NOT DESIGNATED FOR PUBLICATION

MICHEAL RAY	*	**NO. 2012-CA-0599**
VERSUS	*	
		COURT OF APPEAL
SCOTT WOLFE, SR.; LA AIR, L.L.C.; WOLFMAN CONSTRUCTION COMPANY; AND WOLF WORLD, L.L.C.	*	**FOURTH CIRCUIT**
		STATE OF LOUISIANA

* * * * * * *

APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2007-06499, DIVISION "G-11"
Honorable Robin M. Giarrusso, Judge
* * * * * *
Judge Dennis R. Bagneris, Sr.
* * * * * *

(Court composed of Chief Judge Charles R. Jones, Judge Dennis R. Bagneris, Sr., Judge Daniel L. Dysart)

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NOVEMBER 14, 2012

AFFIRMED

In this employment contract case, defendants, Scott G. Wolfe, Sr., LA Air, L.L.C., Wolfman Construction Company, and Wolfe World, L.L.C., appeal the trial court's judgment awarding the plaintiff, Micheal Ray, $124,329.32 in damages. For the following reasons, we affirm.

Facts and Procedural History

In June of 2006, Micheal Ray ("Ray") traveled from Alexandria, Louisiana[1] to New Orleans, Louisiana to discuss the opportunity of working with Wolfman Construction ("Wolfman") to develop and manage a Heating, Ventilation, Air Conditioning and Refrigeration ("HVA/C&R") Company in the New Orleans area. After meeting with Scott Wolfe ("Wolfe"), the chief executive officer, and Richie Lewis ("Lewis"), the chief operating officer of Wolfman, Ray delivered a formal employment proposal prepared by his lawyer to Wolfe. The July 10, 2006 employment proposal states, in pertinent part:

> The basic purpose of this arrangement will be for Mr. Ray to apply his extensive knowledge of the HVA/C&R industry to building a company to service the Greater New Orleans area. As an owner and the

[1] Micheal Ray was living at the time in Alexandria, Louisiana.

> president of an HVA/C&R company for eleven years Mr. Ray is well suited to the task at hand.
>
> He [Mr. Ray] believes that this new HVA/C&R endeavor should begin by handling Wolfman's residential remodeling and new construction installations of HVA/C&R equipment. This will allow Wolfman to develop a reputation in the HVA/C&R industry and over time allow for the development of additional divisions to handle other areas in the HVA/C&R industry. Within three to five years, under his directorship, Mr. Ray anticipates five separate HVA/C&R divisions will operating [sic] on behalf of Wolfman adding Service, Metal Works, Commercial, and Refrigeration Products to the original Residential Installation Division.
>
> To achieve these objectives Micheal Ray will use his resources and the national name recognition of his product lines to develop new avenues for Wolfman's development in the Greater New Orleans Area. He also intends to implement employee training, develop service contracts, and apply his broad product knowledge to the benefit of Wolfman.
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> * * *
>
> It is also my understanding that Wolfman intends to establish a separate HVA/C&R business entity should this endeavor prove successful and that Mr. Ray is to be established as president of said Company, while Scott Wolf [sic] is to be the CEO/Owner. As part of Mr. Ray's compensation, he believes it appropriate that he receive a twenty percent (20%) ownership stake in any such entity and all subsidiaries thereof.

The following terms were also included in the employment proposal:

1. Term. Five (5) years. Both parties will have a sixty (60) day window to exercise an option to terminate the contract at will at the end of the first year.

2. Vacation, Sick Leave, and Holidays. Two (2) weeks paid vacation, sick leave, and seven (7) paid Holidays in accordance with the pre-existing employment policies of Wolfman.

3. Benefits. A comprehensive medical, dental, and vision plan, with reasonably low medical co-pays and deductibles is to be provided within 90 days of employment. Pay Roll deductions if any should be in line with other Wolfman employees.

4. Company vehicle. A company vehicle shall be provided with all maintenance and fuel costs to be paid by Wolfman.

5. Salary. One Hundred Thousand and No/100's Dollars ($100,000.00) per year with yearly bonuses on the anniversary of employment and based on performance in the amount of 20% of the preceding year's net profits.

