

SUPREME COURT OF VIRGINIA

Nolte v. MT Technology Enterprises, LLC, 284 Va. 80

726 S.E.2d 339 (2012) · No. Record No. 111490 · Decided June 7, 2012

SUMMARY

The Supreme Court of Virginia considered whether MT Technology Enterprises, LLC, a foreign limited liability company, could maintain its action after obtaining a certificate of authority before final judgment, and whether the trial court properly imposed discovery sanctions. The court held that MT satisfied the registration requirement under Code § 13.1-1057(A), and that the sanctions were generally permissible, but prohibiting the defendants from cross-examining witnesses and presenting evidence concerning damages was an abuse of discretion. The court also declined to address a contract-related assignment of error because the defendants conceded the relevant point at oral argument.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Donald W. Lemons; Cynthia D. Kinser, Chief Justice; Donald W. Lemons, Justice; S. Bernard Goodwyn, Justice; William C. Mims, Justice; W. David E. Powell, Justice; Millette, Justice; Koontz, Senior Justice
JURISDICTION	Virginia
DECIDED	June 7, 2012
DOCKET	Record No. 111490
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendants appealed a circuit-court judgment entered after a jury verdict for MT on statutory conspiracy, tortious-interference, breach-of-contract, and unjust-enrichment claims. The appeal challenged, among other things, discovery sanctions that barred defendants from opposing MT's claims or introducing defensive evidence, the denial of cross-examination, withdrawal of liability issues from the jury, registration of the foreign LLC, and trebling of damages.
STANDARD OF REVIEW	Statutory interpretation was reviewed de novo. Discovery sanctions were reviewed for abuse of discretion. Sufficiency of the evidence was reviewed in the light most favorable to MT and the judgment would not be disturbed unless plainly wrong or without evidence to support

	it. Preservation of the jury-instruction and liability-submission challenge was governed by Rule 5:25.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Bruce B. Nolte, Andrew Miller, Koichi Fukuda, Gregory Koenig, Cristol, LLC v. MT Technology Enterprises, LLC

TOPICS

discovery dispute

sanctions

appellate procedure

preservation of error

statutory interpretation

PRACTICE AREAS

civil procedure

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commercial litigation

torts

contracts

QUESTIONS PRESENTED

1. Whether MT could maintain its Virginia action after obtaining registration and a certificate of authority before entry of final judgment under Code § 13.1-1057(A).
2. Whether the trial court abused its discretion by imposing Rule 4:12(b)(2)(B) sanctions for repeated discovery violations.
3. Whether the trial court abused its discretion by interpreting the sanctions order to prohibit defendants from cross-examining MT's witnesses and introducing evidence concerning damages.
4. Whether defendants preserved their challenge to the trial court's withdrawal of liability issues from the jury.
5. Whether the Supreme Court needed to address the challenge to trebling damages for statutory conspiracy.

HOLDINGS

1. A foreign LLC subject to Code § 13.1-1057(A) may satisfy the registration requirement after commencing an action, so long as it registers before final judgment and thereby acquires the right to maintain the action.
2. The trial court did not abuse its discretion by imposing a Rule 4:12(b)(2)(B) sanction barring Cristol, Nolte, Miller, and Koenig from opposing MT's claims or introducing evidence supporting their defenses after repeated discovery violations.
3. The trial court abused its discretion by interpreting the sanction to prohibit defendants from cross-examining MT's witnesses and introducing evidence regarding the amount of damages.
4. The challenge was barred by Rule 5:25 because defendants did not object with reasonable certainty when the trial court instructed the jury to determine damages only.

KEY QUOTATIONS

“It is not the right to begin the action, but the right to maintain it, that is withheld for failure to comply with its terms.” (284 Va. at 85)

“However, in the particular circumstances of this case, we hold that it was an abuse of discretion to prohibit cross-examination and introduction of evidence by defendants in the damages presentation to the jury. The sanction was too harsh.” (284 Va. at 89)

“Because we hold that the trial court abused its discretion by forbidding cross-examination of witnesses regarding damages, we will reverse and remand the judgment of the trial court for further proceedings.” (284 Va. at 92)

FACTUAL BACKGROUND

MT, a Delaware limited liability company, owned and licensed intellectual-property rights and leased equipment to Cristol, another Delaware entity. After tensions arose among Cristol's managers and owners, defendants allegedly interfered with communications involving MT's principal and caused him to sign documents supporting defendants' position. MT sued, and several defendants repeatedly failed to comply with discovery orders, leading the trial court to impose sanctions that barred them from opposing MT's claims or presenting defensive evidence.

PROCEDURAL HISTORY

MT filed suit in the Circuit Court of the City of Richmond and later amended its complaint to assert five counts. After repeated discovery noncompliance, the trial court imposed sanctions under Rule 4:12(b)(2)(B), entered default judgment against Fukuda, and prohibited several defendants from opposing MT's claims or presenting evidence supporting their defenses. The jury returned damages awards for MT, which the trial court trebled. The Supreme Court of Virginia affirmed the sanction itself, held that prohibiting cross-examination and defensive evidence concerning damages was an abuse of discretion, rejected the unpreserved challenge to withdrawal of liability from the jury, and remanded for further proceedings limited to damages.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must conduct further proceedings on damages only. Damages for statutory conspiracy and tortious interference are to be tried, and defendants must be permitted to cross-examine witnesses and introduce evidence addressing the amount of damages. The Rule 4:12(b)(2)(B) sanction remains affirmed, and defendants may not challenge liability for damages found on the claims in counts I through V.

CASES CITED

- Conyers v. Martial Arts World of Richmond, Inc., 273 Va. 96, 639 S.E.2d 174 (2007)
- Phlegar v. Virginia Foods, Inc., 188 Va. 747, 51 S.E.2d 227 (1949)
- Bain v. Boykin, 180 Va. 259, 23 S.E.2d 127 (1942)

- Walsh v. Bennett, 260 Va. 171, 530 S.E.2d 904 (2000)
- Woodbury v. Courtney, 239 Va. 651, 391 S.E.2d 293 (1990)
- Flora v. Shulmister, 262 Va. 215, 546 S.E.2d 427 (2001)
- Landrum v. Chippenham & Johnston-Willis Hospitals, Inc., 282 Va. 346, 717 S.E.2d 134 (2011)
- Kern v. TXO Production Corp., 738 F.2d 968 (8th Cir. 1984)
- AME Financial Corp. v. Kiritsis, 281 Va. 384, 707 S.E.2d 820 (2011)
- Beck v. Commonwealth, 253 Va. 373, 484 S.E.2d 898 (1997)
- Morgen Industries, Inc. v. Vaughan, 252 Va. 60, 471 S.E.2d 489 (1996)
- Brown v. Black, 260 Va. 305, 534 S.E.2d 727 (2000)

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