

SUPREME COURT OF CALIFORNIA

Hunter v. Up-Right, Inc.

6 Cal. 4th 1174 (Cal. 1993) · No. S029708 · Decided December 30, 1993

SUMMARY

The Supreme Court of California held that wrongful termination ordinarily does not support an independent fraud or deceit claim when the alleged misrepresentation was made to effect the termination. Tort recovery may be available for a misrepresentation separate from the termination that induced the employee to detrimentally alter their position, but the record supported only contractual damages for constructive wrongful termination. The court reversed the Court of Appeal and directed modification of the judgment to award \$38,013 plus costs.

CASE DETAILS

COURT	Supreme Court of California
WRITING FOR THE COURT	Panelli, J.; Lucas, C.J.; Baxter, J.; George, J.; Mosk, J.; Arabian, J.; Kennard, J.
JURISDICTION	California
DECIDED	December 30, 1993
DOCKET	S029708
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	After a jury awarded Hunter contractual and fraud damages for his termination from employment, the Fresno County Superior Court entered judgment for \$120,000. The Court of Appeal affirmed, and the Supreme Court of California granted review and reversed the Court of Appeal's judgment.
STANDARD OF REVIEW	The Supreme Court reviewed the legal availability of tort damages for fraud and deceit in a wrongful-termination action in light of <i>Foley v. Interactive Data Corp.</i> ; the opinion did not identify a separate standard of review for the factual verdict.
PRECEDENTIAL VALUE	Published California Supreme Court opinion; precedential.
PARTIES	Up-Right, Inc. v. Charles Hunter

TOPICS

wrongful termination

fraud

employment contracts

employment at-will

remedies

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QUESTIONS PRESENTED

1. Whether *Foley v. Interactive Data Corp.* precludes recovery of tort damages for fraud and deceit based on a misrepresentation made to effect termination of employment.
2. Whether an employer's misrepresentation that a position has been eliminated, allegedly inducing an employee to resign, constitutes a separately actionable fraud claim when the resulting damages arise from the wrongful termination itself.
3. Whether Hunter was entitled to recover more than contractual damages on the record presented.

HOLDINGS

1. Wrongful termination of employment ordinarily does not give rise to a cause of action for fraud or deceit merely because the employer made a misrepresentation in the course of the dismissal. Tort recovery is available only when the plaintiff establishes all elements of fraud based on a misrepresentation separate from the termination contract and the fraud damages do not result from the termination itself.
2. Hunter could not recover tort damages because the alleged misrepresentation was aimed at effecting his termination and his claimed damages resulted from the termination itself. He was limited to the contractual damages established by the jury.
3. The judgment had to be modified to award Hunter \$38,013 in contractual damages plus costs of suit, rather than \$120,000 including the fraud award.

KEY QUOTATIONS

“wrongful termination of employment ordinarily does not give rise to a cause of action for fraud or deceit, even if some misrepresentation is made in the course of the employee's dismissal.” (1178)

“Tort recovery is available only if the plaintiff can establish all of the elements of fraud with respect to a misrepresentation that is separate from the termination of the employment contract, i.e., when the plaintiff's fraud damages cannot be said to result from termination itself.” (1178)

“But no independent fraud claim arises from a misrepresentation aimed at termination of employment.” (1185)

“Although tort damages are unavailable in this case, Hunter has established his claim to contractual damages for constructive wrongful termination, and on remand the judgment must be modified accordingly.” (1187)

FACTUAL BACKGROUND

Charles Hunter worked for Up-Right from 1973 until September 10, 1987, eventually serving as a welding supervisor. Hunter testified that his supervisor told him his position had been eliminated by corporate decision and that he would be terminated unless he resigned; Hunter then signed a resignation form and received severance pay. The supervisor testified instead that Hunter had decided to resign because of personal problems and that no corporate decision had been made to eliminate his job. The jury found that Up-Right lacked good cause to terminate Hunter and awarded contractual damages and fraud damages.

PROCEDURAL HISTORY

Hunter sued Up-Right and his former supervisor after his employment ended, asserting breach of contract, breach of the implied covenant of good faith and fair dealing, and tort claims. He later amended the complaint to add fraud. The jury found for Hunter on contractual theories and fraud, awarding \$38,013 on the contractual claims and \$120,000 for misrepresentation, with the parties treating \$120,000 as the total award. The trial court entered judgment for \$120,000, and the Court of Appeal affirmed. The California Supreme Court reversed and directed modification of the judgment to award only \$38,013 plus costs.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Modify the judgment entered in Fresno County Superior Court Case No. 387274-4 to render judgment for Charles R. Hunter against Up-Right, Inc., in the sum of \$38,013 plus costs of suit.

CASES CITED

- *Foley v. Interactive Data Corp.*, 47 Cal. 3d 654 (1988)
- *Gantt v. Sentry Insurance*, 1 Cal. 4th 1083 (1992)
- *Shoemaker v. Myers*, 52 Cal. 3d 1 (1990)
- *Screen Extras Guild, Inc. v. Superior Court*, 51 Cal. 3d 1017 (1990)
- *Newman v. Emerson Radio Corp.*, 48 Cal. 3d 973 (1989)
- *Tameny v. Atlantic Richfield Co.*, 27 Cal. 3d 167 (1980)
- *Egan v. Mutual of Omaha Ins. Co.*, 24 Cal. 3d 809 (1979)
- *Hine v. Dittrich*, 228 Cal. App. 3d 59 (1991)
- *Summers v. City of Cathedral City*, 225 Cal. App. 3d 1047 (1990)
- *American Guar. & Liab. Ins. Co. v. Vista Medical Supply*, 699 F. Supp. 787 (N.D. Cal. 1988)
- *Soules v. Cadam, Inc.*, 2 Cal. App. 4th 390 (1991)
- *Cole v. Fair Oaks Fire Protection Dist.*, 43 Cal. 3d 148 (1987)
- *Livitsanos v. Superior Court*, 2 Cal. 4th 744 (1992)
- *Miller v. Fairchild Industries, Inc.*, 885 F.2d 498 (9th Cir. 1989)
- *Royo v. Kliger*, 52 Cal. 3d 65 (1990)

- Hobart v. Hobart Estate Co., 26 Cal. 2d 412 (1945)
- Walker v. Signal Companies, Inc., 84 Cal. App. 3d 982 (1978)
- Newman v. Smith, Newman v. Smith, 77 Cal. 22 (1888)
- Marketing West, Inc. v. Sanyo Fisher (USA) Corp., 6 Cal. App. 4th 603 (1992)
- Livett v. F.C. Financial Associates, 124 Cal. App. 3d 413 (1981)
- Johns-Manville Products Corp. v. Superior Court, 27 Cal. 3d 465 (1980)
- Ramey v. General Petroleum Corp., 173 Cal. App. 2d 386 (1959)
- Coca Cola Bottling Co. v. Superior Court, 233 Cal. App. 3d 1273 (1991)
- Tavaglione v. Billings, 4 Cal. 4th 1150 (1993)
- Bell v. Sharp Cabrillo Hospital, 212 Cal. App. 3d 1034 (1989)
- Slivinsky v. Watkins-Johnson Co., 221 Cal. App. 3d 799 (1990)
- Zilmer v. Carnation Co., 215 Cal. App. 3d 29 (1989)
- Panopulos v. Westinghouse Electric Corp., 216 Cal. App. 3d 660 (1989)
- Valdez v. City of Los Angeles, 231 Cal. App. 3d 1043 (1991)
- Houston Cable TV v. Inwood W. Civic Ass'n, 839 S.W.2d 497 (Tex. Ct. App. 1992)

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