

SUPREME COURT OF COLORADO

In re Barbara J. Morgan v. The Genesee Company, LLC; Horseshoe Lake Investors, LLC; The Genesee Company/Horseshoe Lake Investors, LLC; Kathryn A. Fox; Dale Martin; and Gerald J. Forro

86 P.3d 388 (Colo. 2004) · No. 03SA276 · Decided March 15, 2004

SUMMARY

The Colorado Supreme Court reviews, through an original proceeding under C.A.R. 21, a trial court order entering judgment for the amount of damages stated in the plaintiff's initial disclosure, despite her objection. The court holds that initial damage disclosures under C.R.C.P. 26(a)(1)(C), which are based on information then known and remain subject to supplementation under C.R.C.P. 26(e), do not bind a plaintiff to a specific damages amount absent misleading conduct or other circumstances supporting such treatment. The court makes the rule absolute and directs the trial court to deny the defendants' motion for judgment.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Martinez; Martinez
JURISDICTION	Colorado
DECIDED	March 15, 2004
DOCKET	03SA276
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original proceeding under C.A.R. 21 seeking extraordinary relief from a trial court order that entered judgment against defendants for the amount of damages stated in Morgan's initial disclosure statement, over Morgan's objection.
STANDARD OF REVIEW	Under C.A.R. 21, the Colorado Supreme Court may exercise original jurisdiction to review whether a trial court abused its discretion when an appeal would provide an inadequate remedy. Discovery-related matters are ordinarily reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Colorado; precedential.
PARTIES	Barbara J. Morgan v. The Genesee Company, LLC, Horseshoe Lake Investors, LLC, The Genesee Company/Horseshoe Lake Investors,

TOPICS

writ of certiorari discovery dispute civil procedure appellate procedure remedies

PRACTICE AREAS

civil procedure appellate procedure remedies contracts

QUESTIONS PRESENTED

1. Whether a trial court may enter judgment against defendants for the specific amount of damages stated in a plaintiff's initial disclosure under C.R.C.P. 26(a)(1)(C), over the plaintiff's objection.
2. Whether a plaintiff's initial disclosure becomes binding merely because the plaintiff did not expressly label the damages computation as an estimate.
3. Whether the Colorado Supreme Court should exercise original jurisdiction under C.A.R. 21 to review the trial court's order.

HOLDINGS

1. A trial court may not enter judgment for the amount stated in a plaintiff's initial damages disclosure over the plaintiff's objection when the disclosure was based on information then known and reasonably available and remained subject to timely supplementation.
2. The defendants' motion was neither an enforceable offer of judgment nor an offer of settlement that authorized the court to impose judgment over Morgan's objection.
3. The court properly exercised original jurisdiction because the trial court's order exceeded its authority over pretrial discovery and effectively imposed a settlement, creating a significant disadvantage for which an appeal would provide an inadequate remedy.

KEY QUOTATIONS

"As such, C.R.C.P. 26(e) is not designed to bind a party to their initial disclosures pursuant to C.R.C.P. 26(a)(1)." (396)

"Given the purposes behind C.R.C.P. 26(a)(1)(C) and C.R.C.P. 26(e), we cannot agree that continuing disclosures can be frozen in time to force settlement." (396-397)

"Hence, the trial court abused its discretion and its order of May 9, 2003 was in error." (397)

FACTUAL BACKGROUND

Morgan sued several defendants after flooding damaged her property, asserting contract, negligence, fraud, and consumer-protection claims. Her complaint did not specify monetary damages, but her initial disclosure stated that she had incurred \$24,041.75 in damages and expressly noted that the disclosures were based on information then known and reasonably available and could be updated. Repair work had not been completed, and the stated

amount was based on contractor and engineering estimates. Despite Morgan's objection, the trial court entered judgment for that amount against two defendants.

PROCEDURAL HISTORY

Morgan filed claims arising from flooding on her property. Defendants moved for judgment in the amount of \$24,041.75, the damages computation in Morgan's initial disclosure statement. The trial court initially granted the motion, vacated that order after Morgan objected, then reinstated the judgment and denied reconsideration. Morgan sought relief in the Colorado Supreme Court under C.A.R. 21.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The rule is made absolute, and the trial court is directed to deny the defendants' joint motion for judgment that it previously granted.

CASES CITED

- Silva v. Basin W., Inc., 47 P.3d 1184, 1187-88 (Colo. 2002)
- Leaffer v. Zarlengo, 44 P.3d 1072, 1077 (Colo. 2002)
- Todd v. Bear Valley Vill. Apartments, 980 P.2d 973, 975 (Colo. 1999)
- Hamon Contractors, Inc. v. Dist. Court, 877 P.2d 884, 887 (Colo. 1994)
- Bond v. Dist. Court, 682 P.2d 33, 36, 40 (Colo. 1984)
- Sanchez v. Dist. Court, 624 P.2d 1314, 1316-17 (Colo. 1981)
- J.P. v. Dist. Court, 873 P.2d 745, 750 (Colo. 1994)
- Williams v. Dist. Court, 866 P.2d 908, 911 (Colo. 1993)
- Hildyard v. W. Fasteners, Inc., 33 Colo. App. 396, 522 P.2d 596, 598 (1974)
- Centric-Jones Co. v. Hufnagel, 848 P.2d 942, 947 (Colo. 1993)
- Phillips v. Carson, 240 Kan. 462, 731 P.2d 820, 831 (1987)
- In re Estate of Redpath, 224 Neb. 845, 402 N.W.2d 648, 652 (1987)
- Gleason v. Guzman, 623 P.2d 378, 382 (Colo. 1981)