STATE OF MICHIGAN

COURT OF APPEALS

JASON J. ARMSTRONG,

Plaintiff-Appellant,

v

LINDA L. POCCHIOLA and KELLY GILMOUR,

Defendants-Appellees.

UNPUBLISHED
December 2, 2003

No. 241252
Oakland Circuit Court
LC No. 00-027737-CK

Before: Fort Hood, P.J., and Murphy and Neff, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order granting defendants' motion for summary disposition. We affirm.

This action arises out of the disruption and dissolution of a dental practice. Plaintiff purchased a fifty percent ownership interest in the corporate practice of another dentist. Plaintiff alleged that the dentists were to share patients by scheduling with the first available dentist. However, after the relationship between the dentists became strained, plaintiff alleged that defendants, employees of the dental practice who performed scheduling and insurance duties, began to direct patients to the schedule of the other dentist. It was further alleged that defendants conspired to deprive plaintiff of patients and defamed plaintiff by notifying other employees of plaintiff's alleged embezzlement of funds from the corporation. The trial court granted summary disposition of all claims and denied plaintiff's motion to amend the defamation claim.

Plaintiff first alleges that the trial court erred in granting summary disposition of his tortious interference with business expectancy claim. We disagree. The trial court's grant or denial of summary disposition is reviewed de novo.[1] *Stone v State of Michigan*, 467 Mich 288, 291; 651 NW2d 64 (2002). To maintain a cause of action for tortious interference, plaintiff must

[1] Although defendants moved for summary disposition pursuant to MCR 2.116(C)(8) and (C)(10), the trial court did not specify the subsection upon which summary disposition was granted. Where documentary evidence is relied on and submitted by the parties, we treat the motion as having been granted pursuant to MCR 2.116(C)(10) and examine the pleadings and the documentary evidence. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000).

establish that defendants were third parties to the contract or business relationship. *Reed v Michigan Metro Girl Scout Council*, 201 Mich App 10, 13; 506 NW2d 231 (1993); *Dzierwa v Michigan Oil Co*, 152 Mich App 281, 287; 393 NW2d 610 (1986). However, agents of the corporation are not liable for tortious interference unless they acted solely for their own benefit and with no benefit to the corporation. *Reed, supra*; *Feaheny v Caldwell*, 175 Mich App 291, 305-307; 437 NW2d 358 (1989). Plaintiff's blanket allegations that defendants acted to attain beneficial positions with the other dentist are insufficient to meet his burden of demonstrating a material factual issue to preclude summary disposition. See *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999); *Quinto v Cross & Peters Co*, 451 Mich 358, 371-372; 547 NW2d 314 (1996). Additionally, there was no evidence that defendants acted solely for their own benefit and without benefit to the corporate entity. Moreover, there was no evidence that defendants acted with an intent to induce or cause a breach of contract.[2] See *Formall, Inc v Community National Bank*, 166 Mich App 722, 781; 421 NW2d 289 (1998). Because summary disposition of the tortious interference claim was proper, the civil conspiracy claim also fails. *Admiral Ins Co v Columbia Casualty Ins Co*, 194 Mich App 300, 313; 486 NW2d 351 (1992).

Plaintiff next alleges that the trial court erred in granting summary disposition of the defamation claim. We disagree. The elements of defamation must be specifically pleaded, including the allegations with respect to the defamatory words, the connection between the plaintiff and the words, and the publication of the alleged defamatory words. *Gonyea v Motor Parts Federal Credit Union*, 192 Mich App 74, 77; 480 NW2d 297 (1991). Plaintiff's identification of publication to "other staff members" was insufficient to meet the burden. *Id*. at 77-78. Furthermore, we conclude that amendment would be futile. *Id*. at 78. There was no evidence that plaintiff's reputation within the community was lowered or that others were deterred from associating with plaintiff as a result of the alleged defamatory statements. *Kefgen v Davidson*, 241 Mich App 611, 617; 617 NW2d 351 (2000). Furthermore, plaintiff's contention that word must have spread to other dental offices was not established with admissible documentary evidence, but rather was premised on hearsay. *Maiden, supra*. Accordingly, the trial court's order granting summary disposition and denying the motion to amend the complaint was proper.

Affirmed.

/s/ Karen M. Fort Hood
/s/ William B. Murphy
/s/ Janet T. Neff

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[2] We note that the purchase agreement does not set forth the division of the profits of the dentists' corporation. Consequently, it is questionable whether defendants knew whether the direction of a patient to one dentist or another had a financial impact on the non-treating dentist.