NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

DAVID HATCHIGIAN Appellant v. GERMAN, GALLAGHER & MURTAGH, SAXTON & STUMP, MICHELIN NORTH AMERICA, LAUREN A. GREEN, AND CHILTON G. GOBEL	:	IN THE SUPERIOR COURT OF PENNSYLVANIA No. 2558 EDA 2025

Appeal from the Judgment Entered December 22, 2025
In the Court of Common Pleas of Philadelphia County Civil Division at No(s): 230601557

BEFORE: DUBOW, J., NICHOLS, J., and MURRAY, J.

MEMORANDUM BY NICHOLS, J.: **FILED NOVEMBER 10, 2026**

Appellant David Hatchigan,[1] proceeding *pro se*, appeals from the judgment entered following the trial court's granting of Appellees German, Gallagher & Murtagh; Saxton & Stump; Michelin North America; Lauren A. Green; and Chilton G. Gobel's (collectively, Appellees) motion for compulsory nonsuit on Appellant's complaint and the trial court's September 12, 2025 order denying Appellant's motion for post-trial relief and to remove nonsuit. We affirm.

The trial court summarized the factual and procedural history as follows:

> This case arises from a limited warranty dispute [regarding a tire] that went to trial in the Philadelphia Municipal Court . . . . In

[1] As noted by the trial court, Appellant stated that he has filed a total of 166 complaints. ***See*** Trial Ct. Op., 12/2/25, at 1; N.T. Trial, 8/18/25, at 126.

Municipal Court, [Hon.] Bradley Moss entered judgment for [Appellees] and against [Appellant,] due to [Appellant's] failure to follow the terms of the warranty. In his Complaint, [Appellant] alleges that [Appellee] Green proffered a forged, unsigned affidavit from Bill Hankinson, a car mechanic. The Hankinson affidavit states that Mr. Hankinson is an employee of CJ Tire and Automative, and that he inspected [Appellant's] tire on or about March 19, 2018. The affidavit further states that Mr. Hankinson was able to determine that [Appellant] had been riding with a bent rim for about two weeks, there was a cut in the sidewall, the tire tread was 2/32 of an inch, and that the tire was damaged by vehicle alignment wear and being driven on a flat. [Appellant] further claims that Hankinson never inspected the tire. This affidavit was not entered into evidence in the Municipal Court hearing and Judge Moss did not rely on it when entering judgment for [Appellees].

[Appellant] filed his complaint in [the trial court] on June 16, 2023. Count I of [Appellant's] complaint was for intentional misrepresentation/fraud against all [Appellees]. Count II was for professional negligence against German, Gallagher & Murtagh[(GGM);] [Appellee] Green[;] and [Appellee] Goebel. Count III was for negligent retention and supervision against [Appellee GGM]. Count IV was for violation of state consumer protection law against [Appellee GGM]. Count V was for injunctive relief to enjoin [Appellees] from "falsifying evidence and filing repetitive motions for sanctions while skirting normal discovery, and all other future bad faith litigation conduct."

Prior to trial, [Appellant] filed a motion for partial summary judgment seeking judgment as to Count [I] of [Appellant's] complaint. On June 30, 2025, [Appellees] filed a joint response in opposition to [Appellant's] motion for summary judgment. On that same day, [Appellees] filed a joint cross motion for summary judgment. On July 10, 2025, [Hon.] Gwendolyn N. Bright denied [Appellant's] motion for partial summary judgment. [Appellees'] cross motion for summary judgment was not adjudicated or otherwise disposed of by Judge Bright's order. Therefore, [the trial court] issued rulings on the record disposing of Counts II-V of [Appellant's] claims prior to trial. After these rulings, only [Appellant's] claim for intentional misrepresentation/fraud remained.

> This case was tried on August 18, 2025. . . . At trial[, Appellant] called [Appellee] Green as on cross to testify as to an affidavit from [Mr.] Hankinson, a Michelin[-]certified auto mechanic who inspected the allegedly defective tire at issue in the underlying action. [Appellant] contends that this affidavit was forged and contained false information. While being questioned by [Appellant], [Appellee] Green stated that the affidavit was not admitted into evidence because Mr. Hankinson was not present to authenticate the document and to be cross-examined by [Appellant] at the municipal court hearing.
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> On direct examination, [Appellee] Green testified that she did not falsify the affidavit [. . . and] that there was no reason to suspect or believe in any way, shape, or form that the Hankinson Affidavit was false or a misrepresentation. [Appellee] Green further testified that the information was in claims notes from Michelin and that she personally had conversation with Mr. Hankinson regarding the affidavit.
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> After [Appellant] rested his case, [Appellees] moved for compulsory nonsuit, which [the trial court] granted. Following trial, [Appellant] filed a motion for post-trial relief on August 26, 2025. [Appellees] responded on September 5, 2025. On September 12, 2025; [the trial court] denied [Appellant's] motion for post-trial relief. [Appellant] appealed [the trial court's] order on October 5, 2025.

Trial Ct. Op., 12/2/25, at 1-3 (citations omitted and some formatting altered).

The trial court entered judgment on December 22, 2025. Both Appellant and the trial court complied with Pa.R.A.P. 1925.

