

COURT OF APPEALS FOR THE FIFTH DISTRICT OF TEXAS AT DALLAS

**Johnny Wimbrey, Wimbrey Global Inc., Wimbrey Training System,
Wimbrey Worldwide Ministries, Royal Success Club LLC, and Royal
Life v. WorldVentures Marketing, LLC**

No. 05-19-01520-CV (Tex. App.—Dallas Dec. 17, 2020) (mem. op.) · No. No. 05-19-01520-CV · Decided
December 17, 2020

SUMMARY

The Fifth District Court of Appeals of Texas at Dallas reviewed a temporary injunction issued against Johnny Wimbrey and affiliated entities in favor of WorldVentures Marketing, LLC. The court held that the injunction’s non-solicitation provision was moot after the contractual one-year restriction expired, while the disparagement and confidentiality provisions failed to comply with Texas Rule of Civil Procedure 683. The court reversed and dissolved the temporary injunction and remanded the case for further proceedings.

CASE DETAILS

COURT	Court of Appeals for the Fifth District of Texas at Dallas
WRITING FOR THE COURT	Amanda L. Reichek; Justice Molberg; Justice Reichek; Justice Nowell
JURISDICTION	Texas
DECIDED	December 17, 2020
DOCKET	No. 05-19-01520-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appellants brought an accelerated interlocutory appeal from an amended temporary-injunction order entered by the 429th Judicial District Court of Collin County.
STANDARD OF REVIEW	A trial court's decision to grant or deny a temporary injunction is reviewed for clear abuse of discretion. An injunction order's compliance with Texas Rule of Civil Procedure 683 is reviewed to determine whether it is legally sufficient and specific on its face.
PRECEDENTIAL VALUE	Published memorandum opinion; precedential status should be confirmed under applicable Texas appellate-publication rules.
PARTIES	Johnny Wimbrey, Wimbrey Global Inc., Wimbrey Training System, Wimbrey Worldwide Ministries, Royal Success Club LLC, Royal Life

TOPICS

injunctions interlocutory appeal mootness appellate procedure commercial litigation

PRACTICE AREAS

civil procedure commercial litigation contracts remedies constitutional law

QUESTIONS PRESENTED

1. Whether the non-solicitation portion of the temporary injunction remained a live controversy after the contractual one-year non-solicitation period had expired.
2. Whether the temporary-injunction order complied with Texas Rule of Civil Procedure 683 as to the non-disparagement provision.
3. Whether the confidentiality provision complied with Rule 683's specificity and notice requirements.

HOLDINGS

1. The validity of the non-solicitation provision was moot because the contractual one-year non-solicitation period had expired and appellants had already been enjoined from recruitment efforts for at least one year.
2. The non-disparagement provision was void because the injunction order did not explain why disparagement had to be enjoined or identify the irreparable harm that would result without the provision.
3. The confidentiality provision was void because it failed to define, explain, or otherwise describe what constituted WorldVentures' confidential information, leaving appellants without adequate notice of the conduct restrained.

KEY QUOTATIONS

“The requirements of rule 683 are mandatory and must be strictly followed, even if a sound reason for granting relief appears elsewhere in the record.” (at 6)

“If a temporary injunction order fails to comply with the mandatory requirements of rule 683, it is void.” (at 6)

“By failing to define, explain, or otherwise describe what constitutes WorldVentures’s “confidential information,” the order leaves appellants to speculate about what particular information or item would constitute “confidential information” and thus fails to provide necessary notice as to how to conform their conduct.” (at 15)

FACTUAL BACKGROUND

WorldVentures operated a multilevel-marketing business whose representatives sold vacation-club memberships and recruited downline representatives. Wimbrey and the five entity appellants were WorldVentures representatives or affiliated entities, later left WorldVentures, and joined iBüümerang after Wimbrey had achieved WorldVentures' highest rank and received approximately \$11 million. WorldVentures alleged that appellants recruited its representatives, disparaged the company, and used or disclosed confidential information, leading it to seek a temporary injunction.

PROCEDURAL HISTORY

WorldVentures sued appellants for breach of contract and tortious interference and sought a temporary injunction based on alleged recruitment, disparagement, and disclosure of confidential information. After an evidentiary hearing, the trial court entered an amended temporary injunction. The court of appeals reversed the order, dissolved the injunction, and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The temporary injunction was dissolved, and the cause was remanded to the trial court for further proceedings. Appellants were awarded their costs of appeal, and the \$500 cash deposit in lieu of a surety bond was ordered released to WorldVentures' counsel.

CASES CITED

- Butnaru v. Ford Motor Co., 84 S.W.3d 198, 204 (Tex. 2002)
- Wilson N. Jones Mem'l Hosp. v. Huff, 188 S.W.3d 215, 218 (Tex. App.—Dallas 2006, pet. denied)
- El Tacaso, Inc. v. Jireh Star, Inc., 356 S.W.3d 740, 743-45 (Tex. App.—Dallas 2011, no pet.)
- Qwest Commc'ns Corp. v. AT & T Corp., 24 S.W.3d 334, 337 (Tex. 2000) (per curiam)
- Nat'l Collegiate Athletic Ass'n v. Jones, 1 S.W.3d 83, 86, 88 (Tex. 1999)
- Nat'l Collegiate Athletic Ass'n v. Jones, 982 S.W.2d 450, 451-52 (Tex. App.—Amarillo 1998), rev'd, 1 S.W.3d 83 (Tex. 1999)
- Republican Party v. Dietz, 940 S.W.2d 86, 93 (Tex. 1997)
- Harbor Perfusion v. Floyd, 45 S.W.3d 713, 718 (Tex. App.—Corpus Christi—Edinburg 2001, no pet.)
- Rimes v. Club Corp. of Am., 542 S.W.2d 909, 912 (Tex. Civ. App.—Dallas 1976, writ ref'd n.r.e.)
- City of Corpus Christi v. Friends of the Coliseum, 311 S.W.3d 706, 708 (Tex. App.—Corpus Christi—Edinburg 2010, no pet.)
- Byrd Ranch, Inc. v. Interwest Sav. Ass'n, 717 S.W.2d 452, 454 (Tex. App.—Fort Worth 1986, no writ)
- In re Office of Attorney Gen., 257 S.W.3d 695, 697 (Tex. 2008) (orig. proceeding) (per curiam)
- InterFirst Bank San Felipe v. Paz Const. Co., 715 S.W.2d 640, 641 (Tex. 1986)
- McCaskill v. National Circuit Assembly, No. 05-17-01289-CV, 2018 WL 3154616, at *3 (Tex. App.—Dallas June 28, 2018, no pet.) (mem. op.)

- Ramirez v. Ignite Holdings, Ltd., No. 05-12-01024-CV, 2013 WL 4568365, at *4 (Tex. App.—Dallas Aug. 26, 2013, no pet.) (mem. op.)

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