SUPREME COURT OF COLORADO

State ex rel. Coffman v. Castle Law Group, LLC

2016 CO 54 (2016) · No. 16SA8 · Decided July 5, 2016

SUMMARY

The Colorado Supreme Court held that disclosure of a price does not automatically insulate a party from a deceptive-trade-practice claim under the Colorado Consumer Protection Act. The court ruled that evidence of market rates charged by unaffiliated vendors was directly relevant to whether foreclosure-related costs invoiced by the defendants were actual or reasonable. It therefore made the rule absolute and remanded after reversing the trial court's exclusion of market-rate testimony.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Márquez; Justice Gabriel; Justice Hood
JURISDICTION	Colorado
DECIDED	July 5, 2016
DOCKET	16SA8
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State sought relief under C.A.R. 21 from the Denver District Court's pretrial orders excluding or limiting expert testimony concerning market rates for foreclosure-related services and restricting the State's CCPA theory.
STANDARD OF REVIEW	Under C.A.R. 21, the Supreme Court reviews a trial court order when the trial court has abused its discretion and appellate remedy would be inadequate. The decision to exercise original jurisdiction is discretionary; the evidentiary ruling excluding market-rate evidence was reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published, precedential Colorado Supreme Court opinion; en banc.
PARTIES	The State of Colorado ex rel. Cynthia H. Coffman, Attorney General, Julie Ann Meade, Administrator, Uniform Consumer Credit Code v. The Castle Law Group, LLC, Absolute Posting & Process Services, LLC, RE Records Research, LLC, d/b/a Real Estate Records Research, Colorado American Title, LLC, Lawrence E. Castle, Caren A. Castle, Ryan J. O'Connell, Kathleen A. Benton

TOPICS

consumer protection · deceptive trade practices · relevance · writ of certiorari · appellate procedure

PRACTICE AREAS

consumer protection · appellate procedure · evidence

QUESTIONS PRESENTED

1. Whether disclosure of the price charged for foreclosure-related services automatically insulates the defendants from a Colorado Consumer Protection Act claim alleging that the disclosed price itself was deceptive.
2. Whether evidence of market rates charged by unaffiliated vendors for comparable foreclosure-related services is relevant to the State's CCPA claim and disgorgement calculations.
3. Whether the Colorado Supreme Court should exercise original jurisdiction under C.A.R. 21 to review the district court's pretrial evidentiary orders.

HOLDINGS

1. Disclosure of a price charged does not automatically insulate a party from a CCPA claim alleging that the price itself is deceptive. An accurately disclosed price may still be deceptive when the defendant falsely represents that the price is an actual, necessary, and reasonable cost.
2. Evidence of market rates charged by unaffiliated vendors for comparable foreclosure-related services is directly relevant to whether the defendants' invoiced costs were actual or reasonable costs and may also inform the State's disgorgement calculations.
3. The Supreme Court properly exercised original jurisdiction because the State lacked another adequate remedy and the pretrial orders substantially disadvantaged the State in litigating its CCPA claim shortly before trial.

KEY QUOTATIONS

> *"[W]hen advertising is false, disclosures will not eliminate the underlying deception."* (¶ 28)

> *"We hold that, for purposes of a deceptive trade practices claim under the CCPA, disclosure of a price charged does not automatically insulate a party from claims that the price is deceptive."* (¶ 30)

FACTUAL BACKGROUND

The State alleged that from 2009 through 2014, Castle and affiliated vendors generated and submitted foreclosure-service invoices containing systematically inflated charges. Castle allegedly represented to mortgage servicers that the charges were the actual, necessary, and reasonable costs of the services, although the State claimed they bore no reasonable relationship to actual costs or prevailing market rates. The State sought to use market-rate evidence and expert testimony to establish deception, vendor unjust enrichment, and disgorgement amounts.

PROCEDURAL HISTORY

The State filed a civil enforcement action in Denver District Court alleging that Castle and affiliated vendors violated the Colorado Consumer Protection Act by submitting invoices with inflated foreclosure-related costs while representing that the costs were actual, necessary, and reasonable. The district court denied motions to dismiss and summary judgment in relevant part but later ruled that market-rate evidence was irrelevant and limited the State's expert testimony. The State petitioned the Colorado Supreme Court for relief under C.A.R. 21, and the Supreme Court issued and then made absolute its rule to show cause.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The rule to show cause was made absolute, and the matter was remanded to the district court for further proceedings consistent with the opinion, including permitting relevant market-rate evidence consistent with the State's CCPA theory.

CASES CITED

- May Department Stores Co. v. State ex rel. Woodard, 863 P.2d 967 (Colo. 1993)
- Showpiece Homes Corp. v. Assurance Co. of Am., 38 P.3d 47 (Colo. 2001)
- W. Food Plan, Inc. v. District Court, 198 Colo. 251, 598 P.2d 1038 (Colo. 1979)
- People v. Darlington, 105 P.3d 230 (Colo. 2005)
- Fognani v. Young, 115 P.3d 1268 (Colo. 2005)
- People v. District Court, 664 P.2d 247 (Colo. 1983)