

SUPREME COURT OF MISSOURI

Western Blue Print Co. v. Roberts

367 S.W.3d 7 (Mo. banc 2012) · Decided April 17, 2012

SUMMARY

The Missouri Supreme Court reviewed a jury verdict against former employees and affiliated entities involving alleged breach of fiduciary duty, tortious interference with a business expectancy, computer tampering, and civil conspiracy. The court held that the employee, an at-will division vice president who was neither an officer nor director and was not subject to a non-compete agreement, did not owe Western Blue a fiduciary duty under the circumstances. The judgment was affirmed in part, reversed in part, and remanded.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	George W. Draper III; Ronald B. Russell; Patricia Breckenridge; Zel M. Fischer; Richard B. Teitelman; Michael W. Stith; Atwell, Special Judge
JURISDICTION	Missouri
DECIDED	April 17, 2012
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appellants appealed from a circuit court judgment entered after a jury verdict awarding Western Blue damages on claims including breach of fiduciary duty, tortious interference with a valid business expectancy, computer tampering, and civil conspiracy. The Supreme Court of Missouri granted transfer after an intermediate appellate court opinion and reviewed the circuit court's denial of directed-verdict and JNOV motions and its award of attorneys' fees.
STANDARD OF REVIEW	The denial of a motion for JNOV is reviewed under essentially the same standard as denial of a motion for directed verdict. The evidence is viewed in the light most favorable to the verdict, with the plaintiff receiving the benefit of all reasonable inferences. Reversal for insufficient evidence is warranted only when there is a complete absence of probative facts supporting the jury's conclusion. The attorneys' fee award is reviewed for abuse of discretion.

PRECEDENTIAL VALUE	Published Missouri Supreme Court opinion; binding precedent in Missouri.
PARTIES	Myrna Roberts, Mel Roberts, DocuCopy, LLC, Graystone Properties LLC v. Western Blue Print Company LLC

TOPICS

breach of fiduciary duty duty of loyalty intentional interference with expectancy commercial litigation
appellate procedure

PRACTICE AREAS

corporate law commercial litigation employment law torts remedies appellate procedure

QUESTIONS PRESENTED

1. Whether Myrna Roberts, an at-will division vice president who was neither an officer nor director and was not subject to a noncompete agreement, owed Western Blue a fiduciary duty.
2. Whether Western Blue presented sufficient evidence of a valid business expectancy and improper means to support its tortious-interference claim concerning renewal of the University of Missouri contract.
3. Whether substantial evidence supported the computer-tampering verdict based on deletion and copying of Western Blue's electronic data.
4. Whether substantial evidence supported the civil-conspiracy verdict against Mel Roberts.
5. Whether the circuit court abused its discretion by awarding attorneys' fees for the computer-tampering claim without improperly awarding fees for unrelated claims.

HOLDINGS

1. An at-will employee who is not an officer, director, partner, or member of a limited liability company, is not subject to a noncompete agreement, and does not have a qualifying confidential relationship does not owe the employer a fiduciary duty under the circumstances presented.
2. Western Blue presented substantial evidence of a valid business expectancy in renewal of the university contract and of improper means used by Myrna to interfere with that expectancy; the denial of directed verdict and JNOV was proper.
3. The evidence permitted a reasonable inference that Myrna knowingly deleted and copied Western Blue's computer data without authorization, supporting the computer-tampering verdict.
4. The evidence supported a civil-conspiracy claim against Mel because he acted with Myrna pursuant to an unlawful objective and committed acts in furtherance of tortious interference with Western Blue's business expectancy.
5. The circuit court did not abuse its discretion by awarding Western Blue \$224,489.18 in attorneys' fees attributable to the computer-tampering claim after attempting to segregate fees from other claims.

KEY QUOTATIONS

“An employee may leave his [or her] employment and establish a new enterprise in competition with the former employer, absent a valid restrictive covenant therefor, or breach of a confidential relationship, and in connection therewith utilize his [or her] knowledge, memory, skill and experience gained in former employment.” (17)

“However, “a breach arises when the employee goes beyond the mere planning and preparation and actually engages in direct competition, which by definition, is to gain advantage over a competitor.”” (17)

“Improper means are those that are independently wrongful, such as threats, violence, trespass, defamation, misrepresentation of fact, restraint of trade, or any other wrongful act recognized by statute or the common law.” (20)

“Thus, there was substantial evidence that Myrna knowingly deleted and/or copied computer data from Western Blue without authorization.” (22)

FACTUAL BACKGROUND

Myrna Roberts worked for Western Blue Print from 1999 until March 2006, eventually becoming a division vice president responsible for the Columbia branch and for managing Western Blue's University of Missouri contract. While still employed, Myrna and Mel Roberts formed and operated DocuCopy, a reprographics business that became Western Blue's subcontractor and later competed for renewal of the university contract. Myrna and Mel recruited Western Blue employees, concealed their interests in DocuCopy, and Myrna left with deleted or copied business information on a laptop and compact discs. DocuCopy won the renewal bid, Western Blue lost related business, and Western Blue closed its Columbia branch.

