CALIFORNIA COURT OF APPEAL, FOURTH APPELLATE DISTRICT, DIVISION ONE

Thomas v. Corbyn Restaurant Development Corp.

Thomas · No. D083655 · Decided May 27, 2025

SUMMARY

The California Court of Appeal affirmed a $475,000 judgment enforcing a personal-injury settlement after defense counsel wired the settlement funds to an imposter using fraudulent email and wire instructions. Applying persuasive federal authority and California's Uniform Commercial Code imposter rule by analogy, the court held that the defendants were in the best position to prevent the fraud and bore the resulting loss. The court reviewed the trial court's factual findings for substantial evidence and found that multiple red flags supported the allocation of loss to defendants.

CASE DETAILS

COURT	California Court of Appeal, Fourth Appellate District, Division One
WRITING FOR THE COURT	Rubin, J.; Do, Acting P. J.; Castillo, J.
JURISDICTION	California Court of Appeal, Fourth Appellate District, Division One
DECIDED	May 27, 2025
DOCKET	D083655
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants appealed from a judgment enforcing a written settlement agreement under California Code of Civil Procedure section 664.6 and requiring defendants to pay plaintiff $475,000 after settlement funds were diverted to an imposter through fraudulent wire instructions.
STANDARD OF REVIEW	The trial court's factual findings on a motion to enforce a settlement under Code of Civil Procedure section 664.6 are reviewed for substantial evidence. The appellate court views the evidence in the light most favorable to the judgment.
PRECEDENTIAL VALUE	Published California Court of Appeal opinion; certified for publication.
PARTIES	Corbyn Restaurant Development Corp. dba Cowshed Bar & Grill, Nicole Nocentino, Jaime Lee Masters v. Brian Thomas

TOPICS

contracts uniform commercial code commercial litigation remedies civil procedure

PRACTICE AREAS

contracts commercial litigation civil procedure remedies

QUESTIONS PRESENTED

1. What legal standard governs allocation of the risk of loss when an imposter fraudulently diverts settlement funds through a wire transfer?
2. Whether substantial evidence supported the trial court's finding that defendants were in the best position to prevent the fraud and bore the entire loss.
3. Whether the judgment improperly altered the settlement agreement by requiring defendants to pay the settlement amount after the erroneous wire transfer and by allowing plaintiff to seek prejudgment interest.

HOLDINGS

1. The risk of loss from an imposter's fraudulent diversion of a wire transfer shall be borne by the party in the best position to prevent the fraud. Trial courts must consider the extent to which each party exercised ordinary care and may apportion the loss accordingly.
2. Substantial evidence supported the trial court's finding that defendants were in the best position to prevent the fraud and that plaintiff bore no comparative fault; defendants therefore were responsible for the entire $475,000 loss.
3. A finding of negligence is neither necessary to, nor dispositive of, determining which party was best positioned to prevent the fraud.
4. The judgment did not improperly alter the settlement agreement. The trial court required payment of the agreed-upon $475,000 because defendants bore the risk of loss from the erroneous wire transfer, and the court did not award prejudgment interest but merely directed that any request be made by noticed motion.

KEY QUOTATIONS

> *"Accordingly, we hold that the risk of loss from an imposter's fraudulent diversion of a wire transfer shall be borne by the party in the best position to prevent the fraud."* (at 11-12)

> *"In doing so, courts must consider the totality of the circumstances, which may include the nonexhaustive list of factors described above."* (at 12)

> *"We note that although a party's negligence may contribute to a finding that that party was in the best position to prevent the fraud, a finding of negligence is neither necessary to, nor dispositive of, the ultimate question of which party was best positioned to prevent the fraud."* (at 12)

> *"Failing to do so may be at their own financial peril."* (at 17)

FACTUAL BACKGROUND

The parties settled plaintiff's personal injury lawsuit for $475,000, with the written settlement agreement directing payment to the Chambers and Noronha Client Trust Account for the benefit of Brian Thomas. Plaintiff's counsel initially requested payment by check, but defendants' counsel later received spoofed emails requesting an electronic transfer, containing altered email addresses, inconsistent payee information, and changing or inoperable telephone numbers. Defendants' counsel relied on the fraudulent instructions and wired the funds to an imposter's account; the parties later discovered the fraud, and plaintiff still had not received the settlement proceeds.

PROCEDURAL HISTORY

Plaintiff sued defendants for personal injuries arising from an altercation and later settled the action for $475,000. After defendants' counsel wired the settlement proceeds to a fraudulent account based on spoofed emails and plaintiff did not receive the money, plaintiff applied ex parte to enforce the settlement under section 664.6. The trial court found defendants were in the best position to prevent the fraud, found no comparative fault by plaintiff, and entered judgment for $475,000. The Court of Appeal affirmed.

DISPOSITION

affirmed

CASES CITED

- Beau Townsend Ford Lincoln, Inc. v. Don Hinds Ford, Inc., 759 Fed.Appx. 348 (6th Cir. 2018)
- Ostrich Int’l Co., LTD v. Michael A. Edwards Grp. Int’l Inc., 2023 U.S. Dist. LEXIS 105828 (C.D. Cal. May 18, 2023)
- Arrow Truck Sales, Inc. v. Top Quality Truck & Equip., Inc., 2015 U.S. Dist. LEXIS 108823 (M.D. Fla. Aug. 18, 2015)
- Jetcrete North America LP v. Austin Truck & Equipment, Ltd., 484 F.Supp.3d 915 (D. Nev. 2020)
- Bile v. RREMC, LLC, 2016 U.S. Dist. LEXIS 113874 (E.D. Va. Aug. 24, 2016)
- Erie Ins. Co. v. WAWGD, Inc., 2024 U.S. Dist. LEXIS 77140 (D. Md. Apr. 29, 2024)
- Unlimited Adjusting Group, Inc. v. Wells Fargo Bank, N.A., 174 Cal.App.4th 883, 890 (2009)
- Kirzhner v. Mercedes-Benz USA, LLC, 9 Cal.5th 966, 978 (2020)
- Critzer v. Enos, 187 Cal.App.4th 1242 (2010)
- Machado v. Myers, 39 Cal.App.5th 779, 789 (2019)
- Steinman v. Malamed, 185 Cal.App.4th 1550, 1555-1556 (2010)
- H.D. Arnaiz, Ltd. v. County of San Joaquin, 96 Cal.App.4th 1357, 1366-1367 (2002)
- People v. Djekich, 229 Cal.App.3d 1213, 1219 (1991)
- Laabs v. City of Victorville, 163 Cal.App.4th 1242, 1271-1272 (2008)
- In re Marriage of Kerry, 158 Cal.App.3d 456, 466 (1984)
- City of Santa Cruz v. Municipal Court, 49 Cal.3d 74, 87 (1989)