

**FILED**

12/12/2024

Clerk of the  
Appellate Courts

IN THE COURT OF APPEALS OF TENNESSEE  
AT KNOXVILLE

November 12, 2024 Session

**TRI-STATE INSURANCE COMPANY OF MINNESOTA A/S/O CAMPUS  
CHALET, INC. v. EAST TENNESSEE SPRINKLER COMPANY, INC.**

**Appeal from the Circuit Court for Washington County  
No. 42442     Suzanne Cook, Judge**

---

**No. E2024-00599-COA-R3-CV**

---

This appeal stems from a dispute over a purportedly defective sprinkler system which malfunctioned, causing significant damage to Campus Chalet, Inc. (“Campus Chalet”). East Tennessee Sprinkler Company, Inc. (“ETS”) installed the system in 1992 and remained contractually responsible for subsequent inspections, testing, and maintenance of the system. On October 5, 2023, Campus Chalet’s insurance carrier filed a complaint in the Circuit Court for Washington County (the “trial court”), against ETS, alleging that the sprinkler system malfunctioned and caused significant damage to Campus Chalet. ETS filed a motion to dismiss, arguing that the complaint was time-barred by a statute of repose. The trial court granted ETS’s motion, and this appeal followed. Because we agree with the appellant that the negligence and breach of contract claims are based on ongoing failures to inspect, test, and maintain the system, we reverse.

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

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

Jonathan S. Masters, Oxford, Mississippi, for the appellant, Tri-State Insurance Company of Minnesota a/s/o Campus Chalet, Inc.

Dean Thomas Howell and Samuel Cole Wheeler, Knoxville, Tennessee, for the appellee, East Tennessee Sprinkler Company, Inc.

## OPINION

### BACKGROUND

ETS installed a sprinkler system at Campus Chalet in 1992. Ever since, ETS and Campus Chalet have been parties to a contract under which ETS is responsible for the ongoing inspection, repair, and maintenance of the system.<sup>1</sup> According to the complaint, the sprinkler system is a “dry” system, meaning it is not designed for water to pool in the system’s waterlines. On October 7, 2020, one of the waterlines burst, causing significant damage to Campus Chalet’s property.

On October 5, 2023, Tri-State Insurance Company of Minnesota, a/s/o Campus Chalet (“Tri-State”), filed its complaint, alleging claims for both negligence and breach of contract against ETS. Tri-State alleged that ETS failed to properly inspect, test, and maintain the sprinkler system since its installation in 1992. Relevant to this appeal, the complaint alleged that the sprinkler system’s waterline sloping was the proximate cause of the system’s failure and subsequent property damage. Tri-State further alleged that ETS should have identified and detected the sloping during their years of maintenance and that ETS’s failure allowed the pooled water to rust and corrode the lines, leading to the eventual burst.

On November 22, 2023, ETS moved to dismiss the complaint under Rule 12.02(6), arguing the complaint was time-barred by the four-year construction statute of repose found at Tennessee Code Annotated section 28-3-202.<sup>2</sup> Tri-State filed its response to the motion to dismiss on January 17, 2024, arguing its “claims and allegations are clearly directed at the years of inspections and maintenance attempted by [ETS] after installation.”

On February 21, 2024, the trial court heard ETS’s motion to dismiss. The trial court granted the motion in a subsequent order entered on March 26, 2024. The trial court reasoned that Campus Chalet’s cause of action arose during the “design, planning, supervision, observation of construction, or construction of an improvement to real property, namely a sprinkler system” which was installed in 1992. Accordingly, the trial court found that the cause of action was time-barred under Tennessee Code Annotated section 28-3-202. Thus, the complaint failed to state a claim upon which relief could be granted as required under Rule 12.02(6). The trial court also awarded attorney’s fees to ETS.

---

<sup>1</sup> The contract does not appear in the record. However, because this case was decided on a Rule 12.02(6) motion to dismiss, we take our facts from the complaint.

<sup>2</sup> ETS also argued there was insufficient service of process, but this is not at issue on appeal.

Tri-State filed a timely notice of appeal to this Court on April 24, 2024.

### ISSUES

Tri-State raises one issue on appeal, which we restate slightly:

I. Whether the trial court erred in applying Tennessee Code Annotated section 28-3-202 and subsequently dismissing Tri-State's complaint when the complaint was based on numerous years of ETS's failure to inspect, test, and maintain the sprinkler system.

ETS, in its posture as appellee, raises the following issues:

II. Whether the trial court properly awarded ETS its attorney's fees pursuant to Tennessee Code Annotated section 20-12-119(c).

