

SUPREME COURT OF ALABAMA

Crestview Memorial Funeral Home, Inc. v. Gilmer

79 So. 3d 585 (Ala. 2011) · Decided August 26, 2011

SUMMARY

The Alabama Supreme Court reviewed a judgment arising from claims concerning the unauthorized embalming of the plaintiff’s husband by an unlicensed individual. The court held that Crestview was not entitled to judgment as a matter of law on the fraudulent-suppression claim, but that the plaintiff was not entitled to judgment as a matter of law on the breach-of-contract claim because materiality remained a factual issue. Because the compensatory damages were awarded as a lump sum on both claims, the court reversed and remanded for a new trial on the suppression and breach-of-contract claims.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Woodall, Justice; Malone, Chief Justice; Stuart, Justice; Bolin, Justice; Parker, Justice; Shaw, Justice; Main, Justice; Wise, Justice; Murdock, Justice
JURISDICTION	Alabama
DECIDED	August 26, 2011
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Crestview appealed from a judgment entered after a jury trial and posttrial proceedings. The trial court denied Crestview's motion for judgment as a matter of law or, alternatively, for a new trial, while granting Gilmer judgment as a matter of law on the breach-of-contract claim; the jury had found for Gilmer on suppression and awarded compensatory and punitive damages.
STANDARD OF REVIEW	For a ruling on a motion for judgment as a matter of law, the appellate court determines whether the party bearing the burden of proof presented substantial evidence creating a factual dispute requiring jury resolution, viewing the evidence in the light most favorable to the nonmovant and drawing reasonable inferences in that party's favor. Questions of law receive no presumption of correctness. A jury verdict is presumed correct and will be set aside only if plainly and palpably wrong.

PRECEDENTIAL VALUE

Published Alabama Supreme Court opinion

PARTIES

Crestview Memorial Funeral Home, Inc. v. Faye B. Gilmer

TOPICS

breach of contract

fraud

material breach

motion for directed verdict

standard of review

PRACTICE AREAS

civil procedure

contracts

fraud

remedies

appellate procedure

QUESTIONS PRESENTED

1. Whether Crestview was entitled to judgment as a matter of law on Gilmer's fraudulent-suppression claim because she failed to establish a duty to disclose, knowledge, or reliance.
2. Whether the trial court erred by granting Gilmer judgment as a matter of law on the breach-of-contract claim when substantial evidence created a factual question concerning whether the alleged breach was material.
3. Whether the judgment and damages awards required reversal because the compensatory damages were awarded as a lump sum on the suppression and contract claims and the effect of the contract judgment on the jury's consideration of suppression could not be determined.

HOLDINGS

1. Crestview was not entitled to judgment as a matter of law because it failed to establish as a matter of law that it had no duty to disclose, that the relevant employees lacked knowledge of the suppressed facts, or that Gilmer failed to present a legally supported reliance argument.
2. Gilmer was not entitled to judgment as a matter of law because substantial evidence created a jury question as to whether Crestview's failure to have a licensed embalmer perform the embalming was a material breach of the authorization.
3. The judgment had to be reversed as to both the suppression and breach-of-contract claims and remanded for a new trial because the court could not determine the effect of the contract judgment on the jury's consideration of suppression or allocate the lump-sum compensatory damages between the two claims.

KEY QUOTATIONS

"A party's mere silence as to a material fact does not constitute fraud unless that party is under a duty to disclose that fact. A duty to disclose can arise either from a confidential relationship with the plaintiff or from the particular circumstances of the case." (at 590)

"A material breach is one that touches the fundamental purposes of the contract and defeats the object of the parties in making the contract." (at 592)

"Therefore, because Crestview presented substantial evidence creating a question of fact requiring resolution by the jury as to the materiality of the alleged breach of the contract, the trial court erred in entering a JML in

| *favor of Gilmer with regard to that claim.” (at 592)*

FACTUAL BACKGROUND

Gilmer signed an authorization permitting Crestview to use qualified independent embalmers, but Crestview's only licensed embalmer was on medical leave and was not available. Instead, Crestview manager Taul, who was neither licensed nor an apprentice, embalmed Gilmer's husband's body, while Caldwell later prepared and signed an embalming report suggesting that she was the embalmer. Gilmer alleged that Crestview suppressed the facts concerning the unavailable licensed embalmer and breached the authorization's requirement that the embalming be performed by someone legally permitted to do the work.

PROCEDURAL HISTORY

In the prior appeal, the Alabama Supreme Court affirmed summary judgment on several claims and reversed as to the tort-of-outrage, suppression, and breach-of-contract claims against Crestview, Taul, and Caldwell. After remand, Taul and Caldwell were dismissed without prejudice, the trial court granted Gilmer judgment as a matter of law on breach of contract, and the jury found for Gilmer on suppression and awarded damages. The trial court entered judgment, remitted the punitive damages, and denied Crestview's posttrial motions. The Supreme Court reversed and remanded for a new trial on both the breach-of-contract and suppression claims.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Conduct a new trial on the breach-of-contract and suppression claims. The decision did not reach Crestview's arguments concerning the damages awards.

CASES CITED

- Gilmer v. Crestview Memorial Funeral Home, Inc., 35 So. 3d 585 (Ala. 2009)
- Robinson v. Benton, 842 So. 2d 631, 634 (Ala. 2002)
- Hornsby v. Sessions, 703 So. 2d 932, 937-38 (Ala. 1997)
- Line v. Ventura, 38 So. 3d 1, 7-8 (Ala. 2009)
- Delchamps, Inc. v. Bryant, 738 So. 2d 824, 830-31 (Ala. 1999)
- Coilplus-Alabama, Inc. v. Vann, 53 So. 3d 898, 909 (Ala. 2010)
- Keck v. Dryvit Systems, Inc., 830 So. 2d 1, 11 (Ala. 2002)
- Butler v. Town of Argo, 871 So. 2d 1, 20 (Ala. 2003)
- Dykes v. Lane Trucking, Inc., 652 So. 2d 248, 251 (Ala. 1994)
- Sokol v. Bruno's, Inc., 527 So. 2d 1245, 1247-48 (Ala. 1988)