

SUPREME COURT OF ALASKA

Manelick v. Manelick

59 P.3d 259 (Alaska 2002) · No. S-9986 · Decided November 22, 2002

SUMMARY

The Alaska Supreme Court reviewed a property division in a divorce proceeding involving the valuation of a medical practice, a piano debt, and a marital vehicle. The court held that the superior court failed to determine whether the practice’s goodwill was marketable and therefore reversed the goodwill valuation, adopting a net asset value of \$156,497. It also remanded for inclusion of the piano debt, affirmed the vehicle valuation, and directed adjustment of the property division.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                             |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Alaska                                                                                                                                                                                                                                                     |
| WRITING FOR THE COURT | Carpeneti, Justice; Fabe, Chief Justice; Matthews, Justice; Eastaugh, Justice; Bryner, Justice                                                                                                                                                                              |
| JURISDICTION          | Alaska                                                                                                                                                                                                                                                                      |
| DECIDED               | November 22, 2002                                                                                                                                                                                                                                                           |
| DOCKET                | S-9986                                                                                                                                                                                                                                                                      |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                       |
| PROCEDURAL POSTURE    | Natalie Manelick appealed the superior court's property division in the parties' divorce, challenging the valuation of her medical practice, the omission of a piano debt, and the valuation of a marital Range Rover.                                                      |
| STANDARD OF REVIEW    | The valuation of marital property is reviewed for clear error; determinations of what property is available for division and the equitable allocation of property are reviewed for abuse of discretion. Denial of reconsideration is also reviewed for abuse of discretion. |
| PRECEDENTIAL VALUE    | Published precedential opinion of the Supreme Court of Alaska                                                                                                                                                                                                               |
| PARTIES               | Natalie B. Manelick v. Gregory A. Manelick                                                                                                                                                                                                                                  |

TOPICS

- equitable distribution
- dissolution of marriage
- family law procedure
- standard of review
- appellate procedure

## PRACTICE AREAS

family law

divorce

equitable distribution

appellate procedure

## QUESTIONS PRESENTED

1. Whether the superior court properly valued the tangible assets of Natalie's medical practice.
2. Whether the superior court properly assigned goodwill value to Natalie's medical practice without determining whether the goodwill was marketable.
3. Whether the superior court erred by omitting the parties' \$7,000 piano debt from the marital property division.
4. Whether the superior court clearly erred by valuing the marital Range Rover at zero rather than assigning it a negative value based on the loan balance.

## HOLDINGS

1. The superior court erred by using a questionable and incomplete valuation of the practice's tangible assets after acknowledging that the underlying figures were incomplete. The proper net-asset valuation was \$156,497.
2. The superior court did not clearly err in finding that Natalie's medical practice possessed goodwill as calculated under the capitalization-of-excess-earnings method.
3. Goodwill may not be assigned value in a marital property division unless it is actually marketable. Because the evidence established that Natalie's practice had no marketable goodwill, the practice's value was limited to its net assets, \$156,497.
4. The superior court erred by failing to include the parties' \$7,000 piano loan in the property distribution. The property division must also account for the piano's \$3,000 value, resulting in a net loss of \$4,000 to Natalie.
5. The superior court did not clearly err by valuing the Range Rover at zero rather than assigning it a negative value based on Natalie's unsupported estimate of its market value.

## KEY QUOTATIONS

*"In Moffitt v. Moffitt, we held that the valuation of goodwill is a two-step process."* (263)

*"Where no market exists for goodwill, it should be considered to have no value."* (265)

*"Because Natalie presented substantial evidence that her practice had no marketable goodwill and Gregory presented no substantial evidence to the contrary, the superior court should have adopted Briskey's opinion that the practice had no value beyond the value of its net assets."* (265)

## FACTUAL BACKGROUND

Natalie Manelick operated a private internal-medicine practice in the Wasilla and Palmer area, providing services both at her clinic and at Palmer Valley Hospital. The parties disputed whether the practice had goodwill beyond its tangible assets, with evidence that Natalie's hospital privileges were personal and nontransferable and

that there was little or no market for medical practices in the area. The marital estate also included a military pension, real and personal property, substantial debts, and a piano subject to a \$7,000 loan.

## PROCEDURAL HISTORY

Natalie filed for divorce in 1997. After a 1999 trial, the superior court dissolved the marriage, valued Natalie's medical practice at \$360,425, omitted a \$7,000 piano debt from the property division, valued the Range Rover using its promissory note and debt balance, and ordered Natalie to pay Gregory an equalizing payment. The Alaska Supreme Court reversed the goodwill valuation, directed inclusion of the piano debt, and affirmed the Range Rover valuation.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

The superior court must revise the medical-practice valuation to \$156,497, include the \$7,000 piano debt and \$3,000 piano value in the property division, and adjust the overall property distribution accordingly. If the court continues to divide the property equally, the equalizing payment due Gregory would be approximately \$74,099; if it determines that an equal division is no longer just, it may make supported adjustments accompanied by appropriate findings of fact and conclusions of law.

## CASES CITED

- Edelman v. Edelman, 3 P.3d 348, 351 (Alaska 2000)
- Berry v. Berry, 978 P.2d 93, 95 (Alaska 1999)
- Cox v. Cox, 882 P.2d 909, 913-14 (Alaska 1994)
- Dingeman v. Dingeman, 865 P.2d 94, 96 (Alaska 1993)
- Harrelson v. Harrelson, 932 P.2d 247, 250 (Alaska 1997)
- Morgan v. State, Department of Revenue, 813 P.2d 295, 297 n. 4 (Alaska 1991)
- Wanberg v. Wanberg, 664 P.2d 568, 570 (Alaska 1983)
- Merrill v. Merrill, 368 P.2d 546, 548 (Alaska 1962)
- Irish v. United States, 225 F.2d 3, 8 (9th Cir. 1955)
- Moffitt v. Moffitt, 749 P.2d 343, 347 (Alaska 1988)
- Miles v. Miles, 816 P.2d 129, 131 (Alaska 1991)
- Lacher v. Lacher, 993 P.2d 413, 421 (Alaska 1999)
- Sloane v. Sloane, 18 P.3d 60, 64 (Alaska 2001)
- Musser v. Johnson, 914 P.2d 1241, 1242 (Alaska 1996)

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