III. Whether ETS should be awarded its attorney's fees on appeal pursuant to Tennessee Code Annotated section 27-1-122.

### STANDARD OF REVIEW

Whether the trial court properly granted ETS's motion to dismiss is a question of law which this Court reviews de novo with no presumption of correctness. *Robinson v. City of Clarksville*, 673 S.W.3d 556, 566 (Tenn. Ct. App. 2023) (citing *Webb v. Nashville Area Habitat for Humanity, Inc.*, 346 S.W.3d 422, 426 (Tenn. 2011)).

Our Supreme Court has set forth the parameters of our review:

A Rule 12.02(6) motion challenges only the legal sufficiency of the complaint, not the strength of the plaintiff's proof or evidence. The resolution of a 12.02(6) motion to dismiss is determined by an examination of the pleadings alone. A defendant who files a motion to dismiss admits the truth of all of the relevant and material allegations contained in the complaint, but ... asserts that the allegations fail to establish a cause of action.

In considering a motion to dismiss, courts must construe the complaint liberally, presuming all factual allegations to be true and giving the plaintiff the benefit of all reasonable inferences. A trial court should grant a motion to dismiss only when it appears that the plaintiff can prove no set of facts in support of the claim that would entitle the plaintiff to relief.

*Webb*, 346 S.W.3d at 426 (citations omitted). This court is "not required to accept as true assertions that are merely legal arguments or 'legal conclusions' couched as facts." *Id.* at

427. However, if a complaint states a cause of action, regardless of how inartfully the complaint is drafted, the complaint should not be dismissed under Rule 12.02(6). *PNC Multifamily Capital Inst. Fund XXVI Ltd. P'ship v. Bluff City Cmty. Dev. Corp.*, 387 S.W.3d 525, 538 (Tenn. Ct. App. 2012) (citing *Dobbs v. Guenther*, 846 S.W.2d 270, 273 (Tenn. Ct. App. 1992)).

## DISCUSSION

The main issue presented in this case involves the interplay of several rules and Tennessee statutes. First, “Tennessee Rule of Civil Procedure 8.01 requires that a pleading that sets forth a claim for relief contain ‘(1) a short and plain statement of the claim showing that the pleader is entitled to relief; and (2) a demand for judgment for the relief the pleader seeks.’” *Harman v. Univ. of Tenn.*, 353 S.W.3d 734, 736 (Tenn. 2011). The complaint “must show that the plaintiff is entitled to relief.” *Id.* Where a complaint does not establish that the pleader is entitled to relief, it is subject to dismissal under Tennessee Rule of Civil Procedure 12.02(6).

Second, the trial court here reasoned that the complaint failed to state a claim for relief because the claims are time-barred pursuant to Tennessee Code Annotated section 28-3-202, which provides as relevant:

All actions . . . to recover damages for any deficiency in the design, planning, supervision, observation of construction, or construction of an improvement to real property, [or] for injury to property, real or personal, arising out of any such deficiency, . . . must be brought against any person performing or furnishing the design, planning, supervision, observation of construction, or construction of the improvement within four (4) years after substantial completion of an improvement.

Tenn. Code Ann. § 28-3-202. Section 28-3-202 is a statute of repose, meaning the statute is “entirely unrelated to the accrual of any cause of action, since [it] begin[s] to run on the date of substantial completion as opposed to the date of injury or damage.” *Jenkins v. Southland Cap. Corp.*, 301 S.W.3d 268, 274 (Tenn. Ct. App. 2008) (quoting *Watts v. Putnam Cnty.*, 525 S.W.2d 488, 491 (Tenn. 1975)). “Thus, where the occurrence or injury giving rise to the claim comes about more than four years after substantial completion, the claim ‘is barred. This conclusion is harsh, but is demanded under the statutory scheme.’” *Id.* (quoting *Watts*, 525 S.W.2d at 492). The purpose of section 28-3-202 is to “insulate contractors, architects, engineers, and others from liability for defective construction or design of improvements to realty where the injury happens more than four years after substantial completion of the improvement.” *Chrisman v. Hill Home Dev., Inc.*, 978 S.W.2d 535, 540 (Tenn. 1998) (citing *Watts*, 525 S.W.2d at 492).

Thus, this appeal hinges on determining whether the trial court correctly interpreted the complaint as it relates to section 28-3-202. To the extent Tri-State alleges that the cause of its injuries is the “design, planning, supervision, observation of construction, or construction of” the sprinkler system, the claims would fall under section 28-3-202. Indeed, this is what the trial court found. If so, the complaint is far too late, as the system was substantially completed in 1992,<sup>3</sup> and the complaint had to be filed no later than four years thereafter. On the other hand, if the gravamen of the complaint is that ETS’s negligence lies in its ongoing maintenance of the sprinkler system *following* its original construction, then section 28-3-202 would not apply, and the claims are timely.

