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Court nixes former CEOs tortious interference claim

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Claims of tortious (wrongful) interference are becoming more common these days. Such a claim may arise, for example, when an employee asserts that coworkers improperly made false complaints to their employer to induce it to terminate him. A claim for tortious interference may also arise when a former employer makes false statements to prevent a former employee from getting a new job with a competitor. Although tortious interference law may encompass a variety of factual scenarios, there are limits to the legal doctrine.

Facts

Recently, the federal district court in Alexandria reaffirmed the boundaries of tortious interference law. The case presented an unusual fact pattern for such a claim.

Stephen Stradtman was the CEO of Otto Industries North America, Inc., which manufactures trash and recycling carts. Otto is a large supplier of carts for Republic Services, which provides waste and recycling services. Stradtman's wife worked for Republic, and while employed by the company, she filed a sexual harassment and retaliation charge with the Equal Employment Opportunity Commission (EEOC). After his wife left Republic, she successfully pursued a harassment and retaliation lawsuit against the company.

In his separate legal action, Stradtman claimed that Republic improperly began stopping or reducing purchases of trash and recycling carts from Otto to apply pressure on him to convince his wife to drop her lawsuit. In light of the lost cart orders, Stradtman claimed he had no option but to resign from Otto and that Republic therefore was liable for tortiously interfering with his employment.

Significantly, Stradtman didn't dispute that he voluntarily resigned and that Otto wanted him to stay. Nonetheless, he argued that he had a fiduciary duty to Otto's employees and to other stakeholders and that he had to resign because of the potential negative impact on Otto's business from Republic's lower cart orders.

Court's decision

Following discovery (the pretrial exchange of facts and documents), Republic asked the judge to dismiss the case before trial. Stradtman opposed the request, but District Court Judge James C. Cacheris rejected his arguments and dismissed the case. Judge Cacheris reaffirmed the boundaries of tortious interference law in five respects.

First, Judge Cacheris found that Stradtman had failed to claim—much less prove—that Republic had induced Otto to terminate his employment. This failure, in and of itself, was fatal to his tortious interference claim. As Judge Cacheris explained, the basic legal requirement that a third party such as Otto terminate the employee has been well established since the Virginia Supreme Court first recognized a tortious interference claim in its 1985 decision in *Chaves v. Johnson.*

Second, relying on numerous federal court decisions, Judge Cacheris reasoned that "Stradtman's voluntary resignation breaks the causal chain between any supposed interference by [Republic] and the termination of his employment."

No constructive discharge

Third, the court concluded that "there is no support in the record for Stradtman's claim that he was constructively discharged from Otto." A constructive discharge occurs when the employment conditions are so intolerable that an employee has no option but to resign. In this case, the undisputed evidence was that Otto wanted Stradtman to stay and even paid him a $270,000 bonus. As Judge Cacheris commented, "not

only were these conditions tolerable by objective standards, a reasonable person might even call them desirable."

Fourth, the court found that Republic's decision to choose one cart vendor over another—even if to the commercial detriment of Otto—was not an "improper method" of interference under Virginia law. The court reasoned that it isn't illegal for companies to select their own vendors. Hence, doing something that wasn't illegal couldn't be an improper method.

Fifth and finally, the court rejected Stradtman's assertion that he had a fiduciary duty to resign since the record showed he had engaged in a "years-long scheme in an attempt to cast liability on [Republic] for actions he willingly took." Based in part on the court's finding that Stradtman in essence manufactured a tortious interference claim, Republic is seeking to recover its attorneys' fees for having to defend his lawsuit. *Stephen M. Stradtman v. Republic Services, Inc., et al.*, Case No. 1:14cv1289 (E.D. Va., June 11, 2015).

Bottom line

For employers, the court's ruling is important. It serves as a reminder that not every action by an employer that may adversely affect another person will give rise to a viable legal claim. The district court's decision reaffirms that not all activity in the rough-and-tumble competitive marketplace is subject to a claim for tortious interference. Careful analysis by your counsel regarding the legal limits of such a claim should be undertaken if you end up on the wrong side of a lawsuit. It may turn out that no legal violation occurred, as was the case with Republic.

Editor's note: DiMuroGinsberg, P.C., is counsel of record and represented Republic in the case.

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