

FILED: December 30, 2015

IN THE COURT OF APPEALS OF THE STATE OF OREGON

GREENWOOD PRODUCTS, INC., an Oregon corporation; and
JEWETT-CAMERON LUMBER CORP., an Oregon corporation,
Plaintiffs-Respondents
Cross-Appellants,

v.

GREENWOOD FOREST PRODUCTS, INC., an Oregon corporation;
JIM DOVENBERG, an individual; and BILL LEFORS, an individual,
Defendants-Appellants
Cross-Respondents.

Multnomah County Circuit Court
050302553

A135701

On remand from the Oregon Supreme Court, *Greenwood Products v. Greenwood Forest Products*, 357 Or 665, 359 P3d 219 (2015).

Jerry B. Hodson, Judge.

Submitted on remand December 02, 2015.

Maureen Leonard and Ron D. Ferguson filed the briefs for appellants-cross-respondents.

Robert D. Newell, Kevin H. Kono, and Davis Wright Tremaine LLP filed the answering-cross-opening brief for respondents-cross-appellants. With them on the supplemental brief was Timothy R. Volpert.

Before Armstrong, Presiding Judge, and Haselton, Chief Judge, and Duncan, Judge.

PER CURIAM

On appeal, (1) general judgment affirmed; (2) plaintiffs' attorney fee award in supplemental judgment on breach of contract claim affirmed; (3) defendants' attorney fee award in supplemental judgment on counterclaim for nonpayment of promissory notes remanded for the court to award reasonable expert expenses to defendants. On cross-appeal, affirmed.

1 PER CURIAM

2 This case is on remand from the Oregon Supreme Court for the second
3 time. *Greenwood Products v. Greenwood Forest Products*, 238 Or App 468, 242 P3d
4 723 (2010) (*Greenwood I*), *rev'd in part and rem'd*, 351 Or 604, 273 P3d 116 (2012)
5 (*Greenwood II*), *on remand*, 264 Or App 1, 330 P3d 662 (2014) (*Greenwood III*), *rev'd*
6 *and rem'd*, 357 Or 665, 359 P3d 219 (2015) (*Greenwood IV*). A recitation of the facts
7 would not benefit the bench, the bar, or the public.

8 Suffice it to say, defendants (Forest Products) raised seven assignments of
9 error on appeal, and plaintiffs (Greenwood) raised a single assignment of error on cross-
10 appeal. The Supreme Court rejected Forest Products' first through fourth and sixth
11 assignments of error in *Greenwood II* and *Greenwood IV*. In *Greenwood I*, with regard
12 to Forest Products' seventh and final assignment of error, we concluded that Forest
13 Products--who was awarded attorney fees as the prevailing party on its counterclaim for
14 nonpayment of the promissory notes--was also entitled to recover expert expenses, and
15 we remanded for the trial court to award reasonable expert expenses to Forest Products.
16 238 Or App at 482-85. We also rejected Greenwood's cross-appeal on preservation
17 grounds. *Id.* at 485-86. Because Greenwood did not challenge those two determinations
18 in the Supreme Court, *see Greenwood II*, 351 Or at 615 n 8; *Greenwood IV*, 357 Or at
19 676-78, we adhere to our reasoning in *Greenwood I* concerning those determinations and
20 readopt it here. As instructed by the Supreme Court in *Greenwood IV*, we have now
21 considered Forest Products' fifth assignment of error concerning purported instructional

1 error and the part of Forest Products' seventh assignment of error concerning the award of
2 attorney fees to Greenwood, and we reject them without written discussion.

3 On appeal, (1) general judgment affirmed; (2) plaintiffs' attorney fee award
4 in supplemental judgment on breach of contract claim affirmed; (3) defendants' attorney
5 fee award in supplemental judgment on counterclaim for nonpayment of promissory
6 notes remanded for the court to award reasonable expert expenses to defendants. On
7 cross-appeal, affirmed.