

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Matthew Bender & Co. v. West Publishing Co.

41 F. App'x 507 (2d Cir. 2002) · Decided July 17, 2002

SUMMARY

The Second Circuit reversed an award of \$813,824.25 in attorneys’ fees and costs to Hyperlaw in a copyright dispute involving West Publishing’s judicial-opinion products. The court held that the evidence was insufficient to support the district court’s finding that West conducted the litigation in bad faith, although certain false denials might have supported a narrower finding concerning a motion to dismiss.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
JURISDICTION	Federal
DECIDED	July 17, 2002
DISPOSITION	reversed
PROCEDURAL POSTURE	West appealed a district court judgment awarding intervenor-plaintiff Hyperlaw \$813,824.25 in attorneys' fees and costs under the Copyright Act. The Second Circuit reviewed the district court's finding of bad faith for clear error.
STANDARD OF REVIEW	The district court's finding of bad faith is reviewed for clear error; factual findings unsupported by sufficient evidence are clearly erroneous.
PRECEDENTIAL VALUE	The opinion is a per curiam summary order reported in the Federal Appendix and concerns application of clear-error review and the bad-faith basis for copyright fee awards.
PARTIES	West Publishing Co., West Publishing Corporation v. Hyperlaw Inc.

TOPICS

- copyright law
- remedies
- appellate procedure
- standard of review
- commercial litigation

PRACTICE AREAS

- copyright law
- remedies
- appellate procedure
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QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support the district court's finding that West acted in bad faith throughout the litigation.
2. Whether West's efforts to avoid adjudication, settlement with a competitor, and false denials of litigation threats established subjective bad faith sufficient to support an award of attorneys' fees and costs.

HOLDINGS

1. The evidence cited by the district court was insufficient to support its finding that West's conduct of the entire litigation was in bad faith; the finding was clearly erroneous.
2. The judgment awarding Hyperlaw \$813,824.25 in attorneys' fees and costs was reversed.

KEY QUOTATIONS

“Neither a desire to avoid having an issue decided nor a settlement of an action leads inexorably to the conclusion that the party seeking to avoid adjudication does not believe its claims have merit.” (at 509)

“In sum, we hold that Hyperlaw failed to adduce sufficient evidence that West’s conduct of the entire litigation was in bad faith, and that, therefore, the District Court’s finding of bad faith was clearly erroneous.” (at 510)

FACTUAL BACKGROUND

West asserted copyright protection in judicial opinions and disputed Hyperlaw's allegedly infringing activities. The district court relied on West's alleged threats of litigation, efforts to prevent adjudication of the copyright issues, settlement of claims involving Matthew Bender, and false denials of threats to conclude that West acted in bad faith. Hyperlaw did not link specific bad-faith acts to discrete costs, so the district court assessed whether West's conduct of the entire litigation was in bad faith.

PROCEDURAL HISTORY

The dispute had previously reached the Second Circuit three times. In Hyperlaw III, the court vacated an identical fee award and remanded for clarification of the conduct supporting the award. On remand, the district court again found that West acted in bad faith throughout the litigation and awarded Hyperlaw its attorneys' fees and costs. The Second Circuit reversed because the evidence was insufficient to support the finding of bad faith.

DISPOSITION

reversed

CASES CITED

- Matthew Bender & Co. v. West Publ'g Co., 158 F.3d 674 (2d Cir. 1998)
- Matthew Bender & Co. v. West Publ'g Co., 158 F.3d 693 (2d Cir. 1998)
- Matthew Bender & Co. v. West Publ'g Co., 240 F.3d 116 (2d Cir. 2001)
- Matthew Bender & Co. v. West Publ'g Co., No. 94 Civ. 0589, 2001 WL 740781 (S.D.N.Y. July 2, 2001)

- West Publ'g Co. v. Mead Data Cent., Inc., 799 F.2d 1219 (8th Cir. 1986)
- Feist Publications, Inc. v. Rural Telephone Service Co., 499 U.S. 340, 111 S. Ct. 1282, 113 L. Ed. 2d 358 (1991)
- Sierra Club v. United States Army Corps of Engineers, 776 F.2d 383, 390 (2d Cir. 1985)
- United States v. Barone, 913 F.2d 46, 51 (2d Cir. 1990)

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