Appellant raises the following issues on appeal:

> 1. Did the [trial] court err by nonsuiting Count One, given that [Appellant's] evidence of counsel's intentional misrepresentations and damages was a matter of court record and should have been submitted to the jury?
>
> 2. Were the required elements of a fraud claim evidenced against [Appellees], including 1) misrepresentation of a material fact; (2) scienter; (3) intention by the declarant to induce action;

> (4) justifiable reliance by the party defrauded upon the misrepresentation; and (5) damage to the party defrauded as a proximate result?
>
> 3. Was it improper to nonsuit Count Two (professional negligence) given [(]1) the "other basis" for Green and Goebel to behave as attorneys when interacting with nonclients like Appellant, (2) their failure to exercise ordinary skill and knowledge, proximately causing Appellant's damages, (3) a preponderance of the evidence indicating Appellant would have prevailed in the underlying litigation but for their negligence?
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> 4. Should Count Three also have been submitted to a jury, based on [Saxton & Stump (S&S)] and GGM firing or failing to supervise attorneys who colluded with clients in seeking duplicative discovery and discovery sanctions in bad faith, asserted false defenses, and pursued the adverse inference that [Appellant] refused to produce his own tire?
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> 5. As GGM's and S&S's deceptive practices in defending the underlying case were not resolvable while the underlying case was still underway, should the trial court have found that Count Four accrued only after the underlying action was appealed and fully resolved?
>
> 6. Is the nonsuit also due to be removed to the extent the [trial] court conflated the underlying manufacturing defect claim with the instant claims for fraud and attorney misconduct, or confused plaintiff's fraud and negligence theories of recovery with the rules for fraud on the court, legal malpractice and/or fiduciary breach?

Appellant's Brief at 11-13 (some formatting altered).

We review the appeal of a judgment of compulsory nonsuit "to determine whether the trial court abused its discretion or made an error of law." ***Baird v. Smiley***, 169 A.3d 120, 124 (Pa. Super. 2017) (citation omitted). Rule 230.1 of the Pennsylvania Rules of Civil Procedure permits a trial court to enter a nonsuit order where, "at the close of the plaintiff's case

against all defendants on liability, the court finds that the plaintiff has failed to establish a right to relief." ***Id.*** (citation omitted); ***see also*** Pa.R.Civ.P. 230.1(a)(1). In other words, the trial court must decide that "the jury . . . could not reasonably conclude that the elements of the cause of action had been established" based on the evidence presented by the plaintiff in its case-in-chief. ***Gillard v. Martin***, 13 A.3d 482, 486-87 (Pa. Super. 2010) (citation omitted). In arriving at this decision, the trial court must also consider that "a jury may not be permitted to reach a verdict based on mere conjecture or speculation." ***Id.*** at 487 (citation omitted). In reviewing an appeal of a judgment of nonsuit, this Court gives the appellant the benefit of every reasonable inference and resolves all evidentiary conflicts in the appellant's favor. ***See Baird***, 169 A.3d at 124. In the instant case, when the trial court entered its order granting nonsuit in favor of Appellees, the only substantive claims that remained before the trial court were intentional misrepresentation and fraud. ***See*** Trial Ct. Op., 12/2/25, at 2; N.T. Trial, 8/18/25, at 52-53.

To establish a claim for common law fraud, the plaintiff must demonstrate:

> (1) A representation; (2) which is material to the transaction at hand; (3) made falsely, with knowledge of its falsity or recklessness as to whether it is true or false; (4) with the intent of misleading another into relying on it; (5) justifiable reliance on the misrepresentation; and, (6) the resulting injury was proximately caused by the reliance.

Weston v. Northampton Pers. Care, Inc., 62 A.3d 947, 960 (Pa. Super. 2013) (citation omitted); ***see also Bortz v. Noon***, 729 A.2d 555, 560 (Pa. 1999).

Further,

> a fraudulent misrepresentation can take many forms: fraud consists in anything calculated to deceive, whether by single act or combination, or by suppression of truth, or a suggestion of what is false, whether it be direct falsehood or by innuendo, by speech or silence, word or mouth, of look or gesture. It is any artifice by which a person is deceived to his disadvantage. Where a plaintiff asserts fraudulent misrepresentation without showing that the defendant intended to mislead the plaintiff into reliance on the misrepresentation, the defendant is entitled to judgment as a matter of law.

Kostryckyj v. Pentron Lab. Techs., LLC, 52 A.3d 333, 339 (Pa. Super. 2012) (citations omitted and some formatting altered). "Unsupported assertions and conclusory accusations cannot create genuine issues of material fact as to the existence of fraud." ***Hart v. Arnold***, 884 A.2d 316, 339 n.7 (Pa. Super. 2005) (citation omitted).

Here, we agree with the well-reasoned opinion of the trial court, which thoroughly addressed Appellant's claims, and adopt its conclusions which are supported by the record and ample legal authority. ***See*** Trial Ct. Op., 12/2/25, at 4-9.

For the reasons stated in the trial court opinion, we conclude that the trial court acted within its discretion in granting Appellees' motion for compulsory nonsuit and in denying Appellant's motion for post-trial relief and

to remove nonsuit, because Appellant failed to prove his claims. Accordingly, we affirm the judgment.[2]

Judgment affirmed. Jurisdiction relinquished.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/10/2026

[2] The parties are directed to attach a copy of the trial court's opinion in the event of further proceedings.