz

Case Number

A-14-0995

Call Date

September 16, 2015

Case Time

1:30 PM

Case Audio

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Case Summary

A-14-0995, Arthur and Linda Lamprecht (Appellants) v. Brent Schluntz and Gerald Schluntz

Furnas County, District Judge David W. Urbom

Attorney for Appellants: Tony Brock

Attorney for Appellees: James B. Luers, Krista M. Carlson (Wolfe, Snowden, Hurd, Luers & Ahl, LLP)

Civil Action: Res Ipsa Loquitur

Action Taken by Trial Court: The district court granted the Appellees' motion for summary judgment and dismissed the Appellants' complaint.

Assignments of Error on Appeal: The Lamprechts assign as error, summarized and restated, that the district court erred (1) in granting summary judgment based on its conclusion that res ipsa loquitur did not apply, (2) in making certain findings of fact, and (3) in excluding Arthur's affidavit.

Extended Case Summary (for Educational Purposes):

A-14-0995, Arthur and Linda Lamprecht (Appellants) v. Brent Schluntz and Gerald Schluntz

Furnas County, District Judge David W. Urbom

Attorney for Appellants: Tony Brock

Attorney for Appellees: James B. Luers, Krista M. Carlson (Wolfe, Snowden, Hurd, Luers & Ahl, LLP)

Civil Action: Res Ipsa Loquitur as applied to a wheat field fire

***Black's law dictionary defines 'res ispa loquitur' as follows: '[Latin 'the thing speaks for itself'] Torts. The doctrine providing that, in some circumstances, the mere fact of an accident's occurrence raises an inference of negligence so as to establish a prima facie case.'

Factual Background: Brent Schluntz and Gerald Schluntz are brothers who conduct farming operations together in Furnas County, Nebraska. In June 2012, the brothers and an employee were harvesting wheat. The employee was operating a tractor with an attached grain cart to

catch wheat from a combine. The tractor was owned by the Schluntzes. Brent noticed a fire under the tractor and signaled the employee to take the tractor out of the field and onto the road, which the employee did immediately. The fire spread through the wheat field and onto property owned by Arthur and Linda Lamprecht. The fire destroyed machinery, land, crops, and structures owned by the Lamprechts.

The Lamprechts sought compensation from the Schluntzes for the property damage they sustained from the fire. The Lamprechts relied solely on the doctrine of *res ipsa loquitur* to allege that the Schluntzes' negligent maintenance of the tractor caused the fire. The Schluntzes moved for summary judgment.

Action Taken by Trial Court: The district court granted summary judgment in favor of the Schluntzes and dismissed the Lamprechts' complaint.

Assignments of Error on Appeal: The Lamprechts assign as error, summarized and restated, that the district court erred (1) in granting summary judgment based on its conclusion that *res ipsa loquitur* did not apply, (2) in making certain findings of fact, and (3) in excluding Arthur Lamprecht's affidavit.

Case Location

Concordia University

Panel Text

Moore, Chief Judge, Pirtle and Bishop, Judges
