

The Supreme Court of the State of Louisiana

MACRO COMPANIES, INC.

No. 2021-C-00483

VS.

DEARYBURY OIL & GAS, INC., ET AL.

IN RE: Macro Companies, Inc. - Applicant Plaintiff; Applying For Writ Of
Certiorari, Parish of Lafayette, 15th Judicial District Court Number(s) C-20184283,
Court of Appeal, Third Circuit, Number(s) CA 20-174;

June 29, 2021

Writ application granted. See per curiam.

JDH

SJC

JTG

WJC

JBM

PDG

Weimer, C.J., would grant and docket.

Supreme Court of Louisiana

June 29, 2021



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2021-C-00483

MACRO COMPANIES, INC.

VS.

DEARYBURY OIL & GAS, INC., ET AL.

On Writ of Certiorari to the Court of Appeal, Third Circuit, Parish of Lafayette

PER CURIAM

In writ application 2021-C-0483, Macro Companies, Inc. seeks review of the court of appeal's ruling dismissing its claims against Dearybury Oil & Gas Co., Inc., Florida Marine Transporters, LLC, and Kenneth Pullen, for a \$250,000.00 fee. Specifically, Macro alleges it entered into an agreement with Dearybury wherein Dearybury agreed to the payment of a fee equal to 5¢/gallon of fuel sold by Dearybury to FEMA. The defendants filed motions for summary judgment wherein they argued that, even if such an agreement existed, the fee is prohibited by 48 C.F.R. 52.203-5 of the Federal Acquisition Regulation (FAR.)

The interpretation of a statute is a question of law. Questions of law are reviewed *de novo* to determine whether the lower court's interpretive decision was legally correct. A **Fuselier Bonding Serv., Inc. v. Perez**, 10–1416 (La. App. 3 Cir. 4/6/11), 62 So.3d 296. Judicial statutory interpretation must give consideration and meaning to an entire statutory framework and context. **Bourgeois v. Akzo Nobel Salt, Inc.**, 97–54, (La. App. 3 Cir. 10/01/97), 702 So.2d 762, writ denied, 97–2753 (La.2/6/98), 709 So.2d 732; **Dalme v. Blockers Manufactured Homes, Inc.**, 2000-00244 (La. App. 3 Cir. 1/25/01), 779 So.2d 1014, 1017. In **Johnston v. Morehouse Parish Police Jury**, 424 So.2d 1053, 1056 (La. App. 2 Cir. 1982), the court stated as follows:

We reach our conclusion guided by venerable principles of civilian construction—primarily the rule that statutes pertaining to the same subject matter are to be read *in pari materia*. LSA—C.C. Art. 17. Thus statutory provisions referring to a common subject are to be construed in such a fashion as to infuse them all with efficacy and meaning and in such a manner as will produce a unified and coherent import. As a general rule, the legislature does not enact vain and useless legislation. *Staton v. Hutchinson*, 370 So.2d 106 (La. App. 1st Cir.1978). Judicial construction must aim to attribute reasonable meaning to an entire statutory framework and context. *McGee v. Police Jury of Caddo Parish*, 63 So.2d 153 (La. App. 2d Cir.1953).

A review of the FAR reflects that government contracting is both highly technical and heavily regulated. The requirement that any particular one of the numerous contract clause options be included in a certain contract depends on a variety of factors. 48 C.F.R. 52.203-5 is merely one of many optional contract clauses included within the FAR, and therefore must be read in conjunction with the entire regulatory body as a whole. Not only does the clear language of 48 C.F.R. 3.404 specifically exclude contracts for commercial items, but it also directs the reader to a portion of the FAR applicable specifically to such contracts and setting forth a unique procedure therefore. Notably, those regulations pertaining solely to contracts for commercial items do not contain a contingency fee prohibition.

As such, 48 C.F.R. 3.404 and 48 C.F.R. 52.203-5 must be read together in order to determine the actual intent of the FAR as a whole. See Louisiana Municipal Association v. State, 2004-0227 (La. 1/19/05), 893 So.2d 809, 837. By interpreting 48 C.F.R. 52.203-5 to prohibit the fee at issue herein, the conclusion reached by the court of appeal is contrary to the plain language of the FAR as a whole.

Moreover, Macro introduced deposition testimony and communications between the parties to support the existence of its alleged agreement with Dearybury. In ruling on a motion for summary judgment, the judge's role is not to evaluate the weight of the evidence or to determine the truth of the matter, but

instead to determine whether there is a genuine issue of triable fact. **Hines v. Garrett**, 04-0806 (La.6/25/04), 876 So.2d 764, 765. Factual inferences reasonably drawn from the evidence must be construed in favor of the party opposing the motion, and all doubt must be resolved in the opponent's favor. **Willis v. Medders**, 00-2507 (La.12/8/00), 775 So.2d 1049, 1050; **Berard v. L-3 Communications Vertex Aerospace, LLC**, 2009-1202 (La. App. 1 Cir. 2/12/10), 35 So.3d 334, 339-340, writ denied, 2010-0715 (La. 6/4/10), 38 So.3d 302. In light of the evidence presented in this case, dismissal of Macro's claims against the defendants via summary judgment is not appropriate. The rulings of the lower courts are therefore reversed. The summary judgments rendered in favor of defendants dismissing Macro's claims against them are vacated, and this matter is remanded for further proceedings.

2012-C-0483: WRIT GRANTED; VACATED and REMANDED