

SUPREME COURT OF WASHINGTON

Wachovia SBA Lending, Inc. v. Kraft

165 Wash. 2d 481 (2009) · Decided January 15, 2009

SUMMARY

The Washington Supreme Court held that a voluntary dismissal without prejudice under CR 41 is not a final judgment for purposes of RCW 4.84.330. Accordingly, the defendant was not a prevailing party entitled to attorney fees under a unilateral contractual attorney-fee provision. The court also held that the trial court properly declined to dismiss the action with prejudice and denied the plaintiff's request for appellate attorney fees.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	Stephens, J.; Alexander, C.J.; C. Johnson, J.; Madsen, J.; Sanders, J.; Chambers, J.; Owens, J.; Fairhurst, J.; J.M. Johnson, J.
JURISDICTION	Washington
DECIDED	January 15, 2009
DISPOSITION	affirmed
PROCEDURAL POSTURE	After Wachovia's summary-judgment motion was denied, it voluntarily dismissed its deficiency action without prejudice under CR 41(a)(1)(B). The trial court denied Kraft's request for dismissal with prejudice and attorney fees. The Court of Appeals reviewed the attorney-fee issue and ruled that Kraft was not a prevailing party; the Supreme Court granted review of both issues.
STANDARD OF REVIEW	The statutory interpretation issue under RCW 4.84.330 was reviewed de novo. Appealability of the dismissal was considered under RAP 1.2(c) in the interests of justice.
PRECEDENTIAL VALUE	Published Washington Supreme Court opinion; precedential.
PARTIES	Deanna Kraft v. Wachovia SBA Lending, Inc., doing business as Wachovia Small Business Capital

TOPICS

- attorney fees
- statutory interpretation
- contracts
- appellate procedure
- civil procedure

PRACTICE AREAS

Civil procedure

Appellate procedure

Contracts

Attorney fees

Commercial litigation

QUESTIONS PRESENTED

1. Whether the trial court should have dismissed Wachovia's voluntarily dismissed deficiency action with prejudice because the statute of limitations allegedly had expired.
2. Whether a defendant is a prevailing party entitled to attorney fees under RCW 4.84.330 when the plaintiff voluntarily dismisses an action without prejudice.
3. Whether Wachovia was entitled to attorney fees on appeal.

HOLDINGS

1. The trial court properly dismissed the action without prejudice because Kraft did not establish that the applicable statute of limitations had expired before Wachovia filed suit.
2. A voluntary dismissal without prejudice is not a final judgment rendered in the defendant's favor under RCW 4.84.330; therefore, Kraft was not a prevailing party entitled to attorney fees.
3. Wachovia was not entitled to attorney fees on appeal.

KEY QUOTATIONS

“By this well-accepted definition, a “voluntary dismissal” is not a final judgment.” (492)

“We hold that a voluntary dismissal is not a final judgment as contemplated under RCW 4.84.330, and Kraft is therefore not entitled to attorney fees.” (494)

FACTUAL BACKGROUND

In 1997, Randolph Kraft obtained a small business loan from Wachovia secured by a deed of trust on the Kraft family home. Deanna Kraft did not sign the promissory note but signed a personal guaranty and the deed of trust, which contained unilateral attorney-fee provisions favoring Wachovia. After the Krafts divorced, Randolph assumed the loan obligations and later filed bankruptcy; the North Carolina property was foreclosed in approximately 2004. Wachovia sued Deanna Kraft for the resulting deficiency, but after its summary-judgment motion was denied, Wachovia voluntarily dismissed the action without prejudice.

PROCEDURAL HISTORY

Wachovia sued Kraft in Pierce County Superior Court to recover a loan deficiency after foreclosure. Its motion for summary judgment was denied, and it voluntarily dismissed the action without prejudice on the first day of trial. The trial court denied Kraft's requests for dismissal with prejudice and attorney fees. The Court of Appeals affirmed in relevant part, and the Washington Supreme Court affirmed the Court of Appeals while rejecting portions of its reasoning.

DISPOSITION

affirmed

CASES CITED

- Munden v. Hazelrigg, 105 Wn.2d 39, 44, 711 P.2d 295 (1985)
- State v. Watson, 146 Wn.2d 947, 954, 51 P.3d 66 (2002)
- Brand v. Department of Labor & Industries, 139 Wn.2d 659, 667, 989 P.2d 1111 (1999)
- Touchette v. Northwest Mutual Insurance Co., 80 Wn.2d 327, 335, 494 P.2d 479 (1972)
- Marassi v. Lau, 71 Wn. App. 912, 918-19, 859 P.2d 605 (1993)
- Walji v. Candyco, Inc., 57 Wn. App. 284, 287-289, 787 P.2d 946 (1990)
- Allahyari v. Carter Subaru, 78 Wn. App. 518, 522-24, 897 P.2d 413 (1995)
- Andersen v. Gold Seal Vineyards, Inc., 81 Wn.2d 863, 868, 505 P.2d 790 (1973)
- In re Guardianship of Freitas, 58 Wn.2d 400, 363 P.2d 385 (1961)
- Hawk v. Branjes, 97 Wn. App. 776, 779-82, 986 P.2d 841 (1999)
- Beckman v. Wilcox, 96 Wn. App. 355, 359, 979 P.2d 890 (1999)
- State v. Taylor, 150 Wn.2d 599, 602, 80 P.3d 605 (2003)
- Wilson Court Ltd. Partnership v. Tony Moroni's, Inc., 134 Wn.2d 692, 710 n.4, 952 P.2d 590 (1998)