THE SUPREME JUDICIAL COURT OF THE STATE OF MAINE
SITTING AS THE LAW COURT

LAW COURT DOCKET NO. BCD-23-454

RANDALL BELYEA,
Appellant

v.

HEATHER CAMPBELL ET AL.,
Appellee

ON APPEAL from the Business and Consumer Docket

APPELLANT'S REPLY BRIEF

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INTRODUCTION

Respectfully, the Red Brief suffers from three flaws: *First*, it fails to account for the considerable record-evidence supporting the existence of a valid contract between Randy and Heather. This Court might review pages 4-10 and 15-24 of the Blue Brief for a discussion of this ample record. It is all to be viewed in the light most favorable to the verdict – that is, to Randy. *Second*, the Red Brief obfuscates the nature of the agreement – Heather would be the owner of BEI in name only while Randy would retain the benefits of ownership – and suggests, erroneously, that this widely accepted business arrangement is "unreasonable" in Maine. This argument also ignores the fact that the parties' arrangement worked just fine for at least two years. Third, the Red Brief incorrectly asserts that a contract might be invalid because of it is "unreasonableness." This is wrong as a matter of law: Maine law provides that even a "foolish" contract is not invalid.

ARGUMENT

First Assignment of Error

I. The trial court erred by concluding that there was insufficient evidence of an enforceable contract between Randy and Heather, therefore causing it to grant judgment for Heather notwithstanding the jury's verdict for Randy.

A. There was plentiful evidence of a contract that was in effect for years.

Notably absent from the Red Brief's discussion of the facts is any evidence that favors Randy. For example, there is no discussion of the work that Randy continued to undertake for BEI post-contract. *See* Blue Br. 17,

23-24. Nor is there any discussion of the ample evidence that others – even *Heather herself* – believed that BEI remained "[Randy's] business" for years post-contract. *See* Blue Br. 9-10.

The appropriate standard of review requires this Court to evaluate such evidence – all evidence, in fact – in the light most favorable to Randy. *See* M.R. Civ. P. 50(a); *West v. Jewett & Noonan Transp., Inc.*, 2018 ME 98, ¶ 13, 189 A.3d 277. Instead of presenting her brief in that light, Heather simply ignores any evidence and any inference that is counter to her case. The jury did not do so, and this Court may not do so, either.

B. The parties' arrangement was neither "impossible" nor "unreasonable;" in fact, such arrangements are commonplace.

If accepted, Heather's and the trial court's reasoning leads to the erroneous conclusion that in Maine, there can be no silent partner or in-name-only "owners." Of course, such a conclusion rests on a false premise in this case: as Randy detailed in the Blue Brief and mentioned above, he did quite a bit of work *for years* post-contract. In that way, he was not silent; he played an active role in BEI, maintaining authority to hire and fire employees; choose which loans to apply for; decide where to send drivers on a daily basis; select which charities to donate to; and make deposits and withdrawals from BEI's bank accounts. (1Tr. 62-63 86; 3Tr. 82-85; PXs 7 & 8). Putting aside all that *arguendo*, it is neither "impossible" nor "unreasonable" for two parties to contract to have a silent partner and an in-name-only "owner."

It is axiomatic that a person may have a legal interest in a company's profits and never participate in the company's day-to-day activities. Randy could still maintain a valid interest in BEI profits even if he was completely disqualified from doing *anything* related to the FedEx contract. Consider the following examples, which prove the point:

- Shortly before his inauguration, then-President-elect Donald Trump told the world that he would maintain ownership of his business empire, but that he was handing off control to his two eldest sons while he was president.[1] No one doubted that such an arrangement was legal and feasible insofar as the Trump Organization was concerned.

- One imagines that Jeff Bezos does not wear an Amazon nametag to work or drive around delivering Amazon packages in a truck emblazoned with the Amazon logo; and yet, Mr. Bezos' may receive his due share of Amazon's bounty.

