IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
November 29, 2022 Session

NICHOLAS GRIMALDI, D.O., ET AL. v. RONALD CHRISTOPHER, M.D., ET AL.

Appeal from the Circuit Court for Hamblen County
No. 16CV132 Alex E. Pearson, Judge

No. E2022-00025-COA-R3-CV

This is a contract dispute between a doctor and healthcare entities. The trial court awarded summary judgment to the healthcare defendants, and the doctor appeals. We find no basis to overturn the ruling of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed; Case Remanded

JOHN W. MCCLARTY, J., delivered the opinion of the court, in which D. MICHAEL SWINEY, C.J., and KRISTI M. DAVIS, J., joined.

Troy L. Bowlin, II, Knoxville, Tennessee, for the appellants, Nicholas Grimaldi and East Tennessee Spine and Orthopaedic Specialists, P.C.

Rick L. Powers and Dan D. Rhea, Knoxville, Tennessee, for the appellees, Gordon Lintz, Morristown Hamblen Healthcare System, and Covenant Health Corporation.

Mark A. Cowan, Morristown, Tennessee, for the appellee, Ronald Christopher, M.D.

OPINION

I. BACKGROUND

Covenant Health ("Covenant") owns and operates Morristown Hamblen Health Services ("MHHS"), which owns and operates Morristown Hamblen Hospital ("MHH") (collectively with Gordon Lintz and Ronald Christopher, M.D., "Hospital Defendants"). Covenant has a board of directors ("Covenant Board") and a local advisory group ("Local Board") for MHH. In 2007, while a resident in training, Dr. Nicholas Grimaldi, D.O., the

plaintiff, was recruited by the Hospital Defendants[1] for his specialty practice involving spinal procedures. Eventually, in 2011, Dr. Grimaldi agreed to bring his patients to MHH for their surgeries. In order to perform the specialized spinal surgeries and procedures, the Hospital Defendants provided certain equipment, including a hospital-owned and hospital furnished specialized spine table ("spine bed") for the operating room, along with staff having certain qualifications.

In late 2013, Dr. Grimaldi met with the Hospital Defendants regarding the costs associated with the specialized spinal surgeries. Dr. Grimaldi disputed the costs claim and, dissatisfied with the conversation, scheduled his surgeries for the next several months at another hospital.[2] In a deposition, Dr. Christopher testified that Dr. Grimaldi stated:

> I'm going to take every one of my cases over to Lakeway Hospital, and I'm going to stick it to Morristown-Hamblen Hospital . . . because they purchased all this equipment, I'm going to let them see how it feels.

In June 2014, Dr. Grimaldi sought to schedule additional surgeries at MHH. Mr. Lintz, MHH's Chief Administrator, met with Dr. Grimaldi and advised him that the Hospital Defendants would no longer permit him to use the spine bed. Mr. Lintz asserted that as a result of Dr. Grimaldi's absence, the support staff set aside to work on the spine surgery cases had been reassigned. Mr. Lintz testified that Dr. Grimaldi's absence closed the program and required its "dismantling." He prevented Dr. Grimaldi

> [f]rom using . . . Hospital purchased spinal implant hardware and the Hospital's "spine bed" in any future, not-yet-scheduled surgeries he might want to perform at the Hospital.

The Hospital Defendants averred that due to excessive costs and losses associated with the spine program, along with the disruptive behavior of Dr. Grimaldi, it was not in the best interest of MHH to restart the spine services. Mr. Lintz related:

> We decided that the costs to the Hospital for supporting Dr. Grimaldi's specialty service were not reasonable (having lost $1 million on this service the prior year), and therefore made the decision not to restart this program.
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> * * *
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> I made the decision not to restart that program because of the extraordinary

[1] With the exception of Dr. Christopher.

[2] Dr. Grimaldi maintains that much of the support and supply expense was billed to the patient and/or the patient's insurance provider for reimbursement, and Covenant negotiated prices for all the items and renegotiated the reimbursements to be paid by the insurance companies and government programs.

expense the Hospital would incur in restarting it.

* * *

What the Hospital refused to do was to bear the cost of spinal implants used by Dr. Grimaldi in his "special" spine surgeries.

Subsequently, the Local Board was informed of the decision through an administrative report, and the Local Board approved that report.[3] It is unclear from the record whether the Covenant Board ever discussed the issue.

