STATE OF MICHIGAN

COURT OF APPEALS

JOSEPH F. OLIVARES,

Plaintiff/Counter-Defendant-Appellant,

v

PERFORMANCE CONTRACTING GROUP,

Defendant/Counter-Plaintiff-Appellee,

and

ILLINOIS NATIONAL INSURANCE COMPANY,

Defendant-Appellee.

UNPUBLISHED
December 20, 2005

No. 255346
Washtenaw Circuit Court
LC No. 03-001257-NZ

Before: Hoekstra, P.J., and Neff and Davis, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's orders granting summary disposition and affording full faith and credit to an out-of-state injunction. We affirm.

I. Basic Facts and Procedural History

Plaintiff worked for defendant Performance Contracting Group (PCG) as an asbestos abatement worker. On May 5, 1998, while in the course of employment, plaintiff fell from a ladder and injured his left arm, shoulder, and back. After surgery, plaintiff returned to work for approximately two weeks before voluntarily leaving the workforce on August 1, 1998. Plaintiff subsequently received a closed award of worker's compensation benefits for the period from May 5, 1998 to August 1, 1998.

While plaintiff's worker's compensation claim was pending, he was living in Indiana. At some point, plaintiff became upset with his former employer and began to harass PCG through a series of telephone calls, personal visits, and e-mails. In response, PCG sought from an Indiana circuit court a preliminary injunction restraining plaintiff from communicating directly with its

officers, directors, or employees. The Indiana court issued a preliminary injunction in December 1999 and, after plaintiff violated the order, entered a permanent injunction in January 2003.

After plaintiff exhausted his underlying worker's compensation remedies, he commenced this action against PCG and its worker's compensation insurance carrier, Illinois National Insurance Company, on November 13, 2003. Plaintiff asserted four claims, including retaliatory discharge under MCL 418.301(11), battery, reinstatement of worker's compensation benefits, and discrimination in violation of the persons with disabilities civil rights act (PWDCRA), MCL 37.1101 *et seq*. Defendant PCG counter-claimed, requesting that the trial court enforce the Indiana injunction.

The trial court issued a preliminary injunction in February 2004, observing that there was no reason not to afford full faith and credit to the Indiana injunction. Similar to the language of the existing Indiana injunction, the trial court ordered that plaintiff "may communicate with the Defendants only by communicating with Counsel and may communicate with Counsel only through the United States Mail." Two months later, the trial court granted summary disposition, dismissing plaintiff's claims as barred by the applicable periods of limitations and by the exclusive remedy provision of the worker's disability compensation act (WDCA), MCL 418.101 *et seq*.

II. Analysis

A. Injunctive Relief and Appellate Jurisdiction

Plaintiff argues that the trial court erred in granting PCG's claim for injunctive relief. He asserts that the claim was not within the subject-matter jurisdiction of the trial court and that the court erred in affording full faith and credit to the Indiana decree. PCG responds that this Court lacks jurisdiction over this appeal because, although granted a "preliminary" injunction, its request for a "permanent" injunction remained pending at the time plaintiff filed his claim of appeal. Thus, PCG argues, the trial court's order granting summary disposition is not a final order appealable as of right because it fails to dispose of all the claims raised by the parties. See MCR 7.202(6)(a)(i) and 7.203(A)(1). We disagree with the arguments of both parties.

