

SUPREME COURT OF NEBRASKA

Thompson v. Johnson

299 Neb. 819 (2018) · No. S-17-445 · Decided May 4, 2018

SUMMARY

The Nebraska Supreme Court affirmed summary judgment for Aaron and Shawna Johnson in Kim Thompson’s tortious interference with a business relationship action. The court held that the Johnsons provided truthful information to Millard Public Schools, making their alleged interference unjustified as a matter of law, and therefore did not reach whether their communications caused Thompson’s termination.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Luther, District Judge; Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Stacy, J.; O’Gorman, District Judge; Funke, J., participating on briefs
JURISDICTION	Nebraska
DECIDED	May 4, 2018
DOCKET	S-17-445
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the district court's affirmance of the county court's grant of summary judgment dismissing a tortious-interference claim with prejudice.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The appellate court determines whether the pleadings and admitted evidence show no genuine issue of material fact or ultimate inference and whether the moving party is entitled to judgment as a matter of law. Evidence is viewed in the light most favorable to the nonmoving party, which receives the benefit of all reasonable inferences.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential
PARTIES	Kim M. Thompson v. Aaron M. Johnson, Shawna L. Johnson

TOPICS

intentional interference with expectancy

summary judgment

standard of review

appellate procedure

civil procedure

PRACTICE AREAS

Tortious interference

Employment law

Summary judgment

Appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence created a genuine issue of material fact as to whether the Johnsons' interference with Thompson's employment relationship was unjustified.
2. Whether the evidence created a genuine issue of material fact as to whether the Johnsons' communications caused Thompson's loss of employment.
3. Whether summary judgment was proper on Thompson's tortious-interference claim.

HOLDINGS

1. A person does not incur liability for tortiously interfering with a business relationship by providing truthful information to the other party to that relationship. Because the Johnsons provided truthful information to Millard Public Schools, their communications were not unjustified.
2. To prevail on a claim for tortious interference with a business relationship or expectancy, a plaintiff must prove a valid business relationship or expectancy, the interferer's knowledge of it, an unjustified intentional act of interference, causation of the harm, and resulting damage.
3. Once the moving party makes a prima facie showing for summary judgment, the burden shifts to the opposing party to produce admissible contradictory evidence establishing a genuine material factual issue.

KEY QUOTATIONS

“However, if the information provided is truthful, the interference is not unjustified.” (829-830)

“Such interference is not improper, even if the facts are marshaled in such a way that they speak for themselves and the person to whom the information is given immediately recognizes them as a reason for breaking a contract or refusing to deal with another.” (830)

“In sum, Kim failed to meet her burden to produce admissible contradictory evidence creating a material issue of fact to rebut Aaron and Shawna’s prima facie case; and the district court did not err in affirming the county court’s order granting summary judgment in favor of Aaron and Shawna.” (833)

FACTUAL BACKGROUND

Kim Thompson, an employee of Millard Public Schools, had an affair with Aaron Johnson, an independent contractor for the school district. After the affair ended, continued contacts and social-media communications between Thompson and the Johnsons led Shawna Johnson to report concerns and provide documentation to the school district. The district investigated Thompson's conduct, placed her on administrative leave, and terminated

her employment after concluding that she had engaged in insubordination, unprofessional conduct, and continued escalation of the conflict. Thompson alleged that the Johnsons' communications tortiously interfered with her employment relationship.

PROCEDURAL HISTORY

Kim Thompson sued Aaron and Shawna Johnson in the Douglas County Court, alleging tortious interference with her business relationship with Millard Public Schools. The county court granted the defendants' motion for summary judgment and dismissed the complaint with prejudice. The Douglas County District Court affirmed, and the Nebraska Supreme Court affirmed the district court's order.

DISPOSITION

affirmed

CASES CITED

- Benard v. McDowall, LLC, 298 Neb. 398, 904 N.W.2d 679 (2017)
- Recio v. Evers, 278 Neb. 405, 771 N.W.2d 121 (2009)
- Sulu v. Magana, 293 Neb. 148, 879 N.W.2d 674 (2016)