6. Distribution Rights. The Factory Dealerships and Distributorship rights of Bryant/Carrier and Hoshizaki solely belong to, and shall remain the property of, Micheal Ray. All promotions and incentives are to be received by Micheal Ray and are to be applied at Micheal Ray's discretion. All business related to these rights will be conducted in accordance with the guide lines and policies of the manufacturer.

7. Accounts. The accounts for the rights addressed in the preceding paragraph 6 shall remain in the name of Micheal Ray name. All sums payable to these accounts shall be paid within fifteen (15) days of invoicing to ensure that Wolfman is able to avail itself of discounts and incentives offered by the manufacturer. Micheal Ray will ensure that these accounts will have a zero balance at the time employment commences. All Monthly Factory Authorized Dealer Fees shall be paid by Wolfman for all accounts of which Wolfman uses the products or services offered thereby.

Ray also agreed to lease a 1999 three-quarter ton Chevrolet service van, a 1999 one ton Chevrolet installation box van, a 1995 three-quarter ton Chevrolet service van, and a 1998 three-quarter ton Chevrolet installation truck to Wolfman contingent upon Wolfman providing full insurance coverage. Although the employment proposal was never signed by the parties, Ray testified that "we did go by the parameters of the contract for employment."

In November, Wolfman established a separate legal entity for the HVA/C&R entity, LA Air, L.L.C., ("LA Air") and Ray was made a member with a 5% interest in the company. LA Air used Ray's Carrier account to order air conditioning parts and supplies and the account remained in Ray's name. Ray also testified at trial that Wolfe agreed to purchase his inventory for $20,209.35. Ray testified that while LA Air had substantial revenues, he could never tell if the business was profitable because he was never allowed to review the company's

financial records in any detail. Ray testified that he completed approximately thirty-two jobs while working for Wolfman and LA Air and that on a daily basis he "would bid jobs; beat the streets looking for work; go out and oversee the jobs that were done, …present myself to clients and present contracts to these clients; have them sign the contracts, guaranteeing we would do the installation or repair of an air condition unit, and seeing the job through."

On January 2, 2007, Ray was terminated from LA Air after returning from the Christmas/New Year holiday. According to Ray, Lewis informed him that LA Air was not profitable and that he could take over LA Air and continue to run it or LA Air would shut down completely. Wolfe later claimed he had no knowledge of this agreement between Ray and Lewis and stated in an email to Ray that Lewis had no authority to bind the company. In that same email, Wolfe ordered:

> You are to create a spread sheet of costs/expenses along with an action plan to go out on your own. You were also advised that last week or two weeks ago you were no longer on salary. I said we would collectively meet away from the office to review LA Air profit and loss along with its balance sheet and inventory in concert with work in progress and attempt to come up with an amicable solutions (sic) for all...

At that time, Wolfe cancelled the automatic draft he had previously authorized to pay for insurance on the trucks that were leased from Ray.

Ray continued to complete the open LA Air jobs, despite not being paid, with his last day being March 15, 2007. Ray testified that he regularly called Wolfe to discuss the unresolved payment issues regarding his account with Carrier (debt of $35,779.12) and various statements with vendors, and that he eventually had no choice but to enter into a settlement agreement with Wolfe to avoid being sued. On March 22, 2007, Ray and Wolfe entered into a verbal settlement

agreement whereby Wolfe would pay $47,514.00 to Ray to reimburse him for (1) the Chevron credit card; (2) the 2006-07 taxes withheld but not paid ($649.17 per week); (3) the Carrier Air Distributor's bill; and (4) cell phones.[2] The parties agreed that if Wolfe paid the $35,779.21 Carrier bill, then Ray would deduct that amount from the $47,514.00 Wolfe owed otherwise. The settlement agreement further stated that "[a]s an inducement to Ray to settle these claims, Wolfe will make the payments required herein by certified or cashier's check on or before the close of business (5 p.m. CDT) on March 29, 2007." Upon verbally agreeing with the settlement, Wolfe gave Ray a check in the amount of $2,000.00 as a good faith payment to assure Ray that he would pay the balance of the settlement on March 29, 2007. Ray testified at trial that he entered into this settlement on March 22, 2007, in order to enable him to pay pressing bills to Carrier Air Distributors and Chevron Credit who were already threatening legal action for non-payment. Ray also testified that the $35,779.21 that was due to Carrier reflected the cost of supplies or equipment used on Wolfman and LA Air jobs and personal projects for Wolfe and his family.

