Circuit Court for Prince George's County
Case No.: CAL19-40503

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 544

September Term, 2024

FLP GLOBAL SERVICES, LLC

v.

TAYLORMADE SOLUTIONS, LLC, ET AL.

Wells, C.J.,
Nazarian,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zarnoch, J.

Filed: April 9, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Following a jury trial in the Circuit Court for Prince George's County, TaylorMade Solutions, LLC ("TaylorMade"), appellee, was found liable for breach of contract and breach of fiduciary duty and ordered to pay compensatory and punitive damages to FLP Global Services, LLC ("FLP"), appellant. TaylorMade filed a motion for remittitur of the punitive damages award, which the court granted. FLP noted the instant appeal, where it asserts the following two issues for our consideration:

1. Whether the trial court committed reversible err[or] in burden shifting to plaintiff defendant's burden of proof for reducing punitive damages[.]

2. Whether the trial [court] committed reversible err[or] in disturbing the jury's award of compensatory damages outside the scope of the issue presented in defendant's motion to revise solely the jury's award of punitive damages.

We conclude that the circuit court did not err in reducing the punitive damage award and did not disturb the jury's award of compensatory damages. Thus, we shall affirm. We discuss.

BACKGROUND

The facts relevant to the instant appeal are as follows. In March of 2016, the parties formed a business partnership to provide commercial cleaning services to MGM National Harbor Hotel and Casino in Prince George's County. That relationship deteriorated, and in October of 2019, TaylorMade notified FLP that it was dissolving the partnership. In December of 2019, FLP filed a complaint against TaylorMade and its principals, Brenda Taylor and Elleck Taylor, asserting claims of breach of contract, breach of fiduciary duty, and unjust enrichment, among others.

In September of 2023, the matter proceeded to a jury trial. On September 26, 2023, the jury found, in pertinent part: (1) TaylorMade liable for breach of contract, and awarded FLP $144,000 in compensatory damages, (2) TaylorMade liable for breach of fiduciary duty, and awarded FLP $50,000 in compensatory damages, and (3) TaylorMade liable for $1,000,000 in punitive damages.[1] On October 5, 2023, the court entered a consolidated judgment in the amount of $1,194,000 against TaylorMade.

TaylorMade filed a motion seeking a new trial, revised judgment, or remittitur. On April 15, 2024, the court held a hearing on TaylorMade's motion, where TaylorMade asserted that the punitive damage award was excessive and requested that the court reduce it to "$10,000.00 punitive damages, at least, and $25,000.00 punitive damages at most." FLP opposed the motion and maintained that the jury's punitive damage award was reasonable and should not be disturbed.

Ultimately, the court granted TaylorMade's remittitur request and reduced the $1,000,000 punitive damage award to $500,000. In so doing, the court explained that it "consider[ed] all of the factors in *Bowden* [*v. Caldor, Inc.*, 350 Md. 4 (1998)]" including:

> whether or not it was grossly -- whether or not the damages were disproportionate to the gravity of [TaylorMade]'s wrongs or was disproportionate to whether or not [TaylorMade] had the ability to pay, the deterrence factor, (indiscernible at 10:42:17 a.m.) judgments, preserving appropriate sanctions, comparison of the award to the other final punitive damages, evidence of other final to satisfy punitive damages, [FLP]'s reasonable cause and expenses and whether punitive damage award bears a reasonable relationship to the compensatory damage award in the case.

[1] As to the unjust enrichment claims against Elleck Taylor and Brenda Taylor, the jury found Brenda Taylor liable in the amount of $1 and found Elleck Taylor not liable.

The court observed that "there was limited information before the [c]ourt as to the financial position of both parties[,]" noting that:

> I know that the law is that the burden of proof in this case was on the [p]laintiff. However, the [d]efendants also had an opportunity to provide financial data and financial information to the [c]ourt as well to support their position, to support their position as to what the actual net share was, to support their position as to what the value of the business was.

Nonetheless, the court concluded that based upon the facts in the record before it, including the time remaining on the contract before the court and the partnership's earning potential during that time, that remittitur was proper:

> [T]he potential earning could have been $2 million or was -- if they kept on that same trajectory, at a minimum the earnings were -- over a three-year period were $2 million or $2.1 million. And so the [c]ourt finds that based on that, if they were sharing profits and they were sharing the net proceeds, $500,000.00 would be an appropriate punitive damage in this particular situation, considering that it would be $2 million or $2.1 million over three years and there were three years left on the contract.
>
> So again, based on that, the [c]ourt is going to grant a remittitur in this case and reduce the $1 million in punitive damages to $500,000.00 [in] punitive damages.