PCG's argument that this Court lacks the authority to entertain this appeal is unavailing. It is well settled that this Court is not bound by the language used by the trial court to dispose of a claim. *Derbeck v Ward*, 178 Mich App 38, 40-41; 443 NW2d 812 (1989). Here, in granting the injunction at issue the trial court found that the Indiana circuit court order permanently enjoining plaintiff from contacting or otherwise directly communicating with PCG or its employees "should be given Full Faith and Credit." To give full faith and credit to the "permanent" injunction entered by the Indiana court was to afford PCG final relief. See *Blackburne & Brown Mortgage Co v Ziomek*, 264 Mich App 615, 620; 692 NW2d 388 (2004) (the Full Faith and Credit Clause of the United States Constitution, US Const, art IV, § 1, "requires that a foreign judgment be given the same effect that it has in the state of its rendition") (citation and internal quotation marks omitted). Thus, despite its denomination as "preliminary," the injunctive order issued by the trial court was dispositive of the claims and rights of the parties. *Derbeck, supra*. Plaintiff was, therefore, entitled to appeal the trial court's orders granting summary disposition and injunctive relief as of right. MCR 7.203(A)(1); see also, e.g., *AFSCME v Detroit*, 468 Mich 388, 397-398; 662 NW2d 695 (2003) (a preliminary injunction

that "meet[s] the criteria of a 'final order' as set forth in MCR 7.203(A)(1)" is appealable by right and, therefore, affords this Court jurisdiction).

B. Trial Court Jurisdiction to Afford Injunctive Relief

Plaintiff argues that because PCG's claim for injunctive relief would not have arisen in the absence of the underlying worker's compensation matter, its request for an injunction was within the exclusive jurisdiction of the Worker's Compensation Agency. Again, we disagree.

Whether the exclusive remedy provision of the WDCA has divested the circuit court of jurisdiction is a question of law reviewed de novo. *Bock v General Motors Corp*, 247 Mich App 705, 709-710; 637 NW2d 825 (2001). Questions concerning application of the Full Faith and Credit Clause are constitutional questions, which we also review de novo. *Blackburne*, *supra*.

Actions seeking employment-related *compensation* fall within the exclusive jurisdiction of the Worker's Compensation Agency. MCL 418.841(1); *Dunbar v Dep't of Mental Health*, 197 Mich App 1, 6-7; 495 NW2d 152 (1992); see also MCL 418.131(1). Thus, we have suggested that actions concerning the cause of a workplace injury, the amount of damages resulting from such an injury, or the existence of an employer-employee relationship under the WDCA are not within the circuit court's jurisdiction. *Jones v General Motors Corp*, 136 Mich App 251, 254-255; 355 NW2d 646 (1984). However, circuit courts retain jurisdiction when the employment relationship is "unrelated to the cause of action," or where that relationship is only tangentially or incidentally related to the asserted claim. *Harris v Vernier*, 242 Mich App 306, 321 n 9; 617 NW2d 764 (2000).

Here, defendant PCG sought only injunctive relief. This claim did not require litigation concerning compensation or the parties' rights and relations under the WDCA. Because the specific employment relationship between plaintiff and defendant PCG was only tangentially related to the request for a preliminary injunction, and because the claim for injunctive relief did not require litigation regarding compensation, the claim was within the jurisdiction of the circuit court. *Id.*

Plaintiff asserts that even if the circuit court had jurisdiction, it was not authorized to afford full faith and credit to the existing Indiana injunction. The Full Faith and Credit Clause provides in relevant part that "Full Faith and Credit shall be given in each State to the Public Acts, Records, and judicial Proceedings of every other State." US Const, art IV, § 1. "[A] judgment entered in another state is presumptively valid and subject to recognition in Michigan under the Full Faith and Credit Clause." *Poindexter v Poindexter*, 234 Mich App 316, 324-325; 594 NW2d 76 (1999).

Plaintiff contends that the Indiana court lacked subject-matter jurisdiction to enter the injunction because the injunctive relief sought by defendant PCG fell within the exclusive jurisdiction of the Michigan Worker's Compensation Agency. However, as observed above, defendant PCG's claim for injunctive relief was not the type of claim seeking compensation that is within the Worker's Compensation Agency's exclusive jurisdiction. MCL 418.841(1); *Harris*, *supra*.