We look to the language of the complaint itself, as we must when reviewing a dismissal under Rule 12.02(6). *See Webb*, 346 S.W.3d at 426 (“The resolution of a 12.02(6) motion to dismiss is determined by an examination of the pleadings alone.”). We also bear in mind that regardless of how inartfully the complaint is drafted, it should not be dismissed under Rule 12.02(6) if it states a cause of action. *PNC*, 387 S.W.3d at 538 (citing *Dobbs*, 846 S.W.2d at 273). In determining whether a claim falls under section 28-3-202, the claim’s designation is not conclusive. *Henry v. Cherokee Const. & Supply Co.*, 301 S.W.3d 263, 266 (Tenn. Ct. App. 2009) (citing *Chrisman*, 978 S.W.2d at 540). Instead, we look to the substance of the allegations in the complaint. *Id.* Here, the complaint provides, as relevant:

8. Due to the improper sloping in the sprinkler system, water was allowed to pool in the water lines. Over time, this pooling caused rust and corrosion to develop inside the lines. The improper sloping could and should have been identified and detected during [ETS’s] services, inspections, maintenance and repairs to [] Campus Chalet’s system.

9. [ETS] never advised Campus Chalet of the improper sloping and damages which allowing such to remain would cause nor advise of the need to repair and correct the sloping and water pooling inside the sprinkler system’s lines.

\* \* \*

11. [ETS] failed to properly undertake, apply, or share the applicable standards to ensure proper inspections, testing, maintenance, and repairs were performed to Campus Chalet’s fire protection sprinkler system.

\* \* \*

17. [ETS] had a duty and obligation to perform proper inspections, testing, maintenance and repairs to Campus Chalet’s fire protection sprinkler system

---

<sup>3</sup> The exact date of completion is not clear from the record; however, the parties do not appear to dispute that for purposes of this argument, the system was substantially completed in 1992.

with due care, in a workmanlike manner, in accordance with applicable industry standards, guidelines, plans and specifications.

18. [ETS] performed its work in a substandard, negligent, and defective manner thereby breaching its duties to Campus Chalet.

19. [ETS] had a duty and obligation to properly and fully advise and make recommendations for the proper and timely inspections, testing, maintenance and repairs to [Campus Chalet's] sprinkler system.

20. [ETS] breached its duty to detect, fully advise and make recommendations for the proper and timely inspections, testing, repairs and maintenance to [Campus Chalet's] sprinkler system.

21. As a result of [ETS's] and its employees' and agents' breach of its duties to detect, fully advise and make proper recommendations, [Campus Chalet] sustained significant water damage, requiring [Tri-State] to pay for extensive repairs.

\* \* \*

24. [Campus Chalet] and [ETS] entered into a valid, enforceable contract(s) for [ETS] to perform inspections, testing, repairs, and maintenance to Campus Chalet's fire protection sprinkler system for each of the inspections, tests, repairs and service calls.

25. [ETS's] deficient performance of said contract(s) amounted to a breach of contract resulting in damages to [Campus Chalet].

Construing these allegations liberally and giving Tri-State the benefit of all reasonable inferences, as we must at this stage, we conclude that Tri-State stated a cause of action for both negligence and breach of contract and that the trial court erred in granting ETS's motion to dismiss. While Tri-State mentions the installation of the sprinkler system as background information in the complaint, a plain reading of the complaint reveals that the essence of Tri-State's allegations arise out of ETS's ongoing maintenance of the system, and alleged deficiencies with same. The substance of Tri-State's allegations, which is the focus of our analysis, *see Henry*, 301 S.W.3d at 266, is that ETS performed its ongoing maintenance and repair duties deficiently in the years following the sprinkler system's initial installation. In light of the liberal pleading standard observed at the Rule 12.02(6) stage, we conclude that Tri-State has sufficiently pled its claims at this juncture and that the claims fall outside the ambit of section 28-3-202. Consequently, the trial court erred and we reverse. Because we reverse the trial court and remand this case for further

proceedings, we also reverse the trial court's award of attorney's fees to ETS. ETS's issue as to appellate attorney's fees under section 20-12-119(c) is pretermitted.

### **CONCLUSION**

The ruling of the Circuit Court for Washington County is hereby reversed, and this case is remanded for proceedings consistent with this opinion. Costs on appeal are assessed to the appellee, East Tennessee Sprinkler Company, Inc., for which execution may issue if necessary.

---

KRISTI M. DAVIS, JUDGE