

Bond Case Briefs

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Emanuel's LLC v. Restore Marietta, Inc.

Court of Appeals of Ohio, Fourth District, Washington County - January 17, 2023 - N.E.3d - 2023 WL 311525 - 2023-Ohio-147

Corporate liquor licensee brought action against city, nonprofit organization that partnered with city to establish designated outdoor refreshment area (DORA) in city's downtown, and organization's executive director, seeking preliminary injunction and damages for alleged tortious interference with business relations and monopoly in violation of state antitrust statute, relating to requirement of purchasing designated cups that could be carried by customers in DORA.

The Court of Common Pleas granted defendants' motion for judgment on the pleadings. Licensee appealed.

The Court of Appeals held that:

- Exception to city's general statutory immunity in cases involving negligent performance of proprietary functions did not apply to tortious interference and Valentine Act claims, and
- Licensee failed to sufficiently allege particular business relationships with which organization and director interfered.

Even if city's alleged conduct, in requiring liquor licensees to purchase designated cups that could be carried by customers in designated outdoor refreshment area (DORA) in city's downtown, and relating to plaintiff licensee not be allowed to purchase cups, involved proprietary functions, alleged conduct was intentional or purposeful rather than negligent, and thus, exception to general statutory immunity from tort liability, in cases involving negligent performance of proprietary functions, did not apply to licensee's claims for tortious interference with business relations, and monopoly in violation of Valentine Act.

Vague assertion in liquor licensee's complaint, that nonprofit organization that partnered with city to establish designated outdoor refreshment area (DORA) in city's downtown, and organization's executive director, interfered with certain unspecified business relationships, was insufficient to allow inference that defendants interfered with licensee's business relationships with members of public by preventing it from being able to purchase designated cups that could be carried by customers in DORA, and thus, licensee failed to sufficiently allege a prospective business relationship with which defendants interfered, as would be required to state a claim for tortious interference with business relations.