

STATE OF MICHIGAN
COURT OF APPEALS

NBD BANK, N.A.,

Plaintiff/Counterdefendant,

v

HAROLD T. STULBERG and CAPITAL
EQUITIES, INC.,

Defendants/Cross-Defendants,

and

ROBERTA L. STULBERG, RAYMOND P.
RINKE, and PAMELA J. RINKE,

Defendants,

and

R & R DEVELOPMENT GROUP, INC.,

Defendant/Counterplaintiff/Cross-
Plaintiff/Third-party Plaintiff-Appellant,

and

SCHOSTAK BROTHERS & COMPANY, INC.,

Third-party Defendant,

and

TOM S. SCHEY, LESLIE SCHEY, and VERA
SCHEY,

UNPUBLISHED

June 27, 2000

No. 210863

Oakland Circuit Court

LC No. 91-414509-CK

Before: Meter, P.J., and Griffin and Owens, JJ.

PER CURIAM.

Third-party plaintiff R & R Development Group, Inc. (“R & R”), appeals by right from the trial court’s order granting summary disposition to third-party defendants Tom S. Schey, Leslie Schey and Vera Schey (“the Scheys”) under MCR 2.116(C)(5) and (10). We affirm.

Seaway Professional Associates Limited Partnership (“Seaway”) was formed in September 1988 for the purpose of acquiring, developing, owning, operating, managing, and selling space in a medical office building located in Trenton. Harold T. Stulberg, president of Capital Equities, Inc. (“Capital”), executed the Limited Partnership Agreement as the sole general partner. Capital received a fifty percent interest in Seaway. Third-party defendants Leslie and Vera Schey were made limited partners and received a 33-1/3 percent interest in Seaway. Third-party defendant Tom S. Schey is the son of Leslie and Vera Schey and an attorney for Schostak Brothers & Company, Inc. In January 1989, Capital sold R & R forty percent of its partnership interest in Seaway, and R & R became a general partner, owning an aggregate twenty percent of the partnership. After Seaway defaulted on a loan with NBD Bank, NBD commenced the underlying action, and R & R brought a third-party complaint against the Scheys, claiming that they intentionally interfered with Seaway’s business relationship with potential tenants and ultimately caused Seaway to default on the loan.¹

R & R argues that the trial court erred in granting the Scheys summary disposition under MCR 2.116(C)(10) on its tortious interference with a business relationship claim. We disagree. We review a trial court’s grant of summary disposition under MCR 2.116(C)(10) de novo. *Spiek v Dep’t of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). We review the affidavits, pleadings, depositions, admissions, and documentary evidence submitted by the parties in the light most favorable to the nonmoving party and decide if there exists a genuine issue of material fact. *Morales v Auto-Owners Ins*, 458 Mich 288, 294; 582 NW2d 776 (1998).

This Court set forth the elements of a tortious interference with a business relationship claim in *BPS Clinical Laboratories v Blue Cross & Blue Shield of Michigan (On Remand)*, 217 Mich App 687, 698-699; 552 NW2d 919 (1996):

The elements of tortious interference with a business relationship are the existence of a valid business relationship or expectancy, knowledge of the relationship or expectancy on the part of the defendant, an intentional interference by the defendant inducing or causing a breach or termination of the relationship or expectancy, and resultant damage

¹ As explained *infra*, R & R claimed that only R & R – and not the Scheys or Capital – had the authority to act on behalf of Seaway.

to the plaintiff. . . . To establish that a lawful act was done with malice and without justification, the plaintiff must demonstrate, with specificity, affirmative acts by the defendant that corroborate the improper motive of the interference. . . . Where the defendant's actions were motivated by legitimate business reasons, its actions would not constitute improper motive or interference. [Citations omitted.]

R & R claims that the Scheys interfered with a business relationship of R & R by wrongfully representing that they could act on behalf of Seaway and by offering a prospective tenant a lease in the medical office building. However, the only support R & R offers in its appellate briefs for a "valid business relationship or expectancy" with the prospective tenant is the following:

If no expectancy existed regarding [the prospective tenant], then *why did Tom Schey offer [the prospective tenant] a three year lease . . . ?* There was a valid expectancy, because [the prospective tenant] was a doctor at Seaway Hospital, which is physically attached to the building which Seaway was attempting to lease. [Emphasis in original.]

The mere facts that the prospective tenant (1) had been offered a lease, and (2) worked in a hospital adjoining the building in question are not sufficient, as a matter of law, to establish a valid business relationship or expectancy between R & R and the prospective tenant. Moreover, R & R points to no evidence that the Scheys' actions caused the prospective tenant to decline to lease a space in the building, nor do they show that the Scheys acted with an improper motive. See *BPS Labs, supra* at 699. Given the lack of evidence on crucial elements of the tortious interference claim, the trial court did not err in granting the Scheys summary disposition with respect to it.

R & R additionally argues that the trial court erred in granting the Scheys summary disposition pursuant to MCR 2.116(C)(5) (on the basis that R & R lacked standing to bring a legal action on behalf of Seaway). R & R contends that because Capital agreed to turn over exclusive control of Seaway to R & R, R & R had the authority to sue on Seaway's behalf. We need not address this argument, because even if R & R *did* have standing to sue, summary disposition under MCR 2.116(C)(10) was nevertheless appropriate, as discussed above.

Affirmed.

/s/ Patrick M. Meter
/s/ Richard Allen Griffin
/s/ Donald S. Owens