Thus, after June 25, 2014, Dr. Grimaldi contends that he was prohibited from offering patient care services for spinal surgery at MHH. According to the Hospital Defendants, however, no formal action was taken against Dr. Grimaldi's spine surgery "privileges" at MHH, and he continued to perform some "spine surgeries" that did not involve the implantation of surgical hardware into the spine at MHH during the rest of 2014, 2015, and the first part of 2016. His spine surgery privileges were formally discontinued in mid-2016.

The Medical Staff Bylaws of MHH ("Bylaws") "create[d] a binding system of mutual rights and responsibilities between members of the Medical Staff and the Hospital, and are subject to the corporate authority of the Covenant Board in those matters where the Covenant Board has ultimate legal responsibility." Dr. Grimaldi posits that the Bylaws "may not be unilaterally amended by either party," and that under the Bylaws, MHH could not revoke the credentials of a member of the Medical Staff without a formal hearing. Dr. Grimaldi further asserts that MHH is not permitted under the Bylaws to revoke credentials based solely or primarily on economic criteria. He contends that the Hospital Defendants looked at the economics of spinal implant surgery after losing a million dollars in 2013 and made the decision to not allow further spinal implant surgeries. The Hospital Defendants maintain that a Bylaw exception applies when a hospital has made the decision to stop or close a service.

Dr. Christopher was once a partner at plaintiff East Tennessee Spine & Orthopaedic Specialists, P.C. with Dr. Grimaldi. After they parted ways, Dr. Christopher established a separate medical practice in Morristown under the name East Tennessee Center for Orthopedic Excellence. In this action alleging breach of contract filed on June 24, 2016, in addition to allegations against the other Hospital Defendants, Dr. Grimaldi accused Dr. Christopher of actively soliciting his patients to the new practice. He asserted that when he and Dr. Christopher, the Chief of Surgery at MHH, began having professional disputes in

[3] Mr. Lintz acknowledged that there are two separate boards: "Since Morristown Hamblen's affiliation with Covenant Health, we now have two boards; we have our local board, and the Covenant also of course has a board. . . . the overall governing board is the Covenant board."

2014, Dr. Christopher used his influence with MHH to cause the removal of the spine bed. He further argued that MHH is a non-profit organization and discontinuing the surgeries because they were not sufficiently profitable for MHH was a direct violation of the Bylaws.

The Hospital Defendants initially moved for summary judgment by asserting that Dr. Grimaldi did not have a contractual right to perform spine surgeries at MHH. The trial court denied the motion, concluding that the Bylaws did form a contract. In a second motion for summary judgment, the Hospital Defendants argued that an exception to the requirement to comply with the hearing rights section of the Bylaws applied. Specifically, the Hospital Defendants asserted that management was entitled to close a program without triggering the hearing rights under the Exceptions to Hearing Rights, Appropriateness of Exclusive Contracts section (Article XII, § F(1)). The provision provides:

> "Privileges can be reduced or terminated as a result of the Board's decision to close or continue closure of a department/service."

The trial court rejected this argument, finding that Mr. Lintz, acting alone, did not have the authority to terminate the spine program, but it inquired further about counsel's oral argument that some Local Board members had been informed. The Hospital Defendants later submitted a document that purported to be minutes of a meeting of the Local Board. The trial court viewed that document as approval by the Local Board, justifying an exception to the hearing rights under the Bylaws, and granted summary judgment to the Hospital Defendants. The trial court also sustained the summary judgment motion filed by Dr. Christopher.

Dr. Grimaldi filed a motion to reconsider, claiming that the trial court did not receive full briefing on the difference between the Local Board and the Covenant Board. He argued that the Bylaws required approval by the Covenant Board, not the Local Board, in order to fall within the exception. Dr. Grimaldi contends that there was no true vote on discontinuing the spinal program by the Local Board, much less any action by the Covenant Board. Ultimately, however, the trial court ruled that it "has heard numerous motions, held several hearings, and made various rulings involving the issues in this case and concludes that for judicial economy reasons that any further action in this matter is better served at the appellate level." Dr. Grimaldi thereafter filed this timely appeal.

II. ISSUES

The issues raised in this appeal are as follows:

1. Whether the trial court erred in granting summary judgment to the Hospital Defendants by disregarding the definition of the term "Board" in the Bylaws governing Dr. Grimaldi's contract with MHHS.

2. Whether the trial court erred in denying Dr. Grimaldi's motion to alter or amend the summary judgment order based on the definitions included in the Bylaws.

