

No. 90-026

IN THE SUPREME COURT OF THE STATE OF MONTANA

1993

L A MINING, INC.,
a Montana Corporation,

Plaintiff and Respondent,

v.

BRUCE KNUDSEN and LLOYD KNUDSEN,

Defendants and Appellants.

FILED

SEP 21 1993

CLERK OF SUPREME COURT
STATE OF MONTANA

APPEAL FROM: District Court of the First Judicial District,
In and for the County of Lewis and Clark,
The Honorable Thomas C. Honzel, Judge presiding.

COUNSEL OF RECORD:

For Appellants:

Leo J. Kottas, Sr., Attorney at Law,
Mesa, Arizona

For Respondent:

Frank Altman, Altman & Boucher,
Havre, Montana

Submitted on Briefs: April 1, 1993

Decided: September 21, 1993

Filed:



Clerk

Justice William E. Hunt, Sr., delivered the opinion of the Court.

Defendants Bruce Knudsen and Lloyd Knudsen appeal from a jury verdict and judgment in the First Judicial District Court, Lewis and Clark County, in favor of L A Mining, Inc., of Havre, awarding plaintiff \$539,555.53, plus costs and attorney fees, for fraud and breach of several mining excavation contracts. Appellant Bruce Knudsen failed to answer L A Mining's District Court complaint, and thus, plaintiff's amended complaint excluded him as a party below. Additionally, before trial, the U.S. Bankruptcy Court, District of Montana, discharged Bruce Knudsen in bankruptcy from personal liability for any judgment obtained for existing debt. Consequently, we dismiss appellant Bruce Knudsen as a party on appeal for lack of standing.

We affirm.

On appeal, appellant submits 18 issues. Many of these issues, however, are moot due to appellant's subsequent discharge in bankruptcy for the award based on breach of the contracts. The briefs contain much irrelevant material not pertinent to this appeal. Thus, we decline to address appellant's issues as stated.

We determine the sole issue to be whether the jury verdict for fraud was supported by the evidence presented at trial.


On August 4, 1989, the jury returned a verdict against Lloyd Knudsen in favor of L A Mining on one fraud and several contract claims. On November 23, 1990, Lloyd Knudsen also filed for Chapter 7 bankruptcy in the U.S. Bankruptcy Court, District of Montana. On October 11, 1991, the parties stipulated to the

Bankruptcy Court that the judgment for fraud against appellant would be dischargeable only on this Court's reversal of the jury verdict, or if on remand no fraud award was levied against appellant. On March 9, 1992, the Bankruptcy Court discharged Lloyd Knudsen from personal liability for any existing debts or judgments obtained, except for those nondischargeable under Section 523(a)(2)(A) of the Bankruptcy Code; namely, the judgment for fraud.

The jury based its verdict on testimony of multiple witnesses that appellant had relayed to respondent that he was solvent and able to underwrite the contracts entered into between himself and respondent. After hearing the testimony of appellant and other witnesses, including corporate officers of L A Mining who negotiated the contracts with appellant, the jury did not believe appellant and found in favor of respondent.

We hold, after review of trial testimony, that the jury had sufficient evidence with which to support a jury verdict of fraud in favor of L A Mining. We affirm.

Pursuant to Section I, Paragraph 3(c), Montana Supreme Court 1988 Internal Operating Rules, this decision shall not be cited as precedent and shall be published by its filing as a public document with the Clerk of the Supreme Court and by a report of its result to Montana Law Week, State Reporter and West Publishing Company.

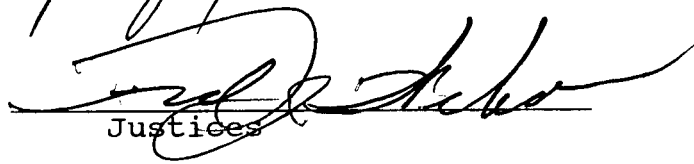

Justice

We concur:

John Conway Harrison

Karla M. Gray

Troy Jewals


Justices