On April 19, 2024, the court erroneously entered the revised $500,000 punitive damage award against all defendants – TaylorMade, Brenda Taylor, and Elleck Taylor. On May 14, 2024, FLP noted the instant appeal. Two days later, TaylorMade, Brenda Taylor and Elleck Taylor filed a motion to revise the April 19 judgment, seeking a "corrected judgment in the reduced amount of $500,000 solely against TaylorMade[,]" noting that the April 19 judgment "incorrectly includes Defendant Brenda Taylor and Defendant Elleck Taylor[] as judgment debtors[.]" On June 6, 2024, the court granted the motion, vacated

the April 19 judgment, and entered a revised judgment in the amount of $500,000 solely against TaylorMade.

STANDARD OF REVIEW

"[A] trial court's decision to grant or deny a remittitur is discretionary with the trial court and is thus reviewed on appeal under an abuse of discretion standard." *Rodriguez v. Cooper*, 458 Md. 425, 437 (2018). Indeed, "Maryland Rule 2–533 gives the trial court broad discretion, and 'it is for the trial judge to determine whether a verdict 'shocked his conscience,' was 'grossly excessive,' or merely 'excessive.'" *Brooks v. Jenkins*, 220 Md. App. 444, 474 (2014) (quoting *Conklin v. Schillinger*, 255 Md. 50, 69 (1969)). In other words, "for us to conclude that the circuit court has abused its discretion, 'the decision under consideration has to be well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.'" *Hebron Volunteer Fire Dep't, Inc. v. Whitelock*, 166 Md. App. 619, 629 (2006) (cleaned up) (quoting *Darcars Motors of Silver Spring, Inc. v. Borzym*, 150 Md. App. 18, 81 (2003)). "This means that we may not substitute our judgment for that of the fact finder, even if we might have reached a different result." *Innerbichler v. Innerbichler*, 132 Md. App. 207, 230 (2000).

DISCUSSION

A. The trial court did not abuse its discretion in reducing the punitive damage award.

FLP asserts that the trial court abused its discretion at the remittitur hearing by "shifting [TaylorMade's] burden" to FLP and by "failing to consider [TaylorMade's]

current financial health along with other *Bowden* factors[.]" Additionally, FLP contends that the court erred by focusing on TaylorMade's ability to pay, a "factor for which it articulated a dearth of information existed[.]" In response, TaylorMade contends that the court's remark about FLP's burden referred to their burden of proof at the trial, not at the remittitur hearing, and that the court correctly considered the verdict against the evidence and determined that remittitur was appropriate.

Punitive damage awards are reviewed "in light of nine, non-exclusive, legal principles[.]" *Khalifa v. Shannon*, 404 Md. 107, 142 (2008). These factors include: 1) the gravity of the defendant's wrongdoing; 2) the defendant's ability to pay; 3) the deterrence value of the award; 4) any civil and/or criminal penalties levied for similar misconduct; 5) punitive awards for comparable cases; 6) if the defendant has already paid out a punitive award for the conduct at issue; 7) if the same underlying misconduct gave rise to multiple tort causes of action, and whether it may be excessive to impose punitive damages for each count; 8) the plaintiff's reasonable costs and expenses resulting from defendant's conduct; and, 9) the relationship between the punitive damage award and compensatory damages. *Bowden*, 350 Md. at 27-41. However, the Maryland Supreme Court has made clear that these factors "are not criteria that must be established but, rather, guideposts to assist a court in reviewing an award." *Darcars Motors of Silver Spring, Inc. v. Borzym*, 379 Md. 249, 275 (2004). Indeed, "[o]ther principles may appropriately be applicable to judicial review of punitive damages awards under particular circumstances." *Bowden*, 350 Md. at 41.

We disagree with FLP that the record indicates that the court improperly shifted TaylorMade's burden to FLP at the remittitur hearing or that it failed to consider the applicable *Bowden* factors. As an initial matter, the transcript reflects that the court repeatedly rejected TaylorMade's assertions regarding FLP's burden at the remittitur hearing:

> [DEFENSE COUNSEL]: Your Honor, again we think that that's [p]laintiff's burden. And again, as I --
>
> THE COURT: No, the burden for remittitur is on you today, though, sir, no?
>
> * * *
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> [DEFENSE COUNSEL]: . . . It's my recollection of the case is at trial [sic], the [p]laintiff has the burden if they're going to request punitive damages to establish that there is an ability to pay, which would mean that its [sic] not excessive. So if the [p]laintiff meets its burden at trial, which they did not do in this case --
>
> THE COURT: Well, then you can't argue -- but you can't keep arguing that they didn't reach the burden at trial because if you didn't think you reached the burden for punitive damages at trial then we should not even put it on the jury -- on the verdict sheet.

