

SUPREME COURT OF VIRGINIA

Dunlap v. Cottman Transmission Systems, LLC, et al.

Dunlap · No. Record No. 131318 · Decided February 27, 2014

SUMMARY

The Supreme Court of Virginia answered certified questions from the United States Court of Appeals for the Fourth Circuit concerning Virginia business conspiracy claims and statutes of limitations. It held that tortious interference with contract and tortious interference with business expectancy may serve as the requisite unlawful act for a business conspiracy claim under Virginia Code §§ 18.2-499 and -500. It further held that the five-year limitations period for injury to property under Virginia Code § 8.01-243(B) applies to both tortious interference claims.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Chief Justice Cynthia D. Kinser; All the Justices
JURISDICTION	Virginia
DECIDED	February 27, 2014
DOCKET	Record No. 131318
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Virginia answered two questions of Virginia law certified by the United States Court of Appeals for the Fourth Circuit under Article VI, Section 1 of the Constitution of Virginia and Rule 5:40.
STANDARD OF REVIEW	The court independently answered certified questions of Virginia law. The underlying dismissal of the business-conspiracy claim was under Federal Rule of Civil Procedure 12(b)(6), and the limitations issue was decided as a matter of law.
PRECEDENTIAL VALUE	published and precedential
PARTIES	James M. Dunlap v. Cottman Transmission Systems, LLC, Todd P. Leff

TOPICS

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PRACTICE AREAS

torts

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QUESTIONS PRESENTED

1. Whether tortious interference with contract and tortious interference with business expectancy may serve as the requisite unlawful act for a statutory business-conspiracy claim under Virginia Code §§ 18.2-499 and 18.2-500.
2. Whether the two-year or five-year statute of limitations applies to claims for tortious interference with contract and tortious interference with business expectancy under Virginia Code § 8.01-243.

HOLDINGS

1. Tortious interference with contract and tortious interference with business expectancy each qualify as the requisite unlawful act for a business-conspiracy claim under Virginia Code §§ 18.2-499 and 18.2-500 because each tort is predicated on an independent common-law duty arising outside the contract.
2. The five-year statute of limitations in Virginia Code § 8.01-243(B), governing actions for injury to property, applies to claims for tortious interference with contract and tortious interference with business expectancy.

KEY QUOTATIONS

“In contrast, both tortious interference with contract and tortious interference with business expectancy are intentional torts predicated on the common law duty to refrain from interfering with another's contractual and business relationships.” (at 13-14)

“Such interference is directed at and injures a property right, i.e., the right to performance of a contract and to reap profits and benefits not only from the contract but also from expected future contracts or otherwise advantageous business relationships.” (at 19-20)

FACTUAL BACKGROUND

Dunlap operated two AAMCO transmission and repair facilities for more than 30 years under franchise agreements with AAMCO Transmissions, Inc. In 2006, a company that controlled Cottman, an AAMCO competitor, acquired a controlling interest in AAMCO and allegedly sought to convert Cottman franchises into AAMCO franchises. Dunlap alleged that a conspiracy involving Cottman and others caused his AAMCO facilities to be closed, interfering with his franchise agreements and business expectancies.

PROCEDURAL HISTORY

Dunlap sued Cottman and Leff in the Circuit Court for the City of Chesapeake for tortious interference with contract, tortious interference with business expectancy, and statutory business conspiracy. The defendants removed the action to the United States District Court for the Eastern District of Virginia. The District Court dismissed the business-conspiracy claim under Federal Rule of Civil Procedure 12(b)(6) and dismissed the tortious-interference claims as untimely under a two-year limitations period. On appeal, the Fourth Circuit certified two determinative questions to the Supreme Court of Virginia.

DISPOSITION

other

REMAND INSTRUCTIONS

The court answered the certified questions: certified question 1 in the affirmative and certified question 2, alternative II, in the affirmative. The Fourth Circuit was to proceed in accordance with those answers.

CASES CITED

- Crump v. Commonwealth, 84 Va. 927, 6 S.E. 620 (1888)
- Harris v. Commonwealth, 113 Va. 746, 73 S.E. 561 (1912)
- Werth v. Fire Companies' Adjustment Bureau, 160 Va. 845, 171 S.E. 255 (1933)
- Gallop v. Sharp, 179 Va. 335, 19 S.E.2d 84 (1942)
- CaterCorp, Inc. v. Catering Concepts, Inc., 246 Va. 22, 431 S.E.2d 277 (1993)
- Allen Realty Corp. v. Holbert, 227 Va. 441, 318 S.E.2d 592 (1984)
- Commercial Business Systems, Inc. v. BellSouth Services, 249 Va. 39, 453 S.E.2d 261 (1995)
- Northern Virginia Real Estate v. Martins, 283 Va. 86, 720 S.E.2d 121 (2012)
- Hechler Chevrolet, Inc. v. General Motors Corp., 230 Va. 396, 337 S.E.2d 744 (1985)
- Almy v. Grisham, 273 Va. 68, 639 S.E.2d 182 (2007)
- Station #2, LLC v. Lynch, 280 Va. 166, 695 S.E.2d 537 (2010)
- Chaves v. Johnson, 230 Va. 112, 335 S.E.2d 97 (1985)
- Dunn, McCormack & MacPherson v. Connolly, 281 Va. 553, 708 S.E.2d 867 (2011)
- Duggin v. Adams, 234 Va. 221, 360 S.E.2d 832 (1987)
- Wyatt v. McDermott, 283 Va. 685, 725 S.E.2d 555 (2012)
- Willard v. Moneta Building Supply, 262 Va. 473, 551 S.E.2d 596 (2001)
- Worrie v. Boze, 198 Va. 533, 95 S.E.2d 192 (1956)
- Andrews v. Ring, 266 Va. 311, 585 S.E.2d 780 (2003)
- Lavery v. Automation Management Consultants, Inc., 234 Va. 145, 360 S.E.2d 336 (1987)
- Pigott v. Moran, 231 Va. 76, 341 S.E.2d 179 (1986)
- Sensenbrenner v. Rust, Orling & Neale, Architects, Inc., 236 Va. 419, 374 S.E.2d 55 (1988)
- Richmond Metropolitan Authority v. McDevitt Street Bovis, Inc., 256 Va. 553, 507 S.E.2d 344 (1998)
- Dunn Construction Co. v. Cloney, 278 Va. 260, 682 S.E.2d 943 (2009)
- Beck v. Prupis, 529 U.S. 494 (2000)
- Station #2, LLC v. Lynch, 280 Va. 166, 695 S.E.2d 537 (2010)