

Supreme Court of Florida

No. 65,261

SHARYN ZIMMERMAN, Petitioner,

vs.

JEFFREY ZIMMERMAN and NATIONWIDE
MUTUAL INSURANCE COMPANY, Respondents.

[November 7, 1985]

BOYD, C.J.

This cause is before the Court on petition for review of the decision in Zimmerman v. Zimmerman, 447 So.2d 1019 (Fla. 3d DCA 1984). The district court of appeal certified that its decision passed upon a question of great public importance, thus giving this court jurisdiction to consider the petition for review. Art. V, § 3(b)(4), Fla. Const.

The question certified is whether "the doctrine of interspousal immunity, like the doctrine of parental immunity [is] waived to the extent of available liability insurance, when the action is for a negligent tort." 447 So.2d at 1019.

On the authority of our recent decision in Snowten v. United States Fidelity & Guaranty Co., No. 64,171 (Fla. August 29, 1985), we answer the certified question in the negative and approve the decision of the district court of appeal.

It is so ordered.

EHRlich and SHAW, JJ., Concur
McDONALD, J., Concur with an opinion
ADKINS and OVERTON, JJ., Dissent

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

McDONALD, J., concurring.

Believing that our holding in Raisen v. Raisen, 379 So.2d 352 (Fla. 1979), should be modified to allow one spouse to maintain an action against the other to the extent of available liability insurance coverage, I dissented in Snowten v. United States Fidelity and Guaranty Co., no. 64171 (Fla. Aug. 29, 1985). However, Snowten obtained the majority approval of the Court and I therefore feel obliged to follow it in this case where the issue is identical.

Application for Review of the Decision of the District Court
of Appeal - Certified Great Public Importance

Third District - Case No. 83-2122

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