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Litigation Roundup: SCOTUS Won't Hear Big Oil's Bid to Move Climate Suits, Steptoe to Defend HMS in Sex Assault Suit

APRIL 24, 2023 | MICHELLE CASADY

In this edition of Litigation Roundup, the U.S. Supreme Court on Monday refused to consider a request from a handful of major oil companies seeking to move climate-related lawsuits filed in state court to federal court and a Dallas County jury recently found that Robert L. Winspear and his business colleague defrauded a finance lender.

Have a development we should cover in the next Litigation Roundup? Please let us know at tlblitigation@texaslawbook.net.

Dallas County Court-at-Law

Steptoe Tapped to Defend Dallas CEO in Sex Assault Suits

Robert Lovell, the president and owner of Home Marketing Services, told a judge in filings Monday that the allegations of sexual assault lodged against him by a second Jane Doe plaintiff are false.

The filing also marked the first appearance for defense counsel in the lawsuit that was filed by Jane Doe #2 on Feb. 13 and was assigned to Judge Melissa Bellan's court.

Lovell and HMS have hired C. Dunham Biles, Melissa Dorman Matthews and Dylan T. Hughes of Steptoe & Johnson to defend against the claims. That team of attorneys also filed notice on April 19 that they were taking over representing Lovell and HMS in the first-filed lawsuit, brought by a Jane Doe plaintiff in December 2021.

Jane Doe No. 1 alleges she was directly supervised by Lovell, who frequently pressured her to “submit to his deviant sexual demands,” including demands for oral sex during office hours. She alleges that after she refused his request he canceled her daughter’s health insurance and proceeded to create a hostile working environment and eventually fired her.

Lovell has denied the allegations.

The lawsuit brought by Jane Doe No. 1 is before Judge Sally Montgomery.

Jane Doe #2 alleges she was at Lovell’s office to deliver his custom-ordered shirts when he “put his hand down her blouse and fondled her breasts” before offering her a job.

The Jane Does are represented by Rogge Dunn and Greg McAllister of Rogge Dunn Group.

The case numbers are CC-23-00806-B and CC-21-05230-C.

Dallas County District Court

Jury Finds Lender Was Defrauded, Awards \$1.8M

A jury on Friday found that Thomas A. “Kip” Hyde Jr. and Robert L. Winspear defrauded GACP Finance Co. when in 2016 they entered into a \$13.5 million credit agreement with GACP in their capacities as chief executive officer and chief financial officer, respectively, of Excel Corporation.

GACP had alleged that as terms of the loan, Hyde and Winspear promised the proceeds wouldn’t be used to pay deferred compensation to Excel executives but days after the credit agreement closed in November 2016 they used the money to pay themselves \$375,000 each.

“Defendants Hyde and Winspear will no doubt claim that their immediate, unapproved and expressly prohibited payment of \$750,000 to themselves was not fraud, but instead an innocent mistake of some kind,” GACP alleged in the lawsuit. “But defendants Hyde and Winspear’s conduct was no mistake. It was premeditated and intentional.”

According to court records, the jury panel was sworn in April 18 and returned its unanimous verdict on Friday, awarding GACP \$1.2 million in benefit-of-the-bargain damages and nearly \$335,000 in out-of-pocket expenses GACP incurred in foreclosing on the loan.

The panel also found Winspear and Hyde had secured the execution of the credit agreement by deception.

The trial was bifurcated, and in the exemplary damages phase GACP had asked the jury to award \$1.5 million in damages against Hyde and Winspear, or \$750,000 against each man. The jury instead awarded \$280,000 in exemplary damages, \$140,000 against each man.

The case was assigned to Dallas County District Judge Dale Tillery, who has set a final disposition hearing in the case for June 16.

GACP is represented by **Andrew B. Ryan** and **Mitchell R. Garrett** of Ryan Law Partners.

Winspear and Hyde are represented by **Geoffrey S. Harper**, **John T. Sullivan** and **Hannah Luke** of Winston & Strawn.

The case number is DC-19-02210.

Netflix Draws Defamation Suit Over ‘Hatchet Wielding Hitchhiker’ Documentary

A resident of Kentucky has filed suit against Netflix in Dallas, alleging an image of him holding a hatchet was wrongly used by Netflix in a documentary about a different man, a hatchet-wielding hitchhiker who went viral in 2013.

The problem is that Taylor Hazlewood is not Caleb Lawrence McGillvary, also known as Kai, and had nothing to do with the “brutal murder” that gave him internet fame, the lawsuit alleges.

“Mr. Hazlewood is not connected, in any way, to Mr. McGillvary or his story, and Netflix’s use of Hazlewood’s photograph in the film is inappropriate, misleading and defamatory,” alleges the lawsuit that is seeking more than \$1 million in damages.

A page and a half of the 11-page filing details numerous text messages Hazlewood said he received from friends across the country after he watched the documentary, seeking clarification about Hazlewood’s involvement, if any, with McGillvary.

“The harm that Netflix caused to Hazlewood has been extraordinary. The film has been viewed by tens of thousands of people, and as a result of Netflix’s false portrayal of him as dangerous, as a murderer, and/or as an untrustworthy person, he has been subjected to personal distress, anguish and reputational harm,” the suit alleges.

Hazelwood filed the lawsuit on April 10, and as of Monday defense counsel had not appeared for Netflix.

The case has been assigned to Dallas County District Judge Gena Slaughter.

Hazelwood is represented by Angela M. Buchanan of Phillips Murrah in Dallas.

The case number is DC-23-04695.

Western District of Texas

Deposition Software Creator Alleges Illegal Boycott in Antitrust Suit

The creator of a software called Depo-Notes, which provides speech-to-text transcriptions in depositions, has filed suit against numerous competitors alleging they’ve blackballed him for developing the tool that cuts into their business model and have launched a “group boycott” of that company and another he operates, Austin Legal Video.

The lawsuit was filed by Pasqual Perez April 17 and names as defendants Deposition Solutions (which does business as Lexitas), Court Reporters Clearinghouse, Alderson Reporting Company, Southwest Reporting & Video Service, Kennedy Reporting Service, Texas Court Reporters Association, Speech to Text Institute, Sherri Fisher, Lorrie Schnoor, Sonia Trevino and Shelly Tucker.