

COURT OF APPEALS
ASHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

KIMBERLY J. REESE

Plaintiff-Appellee

-VS-

MICHAEL A. MECHLING, ET AL.

Defendants-Appellants

JUDGES:

Hon. Patricia A. Delaney, P.J.

Hon. William B. Hoffman, J.

Hon. John W. Wise, J.

Case No. 11-COA-053

O P I N I O N

CHARACTER OF PROCEEDING:

Appeal from the Ashland County Court of
Common Pleas Case No. 11-CIV-345

JUDGMENT:

Reversed and Remanded

DATE OF JUDGMENT ENTRY:

May 11, 2012

APPEARANCES:

For Plaintiff-Appellee

For Defendants-Appellants

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For Wayne Mutual Insurance Company

EDWARD A. DARK
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Hoffman, J.

{¶1} Defendants-appellants Michael A. Mechling, et al., appeal the November 18, 2011 Judgment Entry entered by the Ashland County Court of Common Pleas denying their Motion to Bifurcate. Plaintiff-appellee is Kimberly J. Reese.

STATEMENT OF THE CASE¹

{¶2} Appellee sued Appellants for injuries alleged to have resulted from Appellant Michael Mechling's operation of his vehicle. Appellee was a passenger in the vehicle. Appellee sought both compensatory and punitive damages.

{¶3} Appellants filed a Motion to Bifurcate the issue of punitive damages pursuant to R.C. 2315.21. On November 18, 2011, the trial court overruled the motion.

{¶4} It is from that entry Appellants prosecute this appeal, assigning as error:

{¶5} "I. THE TRIAL COURT COMMITTED REVERSIBLE ERROR WHEN IT DENIED APPELLANT'S MOTION TO BIFURCATE PLAINTIFF'S PUNITIVE DAMAGES CLAIM PURSUANT TO §R.C.2315.21(B)."

{¶6} The trial court overruled Appellant's Motion to Bifurcate based upon this Court's ruling in *Plaugh v. Oniala*, 2011 Ohio 1207. In *Plaugh*, this Court found R.C. 2315.21(B) to be unconstitutional.

{¶7} Subsequent to the trial court's decision and while this appeal was pending, the Ohio Supreme Court decided *Havel v. Villa St. Joseph*, 2012-Ohio-552. Therein, the Supreme Court specifically found R.C. 2315.21(B) does not violate the Ohio Constitution. *Id.*, syllabus 1.

{¶8} Based upon *Havel*, Appellants' assignment of error is sustained.

¹ A rendition of the facts is unnecessary for our resolution of this appeal.

{¶9} The judgment of the trial court is reversed and the case remanded to that court for further proceedings.

By: Hoffman, J.

Delaney, P.J. and

Wise, J. concur

s/William B. Hoffman

HON. WILLIAM B. HOFFMAN

s/ Patricia A. Delaney

HON. PATRICIA A. DELANEY

s/ John W. Wise

HON. JOHN W. WISE

IN THE COURT OF APPEALS FOR ASHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

KIMBERLY J. REESE

Plaintiff-Appellee

-vs-

MICHAEL A. MECHLING, ET AL.

Defendants-Appellants

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JUDGMENT ENTRY

Case No. 11-COA-053

For the reasons stated in our accompanying Opinion, the judgment of the Ashland County Court is reversed and this matter is remanded to that court for further proceedings in accordance with our Opinion and the law. Costs to Appellee.

s/ William B. Hoffman

HON. WILLIAM B. HOFFMAN

s/ Patricia A. Delaney

HON. PATRICIA A. DELANEY

s/ John W. Wise

HON. JOHN W. WISE