

SUPREME COURT OF WYOMING

Jason Thornock v. PacifiCorp, an Oregon Company

2016 WY 93 (Wyo. 2016) · No. S-15-0108 · Decided September 13, 2016

SUMMARY

The Wyoming Supreme Court affirmed summary judgment for PacifiCorp in a dispute concerning electric service to Jason Thornock's irrigation pivot. The court held that a second service contract, which contained an express supersession clause, replaced the parties' first contract because both agreements concerned providing electric service to the same pivot. The court also concluded that the contracts did not incorporate particular easements or establish that the second service arrangement was temporary.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Kautz, Justice; Burke, C.J.; Hill, J.; Davis, J.; Fox, J.; Kautz, J.
JURISDICTION	Wyoming
DECIDED	September 13, 2016
DOCKET	S-15-0108
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order granting summary judgment to PacifiCorp on claims arising from alleged breach of a contract for electric service.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, using the same materials and standards as the district court, viewing the record in the light most favorable to the nonmoving party and giving that party the benefit of all favorable inferences. If the movant demonstrates that no genuine issue of material fact exists, the burden shifts to the nonmovant to present materials showing a genuine issue for trial.
PRECEDENTIAL VALUE	precedential
PARTIES	Jason Thornock v. PacifiCorp, an Oregon company

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QUESTIONS PRESENTED

1. Whether the second General Service Contract superseded the first contract under its express supersession clause.
2. Whether the parties' disagreement about the meaning of the contracts' subject matter created an ambiguity permitting consideration of extrinsic evidence.
3. Whether documents attached to the contracts concerning particular easements were incorporated into the contracts.

HOLDINGS

1. The second contract superseded the first because both contracts concerned the same subject matter—providing electric service to Thornock's irrigation pivot—and the second contract expressly replaced and superseded prior agreements concerning that subject matter.
2. Extrinsic evidence could not be used to add a temporary-service term or otherwise contradict the plain language of the unambiguous second contract.
3. The attached documents referring to the Esterholdt and Dayton Easements were not incorporated into the contracts because the contracts did not refer to or specifically incorporate them.

KEY QUOTATIONS

“Therefore, the first contract between Mr. Thornock and PacifiCorp has been superseded and PacifiCorp is not required to perform under the provisions of that agreement.” (¶ 22)

“Instead, these cases recognize the difference between providing evidence of the surrounding circumstances of a contract to give meaning to an unambiguous term as used at the time the contract was executed and providing extrinsic parol evidence to show a party’s subjective intent that is contrary to the language of the contract.” (¶ 20)

FACTUAL BACKGROUND

Thornock entered into a March 2010 General Service Contract with PacifiCorp to provide electricity to an irrigation pivot on his Cokeville, Wyoming property, with documents referring to the Esterholdt Easement. After the owners of that property challenged PacifiCorp's use of the easement, PacifiCorp returned Thornock's customer-paid costs. Thornock then signed a June 2010 second General Service Contract for electric service to the same irrigation pivot; that contract contained an express provision superseding prior agreements concerning the same subject matter, and PacifiCorp provided service over the Dayton Easement. After the Esterholdt easement dispute was resolved, Thornock sued based on the first contract.

PROCEDURAL HISTORY

Thornock sued PacifiCorp for breach of contract, breach of the duty of good faith and fair dealing, specific performance, damages, costs, and attorney fees. PacifiCorp moved for summary judgment, arguing, among other things, that a later service contract superseded the earlier contract. The district court granted summary judgment in all respects, and Thornock appealed. The Wyoming Supreme Court limited its review to whether the second contract superseded the first and affirmed.

DISPOSITION

affirmed

CASES CITED

- Esterholdt v. PacifiCorp, 2013 WY 64, 301 P.3d 1086 (Wyo. 2013)
- Snyder v. Lovercheck, 992 P.2d 1079, 1083 (Wyo. 1999)
- 40 North Corp. v. Morrell, 964 P.2d 423, 426 (Wyo. 1998)
- Roberts v. Klinkosh, 986 P.2d 153, 155 (Wyo. 1999)
- Downen v. Sinclair Oil Corp., 887 P.2d 515, 519 (Wyo. 1994)
- Rogers v. Wright, 2016 WY 10, ¶ 7, 366 P.3d 1264, 1269 (Wyo. 2016)
- Inman v. Boykin, 2014 WY 94, ¶ 20, 330 P.3d 275, 281 (Wyo. 2014)
- Claman v. Popp, 2012 WY 92, ¶¶ 26-28, 279 P.3d 1003, 1013 (Wyo. 2012)
- Doctors' Co. v. Insurance Corp. of America, 864 P.2d 1018, 1023 (Wyo. 1993)
- Union Pacific Resources Co. v. Texaco, Inc., 882 P.2d 212, 219-20 (Wyo. 1994)
- Prudential Preferred Properties v. J and J Ventures, 859 P.2d 1267, 1271 (Wyo. 1993)
- Sinclair Oil Corp. v. Republic Ins. Co., 929 P.2d 535, 539 (Wyo. 1996)
- Hunter v. Reece, 2011 WY 97, ¶ 17, 253 P.3d 497, 501-02 (Wyo. 2011)
- Pennaco Energy, Inc. v. KD Co. LLC, 2015 WY 152, ¶ 79, 363 P.3d 18, 38-39 (Wyo. 2015)
- Mullinnix LLC v. HKB Royalty Trust, 2006 WY 14, 126 P.3d 909 (Wyo. 2006)
- Ultra Resources, Inc. v. Hartman, 2010 WY 36, 226 P.3d 889 (Wyo. 2010)
- Ecosystem Resources, L.C. v. Broadbent Land & Resources, LLC, 2012 WY 49, 275 P.3d 413 (Wyo. 2012)
- Caballo Coal Co. v. Fidelity Exploration & Production Co., 2004 WY 6, ¶ 11, 84 P.3d 311, 314-17 (Wyo. 2004)
- Hickman v. Groves, 2003 WY 76, ¶¶ 11, 13, 71 P.3d 256, 259-60 (Wyo. 2003)
- Berthel Land and Livestock v. Rockies Express Pipeline LLC, 2012 WY 52, ¶¶ 15-24, 275 P.3d 423, 430-33 (Wyo. 2012)
- Longree, Ltd. v. Resource Control International, Inc., 755 P.2d 195, 204 (Wyo. 1988)