Moreover, during its oral ruling, the court specifically noted that it "consider[ed] all of the factors in *Bowden*" and found that the punitive damages should be reduced particularly given the compensatory damages and the earning potential of the partnership. In so doing, the court noted the fact that the earning potential "would be $2 million or $2.1 million over three years and there were three years left on the contract[,]" as well as the fact that "the jury awarded . . . $195,000.00 for the breach of contract and $1 million in punitive damages[,]" in concluding that "the $1 million is excessive for the punitive damages."

Further, the fact that the court found that it had "limited information" regarding the financial position of the parties did not prohibit it from determining that remittitur was proper. Instead, the court concluded that, notwithstanding limited financial information, the facts, including the relationship to the compensatory damages awarded and the earning potential of the contract, indicated that the punitive damage award was excessive. It was within the sound discretion of the trial court to do so. *Buck v. Cam's Broadloom Rugs, Inc.*, 328 Md. 51, 59 (1992) (noting that, because the court's discretion regarding motions to reduce damages awarded by the jury "depends so heavily upon the unique opportunity the trial judge has to closely observe the entire trial, complete with nuances, inflections, and impressions never to be gained from a cold record, it is a discretion that will rarely, if ever, be disturbed on appeal").

Finally, FLP cites no support for its position that "a trial judge must assess the defendant's financial condition at the time of the moving parties' hearing, not on the financial condition of the business presented at trial[,]" and we are not aware of any. Even had the trial court decided to do so here, the record indicates that at the time of the remittitur hearing, TaylorMade no longer existed as an active limited liability company in the State.[2] Accordingly, we are unpersuaded that, based upon these facts, the circuit court's decision was "well removed from any center mark imagined" by this Court. *Hebron Volunteer Fire Dep't*, 166 Md. App. at 629 (quotation marks and citations omitted).

[2] FLP's assertion at oral argument, that representations made by TaylorMade in connection with articles of cancellation filed with the State constitute fraud, do not appear to have been raised before the circuit court, and in any event, are not at issue in this appeal.

B. The trial court did not disturb the compensatory damage award.

FLP contends that "[a]fter the parties' post-trial motions' hearing the trial court docketed an award that both reduced the punitive damages award to $500,000.00 and the compensatory damages award, which was not subject to the motion's hearing, from $195,000.00 to $0.00." Although TaylorMade initially asserted that the issue was not preserved, at oral argument before this Court, TaylorMade conceded that the issue was not waived and that the circuit court's remittitur of punitive damages did not disturb the compensatory damage award. We agree.

Here, docket entries reflect that the judgment entering the jury's compensatory damage award, entered on October 5, 2023, remains a valid judgment. Neither of the judgments revising the punitive damage award reference the compensatory damage award or indicate any intention to reduce the compensatory damage award "from $195,000.00 to $0.00" as FLP contends. Instead, the transcript of the remittitur hearing indicates the opposite; not once, but three separate times, the trial judge stated that it would not alter the compensatory damage award. Indeed, during the parties' oral argument, the trial judge specifically asserted that it was "not disturbing the $195,000.00":

> THE COURT: . . . So listen, let me be very clear. I'm not disturbing the $195,000.00. Okay? I'm not disturbing the jury's voice on that. The question that I am considering today is whether or not the $1 million in punitive damages is grossly excessive.

During the court's ruling, it reiterated that the compensatory damage award "will stand":

> THE COURT: So again, based on that, the [c]ourt is going to grant a remittitur in this case and reduce the $1 million in punitive damages to $500,000.00 [in] punitive damages. The $195,000.00 in breach of contract will stand.

Finally, at the conclusion of the hearing, when asked to repeat the judgment, the court reiterated, once again, that it was not altering the jury's compensatory damages award:

> THE DEPUTY CLERK: Could you repeat that number?
>
> THE COURT: Repeat what number?
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> THE DEPUTY CLERK: The judgment number.
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> THE COURT: So the judgment is I'm going to enter a remittitur and reduce the punitive damages to $500,000.00. The $195,000.00 will stand.
>
> THE DEPUTY CLERK: I have to do an adjustment sheet.
>
> THE COURT: Okay.

Accordingly, we see no intention to disturb, or error regarding, the compensatory damages awarded. The judgment shall be affirmed.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.