PROCEDURAL HISTORY

Western Blue filed a nine-count petition against the appellants. The jury returned verdicts for Western Blue on each submitted claim and awarded \$600,000; the circuit court later awarded \$224,489.18 in attorneys' fees under section 537.525.2. The circuit court denied appellants' motions for JNOV and a new trial. The Supreme Court reversed the judgment on the fiduciary-duty claim, affirmed the judgment in all other respects, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the circuit court's judgment finding that Myrna owed Western Blue a fiduciary duty. Affirm the judgment in all other respects, including the tortious-interference, computer-tampering, and civil-conspiracy findings and the attorneys' fee award, and remand for proceedings consistent with the opinion.

CASES CITED

- All American Painting, LLC v. Financial Solutions and Associates, Inc., 315 S.W.3d 719, 720 (Mo. banc 2010)

- Klotz v. St. Anthony's Medical Center, 311 S.W.3d 752, 769 (Mo. banc 2010)
- Moore v. Ford Motor Co., 332 S.W.3d 749, 756 (Mo. banc 2011)
- Investors Title Co. v. Hammonds, 217 S.W.3d 288, 299 (Mo. banc 2007)
- Keveney v. Missouri Military Academy, 304 S.W.3d 98, 104 (Mo. banc 2010)
- Zakibe v. Ahrens & McCarron, Inc., 28 S.W.3d 373, 381 (Mo. App. E.D. 2000)
- Scanwell Freight Express STL, Inc. v. Chan, 162 S.W.3d 477, 479-81 (Mo. banc 2005)
- National Rejectors, Inc. v. Trieman, 409 S.W.2d 1, 22, 27, 37, 39, 41, 51 (Mo. banc 1966)
- Restatement (Third) of Agency § 8.01
- Gieselmann v. Stegeman, 443 S.W.2d 127, 136 (Mo. 1969)
- Waters v. G & B Feeds, Inc., 306 S.W.3d 138, 146 (Mo. App. S.D. 2010)
- Walter E. Zemitzsch v. Harrison, 712 S.W.2d 418, 420-22 (Mo. App. E.D. 1986)
- Opie Brush Company v. Bland, 409 S.W.2d 752 (Mo. App. 1966)
- Continental Research Corp. v. Scholz, 595 S.W.2d 396, 401 (Mo. App. E.D. 1980)
- Healthcare Services of the Ozarks, Inc. v. Copeland, 198 S.W.3d 604, 614 (Mo. banc 2006)
- Londoff v. Walnut Street Securities, Inc., 209 S.W.3d 3, 9 (Mo. App. E.D. 2006)
- BMK Corp. v. Clayton Corp., 226 S.W.3d 179, 190 (Mo. App. E.D. 2007)
- Stehno v. Sprint Spectrum, L.P., 186 S.W.3d 247, 251-52 (Mo. banc 2006)
- Sloan v. Bankers Life & Casualty Co., 1 S.W.3d 555, 565 (Mo. App. W.D. 1999)
- Envirotech, Inc. v. Thomas, 259 S.W.3d 577, 590 (Mo. App. E.D. 2008)
- Downey v. McKee, 218 S.W.3d 492, 497 (Mo. App. W.D. 2007)
- Rice v. Hodapp, 919 S.W.2d 240, 245 (Mo. banc 1996)
- Breeden v. Hueser, 273 S.W.3d 1, 13 (Mo. App. W.D. 2008)
- 8000 Maryland, LLC v. Huntleigh Financial Services, Inc., 292 S.W.3d 439, 451 (Mo. App. E.D. 2009)
- Royster v. Baker, 365 S.W.2d 496, 499 (Mo. 1963)
- Oak Bluff Partners, Inc. v. Meyer, 3 S.W.3d 777, 781 (Mo. banc 1999)
- Lyn-Flex West, Inc. v. Dieckhaus, 24 S.W.3d 693, 700-01 (Mo. App. E.D. 1999)
- Mihlfeld & Associates, Inc. v. Bishop & Bishop, L.L.C., 295 S.W.3d 163, 176 (Mo. App. S.D. 2009)
- O'Brien v. B.L.C. Insurance Co., 768 S.W.2d 64, 71 (Mo. banc 1989)
- Howard v. City of Kansas City, 332 S.W.3d 772, 792 (Mo. banc 2011)
- Essex Contracting, Inc. v. Jefferson County, 277 S.W.3d 647, 656 (Mo. banc 2009)
- Nelson v. Hotchkiss, 601 S.W.2d 14, 21 (Mo. banc 1980)
- Russell v. Russell, 210 S.W.3d 191, 199 (Mo. banc 2007)