On March 29, 2007, Wolfe handed Ray a check in the amount of $6,000.00 and requested that Ray give him an additional week (until April 5, 2007) to make good on his promises. At that time, Ray also learned that the $2,000.00 check he received on March 22 had been returned to his bank unpaid for lack of funds.

On July 6, 2007, Ray filed this lawsuit seeking to (1) rescind the settlement contract that was never fulfilled by Wolfe, and (2) to recover full compensation for the guaranteed salary together with expenses and damages incurred by Ray while employed with Wolfman and LA Air.

[2] The written settlement agreement was signed by the parties on March 29, 2007.

After a two-day trial, the trial court found in favor of Ray and awarded him "$1081.27 for the Chevron credit account, $13, 632.57 in withheld state and federal taxes, $59,615.48 in payments of employment contract and $50,000 in damage to credit and business opportunity totaling $l24, 329.32, plus interest from the date of demand until paid, all costs of these proceedings, and attorney's fees to be fixed at a later hearing." In its well-written reasons for judgment, the trial court stated, in pertinent part, as follows:

> …Ray was called upon to complete the open LA Air jobs. He continued his work until they were all completed. Ray's last day of work on LA Air jobs was March 15, 2007. While his work continued, Ray spoke to Wolfe regularly calling on him to set a time to meet to make good on his promise to resolve payment issues. Ray had not been paid since December 17 of the previous year. Wolfe did in fact set two meetings but failed to attend. Finally, Ray retained counsel and with his attorney met with Wolfe on March 22, 2007. Ray brought with him the job spreadsheet and the financial information that Wolfe had requested. Ray and Wolfe reached an accord that his attorney later drafted into the form of a mutual release. In short, Ray agreed to accept a payment of $47, 514 to compromise the following claims:
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> > Chevron Credit Account Reimbursement
> > 2006-07 Federal and State Taxes Withheld and not Paid 649-17 [sic] per week
> > Carrier Air distributor's Bill
> > Cell Phone Charges Reimbursement
> > Remaining payment due on employment contract Or [sic] in the alternative
> > Payment for work performed from December 17 to March 15[.]
>
> Critical to the compromise was the rapid payment of the full amount due in order to enable Ray to pay pressing bills to Carrier Air Distributors and Chevron Credit who were already threatening legal action for non-payment. The sums due to Carrier reflected the cost of supplies or equipment used on Wolfman/LA Air jobs. Reimbursement was due under the terms and conditions

of the employment agreement between Wolfe and Ray. During the course of Ray's employment, Wolfe had reimbursed such bills although not in a timely fashion, but had not done so in several months. The largest creditor by far was Carrier. The debt due to Carrier was $35,779.21. Ray agreed that Wolfe could opt to pay the Carrier bill directly if the payment were made on or before the due date of March 29.

In order to seal the deal that the two had made on March 22, 2007, Wolfe gave Ray a check in the amount of $2,000 as a good faith payment. The balance was to be paid on March 29. When March 29 arrived, Ray arrived a [sic] Wolfe's office as agreed, written settlement in hand and ready to collect approximately $45,000. Instead, he received a check in the amount of $6,000 and granted Wolfe an additional week or until April 5, 2007 to make good on his promises. Wolfe and Ray both signed the settlement agreement that day. Ray also learned that the $2,000 check he received on March 22 had been returned to his bank unpaid for lack of funds. Ray made several more attempts to collect the balance due to him, all to no avail. As a result, this lawsuit was filed.

This Court finds that Mr. Ray's testimony was much more credible than that of Mr. Wolfe's. The Court finds that Mr. Ray suffered the following damages: (Emphasis added)

Chevron Credit Account $1081.27

> This amount is compiled from credit card statements of Micheal Ray.

Federal and State Taxes withheld but not paid $13,632.57

> Both Wolfworld, L.L.C. and LA Air withheld taxes totaling $649.17 per week from Micheal Ray's paychecks. This pattern began on July 24, 2006 and continued until December 17, 2001, the date of his last paycheck. The total time is 21 weeks.