If that weren't the case, *Heather herself* could not own BEI. Does Heather wear a FedEx badge or a uniform to work? The answer, of course, is legally inconsequential. Heather has delegated work relating to FedEx to others, just as Randy once delegated this work to Heather.[2] Clearly, by doing so, neither Heather *nor Randy* has forfeited a claim to BEI profits.

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[1] *See e.g.,* Andy Sullivan, et al., *Trump says won't divest from his business while president*, available at: https://www.reuters.com/article/idUSKBN14V21K/.

[2] Heather has delegated responsibilities to Tobias Henderson, who testified that he deals with FedEx's day-to-day demands. On behalf of BEI, Tobias handles missed deliveries, getting routes ready, dispatches the trucks, "take[s] care of any issues," deals with "employee issues," repairs or arranges

To put an even finer point on it, the reader will recall that Randy could not act as the "authorized officer" on BEI's contract with FedEx. (1Tr. 37-38). At trial, Tobias Henderson testified that *he* was now the "authorized officer" on BEI's contract with FedEx; Tobias Henderson negotiates on BEI's behalf with FedEx. (3Tr. 119-20). Does this disqualify *Heather* from a share of BEI profits? Of course not.

Incidentally, as a matter of law, the answer does not change even if BEI's only asset was the FedEx contract; plenty of investor-owners are purposefully *not* engaged in a business's operations, opting instead to rely on others to run the business. That said, BEI's portfolio has always been larger than just the FedEx contract. For example, even back in 2016, BEI, not FedEx, owned trucks and at least one computer; BEI incurred debt in its own name, *etc.* (1Tr. 22, 27-31). And under Heather's watch, BEI, not FedEx, purchased for itself aesthetic upgrades to the Campbell residence, a lawn mower, and some commercial-grade meat-fryers. (3Tr. 55-59).[3]

And so: was it legally *possible* or *reasonable* for Randy to maintain an entitlement to BEI profits even if he were not engaged in BEI's day-to-day

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for others to repair trucks, deals with drivers, interacts with the FedEx computer system, *etc.* (3Tr. 108-18).

[3] Relatedly, and in partial response to the trial court's concern about a lack of specificity about future business decisions – *see* 4Tr. 52, Court: "Does it mean we can't buy new trucks? The number of trucks stay the same? The drivers stay the same?" – nothing at all prohibited Randy from weighing-in on these decisions or even from making these decisions entirely on his own. FedEx inspects the trucks that BEI offers-up for use to service the FedEx contract, but it has no authority to tell BEI *not* to purchase additional assets, including trucks. Presumably, under Heather, BEI unilaterally purchased meat-fryers without running it by FedEx first.

operations? The answer, as the jury supportably found, is a resounding, "yes." The next question, of course, is whether this possibility was made a reality – *i.e.*, did the parties have a contract that preserved Randy's claim to a portion of BEI's profits? The answer again is a resounding, "yes," at least under this Court's long-standing case-law.

One additional argument deserves mention, however. The trial court correctly found that there was sufficient evidence that Randy and Heather had an agreement, *i.e.,* Heather "would remain an owner on paper only. [Randy] would retain the benefit of ownership." (4Tr. 51). "[T]hat's pretty much the agreement," the trial court found. *Id.*

The trial court then went on to conclude that because there was "nothing that fleshes" out the "terms" of that agreement, "there's nothing here by which there could be a meeting of the minds, a term sufficiently specific to allow enforceability." (4Tr. 52). Heather parrots this argument on appeal. (Red Br. 14).

Respectfully, this comingles the two *distinct* concepts of a "meeting of the minds" *and* sufficient specificity. Each must be present for a legally binding contract to exist. *See e.g., Searles v. Trustees of St. Joseph's College*, 1997 ME 128, ¶ 13, 695 A.2d 1206. The trial court found, and Heather seemingly acknowledges, that the parties had a meeting-of-the-minds that Randy would "remain an owner on paper only" and that he would "retain the benefit of ownership." Nothing more, insofar as the "meeting of the minds" criteria is concerned, was required. *See Searles*, 197 ME 128, ¶ 13 ("For a contract to be enforceable, the parties thereto must have a distinct and

common intention which is communicated by each party to the other.") (internal citation omitted).

