

SUPREME COURT OF VERMONT

Kneebinding, Inc., John Springer-Miller, Tina Springer-Miller and ACL Investments, LLC v. Richard Howell

2018 VT 101 (Vt. 2018) · No. 2017-239 · Decided October 5, 2018

SUMMARY

The Vermont Supreme Court reviews a lengthy dispute involving Kneebinding, Inc., its directors, and shareholder Richard Howell. The court addresses contempt and injunction issues, defamation damages, tortious interference with contract, attorney's fees, and Howell's derivative and direct claims for fraud and breach of fiduciary duty. It affirms in part, reverses in part, and remands for further proceedings, while affirming the judgment on Howell's claims.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Robinson, J.; Reiber, C.J.; Skoglund, J.; Eaton, J.; Carroll, J.
JURISDICTION	Vermont
DECIDED	October 5, 2018
DOCKET	2017-239
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Cross-appeals from a lengthy bench trial and a series of interlocutory decisions followed by final judgment in the Superior Court, Lamoille Unit, Civil Division.
STANDARD OF REVIEW	Factual findings are reviewed for clear error; legal conclusions are upheld when reasonably supported by the findings and based on the correct legal standard; discretionary rulings are reviewed for abuse of discretion. Civil-contempt findings are reviewed under the clear-and-convincing-evidence standard, with substantial deference to the trial court's discretion.
PRECEDENTIAL VALUE	published and precedential Vermont Supreme Court opinion
PARTIES	Kneebinding, Inc., John Springer-Miller, Tina Springer-Miller, ACL Investments, LLC v. Richard Howell

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the trial court could revise findings and conclusions contained in interlocutory orders before entering final judgment.
2. Whether Howell's conduct before September 15, 2009 triggered the stipulated \$7,000 contempt fine.
3. Whether the trial court properly terminated the stipulated permanent injunction and treated it as a preliminary injunction.
4. Whether the trial court erred in declining additional civil-contempt sanctions.
5. Whether the \$3,500 compensatory defamation award was inadequate or punitive damages were required.
6. Whether Kneebinding proved damages for tortious interference with contract.
7. Whether the parties were entitled to contractual or equitable attorney's fees beyond the fees awarded for contempt litigation.
8. Whether the trial court properly rejected Howell's fraud-in-the-inducement and fiduciary-duty derivative and direct claims.

HOLDINGS

1. Under Vermont Rule of Civil Procedure 54(b), a trial court may reconsider and revise interlocutory findings and conclusions before entering final judgment in a multi-party, multi-claim case, subject to review for abuse of discretion.
2. The trial court was required to impose the stipulated \$7,000 fine because its own findings established that Howell violated the permanent injunction before September 15, 2009.
3. The parties' stipulated injunction was intended to be permanent, and the trial court exceeded its discretion by terminating it based on an erroneous conclusion that enforcement implicated the First Amendment.
4. The trial court acted within its discretion in declining to impose additional monetary civil-contempt sanctions for violations occurring while the injunction was in effect.
5. The \$3,500 compensatory defamation award was within the trial court's discretion because Kneebinding showed temporary reputational harm but no economic injury or basis for a larger award.
6. The trial court did not abuse its discretion in denying punitive damages.
7. Kneebinding failed to establish tortious interference because it did not prove actual harm resulting from Howell's conduct.

8. The trial court properly denied contractual attorney's fees for the litigation as a whole and properly limited the equitable fee award for contempt litigation to \$22,433.42.
9. The trial court properly rejected Howell's derivative and direct claims for fraud in the inducement and breach of fiduciary duty.

KEY QUOTATIONS

“As such, if the case properly falls within the ambit of Rule 54(b), the trial court has the discretion to reconsider and revise interlocutory rulings before issuing the final judgment.” (¶ 32)

“Private parties may enter agreements that waive their respective free speech rights, and courts may enforce those agreements, without running afoul of the First Amendment.” (¶ 58)

“Civil contempt sanctions may be used as a coercive measure to compel future compliance with a court order, or to compensate the victim.” (¶ 74)

“One who intentionally and improperly interferes with the performance of a contract (except a contract to marry) between another and a third person by inducing or otherwise causing the third person not to perform the contract, is subject to liability to the other for the pecuniary loss resulting to the other from the failure of the person to perform.” (¶ 93)

FACTUAL BACKGROUND

Howell founded Kneebinding, a Delaware corporation with its principal place of business in Vermont, and later entered into transaction and employment agreements with John Springer-Miller, who became a controlling preferred shareholder and director. Their relationship deteriorated, Howell was removed as president and CEO, and he signed a severance agreement containing confidentiality and nondisparagement obligations. After Howell made public and private statements criticizing Kneebinding and the Springer-Millers, the parties stipulated to a permanent injunction and a conditional \$7,000 contempt fine. Following trial, the court found that some of Howell's statements were defamatory and violated the injunction, but found insufficient proof of damages for tortious interference and declined to impose most requested sanctions.