* * *

Payments due on employment contract $59,615.48

The employment contract between Wolfe and Ray had a term of one year. Ray was only paid for 21 weeks. The remaining 31 weeks of the contract have a value of $1,923.08 per week ($100,000 per year divided by 52 weeks), totaling $59,615.48. Because Ray's termination was without cause, the remaining term of the contract must be paid by Wolfe, who terminated in an untimely fashion.

Damage to credit as a result of Carrier judgment/ Loss of business opportunity $50,000.00

The Carrier judgment has damaged Ray's credit. It will appear on any public records search of his name and will appear on his credit report. It will make it more difficult for Ray to purchase goods on credit or at least make the borrowing more expensive. This judgment has also made it difficult or impossible for Ray to maximize his business potential. Ray's federal income tax returns show an adjusted gross income of $56,000 for 2005; $31,169 for 2006; $23,178 for 2007; and $26,745 for 2008. As a result of the Carrier judgment, Ray has not been able to obtain credit from his primary supplier Carrier (or likely from any other supplier), in order to do business on his own. The post-2006 earnings show the result of the inability to obtain credit. In 2006, he was able to obtain an employment agreement at the rate of $100,000 per year based in part on his ability to do business as an authorized Carrier dealer. Without that designation, he has had a loss of income in the range of $44,000 to $77,000 per year. The Court has awarded him one year of loss of income only. Since the Carrier judgment Was [sic] recorded, Ray was denied credit for a home equity loan and his credit with Carrier was cut off. Prior to his employment with Wolfe, Ray was able to purchase a condominium in Metairie on credit. He was able to do all this after each creditor reviewed his then existing credit report. In addition the Carrier judgment has been an

> impediment to Ray's efforts to obtain his HVAC state contractor's license.

On appeal, Defendants assign the following assignments of error: (1) the trial court committed manifest error in rescinding the settlement agreement and in awarding damages in excess of the amount set forth in the parties' settlement agreement; (2) the trial court committed manifest error by ruling that a fixed-term employment contract existed between the parties, as there was no written contract; (3) the trial court committed manifest error by holding Wolfe individually liable for amounts awarded to Ray for past wages, tax liabilities, payment of a credit account, and future damages; and (4) the trial court committed manifest error by awarding attorney's fees to Ray because no contractual term or statutory provision allows the recovery of attorney fees.

Standard of Review

In Louisiana, appellate courts review both law and facts. La. Const. Art. V, Sec. 10(B). The standard of review for a factual finding is the manifestly erroneous or clearly wrong standard. To reverse a fact finder's determination under this standard of review, an appellate court must undertake a two-part inquiry: (1) the court must find from the record that a reasonable factual basis does not exist for the finding of the trier of fact; and (2) the court must further determine the record establishes the finding is clearly wrong. *Stobart v. State, through Dept. of Transp. and Development*, 617 So.2d 880, 882 (La.1993). The issue to be resolved by the reviewing court is not whether the trier of fact was right or wrong, but whether the fact finder's conclusion was a reasonable one. *Id.* at 882. If the factual findings are reasonable in light of the record reviewed in its entirety, a reviewing court may not reverse, even though convinced that had it been sitting as

the trier of fact, it would have weighed the evidence differently. *Id.* at 882-883. Accordingly, where there are two permissible views of the evidence, the fact finder's choice between them cannot be manifestly erroneous. *Id.* at 883. Further, when a fact finder's determination is based on its decision to credit the testimony of one of two or more witnesses, that finding can virtually never be manifestly erroneous or clearly wrong. *Rosell v. ESCO*, 549 So.2d 840, 844-845 (La.1989). The credibility determinations of the trier of fact are subject to the strictest deference under the manifest error-clearly wrong standard. *Theriot v. Lasseigne*, 93-2661, p. 9 (La. 7/5/94), 640 So.2d 1305, 1313.

Discussion

The first issue to address is whether the trial court manifestly erred in rescinding the settlement agreement and by awarding damages in excess of the $47,514.00 amount set forth in the settlement agreement. Defendants argue that, when Ray entered into the settlement agreement for $47, 514.00, he agreed to release the defendants from all claims of any type that he had against them.

