

SUPREME COURT OF MISSISSIPPI

Georgia Pacific Corporation v. Cook Timber Company, Inc.

194 So. 3d 118 (Miss. 2016) · No. 2013-CA-01869-SCT · Decided June 30, 2016

SUMMARY

The Supreme Court of Mississippi denied rehearing, withdrew its prior opinions, and substituted this opinion. The court reversed and rendered judgment against Cook Timber on its unilateral antitrust claim, affirmed the directed verdict on its conspiracy claim, and reversed and remanded for a new trial on its breach-of-contract claim. The court held that Cook Timber presented insufficient evidence of unilateral antitrust violations or an antitrust agreement, but sufficient evidence that Georgia Pacific may have breached the contract by improperly culling timber and failing to provide required scale-ticket information.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Dickinson, Presiding Justice; Waller, C.J.; Dickinson, P.J.; Randolph, P.J.; Lamar, J.; Coleman, J.; Maxwell, J.; King, J.; Kitchens, J.
JURISDICTION	Mississippi
DECIDED	June 30, 2016
DOCKET	2013-CA-01869-SCT
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Georgia Pacific appealed a jury verdict awarding Cook Timber actual and punitive damages on a unilateral antitrust claim. Cook Timber cross-appealed directed verdicts entered against its breach-of-contract and conspiracy claims. The opinion was issued on rehearing, with the prior opinions withdrawn and substituted.
STANDARD OF REVIEW	Directed-verdict rulings are reviewed de novo. The evidence is viewed in the light most favorable to the nonmoving party, with all favorable inferences drawn in that party's favor; the motion is proper when no reasonable juror could find for the nonmoving party.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; precedential
PARTIES	Georgia Pacific Corporation v. Cook Timber Company, Inc.

TOPICS

breach of contract

commercial litigation

statutory interpretation

appellate procedure

standard of review

PRACTICE AREAS

Contract law

Antitrust

Commercial litigation

Appellate procedure

QUESTIONS PRESENTED

1. Whether Cook Timber presented sufficient evidence to support its unilateral antitrust claim under Mississippi Code Section 75-21-3.
2. Whether Cook Timber presented sufficient evidence of an agreement or combination sufficient to support its conspiracy-based antitrust claim under Mississippi Code Section 75-21-1.
3. Whether the circuit court erred by directing a verdict against Cook Timber on its breach-of-contract claim.
4. Whether the failure to provide statutorily required information on timber scale tickets created a rebuttable presumption that Georgia Pacific improperly docked the wood.

HOLDINGS

1. Cook Timber failed to present sufficient evidence that Georgia Pacific violated Section 75-21-3 through monopolization, restraint of trade, engrossing, or forestalling. Georgia Pacific's efforts to purchase timber at the lowest possible price and stockpile timber for its own operations did not, on the proof presented, establish a statutory antitrust violation.
2. The circuit court properly directed a verdict for Georgia Pacific on Cook Timber's conspiracy claim because Cook Timber presented insufficient evidence of an express or implied agreement among market participants.
3. The circuit court erred by directing a verdict for Georgia Pacific on Cook Timber's breach-of-contract claim. The evidence was sufficient for a reasonable jury to find that Georgia Pacific culled and retained wood for reasons other than failure to meet contractual quality specifications.

KEY QUOTATIONS

“The motion should be granted where, taking all evidence in favor of the nonmoving party as true and drawing all favorable inferences from that evidence, no reasonable juror could find that the evidence supports a verdict in favor of that party.” (¶ 19)

“While a showing of parallel “business behavior is admissible circumstantial evidence from which the fact finder may infer agreement,” it falls short of “conclusively establishing agreement or . . . itself constituting a Sherman Act offense.”” (¶ 20)

“Under the contract, Georgia Pacific had a right to cull and keep wood without payment, but only when the wood failed to meet its quality specifications.” (¶ 29)

FACTUAL BACKGROUND

Cook Timber, a Mississippi logging company, contracted with Georgia Pacific in 1983 and worked exclusively with it until 2000, delivering most of its wood to Georgia Pacific mills in southeast Mississippi. In March 2000, Georgia Pacific notified Cook Timber that its Leaf River Pulp Mill would no longer accept Cook Timber's pine pulpwood. Cook Timber alleged that Georgia Pacific's pricing, supplier-selection, inventory, and wood-culling practices violated Mississippi antitrust law and breached the parties' contract. The contract permitted Georgia Pacific to cull and retain wood without payment only when the wood failed to meet specified quality requirements, while the scale tickets admitted at trial omitted required information about deductions.