C. Contracts are not invalid for being "unreasonable."

Heather peppers her brief with repeated contentions that the contract was not "reasonable." *See* Red Br. 12-14. Even were that factually accurate – *i.e.*, even were their contract "unreasonable," which Randy hardly concedes – Heather's argument fails a matter of law: "[T]hough a contract be a foolish one, yet it will hold in law, and the person so contracting, it is said, ought to pay something for his folly." *Worth v. Curtis*, 15 Me. 228, 231 (1839).[4] A holding to the contrary would preclude Mainers from entering into a commonplace in-name-only-ownership form of contract.

[4] Certainly, there was nothing "impossible" about the contract. *But see* 4Tr. 51-52 (the trial court twice used the word "impossible" in its reasoning). Examples of disputes where a court has deemed a contract legally "impossible" are hens-tooth rare, and ours is plainly not among them. *See e.g., Bryant's Pond Steam-Mill Co. v. Felt*, 87 Me. 234, 238 (1895) (It is legally impossible to form a contract between two parties, only one of which is in existence); *Chenard v. Marcel Motors*, 387 A.2d 596 (Me. 1978) (Parties cannot enter into a valid contract to do illegal things; thus, "since the 'contract' in which the defendant promised to give an automobile in return for shooing a hole in one was illegal, it may not be enforced. The law leaves the parties to an illegal contract where it finds them.") (cleaned up); *R.C. Craig, Ltd. V. Ships of the Sea, Inc.*, 345 F. Supp. 1066, 1074 (S.D. Ga. 1972) (Courts may disregard as impossible a contract or any clause that is unconscionable at the time it was made).

Second Assignment of Error

II. The trial court erred by concluding that in 2018, Randy had no right to demand a return of BEI, thereby causing it to grant judgment for Heather on the conversion claim.

Heather argues that there was no conversion because in 2018, Randy had no interest in BEI, thereby linking the success of this assignment of error to the success of the first assignment of error. (*See* Red Br. at 17: "Without a showing of a property interest in [BEI] stock there can be no reasonable ground to establish that the conversion of the [BEI] stock alleged by [Randy] in 2018 occurred…."). Certainly, Heather makes no alternative argument that even if Randy retained a property interest, still, then, no conversion occurred. Any such alternative argument is now forfeited.

Of course, Randy incorporates all the arguments made thus far here and in the Blue Brief in support of the first assignment of error. He simply adds, that, respectfully, Heather errs by couching her argument in terms of "BEI stock." *See ibid*. The parties' agreement contemplated a transfer of stock ownership to Heather, but *notwithstanding that*, Heather would become an owner "on paper only" and Randy "would retain the benefit of ownership." (4Tr. 51). In other words, the stock was the "paper only" part. Randy's argument, which the trial court understood, was that the stock transfer was a legal formality (a red herring) to placate FedEx that otherwise had no bearing on BEI's true ownership arrangement.

CONCLUSION

Randy prays for the relief outlined on page 28 of the Blue Brief.

Respectfully submitted,
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By his attorneys,

April 18, 2024

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CERTIFICATE OF SERVICE

I sent a native PDF version of this brief to the Clerk of this Court and to opposing counsel at the e-mail address provided in the Board of Bar Overseers' Attorney Directory. I sent 10 paper copies of this brief to this Court's Clerk's office via FedEx, and I sent two copies to opposing counsel using the same carrier, at the address provided on the briefing schedule.

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STATE OF MAINE SUPREME JUDICIAL COURT

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Randall Belyea

v. **CERTIFICATE OF SIGNATURE**

Heather Campbell et al.

I am filing the electronic copy of this brief with this certificate. I will file the paper copies as required by M.R.App.P. 7A(i). I certify that I have prepared the brief and that the brief and associated documents are filed in good faith, conform to the page or word limits in M.R.App.7A(f), and conform to the form and formatting requirements of M.R.App.P. 7A(g).

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