Ray alleges that the trial court properly rescinded the settlement agreement based on fraud and bad faith because Wolfe never intended to fulfill his settlement obligations. Ray argues that the record supports the trial court's decision to rescind the settlement agreement because the testimony indicates that (1)Wolfe began a series of defaults before the agreement was even reduced to writing by failing to pay on March 29 and by issuing a NSF check on the day of the verbal settlement agreement; (2) Wolfe testified that he had no money to make payment at the time he made the agreement with Ray; (3) Wolfe only paid $6,000.00 of the $47,514.00 on March 30, 2007; (4) Wolfe never paid Carrier or Ray for the amount due on the Carrier bill but rather paid Carrier $5,000.00 to be released from a suit

against him; and (5) Wolfe purchased Carrier's judgment against Ray for $10,000, while judgment was for $35,779.12.

Louisiana Civil Code article 3082 states that "[a] compromise may be rescinded for error, fraud, and other grounds for the annulment of contracts." The existence of fraud is a question of fact. *Bingham v. Ryan Chevrolet–Subaru, Inc.,* 29,453, p. 3 (La. App. 2 Cir. 4/2/97), 691 So.2d 817, 819, citing *Recherche, Inc. v. Jewelry Jungle, Inc.*, 377 So.2d 1329 (La. App. 1 Cir. 1979). Fraud is defined in our civil code as "a misrepresentation or a suppression of the truth made with the intention either to obtain an unjust advantage for one party or to cause a loss or inconvenience to the other." La. C.C. art. 1953. Fraud may also result from silence or inaction. *Id.* There are three basic elements to an action for fraud: (1) a misrepresentation, suppression, or omission of true information; (2) the intent to obtain an unjust advantage or to cause damage or inconvenience to the other party; and (3) the resulting error must relate to a circumstance substantially influencing the other party's contractual consent. *Shelton v. Standard/700 Associates*, 01–0587, p. 5 (La. 10/16/01), 798 So.2d 60, 64.

In this case, Wolfe testified that although he entered into the verbal settlement agreement on March 22, 2007, he knew at that time he did not have the money available to pay Ray on March 29, 2007. Wolfe testified that he entered into the settlement agreement in the hopes that this client, Mr. Weathersby, would make a final payment which would allow him to pay Ray the $47,514.00. Wolfe also testified that when he could not pay Ray in April of 2007, he offered him $14,000.00 worth of inventory to settle their differences. Although Wolfe argued at trial that Ray released him from the settlement due to the $14,000.00 worth of inventory, he was unable to produce the original document evidencing this fact.

A review of the record supports the fact that the principal cause for Ray entering into the settlement agreement with Wolfe was the timely payment of Ray's creditors. As the trial judge stated, "[c]ritical to the compromise was the rapid payment of the full amount due in order to enable Ray to pay pressing bills to Carrier Air Distributors and Chevron Credit who were already threatening legal action for non-payment." The trial judge heard the testimony regarding Wolfe issuing a $2,000.00 "NSF" check to Ray on the date of the verbal agreement as well as Wolfe's testimony that although he was unable to pay the settlement amount at that time, he was in fact living in a luxurious condominium development, leasing multiple vehicles, and living his usual life at the time the settlement was due. The trial judge was also aware of Wolfe's testimony regarding him buying Carrier's judgment against Ray for $10,000.00 without giving Ray notice of his acquisition just days before this matter went to trial. After reviewing Wolfe's testimony in the record, we find that the basic elements to an action for fraud are satisfied, specifically: (1) Wolfe misrepresented the fact that his agreement with Ray was contingent upon him receiving money from Mr. Weathersby; (2) Wolfe intended to inconvenience Ray by failing to promptly pay and by writing NSF checks; and (3) Wolfe knew the delay of the settlement payment would create legal issues for Ray and would cause Ray to have no choice but to quit working. Further, we are required to give great deference to the trial court's factual finding that "Mr. Ray's testimony was much more credible than that of Mr. Wolfe's." Accordingly, we find no merit in Wolfe's argument that the trial court erred in rescinding the settlement agreement and in its decision to award Ray damages in excess of the amount stated in the settlement agreement.

