

[Cite as *Allstate Ins. Co. v. All Weather Constr., L.L.C.*, 2012-Ohio-929.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 97197

ALLSTATE INSURANCE CO., ET AL.

PLAINTIFFS-APPELLEES

vs.

ALL WEATHER CONSTRUCTION, LLC

DEFENDANTS-APPELLANTS

**JUDGMENT:
REVERSED AND REMANDED**

Civil Appeal from the
Cuyahoga County Common Pleas Court
Case Nos. CV-748733 and 745178

BEFORE: E. Gallagher, J., Boyle, P.J., and Jones, J.

RELEASED AND JOURNALIZED: March 8, 2012

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EILEEN A. GALLAGHER, J.:

{¶1} Defendants-appellants, All Weather Construction, LLC and Michael Detzel, appeal the trial court's denial of their motion to bifurcate the trial on the issue of punitive damages. An interlocutory appeal was filed.

{¶2} In Case No. CV-748733, plaintiffs filed suit alleging breach of contract, breach of express warranty, breach of implied warranty, negligence, violation of the Consumer Sales Practices Act, negligent hiring, negligent supervision, and fraud, all relating to the installation of a roof and siding on a home located in Strongsville, Ohio. In addition to the above-cited claims for which plaintiffs seek compensatory damages, plaintiffs sought punitive damages under a claim for relief based upon intentional infliction of emotional distress.

{¶3} In a consolidated action, CV-745178, Allstate Insurance filed a complaint against All Weather Construction seeking subrogation for coverage provided to plaintiffs on the first action.

{¶4} Defendants answered the complaints filed against them and filed the aforementioned motion to bifurcate.

{¶5} The Ohio Supreme Court in *Havel v. Villa St. Joseph*, __ Ohio St.3d __, 2012-Ohio-552, __ N.E.2d __, has held that R.C. 2315.21(B) creates a substantive right to bifurcation on tort actions where both compensatory and punitive damages are

sought.

{¶6} Therefore, the appellants' first assignment of error is sustained and the case is reversed and remanded for further proceedings consistent with this opinion.

It is ordered that appellants recover from appellees costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate be sent to said lower court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

EILEEN A. GALLAGHER, JUDGE

MARY J. BOYLE, P.J., and
LARRY A. JONES, SR., J., CONCUR