

Summit Restoration, Inc. v. Keller

Additional Case Names

1:00 pm

Case Number

A-19-1111

Court Number

Sarpy

Call Date

October 6, 2020

Case Time

1:00 PM

Case Audio

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Case Summary

A-19-1111, Summit Restoration Inc. (appellant) v. Larry G. Keller, Nussbeck, and Aspen Contracting, Inc. d/b/a ASI Contracting, Inc. (cross-appellants)

Sarpy County, District Judge Michael A. Smith

Attorneys for Appellant: Eric R. Chandler, Cory J. Rooney (Law Office of Eric R. Chandler, PC, LLO)

Attorneys for Appellee/Cross-Appellant Keller: Brian J. Brislen, Adam R. Feeney (Lamson Dugan & Murray LLP)

Attorney for Appellees/Cross-Appellants Nussbeck and Aspen/ASI: Jeffrey A. Nix (Pansing Hogan Ernst & Bachman LLP)

Civil Action: tortious interference with business expectancy, breach of fiduciary duty and duty of loyalty, civil conspiracy

Action Taken by Trial Court: A jury awarded Summit damages of \$396,172, and upon post-trial motions, the district court reduced the award to \$261,184.25.

Assignments of Error on Appeal: On appeal, Summit assigns that the district court erred in (1) finding that there was insufficient evidence to support a damages calculation using a percentage greater than 30% and (2) determining that evidence of a repair by a homeowner as to a specific job was necessary for it to recover damages for its lost business expectancy.

On cross-appeal, Keller assigns that the district court erred in (1) denying his motion for judgment notwithstanding the verdict on all claims, (2) denying his motion for directed verdict on all claims, (3) partially denying his motion for new trial on all claims, and (4) refusing his proffered jury instruction.

On cross-appeal, Nussbeck and Aspen/ASI assign that the district court erred in (1) denying their motions for directed verdict and dismissal at the conclusion of evidence, (2) denying their motions for judgment notwithstanding the verdict, (3) reducing the verdict rather than ordering

a new trial, and (4) submitting jury instructions and a verdict form to the jury as to Nussbeck and Aspen/ASI regarding breach of loyalty, duty, and conspiracy.

Case Location

Lincoln

Court Type

District Court

Schedule Code

A2

Panel Text

Pirtle, Chief Judge, Riedmann, and Arterburn, Judges