Plaintiff next cites *Baker v General Motors Corp*, 522 US 222; 118 S Ct 657; 139 L Ed 2d 580 (1998), as support for his argument that injunctions are not entitled to full faith and credit to the same extent as other judgments. This is a misreading of *Baker*. Contrary to plaintiff's assertion, the *Baker* Court specifically held that an injunction entered by a Michigan state court would be entitled to enforcement in Missouri under the Full Faith and Credit Clause, as between the same parties. *Id*. at 239-241. In doing so, the Court rejected the argument that the Full Faith and Credit Clause does not apply to injunctive or other equitable orders. *Id*. at 234. In the present case, because the same parties were involved in the Indiana proceeding and the subsequent Michigan action, the trial court was required to afford full faith and credit to the Indiana injunction. *Poindexter*, *supra*. The trial court did not err by entering an injunction to enforce the Indiana decree.

C. Summary Disposition

Plaintiff contends that the trial court erred in granting summary disposition of count three of his complaint, which sought to litigate his entitlement to reasonable employment and worker's compensation benefits. We disagree. A trial court's decision to grant or deny summary disposition of a party's claim is reviewed de novo. *Veenstra v Washtenaw Country Club*, 466 Mich 155, 159; 645 NW2d 643 (2002).

Unlike defendant PCG's claim for injunctive relief, count three of plaintiff's complaint clearly involved a claim for *compensation* under the WDCA. As discussed above, the circuit court was without jurisdiction to consider this claim. MCL 418.131 and 841(1); *Dunbar*, *supra*. Consequently, summary disposition of the claim was proper.

Plaintiff also suggests, albeit vaguely and without detail, that the trial court improperly granted summary disposition of the remaining three claims in his complaint. However, plaintiff has failed to properly brief this issue and has provided little or no authority in support of this assertion. A party may not merely announce his position and leave it to an appellate court to discover and rationalize the basis for his claims or unravel and elaborate his arguments. *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998). Because plaintiff has failed to properly present this issue, it is abandoned on appeal. *Yee v Shiawassee Co Bd of Comm'rs*, 251 Mich App 379, 406; 651 NW2d 756 (2002).

Nonetheless, we will briefly address the propriety of the trial court's summary disposal of these claims. Count one of plaintiff's complaint asserted a claim for retaliatory discharge in violation of MCL 418.301(11). Our Supreme Court has recognized that such a cause of action "is independent of the [employment] contract, and sounds in tort, not contract." *Phillips v Butterball Farms Co, Inc (After Second Remand)*, 448 Mich 239, 248-249; 531 NW2d 144 (1995). Thus, such a claim is subject to the three-year limitations period contained in MCL 600.5805(10). See, e.g., *Garg v Macomb Co Community Mental Health Services*, 472 Mich 263, 283-284; 696 NW2d 646 (2005); see also *Local 1064, RWDSU AFL-CIO v Ernst & Young*, 449 Mich 322, 325; 535 NW2d 187 (1995) (the three-year period of MCL 600.5805(10) is the "'residual' tort statute"). Consequently, because plaintiff filed his complaint more than three years after this claim accrued, it was time-barred and summary disposition was, therefore, proper.

Count two of plaintiff's complaint asserted a claim for intentional tort, i.e., battery.[1] Actions charging battery are subject to a two-year period of limitations. MCL 600.5805(2). Plaintiff's workplace injury occurred on May 5, 1998, more than two years before the complaint was filed. Therefore, the battery claim was time-barred. Moreover, even if plaintiff's battery claim did not accrue until November 2000, as he alleged in his complaint, the claim would still have been barred by MCL 600.5805(2).

Finally, count four of plaintiff's complaint asserted employment discrimination in violation of the PWDCRA. Our Supreme Court has held that the three-year limitations period of MCL 600.5805(10) applies to claims arising under the PWDCRA. *Garg*, *supra* at 283-284. Because plaintiff did not file his complaint until more than three years after this claim accrued, it was time-barred as well.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Janet T. Neff
/s/ Alton T. Davs

[1] Although plaintiff never specifically identified the intentional tort described in count two, plaintiff testified in the underlying worker's compensation proceedings that he felt someone push him immediately before he fell off of the ladder and sustained his injuries. This testimony reveals that plaintiff was asserting a claim of battery.