The second issue to address is whether the trial court committed manifest error by ruling that a fixed-term employment contract existed between the parties since there was no written contract. Defendants argue that the record contains no evidence of either a written or oral acceptance of an employment proposal. Further, defendants argue that several of the material terms of Ray's employment proposal were never carried out, such as: (1) Ray did not have medical, vision, and/or dental coverage; (2) Ray was never given 20% ownership of La Air; rather he only had 5% interest; and (3) Ray was not given vacation days or sick leave.

Ray argues that the employment agreement was orally accepted and that the facts adduced at trial showed that the conditions of Ray's employment were substantially in accord with the written proposal. Specifically, Ray alleges that (1) he was paid for Thanksgiving Day, which was the only paid holiday before his termination; (2) he was enrolled in the company's 401K plan; (3) his vehicle's maintenance and fuel were paid by the Wolfe companies; (4) his salary was $100,000 per year paid in 52 weekly installments; (5) his Carrier account was used to purchase HVA/C&R equipment and parts for construction projects; (6) the company leased and insured his trucks until December 9, 2006; and (7) Wolfman established a separate legal entity for the HVA/C&R entity and made him a member and officer.

La. C.C. art. 2747 provides:

Art. 2747. Contract of servant terminable at will of parties

> A man is at liberty to dismiss a hired servant attached to his person or family, without assigning any reason for so doing. The servant is also free to depart without assigning any cause.

Employees hired without a fixed-term are subject to dismissal by their employers at any time, for any reason, without the employers' incurring liability for wrongful discharge. *Copeland v. Gordon Jewelry Corp*., 288 So.2d 404 (La.App. 4 Cir. 1/8/74).

La. C.C. art. 2749 states:

Art. 2749. Liability for dismissal of laborer without cause

> If, without any serious ground of complaint, a man should send away a laborer whose services he has hired for a certain time, before that time has expired, he shall be bound to pay to such laborer the whole of the salaries which he would have been entitled to receive, had the full term of his services arrived.

As a prerequisite for claiming unpaid salaries for work that would have been performed in the future, employees must show that they have been hired for definite time periods. *Jackson v. East Baton Rouge Parish School Bd*., 393 So.2d 243, 244-245 (La. App. 1 Cir. 1980). The party relying on an alleged contract of employment for a set duration of time has the burden of proof that there was a meeting of the minds on the length of time of the employment. *Brodhead v. Board of Trustees for State Colleges and Universities*, 588 So.2d 748, 752 (La. App. 1 Cir. 10/18/92).

Ray cites to La. C.C. Art. 2053[3] and the case *Dockson Gas Co. v. S. & W. Const. Co*., 12 So.2d 847 (La. App. 2 Cir. 1943) for the proposition that an unsigned written proposal may still be binding if the parties acted in accordance with the agreement. In *Dockson*, the plaintiff made a written proposal to furnish butane needed by the defendant for a fixed period of time. The proposal was made

[3] La. C.C. art. 2053 states: "A doubtful provision must be interpreted in light of the nature of the contract, equity, usages, the conduct of the parties before and after the formation of the contract, and of other contracts of a like nature between the same parties."

in writing in two parts: one was signed and the other part was not signed. After plaintiff proceeded to execute the obligations on the unsigned portion of the contract, the defendant denied that there was any mutuality of intent between the parties as to the unsigned portion of the contract. The trial court held that the conduct of the parties sufficiently indicated an intention to honor the whole of the contract and that defendant's silence in allowing plaintiff to perform significant obligations at its own costs without expressing its lack of consent was proof of the defendant's agreement to the unsigned portion of the contract.

Similarly, the parties in this case appeared to act in accord with the provisions of the employment proposal. Again, the trial court heard all of the testimony and found Ray's testimony more credible than Wolfe's. The trial court made a factual finding that the parties had in fact agreed to a one year employment agreement. After reviewing the testimony in the record, we do not find that the trial court manifestly erred in honoring the one-year employment agreement that was provided in the written proposal that formed the basis of the contract between the parties.

The third issue to address is whether the trial court committed manifest error by holding Wolfe individually liable for amounts awarded to Ray for past wages, tax liabilities, payment of a credit account, and future damages. Defendants argue that it was error to hold Wolfe solidarily liable in his individual capacity for the awards that were based solely on Ray's employment relationship with the corporate defendants, Wolfman/Wolfe World and LA Air.

