

No. 34745 – *L. H. Jones Equipment Company, a West Virginia corporation, Plaintiff v. Swenson Spreader, LLC, Defendant*

Ketchum, J., dissenting:

I respectfully dissent from the majority.

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OF WEST VIRGINIA

Swenson Spreader is not a farm equipment dealer. It is a manufacturer of salt spreaders and other products used to control ice buildup on roads and highways. Nevertheless, the majority finds that Swenson Spreader is bound by the West Virginia Farm Equipment Dealer Contract Act as plainly titled in *W.Va. Code*, ch. 47, art. 11f. In fact, ch. 47, art. 11f, §1, states: “This article shall be known and may be cited as the ‘West Virginia Farm Equipment Dealer Contract Act.’” Even the introductory provision found in the 1989 Acts of the Legislature, relied on by the majority, contemplates the title Farm Equipment Dealer Contract Act “by which the article may be known and cited.”

The title of the Act, as thus set forth in our Code, puts the public, business owners and lawyers researching our statutory indexes on notice that the Act is about farm dealers. Consequently, it is difficult to conceptualize why a person searching through our statutory indexes to determine the law relating to their highway salt spreading business would

understand that an Act titled “Farm Equipment Dealer Contract Act” could apply to highway salt spreaders.

Under the reasoning of the majority, a person so researching our statutory indexes in the Code cannot rely on the plain title of an Act but, instead, must read each section of every Act in West Virginia to be sure he or she is complying with West Virginia law. Researching applicable law should not be an endurance contest. Nor should individuals be expected to second guess the titles of Acts placed in the Code by the Legislature.

I contend that our State constitutional provision (Article 5, Section 30) plainly requires that a statute’s purpose be expressly codified in its listed title. It is only fair that citizens and businesses be informed of the purpose of an Act in the Act’s title. Untoward results arise when a title in our State Code misleads interested parties about the scope and reach of an Act or statute. I submit that Swenson’s lawyers will now have to read this State’s entire chapter entitled and indexed as “school law” to be sure that there is no paragraph within relating to highway salt spreaders.

In West Virginia, under the result reached by the majority, we are required when researching “horse manure” to search our indexes for “draft animals.” We can no longer rely on the plain title in the State Code promulgated by the Legislature.

I, therefore, dissent.