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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-2180**

College City Leasing, LLC, et al.,
Plaintiffs,

vs.

River Valley Truck Centers, Inc.,
Appellant,

Stoughton Trailers, LLC,
Respondent.

**Filed August 12, 2008
Affirmed
Worke, Judge**

Dakota County District Court
File No. C5-06-7942

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Considered and decided by Worke, Presiding Judge; Lansing, Judge; and Stoneburner, Judge.

UNPUBLISHED OPINION

WORKE, Judge

Appellant, a semi-trailer distributor, challenges summary judgment in favor of respondent manufacturer, arguing that it is entitled to indemnification for defense costs in

a breach-of-warranty lawsuit brought by plaintiffs under (1) Minn. Stat. §§ 80E.04, .17 (2006) and Minnesota common law because respondent breached its warranty obligations; (2) Minn. Stat. § 80E.05 (2006) as a franchisee; or (3) the theory of promissory estoppel. We affirm.

D E C I S I O N

When reviewing a grant of summary judgment, this court determines whether there are genuine issues of material fact and whether the district court erred in its application of the law. *State by Cooper v. French*, 460 N.W.2d 2, 4 (Minn. 1990). If the district court grants summary judgment based on its application of a statute to undisputed facts, the result is a legal conclusion, which this court reviews de novo. *Lefto v. Hoggsbreath Enters., Inc.*, 581 N.W.2d 855, 856 (Minn. 1998). This court reviews the record in the light most favorable to the party against whom judgment was granted. *Fabio v. Bellomo*, 504 N.W.2d 758, 761 (Minn. 1993). We may affirm a district court's grant of summary judgment if it can be sustained on any ground. *Winkler v. Magnuson*, 539 N.W.2d 821, 828 (Minn. App. 1995), *review denied* (Minn. Feb. 13, 1996).

Breach of Warranty

Appellant River Valley Truck Centers, Inc., a distributor of semi-trailers, argues that the district court erred by refusing to order respondent Stoughton Trailers, LLC, a manufacturer of semi-trailers, to pay River Valley's defense costs. River Valley contends that Stoughton is required to pay River Valley's attorney fees and costs as a result of Stoughton's failure to satisfy its express warranties. Under Minn. Stat. § 80E.04, subd. 3 (2006), it is a violation for a new motor vehicle manufacturer to fail to "perform any

warranty obligations that it undertakes under the motor vehicle manufacturer's warranty[.]” Under Minn. Stat. § 80E.17 (2006), “[n]otwithstanding the terms of any franchise agreement . . . any person whose business or property is injured by a violation of [Minn. Stat. § 80E.04] . . . may bring a civil action . . . to recover the actual damages sustained, together with costs and disbursements, including reasonable attorney’s fees.”

River Valley and Stoughton entered into a distributor agreement, whereby River Valley would sell, service, maintain, and distribute Stoughton’s products. The agreement contains a “warranty” section that provides that River Valley “shall not alter, enlarge or limit the representations or guarantees of the Warranty in any way beyond those expressly set forth.” Plaintiffs College City Leasing, LLC (CCL) and River Valley entered into a purchase agreement for the sale of trailers manufactured by Stoughton. River Valley did not include Stoughton’s warranty language in the purchase agreement. Although noticing riveting defects, CCL certified and cleared the trailers for service. River Valley contacted Stoughton regarding CCL’s concerns, and a Stoughton employee told River Valley that Stoughton would “take care of it.” Stoughton inspected some of the trailers and gathered information to determine whether the defects were covered under warranty. The decision was made that the defects were not covered by warranty because there were no defects in material and workmanship.

CCL filed a complaint against River Valley and Stoughton, alleging that River Valley breached the contract and that Stoughton breached express and implied warranties. River Valley tendered its defense to Stoughton, but Stoughton refused to accept tender because River Valley did not include the warranty language provided in the

distributor agreement. River Valley filed a cross-claim against Stoughton for indemnification against any damages awarded on CCL's claims and reimbursement for defense costs. Stoughton filed a cross-claim against River Valley, alleging that because River Valley breached the terms of its distributor agreement, Stoughton was relieved from any obligation to defend and indemnify River Valley.

CCL and Stoughton ultimately entered into a settlement agreement, whereby all claims were dismissed and the parties settled without an award of damages, no finding of liability, and no judgment against Stoughton or River Valley. The stipulation did not have any effect on the cross-claims and Stoughton and River Valley moved for summary judgment on those cross-claims. The district court entered summary judgment in favor of Stoughton, finding that because there was no judgment and no damages awarded, River Valley was not entitled to indemnification. The court found that no genuine issues of material fact remained, in part, because River Valley breached the distributor agreement.

It is undisputed that River Valley breached the distributor agreement when it substituted its own warranty language in the purchase agreement. CCL filed lawsuits against both River Valley and Stoughton, claiming that each breached their warranties. Therefore, River Valley's "damages"—attorney fees—that it suggests were incurred to defend itself against Stoughton's breach of warranty, were actually incurred to defend itself against CCL's allegations of River Valley's breach of warranty. Further, River Valley and Stoughton did not defend together against CCL and the lawsuits also involved cross-claims against each other. Because the cross-claims were subject to more legal proceedings than the settled CCL claims, attorney fees were undoubtedly incurred in

defending those cross-claims. There is a section in the distributor's agreement regarding attorney fees: "if any dispute arises between the parties with respect to matters covered by this Agreement which leads to a proceeding to resolve such dispute, each party in such proceeding shall pay its respective attorney's fees, expert witness fees and out-of-pocket costs incurred in connection with such proceeding." The parties disputed which, if any, warranty was breached. Stoughton claimed that no warranty had been breached and claimed that River Valley breached the distributor agreement. Thus, the record shows that there was a dispute between River Valley and Stoughton and the distributor agreement provides that in such a situation each party shall pay their own attorney fees.

