

SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219
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Granted Appeal Summary

Case

ASHLEY CORNELL, ET AL. v. JASON BENEDICT, ET AL.
(Record Number 210934)

From

The Circuit Court of the City of Virginia Beach; K. Duffan, Judge.

Counsel

James R. Theuer (James R. Theurer, PLLC) for appellant.

Christopher D. Davis, Justin R. Burch, and Destinee B. Byers (Davis Law, PLC) for appellee Jason Benedict. Erin K. DeBoer, Joshua J. Coe, and Anthony M. Gantous (Anchor Legal Group, PLLC) for appellee Cheryl Ludvik.

Assignments of Error

1. The trial court erred by holding the definition of employer in Va. Code. § 40.1-2 for individual liability is narrower than that applicable under the Fair Labor Standards Act.
2. The trial court erred by holding that the economic realities test under the Fair Labor Standards Act does not apply to individual liability on a claim under Va. Code § 40.1-29.
3. The trial court erred by holding that an individual must have the authority to act unilaterally, unconstrained by policy, and without the consent of management in order to be an employer under Va. Code § 40.1-29.
4. The trial court erred by holding that an individual employer escapes liability for unpaid wages by resigning prior to or not affirmatively stopping the required wage payment.
5. The trial court erred by finding Benedict and Ludvik had met their burden of proof on their pleas in bar that they were not employers under Va. Code § 40.1-29 liable for the wages wrongfully forfeited in December 2020 and unpaid in January 2021.