

Fritzen v. Fritzen

Case Number

A-19-0416)

A-19-0417)

Court Number

Gage

Call Date

March 10, 2020

Case Time

9:00 AM

Case Audio

Download Audio

Case Summary

A-19-416 and A-19-417, Fritzen v. Fritzen

Gage County District Court, Judge Rick A. Schreiner

Attorney for Appellant: Daniel E. Klaus (Rembolt Ludtke LLP)

Attorney for Appellee(s): Tony J. Brock (Brock Offices, P.C., L.L.O.)

Civil Action: Dismissal for Lack of Prosecution

Action Taken by Trial Court: In October 2012, Terry Fritzen (Terry) sued his father, LaVern Fritzen (LaVern), and two employees of Fritzen Trucking, Inc. (Fritzen Trucking) for their alleged defamatory remarks that Terry had improperly taken money from Fritzen Trucking (A-19-416). The same day, Terry filed a separate complaint, individually and on behalf of Fritzen Trucking, against LaVern for allegedly removing him as an officer/director, denying him access to corporate records, mishandling assets, and refusing to provide an accounting (A-19-417); LaVern raised several counterclaims (e.g., misapplication of corporate funds for personal use). Terry said he was a minority shareholder in Fritzen Trucking and LaVern was the majority shareholder of the same.

In February 2019, in both A-19-416 and A-19-417, the district court entered orders for the parties to show to the court why the proceedings should not be dismissed for want of prosecution. In 2017, (related to A-19-417) the parties had been ordered to agree on an expert witness who could provide a financial accounting; an expert witness was thereafter appointed and apparently completed a report in January 2019. However, Terry's counsel claimed a final report to cover certain outstanding issues could not be addressed by the expert witness (a Certified Public Accountant) until after tax season.

In March 2019, a hearing took place on the pending orders to show good cause, which matter was taken under advisement. In the event the cases were to remain on the active docket, in A-19-417 trial was set for August and the matter of A-19-416 was continued pending results of any trial in A-19-417. On April 2, the court entered separate orders dismissing each case without prejudice for lack of prosecution and an absence of good cause.

Terry appeals from the dismissal of both cases.

Assignments of Error: Terry claims that the trial court erred by dismissing his actions in both cases.

Case Location

Papillion

Court Type

District Court

Schedule Code

A2

Panel Text

Pirtle, Bishop, and Arterburn, Judges
