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ANTITRUST - SOUTH CAROLINA

Cherry Grove Beach Gear, LLC v. City of North Myrtle Beach

United States Court of Appeals, Fourth Circuit - December 23, 2025 - 162 F.4th 486

Beach equipment rental company brought action against municipality, alleging municipal ordinances prohibiting company from setting up beach equipment on municipal beaches violated Sherman Antitrust Act.

The United States District Court for the District of South Carolina granted summary judgment for municipality, concluding municipality had state action immunity from federal antitrust liability. Company appealed.

The Court of Appeals held that:

- Municipality qualified for state-action immunity from federal antitrust law, and
- State action immunity applied even when State acted not in regulatory capacity but as commercial participant in market for on-beach equipment rentals.

Under the state action immunity doctrine, federal antitrust laws do not apply to anticompetitive restraints imposed by the states as an act of government; however, cities are not themselves sovereign, and therefore state action immunity takes hold only when cities act pursuant to state policy to displace competition with regulation or monopoly public service.

State statute anticipated municipality playing anticompetitive role in market for on-beach equipment rentals, and therefore municipality qualified for state-action immunity from federal antitrust law, in action brought by beach equipment rental company alleging municipal ordinances prohibiting company from setting up beach equipment on municipal beaches violated Sherman Antitrust Act, since South Carolina legislature authorized municipality to impose monopoly on beach equipment installation.

Beach equipment rental company abandoned on appeal argument that district court's error in granting summary judgment to municipality on company's federal antitrust claim, on ground that municipality had state action immunity from claim alleging municipal ordinances prohibiting company from setting up beach equipment on municipal beaches violated federal antitrust law, triggered errors with respect to other claims, since company's threadbare arguments fell short of appellate briefing requirements.