

No. 22196 -- Donna Lou Reed, Administratrix of the Estate of James George Reed v. Lula A. Phillips and George Phillips

Neely, J., dissenting:

I dissent for reasons more fully set forth in my dissenting opinion to Gilman v. Choi, 185 W. Va. at 182, 406 S.E.2d at 205 (1990).

When the legislature passed the statute requiring smoke detectors to be placed in rented apartments, there was obviously a political compromise: landlords agreed to be saddled with the added smoke detector expense if the absence of a working smoke detector would not regularly form the foundation of a lawsuit whenever a rented apartment burned down. When, through precious reasoning, we confound this legitimate political compromise, we undermine the basis of a political process. Next time, propertied interests will be less willing to compromise and more adamant in their position, and they will justify their intransigence by pointing to the way this Court manipulated clear legislative intent the last time they were reasonable.