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CONTRACT LAW: BREACH OF CONTRACT: UNJUST ENRICHMENT OR
CONVERSION, FRAUD

SUMMARY

This case involves a union dues dispute between local (CCEA), state (NSEA), and national (NEA) unions. The district court ruled in favor of CCEA.

On appeal, NSEA and NEA argued that they were entitled to summary judgment. First the union dues contract remained effective and bound CCEA to transmit its dues. Second, CCEA was still obligated to submit the dues under the NSEA and NEA bylaws. Third, NSEA and NEA are entitled to the disputed dues under theories of unjust enrichment or conversion. Lastly, the district court improperly considered CCEA’s refund offer to the teachers in granting summary judgment for the fraud claims.

The Court affirmed the district court’s judgment. First, NEA’s bylaws expressly reserved the local union’s obligation to submit dues for a separate contract. Second, CCEA terminated that contract and ended its obligation to submit dues. Third, because CCEA was not obligated to submit the dues—which they placed in an escrow account pending litigation—they did not commit unjust enrichment or conversion. Lastly, while an offer to pay a disputed sum does not clear a fraud claim, the appellants did not produce sufficient evidence supporting that CCEA knowingly made a false statement.

BACKGROUND

The three unions’ contractual relationship

Clark County Education Association (CCEA), the Clark County School District’s local union, is affiliated with statewide and national education unions: the Nevada State Education Association (NSEA) and National Education Association (NEA), respectively. The bylaws of each association required all of its members to join the local, state, and national affiliates.

Each association set its own dues. Clark County educators would sign and authorize the CCEA to deduct and pay those dues in a lump sum, although the enrollment forms did not state which associations’ dues were included. Prior to this dispute, CCEA would transmit both the NSEA and NEA dues to NSEA, which would then transmit NEA’s dues directly to NEA. The parties dispute which contractual provisions required CCEA to transmit the dues.

First, Section 2-9(a) of the NEA bylaws states that “[s]tandards and contracts for transmitting dues shall be developed between the state affiliate and each local affiliate... [l]ocal affiliates shall have the full responsibility for transmitting state and [NEA] dues to state affiliates on a contractual basis.” Additionally, section 2-9(b) states that the local union shall transmit “at least forty percent of the Association dues receivable for the year by March 15 and at least

¹ By Eli Bergida.

seventy percent of the Association dues receivable for the year by June 1.” However, this section does not provide a deadline for total dues, nor does it address state affiliate dues.

Next, the NSEA and CCEA entered into a Dues Transmittal Agreement (DTA) in 1979 which named CCEA as NSEA's agent to collect and transmit NSEA and NEA dues. The contract required CCEA to transmit those dues within ten business days after receiving them, stated that the DTA would be automatically amended to reflect any conflicting changes in the NSEA constitution or bylaws, and most importantly, that the contract would remain in force for each following membership year unless terminated in writing—by either party—prior to September 1 of that year.

In 1999, NSEA and CCEA entered into a second contract, the Service Agreement, which stated certain services NSEA would provide. The Service Agreement stated that the DTA was to be “continued without change,” and that the Service Agreement had the same renewal and termination provisions as the DTA.

Finally, Section 2-9(b) of NSEA’s bylaws stated that “NSEA shall affiliate a local association when it meets the following minimum standards.” One prerequisite, added in 2015, was to have a dues transmission contract with the NSEA.

The instant dispute

In May 2017, CCEA notified NSEA that it wanted to terminate and renegotiate the Service Agreement. Although CCEA sent a letter stating that timely compliance was critical or the existing agreement would expire at the end of August, NSEA refused to negotiate before mid-September. In an early August letter, CCEA stated that the Service Agreement “serve[d] as the dues transmittal contract” and that if NSEA wanted CCEA to continue to collect and transmit dues, they must negotiate a new agreement.

Although no agreement was reached by September 1st, the local school district continued to collect all three union’s dues from its members and transmitted them to CCEA. CCEA retained their dues and put the remainder in an escrow account pending litigation. Accordingly, NSEA ceased providing the services listed in the Service Agreement.

CCEA then filed a declaratory judgment claiming they were not obligated to transmit the dues to NSEA. NSEA and NEA followed with their own action for declaratory injunctive relief to have the dues in escrow transferred to NSEA. NSEA and NEA claimed that CCEA was in breach of contract because they did not effectively terminate the DTA, that CCEA breached their bylaws, and, alternatively, that CCEA unjustly enriched itself or committed conversion by keeping members’ dues. Additionally, a number of individual teachers claimed fraud against CCEA for not transmitting their dues and sought punitive damages. The Court consolidated the cases.

In April 2018, CCEA members voted to disassociate with NSEA and NEA. The school district stopped deducting NSEA and NEA dues and CCEA stopped depositing money in the escrow account.

