

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**J M NEIL & ASSOCIATES, INC.,
APPELLANT
vs.**

**ALEXANDER ROBERT WILLIAM, INC., ET AL.,
RESPONDENTS**

DOCKET NUMBER WD73488

DATE: JANUARY 10, 2012

Appeal from:

The Circuit Court of Jackson County, Missouri
The Honorable Charles A. Atwell, Judge

Appellate Judges:

Division Four: Thomas H. Newton, P.J., Joseph M. Ellis, J. and Cynthia Suter, Sp.J.

Attorneys:

Stacey A. Campbell, for Appellant

Russell M. Nasteff, for Respondents

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS WESTERN DISTRICT

J M NEIL & ASSOCIATES, INC., APPELLANT

v.

ALEXANDER ROBERT WILLIAM, ET AL., RESPONDENTS

WD73488

Jackson County, Missouri

Before Division Four Judges: Thomas H. Newton, P.J., Joseph M. Ellis, J. and Cynthia Suter, Sp.J.

J.M. Neil & Associates ("JMN") appeals from a judgment entered by the Circuit Court of Jackson County that granted the JNOV motion of Alexander Robert William, Inc. ("ARW") and Nash Resources, Inc. ("NRI") on the issue of punitive damages. JMN and ARW, both staffing companies, entered into a teaming agreement to obtain a General Services Administration contract set aside for veteran-owned businesses. Under the agreement, ARW would serve as the prime contractor and JMN would act as the subcontractor on the GSA contract. The agreement also included a non-compete clause that prohibited ARW from coercing or influencing JMN employees to remain with ARW after the GSA contract ended. ARW was awarded the GSA contract. ARW ultimately terminated the teaming agreement with JMN, and ARW's owner provided John Haylock, the only JMN employee working on the GSA contract at the time, with a list of staffing agencies to contact about employment if he wished to continue working on the GSA contract for ARW. ARW terminated the teaming agreement on a Friday; Haylock was hired by NRI on a Saturday; and Haylock returned to work on the GSA contract as an NRI employee on Monday, receiving the same amount of pay and performing the same job.

JMN filed suit, bringing a breach of contract claim against ARW, a tortious interference claim against NRI, and a conspiracy to breach and interfere with a contract claim against ARW and NRI. The jury found in favor of JMN on all claims and awarded JMN \$170,000.00 in punitive damages. ARW and NRI filed their JNOV motion, which the circuit court granted on the issue of punitive damages. The circuit court found that JMN failed to establish clear and convincing evidence of ARW and NRI's outrageous or evil behavior as required for an award of punitive damages. On appeal, JMN asserts that it made a submissible case for punitive damages.

REVERSED AND REMANDED

Division Four holds:

- (1) JMN made a submissible case for punitive damages because it presented clear and convincing evidence of ARW and NRI's evil motive and reckless disregard for JMN's rights and interests under the teaming agreement. JMN established evidence that the owners of ARW and NRI possessed knowledge of the non-compete agreement and knew it prevented Haylock from continuing to work on ARW's GSA contract after the termination of the teaming agreement. JMN presented further evidence that the owners of ARW and NRI conspired together to influence Haylock to continue working on ARW's GSA contract in order to avoid the hassle of finding another employee and waiting for that employee to receive security clearance. Such evidence, combined with the circumstances surrounding how Haylock obtained employment with NRI, establishes ARW and NRI's evil motive and reckless disregard for JMN's rights and interests under the agreement. Thus, the circuit court erred in granting ARW and NRI's JNOV motion on the issue of punitive damages.

Opinion by Joseph M. Ellis, Judge

Date: January 10, 2012

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