

2002 WL 31546519

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Fed. Rule of Appellate Procedure 32.1 generally
governing citation of judicial decisions issued on or
after Jan. 1, 2007. See also Third Circuit LAR, App. I,
IOP 5.7. (Find CTA3 App. I, IOP 5.7)
United States Court of Appeals, Third Circuit.

TWIN COUNTY GROCERS, INC.; Twinco
Services, Inc., Appellants,
v.

FOOD CIRCUS SUPERMARKETS, INC.; Joseph
Azzolina, Sr.; Louis Scaduto; Grace Scaduto; Food
King Inc; V & V Inc; Ronald Ginsberg; Mayfoods,
Inc; Victor Laracca, L.J.V., Inc; William Michas;
Francis Markets, Ltd; Neptune City Liquors, Inc;
Donald P. Norkus; Gerard K. Norkus; Norkus
Enterprises, Inc; Franelen Inc; Helen Paczkowski;
Stanley Paczkowski; Harp Marketing Corp; Jack
Pytluk; Martin Pytluk; Ruth Pytluk; Sidney
Charles Markets, Inc.; Michael Zimmerman;
Sidney Zimmerman; Charles H. Zimmerman; E.
Dickerson & Son, Inc; C. Ronald Dickerson;
Foodtown; Vincent Laracca, Digorgio
Corporation,

No. 02-1116.

ARGUED Oct. 29, 2002.

Decided Nov. 18, 2002.

On Appeal from the United States District Court for the
District of New Jersey. (D.C. Civil No. 99-cv-05135).
District Judge: The Honorable [Garrett E. Brown, Jr.](#)

Attorneys and Law Firms

[Guy V. Amoresano](#), (Argued), Gibbons, Del Deo, Dolan,
Griffinger & Vecchione, Newark, NJ, for Appellants.

[Mark H. Moore](#), (Argued), [Gregory E. Galterio](#), Jaffe &
Asher, New York, NY, for Appellee.

Before [NYGAARD](#), [GREENBERG](#), and MICHEL,*
Circuit Judges.

OPINION OF THE COURT

[NYGAARD](#), Circuit Judge.

Appellants Twin County Grocers, Inc. and Twinco
Services, Inc. appeal from an order of the District Court
which granted summary judgment in favor of Appellee
DiGiorgio Corp., the sole remaining defendant.
Appellants allege as error the issues listed in paragraph I,
taken from its brief. Because we conclude that the District
Court did not err, we will affirm.

I.

The allegations of error asserted by Appellants are as
follows:

1. The District Court erred by holding that the
restrictive covenants were unenforceable against
DiGiorgio.
2. The District Court erred by not ordering DiGiorgio
to disgorge profits.
3. The District Court erred by holding that Twin was
not injured by DiGiorgio's actions.
4. The District Court erred by holding that DiGiorgio
had no duty to negotiate with Twin in good faith, or,
alternatively, that that duty had not been breached.
5. The District Court erred by holding that DiGiorgio
was not unjustly enriched.

II.

The facts and procedural history of this case are well
known to the parties and the court, and it is not necessary
that we restate them here. The court has heard oral
argument on the issues presented to us in this appeal. The
reasons why we write an opinion of the court are

threefold: to instruct the District Court, to educate and inform the attorneys and parties, and to explain our decision. None of these reasons are presented here. We use a not-precedential opinion in cases such as this, in which a precedential opinion is rendered unnecessary because the opinion has no institutional or precedential value. *See* United States Court of Appeals for the Third Circuit, Internal Operating Procedure (I.O.P.) 5.3. Under the usual circumstances when we affirm by not-precedential opinion and judgment, we briefly set forth the reasons supporting the court's decision. In this case, however, we have concluded that neither a full memorandum explanation nor a precedential opinion is indicated because of the very extensive and thorough opinion filed by Judge Garrett E. Brown, Jr. of the District Court. Judge Brown's opinion adequately explains and fully supports its order and refutes the Appellants' allegations of error. Hence, we believe it wholly unnecessary to further opine, or offer additional explanations and reasons to those given by the District

Court, why we will affirm. It is a sufficient explanation to say that, essentially for the reasons given by the District Court in its opinion dated the 11th day of December, 2001, we will affirm.

III.

In sum, for the foregoing reasons, we will affirm the order of the District Court.

All Citations

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Footnotes

* Honorable [Paul R. Michel](#), Circuit Judge for the United States Court of Appeals for the Federal Circuit, sitting by designation.