In December 2018, the district court concluded in a summary judgment order that NSEA and NEA could not recover under the DTA because it was incorporated into the Service Agreement which was terminated by CCEA's letters.

In July 2019, the district court granted summary judgment in favor of CCEA on all remaining claims. First, because NSEA's and NEA's bylaws were not contractually binding on CCEA as a matter of law, the only contractual obligations to submit the dues were under the DTA. Second, there was no claim for unjust enrichment or conversion because NSEA and NEA had no property interest in the escrow funds. On the fraud claim, the court ruled in favor of CCEA because they offered to refund all dues to the suing teachers –negating compensatory damages– and the teachers failed to establish facts supporting punitive damages.

The district court ordered CCEA to return the escrow funds to its members. NSEA and NEA obtained a stay to hold the funds in dispute pending this appeal.

DISCUSSION

NSEA and NEA made several arguments that they were entitled to summary judgment. First, the DTA remained effective and bound CCEA to transmit dues. Second, CCEA was still obligated to submit the dues under the NSEA and NEA bylaws. Third, NSEA and NEA are still entitled to the disputed dues under theories of unjust enrichment or conversion. Lastly, the district court improperly considered CCEA's refund offer to the teachers in granting summary judgment for the fraud claim.

Standard of review

The applicable standard of review for summary judgment is de novo, and that summary judgment is only warranted when the pleadings and other information properly before the court demonstrate no genuine issue of material fact.² Additionally, summary judgment is granted when a party does not sufficiently establish the existence of an essential element to the claim.³ Lastly, de novo review is the applicable standard for the district court's interpretation of the contract because it is a question of law.⁴

CCEA effectively terminated the Dues Transmittal Agreement

When a party with the power to unilaterally terminate a contract at the end of each period wishes to do so, they simply need to give "clear and unequivocal" notice of their intent; which the courts liberally construe, keeping in mind the parties' true intent and purpose.⁵

The Court disagreed with the appellant's argument that CCEA only gave notice to terminate the Service Agreement, not the DTA. While the initial letters only referred to the Service Agreement, the August letter was titled "Final Notice: Contract for Dues Remittance," specifically stated that the agreement served as the due's transmission contract, and that the

² Wood v. Safeway, Inc., 121 Nev. 724, 729–31, 121 P.3d 1026, 1029–31 (2005).

³ *Id.* at 731–32, 121 P.3d at 1031.

⁴ Weddell v. H2O, Inc., 128 Nev. 94, 101, 271 P.3d 743, 748 (2012).

⁵ Cedar Rapids Television Co. v. MCC Iowa LLC, 560 F.3d 734, 740 (8th Cir. 2009).

contract will expire on August 31. It is impossible to read the letter and not understand CCEA's true intent and purpose to terminate the dues transmission contract. Although CCEA did not refer specifically to the DTA, their intent was clear and they, therefore, terminated the DTA.

Additionally, while the appellant argued NSEA's amended bylaws required affiliates to always maintain a dues transmittal contract, that interpretation would conflict with the DTA's unilateral termination provision and is therefore stricken. Furthermore, in the section providing for CCEA's duties, there are no requirements regarding transmitting dues, and the section the appellants point to merely define when NSEA can affiliate a local union. Therefore, the DTA termination provision remained in place.

The NEA bylaws do not provide a basis for relief

As a preliminary matter, the district court erred by concluding that NSEA's and NEA's bylaws were not binding after termination of the DTA. CCEA was affiliated with NSEA and NEA until April 2018 and was, therefore, bound by its parent unions' bylaws until they disassociated.⁶

Bylaws are a contract and therefore interpreted to discern the intent of the parties.⁷ If the language of the contract is clear and ambiguous, the contract will be enforced as it is written.⁸ While a contract is ambiguous if its terms may be reasonably interpreted in more than one way, any interpretation that would render a provision meaningless or lead to an absurd result is not reasonable.⁹

Section 2-9(a) of NEA's bylaws stated that local affiliates are responsible for transmitting state and NEA dues to the state affiliate on a contractual basis. Additionally, standards for the contract shall be determined between the state and local affiliate. This language can only reasonably be read as reserving agreements regarding dues transmission to separate contracts. Therefore, the parties intended that separate contracts should govern the responsibility to transmit dues.

The appellants further argue that section 2-9(b), which states a local union "shall" transmit at least 40-70% of NEA's dues to a state affiliate, contractually obligates CCEA to transmit dues. However, if read as "must," it would lead to the absurd result of making transmitting the remaining 30% of the dues voluntary and no requirement on the state affiliate's dues. Rather, this provision is reasonably read as outlining possible terms for the independent dues transmittal contracts required by section 2-9(a).

