June 1963

Attorney and Client--Contract on Employment--Damages on Intermeddling

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CASE COMMENTS

Attorney and Client—Contract of Employment—Damages for Intermeddling

P, an attorney, was retained on a contingent fee basis by a union member who was injured during the course of his employment. D, a union employee, coerced the client into discharging P and allowing the union to settle the claim. P brought an action to recover damages and the jury awarded P both compensatory and punitive damages. The trial court entered an order adverse to the verdict. Held, reversed, reinstating the jury verdict awarding damages, but reducing the award of punitive damages. Coercion or misrepresentation that induces a client to discharge his attorney leaves the intervenor answerable for the breach of contract. The use of threats in wanton disregard of an attorney’s rights calls for punitive damages. In view of the serious nature of the client’s injury, an award of compensatory damages was not excessive even though it exceeded the amount the client received in settlement. Richette v. Solomon, 187 A.2d 910 (Pa. 1963).


One problem in this area is distinguishing between undue interference and merely inducing the settlement of a claim. The criterion for such a distinction lies in the wilful conduct of the inducing party. The Pennsylvania court held that a client is privileged to make a settlement and, in order for an attorney to recover, he must prove that the third party intentionally induced the client to violate the contingent fee agreement. Klauder v. Cregan, 327
Pa. 1, 192 Atl. 667 (1937). In a similar case, the California court held that an action would lie for the intentional interference by a third party with a contractual relationship either by unlawful means or by means otherwise lawful when there is a lack of sufficient justification. *Herron v. State Farm Mut. Ins. Co.*, 56 Cal. App. 2d 202, 363 P.2d 310 (1961).

Generally, it is recognized that undue interference with an attorney-client relationship will give rise to a cause of action, but the amount of damages recoverable presents another problem. One line of cases follows the view of the instant case and allows damages in excess of the value of the attorney’s services and in some cases in excess of the client’s actual settlement. On the other hand, some jurisdictions restrict the amount of damages to the reasonable value of the attorney’s services. *State Farm Fire Ins. Co. v. Gregory*, 184 F.2d 447 (4th Cir. 1950); *Greenburg v. Panama Transport Co.*, 185 F. Supp. 320 (D. Mass. 1960); *Herron v. State Farm Mut. Ins. Co.*, 56 Cal. App. 2d 202, 363 P.2d 310 (1961); See generally, Annot., 136 A.L.R. 231 (1942).

The West Virginia court has apparently not been confronted with the problem of a third party’s interference with an attorney-client relationship, but it has assessed damages where a client has wrongfully dismissed his attorney. In *Polsley v. Anderson*, 7 W. Va. 202, 23 Am.Rep. 613 (1874), the court limited the attorney’s recovery to damages by way of compensation for his time, labor, and attention and as to the reasonable value thereof. The court also took the position that the entire recovery should not exceed the sum stipulated in the contract. Similarly, in *Clayton v. Martin*, 108 W. Va. 571, 151 S.E. 855 (1930), the court allowed damages only for the value of services rendered and also stated that in the absence of proof of the value of the services no recovery could be had.

The West Virginia cases have used the rule established in the *Polsley v. Anderson*, supra, and thus have restricted the amount of damages recoverable. This same rule may plausibly be applied to induced breach by a third party if a case thereon arises, but it would seem that a more liberal rule should be adopted to discourage an intermeddling with attorney-client contracts. The instant case presents a reasonable solution to the problem and may well be followed by the West Virginia court.

*Frank Thomas Graff, Jr.*