

SUPREME COURT OF MISSISSIPPI

Eckman v. Cooper Tire & Rubber Co.

893 So. 2d 1049 (Miss. 2005) · No. 2003-CA-02223-SCT · Decided February 17, 2005

SUMMARY

The Mississippi Supreme Court affirmed summary judgment for Cooper Tire & Rubber Company and Shanán Professional Review Services in a defamation action arising from medical-utilization review reports. The court held that the challenged statements were protected by qualified privilege, were not excessively published, and were not supported by evidence of actual malice sufficient to create a genuine issue of material fact.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Easley, Justice; Smith, C.J.; Waller, P.J.; Cobb, P.J.; Carlson, J.; Dickinson, J.; Randolph, J.; Graves, J.; Diaz, J. (not participating)
JURISDICTION	Mississippi
DECIDED	February 17, 2005
DOCKET	2003-CA-02223-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a partial summary judgment certified as final under Mississippi Rule of Civil Procedure 54(b) in a defamation action.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, with the facts viewed in the light most favorable to the nonmoving party. Summary judgment is inappropriate when a genuine issue of material fact exists or when disputed facts permit different interpretations or inferences.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; precedential.
PARTIES	Walter W. Eckman, M.D. v. Cooper Tire & Rubber Company, Shanán Professional Review Services, Inc.

TOPICS

- defamation
- summary judgment
- appellate procedure

PRACTICE AREAS

defamation

torts

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the communications made during Cooper's and Shanana's medical-utilization review were protected by a qualified privilege.
2. Whether publication of the statements to Eckman's employees constituted excessive publication outside the circle of persons with a legitimate and direct interest.
3. Whether Eckman presented sufficient evidence of actual malice to create a genuine issue of material fact and defeat summary judgment.

HOLDINGS

1. The communications were protected by a qualified privilege because they concerned a subject in which Cooper and Shanana had an interest or duty and were made to persons with a corresponding interest or duty.
2. There was no excessive publication because Eckman's employees were within the legitimate circle of persons interested in the review process after Eckman requested and pursued disclosure of the statements.
3. Eckman failed to produce affirmative evidence that Cooper or Shanana acted with actual malice, so no genuine issue of material fact existed and summary judgment was proper.

KEY QUOTATIONS

"A communication made in good faith and on a subject matter in which the person making it has an interest, or in reference to which he has a duty, is privileged if made to a person or persons having a corresponding interest or duty, even though it contains matter which without this privilege would be slanderous, provided the statement is made without malice and in good faith." (893 So. 2d at 1052)

FACTUAL BACKGROUND

Eckman, a neurosurgeon, treated two Cooper employees and submitted claims for reimbursement under Cooper's employee healthcare plan. Cooper engaged Shanana to conduct retrospective utilization reviews, and two physicians questioned the medical necessity of Eckman's surgeries; one characterized the conduct as bordering on white-collar crime. The reviews remained confidential within Cooper and Shanana until Eckman requested them, after which employees at Eckman's clinic read or heard the statements while handling communications concerning the denied claims.

PROCEDURAL HISTORY

Eckman sued Cooper Tire and Shanana, alleging that medical-review reports contained false and defamatory statements about him and exceeded the scope of any qualified privilege. The trial court granted partial summary judgment, finding the communications protected by qualified privilege, not excessively published, and unsupported by evidence of actual malice, and certified the judgment as final under Rule 54(b). The Mississippi Supreme Court, on rehearing, withdrew its original opinion, substituted this opinion, and affirmed.

DISPOSITION

affirmed

CASES CITED

- Hardy v. Brock, 826 So. 2d 71, 74 (Miss. 2002)
- Johnson v. City of Cleveland, 846 So. 2d 1031, 1036 (Miss. 2003)
- Garziano v. E.I. Dupont de Nemours & Co., 818 F.2d 380, 386-87, 391-92 (5th Cir. 1987)
- Smith v. White, 799 So. 2d 83, 86-87 (Miss. 2001)
- Staheli v. Smith, 548 So. 2d 1299 (Miss. 1989)
- Hayden v. Foryt, 407 So. 2d 535, 536, 539 (Miss. 1981)
- Blake v. Gannett Co., 529 So. 2d 595, 602 (Miss. 1988)
- Reaves v. Foster, 200 So. 2d 453 (Miss. 1967)
- Philadelphia Newspapers, Inc. v. Hepps, 475 U.S. 767, 776 (1986)

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