Ray cites to La. C.C. art. 2324 (A)[4] and the fact that he alleged in his petition that Wolfe was liable in tort for intentional interference with his right pursuant to both the employment contract and the settlement agreement,[5] to find that Wolfe is solidarily obligated to him. Further, Ray alleges that Scott Wolfe Sr. intended to be bound solidarily when (1) he signed the settlement agreement on behalf of, "Scott Wolfe Sr., Wolfe World, L.L.C. and LA Air, L.L.C., individually or as an authorized member" and (2) he testified at trial that he alone made ultimate management decisions for the companies he owned and controlled.

The record does support a finding that Scott Wolfe Sr. intended to bind himself to the same obligations as to his entities, Wolfe World, L.L.C. and La Air, L.L.C. Specifically, the settlement agreement identifies the parties to the contract as Micheal Ray and:

> Scott Wolfe, Sr., a person of the full age of majority domiciled in the Parish of Orleans, Wolfe World, L.L.C., d/b/a Wolfman Construction, a limited liability company doing business in the Parish of Orleans and organized under the laws of the State of Louisiana; LA Air, L.L.C., a limited liability company doing business in the Parish of Orleans and organized under the laws of the State of Louisiana and any other entity controlled or owned in whole or in part by Scott Wolfe, Sr., who shall be referred to herein collectively as "Wolfe".

Because defendants were identified as a single entity identified by the name "Wolfe" and because "Wolfe" agreed to "make a single payment for forty seven thousand five hundred fourteen dollars ($47,514.00) to Micheal Ray to reimburse the following expenses, which Ray claims are owed by Wolfe" we find Scott

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[4] La. C.C. art. 2324 (A) states, "[h]e who conspires with another person to commit an intentional or willful act is answerable, in solido, with that person, for the damage caused by such act.

[5] Paragraph 22 of the petition states: "[a]t any time, Wolfe could have caused the related entities to honor their contractual activities, but out of bad faith and with intent, Wolfe caused the entities to ignore and refuse petitioner's demands and the companies' obligations."

Wolfe made himself liable individually, along with his entities, for Ray's damages. Further, La. C.C. art. 2324 (A) states "[h]e who conspires with another person to commit an intentional or willful act is answerable, in solido, with that person, for the damage caused by such act." We find this article supports Ray's position that Wolfe should be answerable, in solido, with the companies he owned because the trial court rescinded the settlement agreement due to Wolfe's bad faith and fraud in negotiating with Ray.

The fourth issue to address is whether the trial court committed manifest error in awarding attorney's fees to Ray. Defendants argue it was error for the trial court to award attorney's fees because Ray's suit was not a suit to enforce the settlement agreement and because there is no contract in the record that supports attorney's fees.

Ray argues that he is entitled to attorney's fees because La. C.C. art. 1958[6] provides fees when the record supports bad faith and fraud in entering the settlement agreement. Ray also argues that the settlement agreement itself provides for the payment of attorney's fees when it states, "[i]f either Party is required to obtain the services of counsel to enforce any part of this agreement, the Party shall be entitled to reasonable attorney's fees and costs of enforcement in addition to any amounts found to be due and owing."

We agree with Ray that the parties contemplated an award of attorney's fees if either party was forced to engage the services of counsel to enforce the amount due under the settlement agreement. Ray chose to pursue the remedy of rescission in order to make a full recovery of his damages for the bad faith failure of Wolfe to

[6] La. C.C. art 1958 provides: "[t]he party against whom rescission is granted because of fraud is liable for damages and attorney fees."

perform under the settlement agreement. We find no error in the trial court's finding to rescind the settlement agreement due to Wolfe's bad faith and fraud. Accordingly, attorney's fees were properly awarded.

For these reasons, we hereby affirm the January 18, 2012 trial court judgment, which found in favor of Micheal Ray and against Scott Wolfe Sr., La. Air L.L.C., Wolfman Construction Company, and Wolf World, L.L.C., in the amount of $124,329.32, plus interest, costs and attorney's fees.

AFFIRMED