

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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No. 15-14431 & 16-12339

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D.C. Docket No. 1:11-cv-00436-LMM

BART FANELLI,

Plaintiff-Appellee,

versus

BMC SOFTWARE, INC.,  
a Delaware corporation,

Defendant-Appellant.

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Appeals from the United States District Court  
for the Northern District of Georgia

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(April 20, 2017)

Before WILSON, and JULIE CARNES Circuit Judges, and TREADWELL,\*  
District Judge

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\* Honorable Marc T. Treadwell, United States District Judge, for the Middle District of Georgia, sitting by designation.

PER CURIAM:

We have considered all of BMC's specifications of error. We have reviewed the following under an abuse of discretion standard:

1. Whether the district court erred in allowing the jury to find that BMC owed a duty to Fanelli?
2. Whether the district court erred in allowing the jury to find that BMC was the proximate cause of harm to Fanelli?
3. Whether the district court erred by not setting aside the award for damages to reputation?
4. Whether the district court erred by excluding evidence as to Fanelli's post-BMC earnings?
5. Whether the district court erred in declining to overrule the jury's finding that BMC acted in bad faith under O.C.G.A. § 13-6-11?
6. Whether the district court erred in granting Fanelli's motion for attorney's fees and costs pursuant to O.C.G.A. § 9-11-68?

We have reviewed de novo the following specification of error:

7. Whether the district court erred in denying BMC's Motion for Judgment as a Matter of Law on Fanelli's claim for fraudulent nondisclosure?

After careful review of the briefs and the record, and having the benefit of oral argument, we find no reversible error. The decision of the district court is

**AFFIRMED.**