Lastly, the appellants argued that because the bylaws required local unions to maintain contracts with state unions as long as the local union was affiliated with the NEA, CCEA breached the bylaws by terminating the DTA. However, there is no textual basis for this

⁶ Hickman v. Kline, 71 Nev. 55, 69, 279 P.2d 662, 669 (1955); Gable v. Loc. Union No. 387 Int'l Ass'n of Bridge Workers, 695 F. Supp. 1174, 1177 (N.D. Ga. 1988).

⁷ MMAWC, LLC v. Zion Wood Obi Wan Tr., 135 Nev. 275, 279, 448 P.3d 568, 572 (2019).

⁸ Davis v. Beling, 128 Nev. 301, 321, 278 P.3d 501, 515 (2012).

⁹ See Washoe Cty. Sch. Dist. v. White, 133 Nev. 301, 305, 396 P.3d 834, 839 (2017).

interpretation, and it would also render the DTA's termination clause meaningless. When parties agree that a later-negotiated contract will govern specific facets of the relationship and then agree to a unilateral termination clause, there is meaning to that choice.

Accordingly, while the district court erred, its judgment is affirmed.

CCEA is not liable for unjust enrichment or conversion

Appellant's conversion claim fails. Conversion is the exertion of wrongful dominion of another's property in denial of their rights.¹⁰ However, a party may resort to the judicial process when there is genuine doubt as to the rightful ownership of the property.¹¹ Accordingly, CCEA did not commit conversion by retaining the excess dues in an escrow account pending litigation because there is and was genuine doubt as to its rightful ownership.

Similarly, the claim for unjust enrichment fails as well. Unjust enrichment exists when the plaintiff confers a benefit to the defendant, who accepts and appreciates the benefit, whereby it would be inequitable to retain the benefit without payment.¹² However, even if the dues constitute a benefit, they were only retained pending litigation. It is not inequitable for a party to retain the funds in an escrow account until the court determines who is entitled to it.

The district court correctly granted summary judgment on the fraud claim

To prevail on a fraud claim, a plaintiff must prove, by clear and convincing evidence, that there was (1) a false representation (2) which the defendant knew or believed to be false, and (3) which was made with the intention to induce the plaintiff's reliance –and (4) he did so rely on– resulting in (5) damages.¹³ If the plaintiff proves the presence of oppression, fraud, or malice, punitive damages are also available.¹⁴

The district court erred in ruling that CCEA's offer to refund all dues nullified the damages element. A court will enter judgment for the plaintiff, against his will, when the defendant offers to pay the full amount of the plaintiff's claim, but anything less than the full amount is merely a settlement offer which the plaintiff may reject.¹⁵ CCEA's offer was only a settlement offer because it did not include the potentially available punitive damages. Additionally, if it was in fact a real offer, the district court should have enforced it by entering a judgment against CCEA.¹⁶

However, the district court's ruling was nevertheless correct because the teachers did not provide sufficient evidence to establish the existence of the fact that CCEA knew or believed their statement to be false.¹⁷ Although the teachers allege that CCEA knew it would not transmit dues as early as May 2017, their only support was CCEA's May letter stating it would terminate

¹⁰ *Evans v. Dean Witter Reynolds, Inc.*, 116 Nev. 598, 606, 5 P.3d 1043, 1048 (2000).

¹¹ *Id.*

¹² *Certified Fire Prot. Inc. v. Precision Constr. Inc.*, 128 Nev. 371, 381, 283 P.3d 250, 257 (2012).

¹³ *Bulbman, Inc. v. Nev. Bell*, 108 Nev. 105, 110-11, 825 P.2d 588, 592 (1992).

¹⁴ *NEV. REV. STAT. § 42.005(1)(a)* (2011).

¹⁵ *See Radha Geismann, M.D., P.C. v. ZocDoc, Inc.*, 909 F.3d 534, 541-43 (2d Cir. 2018).

¹⁶ *Id.* at 542.

¹⁷ *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

the Service Agreement if it was not renegotiated. This letter does not support the inference that CCEA knew in May it would stop transmitting dues in September.

Additionally, the teachers claimed that the president of CCEA told several teachers after August that the dues were waiting to be sent to the NSEA and NEA when a solution to the contract was reached. While no solution was ultimately reached, there is no clear and convincing evidence that the president's statements were meant to mislead when they were made. Therefore, while the district court erred in ruling on the settlement offer, their judgment is affirmed because it reaches the same result.

CONCLUSION

The district court's judgment is affirmed. First, NEA's bylaws expressly reserved the local union's obligation to submit dues for a separate contract. Second, CCEA terminated that contract and ended its obligation to submit dues. Third, because CCEA was not obligated to submit the dues—which they placed in an escrow account pending litigation—they did not commit unjust enrichment or conversion. Lastly, while an offer to pay a disputed sum does not clear a fraud claim, the appellants did not produce sufficient evidence supporting that CCEA knowingly made a false statement.