

#24491

STATEMENT OF THE LEGAL ISSUE

When a party is deprived of her property through litigation that has been found to constitute conversion as a matter of law, which litigation has been maliciously prolonged, and when that party can only recover her property by participation in that litigation, may the party obtain her attorney fees incurred in that litigation as damages in a subsequent conversion action?

The trial court held in the negative.

Schuldies v. Millar, 1996 SD 120, 555 N.W.2d 90.

Christiansen v. United Nat. Bank of Vermillion, 176 N.W.2d 65 (S.D. 1970)

Donnelly v. Young, 471 S.W.2d 888 (Tex. Cir. App. 1971).

State v. Taylor, 506 N.W.2d 767 (Iowa 1993).

SDCL 21-3-3.

---

continued

LEGAL ISSUES

1. Did the Trial Court err when it dismissed Leisinger's defamation cause of action?

The Trial Court granted Jacobson's Motion for Summary Judgment. [SDCL 23-5-11; SDCL 23A-28B-36; Strassburg v. Citizens State Bank, 1998 SD 72; 581 N.W.2d 510; Straheli v. Smith, 548 So.2d 1299 (Miss. 1989); Aramony v. United Way of America, 969 F.Supp. 226 (SDNY 1997).]

STATEMENT OF THE LEGAL ISSUES

1. Whether Leisinger's counterclaim for defamation was barred by the statute of limitations?

The trial court found in the affirmative.

Taggart v. Ford Motor Credit Co, 462 N.W.2d 493 (S.D. 1990)

Miller v. Stevens, 256 N.W. 152 (S.D. 1934)

Shippen v. Parrott, 506 N.W.2d 82 (S.D. 1993).

Rehm v. Lenz, 1996 SD 51, 547 N.W.2d 560.

SDCL 15-2-15.

2. Whether Jacobson's statements were protected by SDCL 20-11-5(2)?

The trial court did not reach this issue.

Janklow v. Keller, 241 N.W.2d 364 (S.D. 1976)

Hagberg v. California Federal Bank FSB, 81 P.3d 244 (Cal. 2004)

Ledvina v. Cerasani, 146 P.3d 70 (Ariz. App. 2006)

Flugge v. Wagner, 532 N.W.2d 419 (S.D. 1995)

SDCL 20-11-5(2).