STATE OF MICHIGAN

COURT OF APPEALS

DON BLACKBURN & COMPANY, Plaintiff-Appellant,	UNPUBLISHED November 20, 2003
v MOLEX INDUSTRIAL INTERFACES, Defendant-Appellee.	No. 241279 Wayne Circuit Court LC No. 01-107810-CK

DON BLACKBURN & COMPANY, Plaintiff-Appellee,	
v MOLEX INDUSTRIAL INTERFACES, Defendant-Appellant.	No. 241687 Wayne Circuit Court LC No. 01-107810-CK

Before: Owens, P.J., and Fitzgerald and Saad, JJ.

PER CURIAM.

This is a consolidated appeal in which both parties appeal as of right. Plaintiff appeals the order granting summary disposition to defendant pursuant to MCR 2.116(C)(10). Defendant appeals the order denying the imposition of sanctions against plaintiff pursuant to MCR 2.114(D)(2) and (E). We affirm.

This case arose out of a dispute regarding plaintiff's attempt to return inventory to defendant. Although there is a dispute regarding the exact nature of their relationship, plaintiff was, at the time the inventory was purchased, a distributor for defendant. Defendant refused to accept the inventory. Defendant moved for summary disposition, and the circuit court found that, no matter what the relationship between the parties was, defendant was not required to accept the inventory under the circumstances. Defendant also moved for sanctions against plaintiff regarding four statements made by plaintiff in a mediation summary that were allegedly not well grounded in fact. The circuit court did not find the statements sufficiently ungrounded to warrant sanctions.

Motions for summary judgment pursuant to MCR 2.116(C)(10) are reviewed de novo on appeal. *Dressel v Ameribank*, 468 Mich 557, 561; 664 NW2d 151 (2003). Plaintiff argues that the ambiguity regarding the terms of the parties' agreement or lack thereof at the time the dispute arose precludes summary judgment. Although summary disposition is inappropriate where contract terms are ambiguous, *Michaels v Amway Corp*, 206 Mich App 644, 649; 522 NW2d 703 (1994), the terms of the contract are not material in this matter. Under any possible scenario, a letter from defendant to plaintiff terminated their agreement sufficiently far in advance of the attempted inventory return to render the return untimely. Plaintiff's arguments that the parties were still in a formal distributor relationship are not supported by the record. Therefore, although there was a genuine issue of fact, the issue of fact is not material and summary disposition was appropriate.

The purpose of MCR 2.114 is to "deter attorneys and parties from filing frivolous documents without sacrificing zealous representation by the sanctioned party." *FMB-First Mich Bank v Bailey*, 232 Mich App 711, 727 n 12; 591 NW2d 676 (1998). A determination by the trial court of frivolousness under MCR 2.114 is reviewed on appeal for clear error, meaning, "although there is evidence to support it, the reviewing court is left with a definite and firm conviction that a mistake has been made." *Kitchen v Kitchen*, 465 Mich 654, 661-662; 641 NW2d 245 (2002). Although attorneys are required to conduct an objectively reasonable inquiry into the factual viability of a pleading before signing it, the facts are not required to actually be true. *Attorney General v Harkins*, 257 Mich App 564, 576; 669 NW2d 296 (2003). Sanctions are therefore required where "the party had no reasonable basis to believe that the facts underlying that party's legal position were in fact true." *Kitchen*, *supra* at 662.

The circuit court found plaintiff to be "a little fast and lose [sic] with the facts," but nevertheless found the four statements to have some factual support. We are not left with a "definite and firm conviction" that the circuit court was mistaken. The statements of which defendant complains are not so baseless that they preclude the possibility that plaintiff reasonably believed them at the time the mediation summary was signed.

Affirmed.

/s/ Donald S. Owens
/s/ E. Thomas Fitzgerald
/s/ Henry William Saad