PROCEDURAL HISTORY

Cook Timber sued Georgia Pacific for breach of contract and unilateral and conspiracy-based antitrust violations arising from Georgia Pacific's timber purchasing and pricing practices. The circuit court granted Georgia Pacific directed verdicts on the contract and conspiracy claims, while the jury returned a verdict for Cook Timber on the unilateral antitrust claim and awarded actual and punitive damages. The Supreme Court of Mississippi reversed and rendered judgment for Georgia Pacific on the unilateral antitrust claim, affirmed the directed verdict on the conspiracy claim, and reversed and remanded the contract claim for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for a new trial on Cook Timber's breach-of-contract claim. Judgment is rendered for Georgia Pacific on the unilateral antitrust claim, and the directed verdict on the conspiracy claim remains affirmed. The majority did not decide the expert-testimony, jury-instruction, or antitrust punitive-damages issues because it reversed the unilateral antitrust verdict.

CASES CITED

- Brown v. Staple Cotton Coop. Ass'n, 132 Miss. 859, 96 So. 849, 854 (1923)
- Yazoo & M.V.R. Co. v. Crawford, 107 Miss. 355, 65 So. 462 (1914)
- Barataria Canning Co. v. Jouliau, 80 Miss. 555, 31 So. 961, 962 (1902)
- Solanki v. Ervin, 21 So. 3d 552, 556, 559 (Miss. 2009)
- Pierce v. Cook, 992 So. 2d 612, 616 (Miss. 2008)
- Pace v. Fin. Sec. Life, 608 So. 2d 1135, 1138 (Miss. 1992)
- White v. Thomason, 310 So. 2d 914, 916-17 (Miss. 1975)
- Wagley v. Colonial Baking Co., 208 Miss. 815, 856, 45 So. 2d 717, 725 (1950)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 553-54, 127 S. Ct. 1955, 1964, 167 L. Ed. 2d 929 (2007)
- Theatre Enters., Inc. v. Paramount Film Distrib. Corp., 346 U.S. 537, 540-41, 74 S. Ct. 257, 98 L. Ed. 273 (1954)
- Brooke Grp. Ltd. v. Brown & Williamson Tobacco Corp., 509 U.S. 209, 227, 113 S. Ct. 2578, 125 L. Ed. 2d 168 (1993)

- DeLaughter v. Lawrence Cty. Hosp., 601 So. 2d 818, 821-22 (Miss. 1992)
- T.C.B. Constr. Co. v. W.C. Fore Trucking, Inc., 134 So. 3d 701, 704-05 (Miss. 2013)
- Pursue Energy Corp. v. Abernathy, 77 So. 3d 1094, 1101 (Miss. 2011)
- Standard Life Ins. Co. of Indiana v. Veal, 354 So. 2d 239, 247 (Miss. 1977)
- Snowden v. Osborne, 269 So. 2d 858 (Miss. 1972)
- C&C Trucking Co. v. Smith, 612 So. 2d 1092 (Miss. 1992)
- Mississippi Power & Light Co. v. Cook, 832 So. 2d 474, 478, 486 (Miss. 2002)
- Andrew Jackson Life Ins. Co. v. Williams, 566 So. 2d 1172, 1190 (Miss. 1990)
- United American Ins. Co. v. Merrill, 978 So. 2d 613, 636 (Miss. 2007)
- Employers Mut. Cas. Co. v. Tompkins, 490 So. 2d 897 (Miss. 1986)
- Independent Life & Accident Ins. Co. v. Peavy, 528 So. 2d 1112 (Miss. 1988)
- State Farm Mut. Auto. Ins. Co. v. Grimes, 722 So. 2d 637 (Miss. 1998)
- TXO Prod. Corp. v. Alliance Res. Corp., 509 U.S. 443, 113 S. Ct. 2711, 125 L. Ed. 2d 366 (1993)
- BMW of North America, Inc. v. Gore, 517 U.S. 559, 575, 580-84, 116 S. Ct. 1589, 134 L. Ed. 2d 809 (1996)
- Village Food & Liquor Mart v. H&S Petroleum, Inc., 647 N.W.2d 177, 184 & nn. 8, 10 (Wis. 2002)
- Bell v. Morrison, 27 Miss. 68 (1854)