

SUPREME COURT OF TEXAS

Anglo-Dutch Petroleum International, Inc., and Anglo-Dutch (Tenge)
L.L.C. v. Greenberg Peden, P.C., and Gerard J. Swonke

352 S.W.3d 445 (Tex. 2011) · No. No. 08-0833 · Decided August 26, 2011

SUMMARY

The Supreme Court of Texas held that an attorney fee agreement printed on Greenberg Peden, P.C. letterhead and signed on the firm's behalf was unambiguously an agreement between Anglo-Dutch and the law firm, rather than the individual attorney Gerard J. Swonke. The court held that the agreement should be construed from the perspective of a reasonable client and reversed the court of appeals' judgment, remanding for further proceedings. Separate opinions concurred in part and dissented, concluding that the agreement was ambiguous and that its interpretation should have been submitted to the jury.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Justice Hecht; Chief Justice Jefferson; Justice Johnson; Justice Willett; Justice Guzman; Justice Wainwright; Justice Lehrmann; Justice Medina; Justice Green
JURISDICTION	Texas
DECIDED	August 26, 2011
DOCKET	No. 08-0833
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Anglo-Dutch sought a declaration that the fee agreement was with Greenberg Peden rather than Swonke personally. The trial court found the agreement ambiguous, submitted its interpretation to a jury, and entered judgment on a verdict finding that Swonke personally was a party and awarding him damages. The court of appeals affirmed, and the Supreme Court of Texas granted review.
STANDARD OF REVIEW	Whether a contract is ambiguous is a question of law decided by examining the contract as a whole in light of the circumstances present when it was entered. If the agreement is ambiguous, its meaning becomes a fact question for the fact-finder; an unambiguous contract is construed and enforced as a matter of law.

PRECEDENTIAL VALUE	Published, precedential Texas Supreme Court opinion.
PARTIES	Anglo-Dutch Petroleum International, Inc., Anglo-Dutch (Tenge) L.L.C. v. Greenberg Peden, P.C., Gerard J. Swonke

TOPICS

contract interpretation contracts commercial litigation commercial

PRACTICE AREAS

contract law legal ethics professional responsibility commercial litigation

QUESTIONS PRESENTED

1. Whether the attorney fee agreement was ambiguous as a matter of law.
2. Whether the agreement was between Anglo-Dutch and Greenberg Peden or between Anglo-Dutch and Swonke personally.
3. Whether extrinsic evidence and surrounding circumstances could be used to create an ambiguity in an otherwise unambiguous agreement.
4. What standard governs construction of an attorney-client fee agreement.

HOLDINGS

1. An attorney-client contract should be construed as a reasonable person in the circumstances of the client would have construed it, with the lawyer bearing a responsibility of reasonable clarity because of the fiduciary relationship.
2. The fee agreement was unambiguous as a matter of law.
3. The fee agreement was between Anglo-Dutch and Greenberg Peden, not between Anglo-Dutch and Swonke personally.
4. Extrinsic evidence may provide context for construing an agreement but may not be used to show that the parties probably or possibly intended something different from the agreement's expressed meaning or to create an ambiguity.

KEY QUOTATIONS

“Only reasonable clarity is required, not perfection; not every dispute over the contract's meaning must be resolved against the lawyer. But the object is that the client be informed, and thus whether the lawyer has been reasonably clear must be determined from the client's perspective.” (450-51)

“An unambiguous contract will be enforced as written, and parol evidence will not be received for the purpose of creating an ambiguity or to give the contract a meaning different from that which its language imports.” (451)

“We hold that the agreement was between Anglo-Dutch and Greenberg Peden.” (453)

FACTUAL BACKGROUND

Anglo-Dutch had long been represented by Greenberg Peden, but the firm declined to take on new litigation because Anglo-Dutch owed substantial unpaid legal fees. Anglo-Dutch retained McConn & Williams to prosecute litigation against Halliburton and Ramco and separately negotiated with Gerard Swonke, then of counsel to Greenberg Peden, for his assistance on a contingent-fee basis. Swonke's secretary prepared the agreement on Greenberg Peden letterhead, and Swonke signed it under the firm's signature block, although the agreement used personal pronouns and calculated compensation based on Swonke's individual hours. After Greenberg Peden dissolved, Swonke continued working on the matter at McConn & Williams, and a dispute arose over whether his later hours were covered by the agreement.

PROCEDURAL HISTORY

The trial court determined that the attorney fee agreement was ambiguous and submitted the parties' intent to the jury. The jury found that Swonke was the contracting party, found no breach of fiduciary duty by Swonke, awarded him \$1 million, and failed to find fraud by Van Dyke. The court of appeals affirmed. The Supreme Court of Texas reversed and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment of the court of appeals was reversed, and the case was remanded to the trial court for further proceedings consistent with the holding that the fee agreement was between Anglo-Dutch and Greenberg Peden.

CASES CITED

- Columbia Gas Transmission Corp. v. New Ulm Gas, Ltd., 940 S.W.2d 587, 589 (Tex. 1996)
- David J. Sacks, P.C. v. Haden, 266 S.W.3d 447, 450-51 (Tex. 2008)
- Hoover Slovacek LLP v. Walton, 206 S.W.3d 557, 560 (Tex. 2006)
- Lopez v. Munoz, Hockema & Reed, L.L.P., 22 S.W.3d 857, 868 (Tex. 2000)
- Keck, Mahin & Cate v. National Union Fire Insurance Co. of Pittsburgh, Pa., 20 S.W.3d 692, 699 (Tex. 2000)
- Archer v. Griffith, 390 S.W.2d 735, 739 (Tex. 1964)
- Sun Oil Co. (Delaware) v. Madeley, 626 S.W.2d 726, 731 (Tex. 1981)
- Gannon v. Baker, 818 S.W.2d 754, 755-56 (Tex. 1991)
- National Union Fire Insurance Co. of Pittsburgh, Pa. v. CBI Industries, Inc., 907 S.W.2d 517, 520 (Tex. 1995)
- J.M. Davidson, Inc. v. Webster, 128 S.W.3d 223, 229 (Tex. 2003)
- Levine v. Bayne, Snell & Krause, Ltd., 40 S.W.3d 92, 95 (Tex. 2001)
- Schlumberger Technology Corp. v. Swanson, 959 S.W.2d 171, 175 (Tex. 1997)
- 267 S.W.3d 454 (Tex. App.—Houston [14th Dist.] 2008)