River Valley also argues that summary judgment was precluded because genuine issues of material fact exist as to the workmanship of the trailers. River Valley asserts that regardless of the settlement, the existence of a "defect in materials or workmanship" could still be tried before a jury, and a jury could determine that Stoughton did breach its warranty and River Valley would be entitled to recover attorney fees. However, the record shows that no genuine issue remains regarding the trailers. Pursuant to the settlement, there was no admission of liability and no award of damages. Additionally, Stoughton performed tests on the trailers and found that the trailers were structurally sound. Further, the trailers never required repairs, all of the trailers are still in operation and have been since they were received, and CCL profited from the operation of the trailers. Therefore, there is no genuine issue of material fact regarding the defects in the trailers, and the district court did not err in granting summary judgment in favor of Stoughton.

Indemnification

River Valley also argues that the district court erred by refusing to grant River Valley its costs under Minn. Stat. § 80E.05 (2006), which provides that:

it shall be a violation of sections 80E.01 to 80E.17 for any new motor vehicle manufacturer to fail to indemnify and hold harmless its franchised dealers against any judgment for damages, including, but not limited to, those based on . . . warranty (express or implied) . . . where the complaint, claim, or lawsuit relates to the alleged defective or negligent manufacture, assembly, or design of new motor vehicles, parts or accessories or other functions by the manufacturer, beyond the control of the dealer. Indemnification under this section must include court costs, reasonable attorney fees, and expert witness fees incurred by the motor vehicle dealer.

The district court determined that River Valley was not entitled to indemnification because there was no judgment and no damages awarded. River Valley contends that the statute is ambiguous and susceptible to more than one interpretation, arguing that the duty to indemnify arises when the complaint, claim, or lawsuit alleges a defect caused by the manufacturer, not just when a judgment for damages is entered.

When interpreting a statute, this court must “ascertain and effectuate the intention of the legislature.” Minn. Stat. § 645.16 (2006). In doing so, this court “must first determine whether the statute’s language, on its face, is ambiguous.” *Am. Tower, L.P. v. City of Grant*, 636 N.W.2d 309, 312 (Minn. 2001). A statute’s language is ambiguous only when it is subject to more than one reasonable interpretation. *Amaral v. St. Cloud Hosp.*, 598 N.W.2d 379, 384 (Minn. 1999). Words and phrases are construed according to their plain and ordinary meaning. *Frank’s Nursery Sales, Inc. v. City of Roseville*, 295 N.W.2d 604, 608 (Minn. 1980).

The Minnesota Supreme Court recently held that “an award of attorney fees under section 80C.17, subdivision 3, requires that the plaintiff seek and recover some relief under the franchise act.” *Dunn v. Nat’l Beverage Corp.*, 745 N.W.2d 549, 554 (Minn. 2008). The statute at issue in *Dunn* provided that “[a]ny suit authorized under this section may be brought to recover the actual damages sustained by the plaintiff together with costs and disbursements plus reasonable attorney’s fees.” Minn. Stat. § 80C.17, subd. 3 (2006). The statute here provides that the manufacturer will indemnify a dealer for “any judgment for damages.” Minn. Stat. § 80E.05. The statutes are similar in that they provide for recovery or indemnification for actual damages. CCL was not awarded damages and neither Stoughton nor River Valley has a judgment against it. A statute is not ambiguous when the language is not susceptible to more than one *reasonable* interpretation. Therefore, the district court did not err in denying River Valley’s claim for indemnification when there was no judgment for damages.

Promissory Estoppel

River Valley also argues that Stoughton is estopped from denying River Valley’s claim for costs because Stoughton promised River Valley that it would take care of CCL’s concerns and at that point River Valley decided not to pursue its right to perfect tender. “Promissory estoppel implies a contract in law where no contract exists in fact.” *Deli v. Univ. of Minn.*, 578 N.W.2d 779, 781 (Minn. App. 1998), *review denied* (Minn. July 16, 1998). To support a promissory estoppel claim, the party seeking relief must show (1) a clear and definite promise, (2) intended to induce reliance, (3) on which the promisee relied to his or her detriment, and (4) that must be enforced to prevent injustice.

Cohen v. Cowles Media Co., 479 N.W.2d 387, 391 (Minn. 1992). Judicial determinations of injustice involve a number of considerations, “including the reasonableness of a promisee’s reliance.” *Faimon v. Winona State Univ.*, 540 N.W.2d 879, 883 (Minn. App. 1995), *review denied* (Minn. Feb. 9, 1996). “[E]stablishing the reasonableness of the reliance is essential to any cause of action in which detrimental reliance is an element.” *Nicollet Restoration, Inc. v. City of St. Paul*, 533 N.W.2d 845, 848 (Minn. 1995). If the record does not contain facts that would support the conclusion that reliance was reasonable, the promisor is entitled to summary judgment. *Id.*

There is a contract here. Thus, promissory estoppel, which implies a contract when one does not exist, does not apply. Further, the record shows that River Valley was told that Stoughton would “take care of” CCL’s concerns. This statement was not a clear promise intended to induce detrimental reliance. The statement “we’ll take care of it” does not necessarily mean that Stoughton was going to repair defects—the evidence shows that the person who made this statement intended to convey that Stoughton would address the customer’s concerns. Stoughton investigated the complaint and determined that the defects did not affect the structural soundness of the trailers and were not covered under warranty. Further, if River Valley actually relied on the promise that Stoughton would take care of it, River Valley would not have had any further involvement with the subsequent litigation. Therefore, the district court did not err in granting summary judgment in favor of Stoughton.

Affirmed.