

SUPREME COURT OF MONTANA

Gibbs v. Altenhofen

376 Mont. 61 (2014) · Decided July 29, 2014

SUMMARY

The Montana Supreme Court reviewed summary judgment orders in a dispute involving alleged breaches of fiduciary duty by trustees of a family trust. The court held that claim preclusion, judicial estoppel, and issue preclusion barred most claims against the successor trustee, but reversed and remanded two claims concerning failure to act against the former trustee and allegedly excessive fees incurred after the prior litigation. The court affirmed dismissal of the claims against the former trustee as barred by the applicable three-year statute of limitations.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Justice Cotter; Cotter; Wheat; Baker; McKinnon; Rice
JURISDICTION	Montana
DECIDED	July 29, 2014
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Trust beneficiaries and trustees appealed orders granting defendants' motions for summary judgment on breach-of-fiduciary-duty claims. The Supreme Court of Montana affirmed in part and reversed and remanded in part.
STANDARD OF REVIEW	The Supreme Court reviews rulings on motions for summary judgment de novo. Summary judgment is proper when the pleadings, discovery materials, admissions, and affidavits show no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential.
PARTIES	Timothy Gibbs, Roderick Gibbs, L.H. “Lee” Gibbs, L.H. “Lee” Gibbs and Reginald Gibbs, as trustees of the R’Delle Gibbs Family Trust v. James Altenhofen, Delwin Nordtvedt, CHMS, P.C.

TOPICS

- trust administration
- trustee duties
- breach of trust
- summary judgment
- res judicata

PRACTICE AREAS

Trusts

Civil procedure

Appellate procedure

Torts

QUESTIONS PRESENTED

1. Whether claim preclusion barred the Gibbs' claims against Nordtvedt.
2. Whether judicial estoppel barred claims concerning the propriety of the ranch sale, excessive fees, and alleged conflicts of interest.
3. Whether issue preclusion barred claims concerning the propriety of the ranch sale and information used in the sale.
4. Whether the claims against Altenhofen were barred by the applicable three-year statute of limitations.

HOLDINGS

1. Claim preclusion barred the Gibbs' claims that Nordtvedt breached fiduciary duties by approving the ranch sale, seeking court approval, misrepresenting the ranch's profitability to obtain approval, relinquishing the Farm Service Administration arrangement, and acting despite an alleged conflict of interest.
2. Claim preclusion did not bar the claim that Nordtvedt failed to take action against Altenhofen or the claim concerning excessive fees charged during the ten months after the 2005 litigation.
3. Judicial estoppel barred the current trustees' claims that the ranch sale was improper, that excessive fees were charged, and that use of confidential information created a conflict of interest.
4. Issue preclusion barred some of the Gibbs' claims concerning the propriety of the ranch sale and information used in the sale.
5. The claims against Altenhofen were barred by the three-year statute of limitations in Montana Code Annotated § 72-34-511(1)(b), measured from when the Gibbs discovered or reasonably should have discovered the claim.

KEY QUOTATIONS

“The doctrine of claim preclusion (res judicata) bars the relitigation of a claim that a party has already had an opportunity to litigate or that the party could have litigated in the first action.” (65)

“Judicial estoppel precludes a party to an action or proceeding from taking a position inconsistent with the party’s previous judicial declarations.” (68)

“Once a court decides an issue of fact or law necessary to its judgment, that decision precludes relitigation of the same issue in a different cause of action between the same parties under the doctrine of issue preclusion (collateral estoppel).” (68-69)

FACTUAL BACKGROUND

R’Delle Gibbs placed her one-half interest in a Dawson County ranch into a family trust, with the property to be divided between Tim and Rod if specified profitability conditions were met. Altenhofen served as trustee

beginning in 2001 and was removed in 2005, after which Nordtvedt, a certified public accountant with CHMS, became successor trustee. Nordtvedt sought judicial confirmation of his authority to sell the trust's property, and the Gibbs asserted fiduciary-duty cross-claims in that earlier litigation; the court granted Nordtvedt summary judgment in 2006. The Gibbs later alleged that Nordtvedt and Altenhofen breached fiduciary duties through the sale, conflicts of interest, excessive fees, and misappropriation or misuse of trust property.

PROCEDURAL HISTORY

The Gibbs previously litigated claims and cross-claims concerning Nordtvedt's authority to sell trust property in Yellowstone County District Court. That court granted Nordtvedt summary judgment in 2006, and the Gibbs did not seek postjudgment relief or appeal. The Gibbs then filed this action in Dawson County District Court in 2008, alleging breach of fiduciary duty against Altenhofen, Nordtvedt, and CHMS. The District Court granted summary judgment to Nordtvedt based on claim preclusion, judicial estoppel, and issue preclusion, and granted summary judgment to Altenhofen based on the statute of limitations.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings on the two Nordtvedt claims not barred by claim preclusion: failure to take action against Altenhofen and excessive fees charged during the ten months after the 2005 litigation. The summary judgments were affirmed in all other respects.

CASES CITED

- Dewey v. Stringer, 2014 MT 136, 375 Mont. 176, 325 P.3d 1236
- Brilz v. Metropolitan General Insurance Co., 2012 MT 184, 366 Mont. 78, 285 P.3d 494
- Wamsley v. Nodak Mutual Insurance Co., 2008 MT 56, 341 Mont. 467, 178 P.3d 102
- Vogel v. Intercontinental Truck Body, Inc., 2006 MT 131, 332 Mont. 322, 137 P.3d 573
- McDaniel v. State, 2009 MT 159, 350 Mont. 422, 208 P.3d 817
- Blonder-Tongue Laboratories, Inc. v. University of Illinois Foundation, 402 U.S. 313, 91 S. Ct. 1434 (1971)