

Supreme Court of Florida

WAL-MART STORES, INC., etc.,
Petitioner,

vs.

SANDRA COKER, etc.,
Respondent.

No. 90,916
[May 14, 1998]

HARDING, J.

We have for review Wal-Mart Stores, Inc. v. Coker, 22 Fla. L. Weekly D1561 (Fla. 1st DCA June 23, 1997), in which the First District Court of Appeal certified the following questions to be of great public importance:

IS AN ACTION ALLEGING THE NEGLIGENCE OF THE DEFENDANTS IN FAILING TO EMPLOY REASONABLE SECURITY MEASURES, WITH SAID OMISSION RESULTING IN AN INTENTIONAL, CRIMINAL ACT BEING PERPETRATED UPON THE PLAINTIFF BY A NON-PARTY ON PROPERTY CONTROLLED BY THE DEFENDANTS, AN "ACTION BASED UPON AN INTENTIONAL TORT" PURSUANT TO SECTION 768.81(4)(b), FLORIDA STATUTES (1993), SO THAT THE DOCTRINE OF JOINT AND SEVERAL LIABILITY APPLIES?

IN SUCH AN ACTION, IS IT

REVERSIBLE ERROR FOR THE TRIAL COURT TO EXCLUDE AN INTENTIONAL, CRIMINAL NON-PARTY TORTFEASOR FROM THE VERDICT FORM?

We have jurisdiction pursuant to article V, section 3(b)(4) of the Florida Constitution. In Merrill Crossings Associates v. McDonald, 705 So. 2d 560 (Fla. Dec. 1997), this Court answered the first question in the affirmative and the second question in the negative. Accordingly, we approve the decision of the district court and remand this case for proceedings consistent with our opinion.

It is so ordered.

KOGAN, C.J., and OVERTON, SHAW, WELLS, ANSTEAD and PARIENTE, JJ., concur.

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

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

First District - Case No. 96-2416

(Escambia County)

Richard A. Sherman and Rosemary B. Wilder of the Law Offices of Richard A. Sherman, P.A., Fort Lauderdale, Florida, and Jeffrey P. Gill of Bridges, Gill & Holman, Pensacola, Florida,

for Petitioner

Louis K. Rosenbloum, Pensacola, Florida, and
Martin H. Levin of Levin, Middlebrooks,
Thomas, Mitchell, Green, Ecshner, Proctor &
Papantonio, P.A., Pensacola, Florida,

for Respondent