III. STANDARD OF REVIEW

Summary judgment "shall be rendered . . . if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Tenn. R. Civ. P. 56.04. When the moving party does not bear the burden of proof, the party may satisfy its burden in one of two ways: "(1) by affirmatively negating an essential element of the nonmoving party's claim or (2) by demonstrating that the nonmoving party's evidence *at the summary judgment stage* is insufficient to establish the nonmoving party's claim or defense." *Rye v. Women's Care Ctr. of Memphis*, *MPLLC*, 477 S.W.3d 235, 264 (Tenn. 2015) (emphasis in original).

The nonmoving party "may not rest upon the mere allegations or denials of the adverse party's pleading, but his or her response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial." Tenn. R. Civ. P. 56.06. "[A]fter adequate time for discovery has been provided, summary judgment should be granted if the nonmoving party's evidence *at the summary judgment stage* is insufficient to establish the existence of a genuine issue of material fact for trial." *Rye*, 477 S.W.3d at 265 (citing Tenn. R. Civ. P. 56.04, 56.06) (emphasis in original.)

With regard to the order granting summary judgment to the Hospital Defendants, the applicable standard of review is de novo. *Stovall v. Clarke*, 113 S.W.3d 715, 721 (Tenn. 2003) (citing *Webber v. State Farm Mut. Auto. Ins. Co.*, 49 S.W. 3d 265, 269 (Tenn. 2001)). As to the order denying Dr. Grimaldi's motion to alter or amend, the applicable standard of review is abuse of discretion. *Discover Bank v. Morgan*, 363 S.W.3d 479, 487 (Tenn. 2012). Factual findings are reviewed de novo with a presumption of correctness unless the preponderance of the evidence is otherwise. *Id.* (citing Tenn. R. App. P. 13(d)). Legal determinations should be reviewed de novo without any presumption of correctness. *Id.*

In this breach of contract case, the legal standards governing contract interpretation are well-settled." "The cardinal rule for interpretation of contracts is to ascertain the intention of the parties and to give effect to that intention, consistent with legal principles." *Maggart v. Almany Realtors, Inc.*, 259 S.W.3d 700, 703-04 (Tenn. 2008) (quoting *Bob Pearsall Motors, Inc. v. Regal Chrysler-Plymouth, Inc.*, 521 S.W.2d 578, 580 (Tenn. 1975)). Thus, "[i]f the language of the contract is clear and unambiguous, the literal meaning controls the outcome of the dispute." *Id.* (citing *Planters Gin Co. v. Fed. Compress & Warehouse Co.*, 78 S.W.3d 885, 890 (Tenn. 2002)). When the language is unambiguous, "the contract is interpreted according to its plain terms as written, and the language used is taken in its plain, ordinary, and popular sense." *Id.* (quotations and

citations omitted).

IV. DISCUSSION

Dr. Grimaldi argues that this appeal hinges on the interpretation of the word "Board" as found in the Bylaws. "Board," according to Dr. Grimaldi, means the Covenant Board, not the Local Board associated with MHH. As asserted by Dr. Grimaldi,

> Covenant Health board didn't meet. The Covenant Health board didn't approve, ratify anything. . . .
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> . . . [B]y its own contract and by its own language as defined, board means the board of directors of Covenant Health, who are not and is not the local board. . . .
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> . . .[T]he Covenant Health board has the ultimate decision, not the local board. . . .

Dr. Grimaldi contends that there is no evidence in the record of any decision on the fate of the spine program by the Covenant Board. He claims that there is no basis in the record to adequately support the argument from the Hospital Defendants that the Covenant Board had delegated its authority under the contract. The Hospital Defendants maintain "that Covenant Health knew what the local board was doing . . . both boards knew what the issues were and knew what was at stake here in closing or not closing this spine program."

Dr. Christopher opines that Mr. Lintz, as the hospital administrator, had the authority to make the call on the program as the express agent of the Covenant Board. He notes the definition of administrator in the Bylaws:

> ADMINISTRATOR means the Hospital Administrator or Chief Administrative Officer (CAO) regularly employed by the Covenant Health Board to act on its behalf in the overall management of the Hospital.

Dr. Christopher argues that because the program was never reopened, the Covenant Board's confirmation of the decision is obvious.

The trial court ultimately determined that "the [Hospital] [D]efendants supplied the Court with a copy of the minutes of the board meeting during which the program[']s closure was ratified by the board, and the Court declines to further reconsider its prior decisions at

this time. . . ."

As noted above, Article XII, § F(1) of the Bylaws provides as follows:

F. Exceptions to Hearing Rights

(1) Privileges can be reduced or terminated as a result of the Board's decision to close or continue closure of a department/service.

