

FOURTEENTH COURT OF APPEALS OF TEXAS

Gensetix, Inc. v. Baylor College of Medicine, Diakonos Research, Ltd., and William K. Decker

Gensetix · No. 14-19-00488-CV · Decided December 31, 2020

SUMMARY

This is a dissenting opinion in an appeal concerning whether the Texas Citizens Participation Act applies to Gensetix's contract and interference claims arising from research commercialization. Justice Poissant disagreed with the plurality's conclusion that the dispute involved communications about a good, product, or service in the marketplace, relying on the Texas Supreme Court's interpretation of that phrase in *Creative Oil & Gas, LLC v. Lona Hills Ranch, LLC*. She would have reversed the trial court's dismissal orders and remanded for further proceedings.

CASE DETAILS

COURT	Fourteenth Court of Appeals of Texas
WRITING FOR THE COURT	Margaret "Meg" Poissant; Chief Justice Frost; Justice Zimmerer; Justice Poissant
JURISDICTION	Texas
DECIDED	December 31, 2020
DOCKET	14-19-00488-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Gensetix appealed orders of the 129th District Court dismissing its causes of action under the Texas Citizens Participation Act. The provided opinion is Justice Poissant's dissent from the plurality opinion and the affirmance.
PRECEDENTIAL VALUE	Published opinion; the provided text is a dissenting opinion and does not itself establish the court's binding holding.
PARTIES	Gensetix, Inc. v. Baylor College of Medicine, Diakonos Research, Ltd., William K. Decker

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the alleged communications concerned a "matter of public concern" under the Texas Citizens Participation Act because they involved a good, product, or service in the marketplace.
2. Whether the defendants demonstrated that Gensetix's causes of action were based on, related to, or in response to communications directed at a public audience of potential buyers or sellers.

HOLDINGS

1. The dissent would hold that the dispute does not involve a matter of public concern under Texas Civil Practice and Remedies Code section 27.001(7)(E), because the defendants failed to show that the relevant communications were directed at a broader public audience of potential buyers and sellers rather than only parties to a private transaction.
2. The dissent would reverse the trial court's orders dismissing Gensetix's causes of action and remand for further proceedings.

KEY QUOTATIONS

"The status of the lease was a "matter of public concern," Lessor contended, because the lease and its production were "a good, product or service in the marketplace."" (at 2)

"the communication must have some relevance to a public audience of potential buyers or sellers." (at 3)

"Conversely, communications directed solely at parties who already have a pecuniary interest in a contract or transaction are private business communications not subject to the TCPA." (at 3)

FACTUAL BACKGROUND

Gensetix alleged that Decker breached a nondisclosure agreement and an oral contract concerning cooperation in commercializing his research. It also alleged that Baylor College of Medicine and Diakonos Research interfered with Gensetix's contract with The University of Texas MD Anderson Cancer Center to license Decker's research and conspired with Decker to interfere with that contract. The defendants sought dismissal under the Texas Citizens Participation Act based on communications concerning the research and its commercialization.

PROCEDURAL HISTORY

Gensetix asserted claims involving alleged breaches of nondisclosure and oral agreements, promissory reliance, contractual interference, and conspiracy related to the commercialization and licensing of Decker's research. The trial court dismissed Gensetix's causes of action under the TCPA. The Fourteenth Court of Appeals affirmed in the plurality disposition; Justice Poissant would have reversed and remanded.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The dissent would reverse the orders dismissing Gensetix's causes of action and remand for further proceedings. The appellate disposition reflected in the opinion header was affirmance.

CASES CITED

- Brady v. Klentzman, 515 S.W.3d 878, 884 (Tex. 2017)
- Creative Oil & Gas, LLC v. Lona Hills Ranch, LLC, 591 S.W.3d 127, 130-136 (Tex. 2019)

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