PROCEDURAL HISTORY

Kneebinding sued Howell over alleged violations of contractual confidentiality and nondisparagement obligations, tortious interference, defamation, and related claims. Howell asserted counterclaims and later brought direct and shareholder-derivative claims against the Springer-Millers and ACL Investments. After a twenty-day bench trial, the trial court rejected Howell's derivative and direct claims, found some violations of the injunction and defamation, awarded \$3,500 in defamation damages and \$22,433.42 in attorney's fees for contempt litigation, denied other damages and fees, terminated the permanent injunction, and entered final judgment. Both sides appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The matter was remanded for further proceedings consistent with the opinion, including imposition of the stipulated \$7,000 contempt fine and enforcement of the permanent injunction. The trial court's other rulings were affirmed except to the extent inconsistent with those reversals.

CASES CITED

- *Kneebinding, Inc. v. Howell*, 2014 VT 51, ¶ 1, 196 Vt. 477, 99 A.3d 612
- *Perkins v. Vt. Hydro-Elec. Corp.*, 106 Vt. 367, 415, 177 A. 631, 653 (1934)
- *Coty v. Ramsey Assocs., Inc.*, 154 Vt. 168, 171, 573 A.2d 694, 696 (1990)
- *In re A.M.*, 2015 VT 109, ¶ 56, 200 Vt. 189, 130 A.3d 211
- *State v. Cain*, 126 Vt. 463, 469-70, 236 A.2d 501, 505 (1967)
- *Cohen v. Cowles Media Co.*, 501 U.S. 663, 670-71 (1991)
- *Perricone v. Perricone*, 972 A.2d 666, 677-79 (Conn. 2009)
- *Vt. Women's Health Ctr. v. Operation Rescue*, 159 Vt. 141, 146-52, 617 A.2d 411, 414-17 (1992)
- *Sheehan v. Ryea*, 171 Vt. 511, 512, 757 A.2d 467, 468 (2000) (mem.)
- *State v. Gundlah ex rel. Smallheer*, 160 Vt. 193, 196-97, 624 A.2d 368, 369-70 (1993)
- *Lent v. Huntoon*, 143 Vt. 539, 545-50, 470 A.2d 1162, 1167-70 (1983)
- *Skaskiw v. Vt. Agency of Agric.*, 2014 VT 133, ¶ 8, 198 Vt. 187, 112 A.3d 1277
- *Cooper v. Myer*, 2007 VT 131, ¶ 9, 183 Vt. 561, 944 A.2d 915
- *Post & Beam Equities Grp., LLC v. Sunne Vill. Dev. Prop. Owners Ass'n*, 2015 VT 60, ¶¶ 16, 39, 199 Vt. 313, 124 A.3d 454
- *Williams v. Chittenden Tr. Co.*, 145 Vt. 76, 80, 484 A.2d 911, 913 (1984)
- *Foster & Gridley v. Winner*, 169 Vt. 621, 624, 740 A.2d 1283, 1287 (1999) (mem.)
- *Giroux v. Lussier*, 127 Vt. 520, 524, 253 A.2d 151, 155 (1969)
- *In re Gadhue*, 149 Vt. 322, 327, 330, 544 A.2d 1151, 1154, 1156 (1987)
- *O'Brien Bros.' P'ship, LLP v. Plocienik*, 2007 VT 105, ¶ 15, 182 Vt. 409, 940 A.2d 692
- *Fit Tech, Inc. v. Bally Total Fitness Holding Corp.*, 374 F.3d 1, 10 (1st Cir. 2004)
- *The Elec. Man, Inc. v. Charos*, 2006 VT 16, ¶ 10, 179 Vt. 351, 895 A.2d 193
- *Southwick v. City of Rutland*, 2011 VT 105, ¶¶ 5, 8, 190 Vt. 324, 30 A.3d 1298

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