

**STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS**

**H. Dennis Long,
Plaintiff Below, Petitioner**

vs) **No. 11-0865** (Ohio County 06-C-345)

FILED

June 8, 2012
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

**Howard W. Long; Wendy F. Long; H.L. Real Estate, Inc.,
a West Virginia S corporation; LDL Investments, Inc., a
California C corporation; KGM Harvesting Co., a California
C corporation; Triadelphia, Inc., a West Virginia S corporation;
Howard Long International, Inc., a Florida S corporation;
Howard Long Co., Inc. a Florida S corporation; J.W. Long
International Limited Partnership, a Nevada limited partnership;
J.W. Long & Associates, Ltd., a Jersey Islands limited corporation;
Oella Consulting, LLC, a Florida limited liability company; and
Oella Capital, LLC, a Florida limited liability company,
Defendants Below, Respondents**

MEMORANDUM DECISION

Petitioner herein and plaintiff below, H. Dennis Long, appeals the Circuit Court of Ohio County's April 29, 2011, "Findings of Fact, Conclusions of Law, and Order" explaining the court's entry of judgment as a matter of law for defendants and dismissing plaintiff's lawsuit. Respondents herein, who were defendants below, are Howard W. Long; Wendy F. Long; H.L. Real Estate, Inc., a West Virginia S corporation; LDL Investments, Inc., a California C corporation; KGM Harvesting Co., a California C corporation; Triadelphia, Inc., a West Virginia S corporation; Howard Long International, Inc., a Florida S corporation; Howard Long Co., Inc. a Florida S corporation; J.W. Long International Limited Partnership, a Nevada limited partnership; J.W. Long & Associates, Ltd., a Jersey Islands limited corporation; Oella Consulting, LLC, a Florida limited liability company; and Oella Capital, LLC, a Florida limited liability company. Petitioner appears by counsel Robert L. Bays, Heather G. Harlan, and William G. Petroplus. Respondents appear by counsel Charles J. Kaiser Jr. and Richard N. Beaver.

This Court has considered the parties' briefs and the record on appeal. The facts and legal arguments are adequately presented, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision is appropriate under Rule 21 of the Revised Rules of Appellate Procedure.

Petitioner is the son of Respondent Howard W. Long. For approximately thirty years, petitioner was employed by successful businesses that Respondent Mr. Long owned. Petitioner filed his eleven-count Amended Complaint asserting, inter alia, that his father had breached promises to share one-half of the proceeds of the businesses and to establish a ten million dollar trust fund for petitioner's benefit. Petitioner alleges that he remained employed by the businesses, despite his receipt of a reduced salary and benefits, because he relied upon his father's promises.

At trial, before the case was submitted to the jury, the circuit court granted the respondents' motion for judgment as a matter of law. "This Court 'appl[ies] a *de novo* standard of review to the grant or denial of a pre-verdict or post-verdict motion for judgment as a matter of law.' *Gillingham v. Stephenson*, 209 W.Va. 741, 745, 551 S.E.2d 663, 667 (2001)." *Norfolk Southern Ry. Co. v. Higginbotham*, 228 W.Va. 522, ___, 721 S.E.2d 541, 545 (2011).

This Court has reviewed the record, the parties' arguments, and the circuit court's thorough, well-reasoned order explaining its basis for granting judgment as a matter of law. We conclude that the circuit court was correct and we hereby adopt and incorporate the circuit court's order. The Clerk is directed to attach a copy of the circuit court's April 29, 2011, "Findings of Fact, Conclusions of Law, and Order" to this memorandum decision.¹ For the reasons set forth in the circuit court's order, we affirm.

Affirmed.

ISSUED: June 8, 2012

CONCURRED IN BY:

Chief Justice Menis E. Ketchum
Justice Robin Jean Davis
Justice Brent D. Benjamin
Justice Margaret L. Workman
Justice Thomas E. McHugh

¹ This order was entered by the court on April 29, 2011, and was filed with the circuit clerk on May 2, 2011.