

SUPREME COURT OF OREGON

Kovac v. Crooked River Ranch Club & Maintenance Ass'n

337 Or. 162 (2004) · No. S50740 · Decided July 1, 2004

SUMMARY

The Oregon Supreme Court held that ORS 9.537(1) immunized Tom Kovac from civil liability for attorney fees incurred by opposing counsel in responding to bar complaints filed by Kovac. The court modified the Court of Appeals' attorney-fee award by subtracting \$1,080, reducing the award from \$30,362.50 to \$29,282.50, and affirmed it as modified.

CASE DETAILS

COURT	Supreme Court of Oregon
WRITING FOR THE COURT	Per Curiam; Carson, Chief Justice; Gillette, Justice; Durham, Justice; Riggs, Justice; De Muniz, Justice; Balmer, Justice
JURISDICTION	Oregon
DECIDED	July 1, 2004
DOCKET	S50740
DISPOSITION	affirmed
PROCEDURAL POSTURE	On petition for review of a Court of Appeals order awarding attorney fees against Kovac after Crooked River prevailed on appeal from a summary judgment entered by the Jefferson County Circuit Court.
PRECEDENTIAL VALUE	binding
PARTIES	Tom Kovac, dba Ranch Realty v. Crooked River Ranch Club and Maintenance Association

TOPICS

- attorney fees
- statutory interpretation
- appellate procedure
- remedies
- civil procedure

PRACTICE AREAS

- appellate procedure
- attorney fees
- statutory interpretation
- legal ethics
- remedies

QUESTIONS PRESENTED

1. Whether ORS 9.537(1)'s immunity for a person who makes a complaint to the bar concerning an attorney's conduct bars an award of attorney fees incurred in responding to that complaint.

HOLDINGS

1. ORS 9.537(1) immunizes a person who made a Bar complaint from an award of attorney fees incurred by the opposing party's counsel in responding to that complaint. Such an award constitutes civil liability at least to the extent of the award.

KEY QUOTATIONS

*“Any person who has made a complaint to the bar concerning the conduct of an attorney * * * shall be absolutely immune from civil liability for any such acts.”*

“There can be no doubt that any award of attorney fees in circumstances like those presented in this case constitutes imposition of civil liability, at least to the extent of the award.”

FACTUAL BACKGROUND

Kovac brought a civil action against Crooked River and Jefferson County that included antitrust allegations. After the trial court entered summary judgment against him and the Court of Appeals affirmed, Kovac's appeal was followed by two Bar complaints against Crooked River's counsel. Crooked River sought appellate attorney fees, and the Court of Appeals included \$1,080 in fees incurred in responding to those complaints.

PROCEDURAL HISTORY

Kovac filed a civil action alleging, among other things, antitrust violations by Crooked River and Jefferson County. The trial court granted summary judgment against Kovac, and the Court of Appeals affirmed. While that appeal was pending, Kovac filed two Oregon State Bar complaints against Crooked River's counsel. After prevailing on appeal, Crooked River obtained a Court of Appeals award of \$30,362.50 in appellate attorney fees, including \$1,080 for responding to the Bar complaints. The Oregon Supreme Court allowed review, held that ORS 9.537(1) immunized Kovac from liability for those fees, deducted \$1,080 from the award, and affirmed the order as modified.

DISPOSITION

affirmed

CASES CITED

- Kovac v. Crooked River Ranch Club, 186 Or. App. 545, 63 P.3d 1197 (2003), rev. denied, 336 Or. 16 (2003)