

COURT OF APPEALS OF TEXAS, SECOND APPELLATE DISTRICT AT FORT WORTH

Jan Mogged, James Richard Fletcher and Michael Alan Taylor v. Bobby Wayne Lindamood Jr. and Jr.'s Demolition & Excavation, Inc.

Mogged v. Lindamood · No. 02-18-00126-CV · Decided December 31, 2018

SUMMARY

The Texas Court of Appeals for the Second Appellate District affirmed in part and reversed in part the trial court's judgment in a dispute involving defamation claims and a motion to dismiss. The court remanded Bobby Wayne Lindamood's defamation claim against Michael Alan Taylor for further proceedings and remanded issues concerning attorneys' fees, sanctions, and court costs awardable to Jan Mogged and James Richard Fletcher. The parties were ordered to bear their own appellate costs.

CASE DETAILS

COURT	Court of Appeals of Texas, Second Appellate District at Fort Worth
WRITING FOR THE COURT	Brian Quinn, Chief Justice; Justice Meier; Justice Kerr
JURISDICTION	Texas
DECIDED	December 31, 2018
DOCKET	02-18-00126-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal and cross-appeal from the 348th District Court of Tarrant County concerning an order on a motion to dismiss and an order awarding attorneys' fees, costs, expenses, and sanctions under Texas Civil Practice and Remedies Code section 27.009.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Jan Mogged, James Richard Fletcher, Michael Alan Taylor v. Bobby Wayne Lindamood Jr., Jr.'s Demolition & Excavation, Inc.

TOPICS

appellate procedure civil procedure motions to dismiss defamation attorney fees

PRACTICE AREAS

civil procedure appellate procedure defamation attorney fees sanctions

QUESTIONS PRESENTED

1. Whether the trial court's dismissal of Bobby Wayne Lindamood Jr.'s defamation claim against Michael Alan Taylor should be affirmed.
2. Whether the trial court's order concerning attorneys' fees, sanctions, and court costs awardable to Jan Mogged and James Richard Fletcher should be affirmed.

HOLDINGS

1. The trial court's order on the motion to dismiss was reversed as to Lindamood's defamation claim against Taylor, and that claim was remanded for further proceedings.
2. The remainder of the trial court's order on the motion to dismiss was affirmed.
3. The trial court's order on attorneys' fees, costs, expenses, and sanctions was reversed, and the issue of attorneys' fees, sanctions, and court costs awardable to Mogged and Fletcher was remanded.

KEY QUOTATIONS

"It is ordered that the trial court's judgment is affirmed in part and reversed in part."

"We reverse the trial court's "Order on Motion to Dismiss" as to Bobby Wayne Lindamood's defamation claim against Michael Alan Taylor, and we remand that claim to the trial court for further proceedings."

"We reverse the trial court's "Order on Attorneys' Fees, Costs, Expenses, and Sanctions Pursuant to Tex. Civ. Prac. & Rem. Code Ann. § 27.009," and we remand to the trial court the issue of attorneys' fees, sanctions, and court costs awardable to Jan Mogged and James Richard Fletcher."

FACTUAL BACKGROUND

The supplied text contains no substantive factual discussion beyond identifying Lindamood's defamation claim against Michael Alan Taylor and the trial court's rulings on dismissal, attorneys' fees, sanctions, and costs.

PROCEDURAL HISTORY

The 348th District Court of Tarrant County entered an order on a motion to dismiss and an order concerning attorneys' fees, costs, expenses, and sanctions. On appeal and cross-appeal, the court of appeals affirmed part of the trial court's judgment, reversed the dismissal of Bobby Wayne Lindamood Jr.'s defamation claim against Michael Alan Taylor, reversed the attorneys'-fees, sanctions, and costs order, and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand Bobby Wayne Lindamood Jr.'s defamation claim against Michael Alan Taylor for further proceedings. Remand to the trial court the issue of attorneys' fees, sanctions, and court costs awardable to Jan Mogged and

James Richard Fletcher. The remainder of the order on the motion to dismiss is affirmed, and each party bears its own costs of the appeal.

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