One of the provisions of section F requires a recommendation from the Medical Executive Committee before the Covenant Board eliminates a hospital department or service. § F(3). However, that same provision allows the Covenant Board to make its own decision "in this regard," and stipulates that the "Board's decision . . . shall be final, and not subject to further review." *Id*.

In the second motion for summary judgment, the Hospital Defendants relied on this provision to argue that Dr. Grimaldi was not entitled to a hearing because "the Hospital" had decided to discontinue the specialized spinal surgery service. They also stated that the "Local Board" had approved the closure of the service. They acknowledged that the decision was made by management, not the Covenant Board. Their expert witness on the contract declared that the exception applied, "whenever the *Hospital's management* elected to close a hospital service or program." (Emphasis added).

The essential elements of a claim for breach of contract are 1) the existence of an enforceable contract, 2) nonperformance amounting to a breach of contract, and 3) damages caused by the breach of the contract. *Bynum v. Sampson*, 605 S.W.3d 173, 180 (Tenn. Ct. App. 2020); *ARC Lifemed v. AMCTenn.*, 183 S.W.3d 1, 26 (Tenn. Ct. App. 2005). To establish a breach of contract for denial of "clinical privileges," Dr. Grimaldi must show an affirmative limitation in the Bylaws on the power of MHH to reduce those "privileges" when closing a department or service. The Hospital Defendants assert that when properly construed in their overall context, the Bylaws have not been breached and the second required element of a breach of contract claim cannot be proven. Upon extensive review of the record, we must agree with the position of the Hospital Defendants that the hearing provisions of the Bylaws were not applicable to the business decisions of MHH management.

As observed by the Hospital Defendants, the hearing exception for "Board" decisions contained in Article XII § F(1) actually recognized the Medical Staff's "hands-off" approach to management "business" decisions. It eliminated any technical "hearing" requirement under the Bylaws by noting that the Medical Executive Committee "may make" a recommendation "regarding the continuation of medical staff membership and privileges for those members whose membership and privileges may be affected by a decision to close or continue closure of a Hospital department/service." Further

emphasizing a "hands-off" of "business" approach is the fact that Article XII § F(3) concludes with the statement: "the Board's decision in this regard shall be final, and not subject to further review." Dr. Grimaldi initiated the closure of the spine program when he took his surgeries to another hospital. Article XII § F(1) is not a limitation on the authority to "continue closure of a Hospital … service." MHH was not required to offer spine surgery, and it had no obligation to continue the spinal implant service when the costs to MHH were excessive. Further, it is undisputed that MHH's Medical Staff and the Medical Executive Committee took no action at all against Dr. Grimaldi in 2014 when MHH decided not to re-open the spine program which Dr. Grimaldi had closed by his unannounced departure. Dr. Grimaldi's medical staff appointment did not confer upon him any particular clinical privileges when MHH decided that it would not restart the spine program. The Bylaws authorized the reduction when MHH elected to keep the program closed.

As observed by the Hospital Defendants, the ambiguity in the Bylaws is whether or not the stated exception for a "decision" by the Covenant Board prohibits lower level management including Mr. Lintz from making the same "decision." No provision in the Bylaws imposes any prohibition on Mr. Lintz's decision in June of 2014 not to re-open the spine program after Dr. Grimaldi had closed it by taking his spine patients and program to another hospital. Mr. Lintz was the agent of the Covenant Board and was authorized "to act on its behalf in the overall management of the Hospital" pursuant to the Bylaws. This fact, coupled with the minutes of the Local Board viewed favorably by the trial court, supports the decision of the court below.

Accordingly, Dr. Grimaldi cannot prove the second essential element of a breach of contract claim. *Bynum*, 605 S.W. 3d at 180. The trial court committed no error in sustaining the Hospital Defendants' Second Motion for Summary Judgment. There was no genuine issue of material fact, and the Hospital Defendants were entitled to judgment as a matter of law. Tenn. R. Civ. P. 56.04.

As to Dr. Grimaldi's contention regarding the motion to amend, we find no abuse of discretion by the trial court in the consideration and interpretation of the definitions in the Bylaws. Having first held that the trial court's grant of summary judgment to the Hospital Defendants was proper and now having found no error in the trial court's denial of the motion to reconsider, we affirm the grant of summary judgment.

V. CONCLUSION

After thoroughly reviewing the record and considering the arguments of the parties, we affirm the judgment of the trial court and remand. The costs of this appeal are assessed to the appellants Nicholas Grimaldi and East Tennessee Spine and Orthopaedic Specialists, P.C.

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JOHN W. MCCLARTY, JUDGE