

USDC Weighs in on Tortious Interference



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True love had unintended consequences, resulting in the case of *Stradtman v. Republic Services*, which remains pending in the United States District Court for the Eastern District of Virginia.

Shortly after Stephen Stradtman was named CEO of Otto Industries North America (“Otto”) the company’s business began to expand. This boom in Otto’s business seemed directly attributable to Otto’s relationship with Republic Services, Inc., a waste management business and major purchaser of the plastic containers manufactured by Otto.

All of that changed beginning in June of 2011, when Stradtman became engaged to Jennifer Taylor, Republic’s Director of Municipal Sales in the East Region. In September of 2011, Taylor filed an EEOC claim against Republic, alleging sexual harassment, gender discrimination and retaliation. Almost immediately, the business relationship between Otto and Republic began to sour. According to the allegations contained in the lawsuit, Stradtman found himself disinvited from Republic marketing events and business that would have gone to Otto was instead redirected to its competitors. Stradtman pegged the value of the redirected business at about \$5,000,000. The pattern persisted and believing himself to be in an “untenable position” as a result of his impending marriage to a litigation adversary of Republic, Stradtman resigned as CEO in May of 2012. Sixty days later, Republic resumed regular business with Otto.

In December of 2013, Stradtman filed suit against Republic and Ronald Krall, its senior vice president for the East Region, seeking damages for tortious interference with contractual relationships and business expectancies, common law conspiracy and negligent retention of employees. Republic and Krall moved to dismiss.

On November 25, 2014, Judge James C. Cacheris issued his ruling on the motion to dismiss, dismissing the conspiracy and negligent retention counts and allowing the case to go forward on the tortious interference count alone.

To survive a motion to dismiss, a plaintiff in federal court must only show that the complaint contains sufficient factual allegations which, if accepted as true, state a claim for relief that is plausible on its face. In combination with the court’s “preference for resolving cases on their merits”, this is a low bar in theory.

In order to sustain a claim for tortious interference with a business expectancy, the plaintiff must allege a valid contractual relationship or expectancy; knowledge of the relationship by the interfering party; intentional interference inducing or causing the breach; and resulting damages. Additionally, if the relationship can be terminated by either party at any time, the proponent must also allege and show “improper methods.”

Republic argued (among other things) that Stradtman's voluntary resignation constituted a bar to his claim for tortious interference. How could he claim that interfered with the relationship if he quit? However the court agreed with Stradtman's contention that he had pled "constructive discharged" by alleging that Republic's actions left him with "no practical choice other than quitting." The court also agreed that he had sufficiently alleged improper methods when he claimed Krall and Republic engaged in acts of retaliation because of his romantic relationship with Taylor.

The court relied on the well-established doctrine of intracorporate immunity in deciding to dismiss the conspiracy claim: a civil conspiracy requires two or more co-conspirators and a party cannot conspire with itself. For the purpose of this analysis, the agents of a corporation are identical to the corporation, so that Krall, the agent of Republic, cannot be said to have conspired with his employer.

Negligent retention of an employee requires proof of an "unreasonable risk of significant physical harm." Since the allegation was only that defendants injured Stradtman in his "business profession and reputation," the allegation did not fit within the tort.

While the Stradtman case remains active in the trial court, Ms. Taylor's claim against Republic ended with a judgment in her favor and a substantial nest egg for the newlyweds.

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