

Summary of SC98443, *DiGregorio Food Products Inc. v. John Racanelli, d/b/a Racanelli's Cucina Pizza Express, Racanelli's Cucina, Racanelli's Delmar, Racanelli's Kirkwood, Racanelli's Fenton, and Racanelli's New York Pizzeria*

Appeal from the St. Louis County circuit court, Judge Thea A. Sherry

Argued and submitted September 23, 2020; opinion issued November 3, 2020

Attorneys: Racanelli was represented by Peter J. Dunne and Henry F. Luepke of Pitzker Snodgrass PC in St. Louis, (314) 421-5545. DiGregorio was not represented by counsel and did not argue.

This summary is not part of the opinion of the Court. It is provided by communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A restaurant operator appeals the circuit court's judgment finding him liable to a supplier for unpaid invoices. In a 6-1 decision written by Judge Zel M. Fischer, the Supreme Court of Missouri reverses and vacates the judgment. The circuit court erroneously determined the supplier's claims were governed by a 10-year rather than five-year statute of limitations. Chief Justice George W. Draper III dissents without opinion.

Facts: John Racanelli operates several pizza restaurants in the St. Louis area. DiGregorio Food Products Inc. supplied Racanelli's ingredients. A manager from one of Racanelli's restaurants would call DiGregorio and place an order, which would be delivered to the restaurant the following day. Upon delivery, a restaurant manager would sign an invoice for the products and return it to the delivery driver. Between 2009 and 2010, Racanelli began failing to make payments, and DiGregorio ended its relationship with Racanelli and his restaurants. In 2016, DiGregorio filed an action for suit on account and account stated. Racanelli filed a motion for summary judgment on grounds the claims were barred by the five-year statute of limitations. The circuit court overruled the motion and, following a bench trial, concluded Racanelli was liable for the unpaid invoices. Racanelli appeals.

REVERSED AND VACATED.

Court en banc holds: The circuit court erroneously declared the law when it entered judgment in favor of DiGregorio. The invoice language is insufficient to constitute a written promise to pay money; therefore, the 10-year statute of limitation in section 516.110(1), RSMo, did not apply. Rather, the five-year statute of limitation in section 516.120(1) controls, barring DiGregorio's contract claims against Racanelli.