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Chapter 1 : kylebaptie's PSN Profile â€¢ calendrierdelascience.com

Defendant-Appellee Hawkins, Ash, Baptie & Co. ("HABCO") is a Wisconsin public accounting firm that provides accounting services to, among others, PHAs. Defendant-Appellee Hawkins, Ash, Baptie, Inc. ("HABINC") was formed by HABCO to provide, among other things, computer services to HABCO and its PHA clients.

Around , MCS and HABCO, now separate entities, recognized that the Burroughs computer system was becoming obsolete and began discussing a project to prepare software to be used in connection with a Data General mini-computer system. We note that MCS characterizes the project as "the developing of new software," while HABCO characterizes the project as "the converting of the old software. The purpose of the payment as well as the meaning of the contract provisions relating to ownership and use of the prepared software are in dispute. We will now refer to this software as the "contract software" or "contract programs. MCS alleged that the back-up tapes contained both the contract programs and its own non-contract programs. HABCO has admitted one such use of the back-up tapes although HABCO may dispute that the program it used from the back-up tapes was a non-contract program proprietary to MCS ; it admits that it used the back-up tapes to develop an "accounts receivable" program and used that program for its own internal purposes and for one client. In addition to the allegations concerning use of the back-up tapes, MCS alleged that HABCO made unauthorized use of the contract software that was delivered with the Data General computer. Specifically, MCS alleged that HABCO made unauthorized copies of the contract software, used those copies on non-designated equipment, sold or licensed copies of the contract software to PHAs across the country, transferred the contract software to HABINC for its use, and converted certain contract programs for use on an Altos computer system. The court then dismissed the pendent state claims. Advertisement 8 Under the definitions set forth in the RICO statute, a pattern of racketeering activity requires "at least" two predicate acts of racketeering committed within a ten-year period. It is well settled, however, that merely alleging that the defendant committed two predicate acts does not fulfill the pattern requirement. Chicago Motor Club Insurance Co. The factors include "the number and variety of predicate acts and the length of time over which they were committed, the number of victims, the presence of separate schemes and the occurrence of distinct injuries. Bank of Waukegan, F. We stated in Morgan that no one factor is necessarily determinative. Rather, the focus of the inquiry is to determine whether the predicate acts "can fairly be viewed as constituting separate transactions," id. The question before the Court in H. Northwestern Bell Telephone Co. Adhering to the Sedima formulation, the Court indicated that the inquiry should focus on the two concepts of continuity and relationship. The Court explained that the predicate acts meet the relationship requirement if they are "criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events. Given these two guidelines, we believe that the factors identified in Morgan--with the exception of our focus on the presence of separate schemes--are still useful in analyzing the pattern element. The same is true of the back-up tapes. Indeed, the copying of the back-up tapes might be characterized as the first allegedly unauthorized copying of both the non-contract and the contract software. Its subsequent and varied uses of the stolen software would not constitute new offenses but would go only to the issue of damages.

Chapter 2 : MANAGEMENT COMPUTER SERV. | F.2d 48 () | 83f2d | calendrierdelascience.com

You leave behind this bitter taste upon my lips while arrogance grips my mind in disbelief as if the thief of gracious thought waits at your gate, an attitude ornate in your wintry embrace of I I see through the lies you hide behind.

Jack Wellman September 11, at After I accepted Christ into my heart and life last year, I was reading the Bible, etc. I then talked to my Pastor and told him about this and he smiled and said yep! I will never forget that day. Eric November 16, at 7: My life has changed dramatically since then. I was in a FB group yesterday and a few people told me I must get Baptized Immersion in water to be saved. I was pretty upset because it made me question why my life has changed so much after taking Christ in my life verbally. I know for a fact that its the Holy Spirit is working in my life. So many people have different views on this. Reading the other comments on this page makes me wonder if its time for me to get Baptized also? Thank you, Eric Yannik November 29, at 6: I urge you brother to do it too as soon as you can! Thank you for the response. Its funny like you I cannot say the exact date I took Christ but can give an estimate. Life has changed dramatically. I feel the Baptism will make it official. Not being saved but showing Christ and everyone I am serious. Thank you so much Yannik. I will pray that you are able to get baptized also. Nis February 14, at 8: Greg November 22, at 8: Jack Wellman November 22, at 3: Is the church you now attend able to baptize you? That you even brought this up shows me that you are thinking about it and so yes, I would, even though you are now saved I take it. May God richly bless you my friend. Greg November 25, at 7: Wellman, First of all, thank you for your quick response. This is further confirmation and it has given me more peace about my decision. I have attended this Baptist church for almost 11 years which has been very instrumental in my spiritual growth but I felt I was being led to ask someone with an unbiased opinion. This is, after all, a matter between God and myself and I am at the point that a public confession of faith might well serve to encourage others in my age group who have not done so to step up to do just the same. Greg Jack Wellman November 26, at 5: Wished I could be there and may God richly bless you on this very special occasion and thank you for your blessing sir and may God richly bless you as well my beloved brother.

Chapter 3 : F2d 48 Management Computer Services Inc v. Hawkins Ash Baptie & Co | OpenJurist

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Graders will be granted to power to add a restricted Maiden Sprint Grade to greyhounds that fail to qualify after two 2 attempts in Qualifying Trials over m in order to allow them entry into Country Class short-course Maiden events only. This policy will be implemented on a six month trial basis. R b and c Registration of litter R b for pups whelped on or after 1 July a certificate of vaccination against parvovirus, hepatitis and canine distemper C3 issued by a veterinary surgeon identifying the greyhound by reference to its sex and colour, that indicates that such vaccination was performed upon the greyhound at least between six 6 and eight 8 weeks. Further Information Breeders must familiarize themselves with all Breeding Rules and R in particular. The possibility of exceeding this threshold naturally is extremely remote. Trainers are advised to be extremely cautious using products that contain hydrocortisone close to racing as this may inadvertently lead to a rise in urinary hydrocortisone levels. Hydrocortisone cortisol is a glucocorticoid corticosteroid produced naturally by the adrenal gland. Its main functions involve the regulation of carbohydrate, protein and fat metabolism but glucocorticoids have effects on virtually every cell type and system in mammals. The anti-inflammatory and pain-relieving properties could inhibit sensation of muscle or joint pain and increase the fatigue threshold. Therapeutic use of hydrocortisone may result in a level of hydrocortisone in a subsequent sample that exceeds this threshold. Trainers are therefore advised to avoid the use of these substances close to racing. For further information please contact your state controlling body. It will allow for the regulation of levodopa and dopamine abuse in greyhounds and has been set at a level to allow for normal amounts of 3-methoxytyramine supplementation through routine nutritional sources. The administration including supplementation through feeding of certain substances to greyhounds could under some circumstances elevate urinary levels of 3-methoxytyramine. Trainers are therefore advised to avoid the use of these supplements close to racing as this may inadvertently lead to a rise in urinary 3-methoxytyramine levels. Please note that the performance details below were correct at the time of going to print. Perth Cup Consolation 2 Finalist: Mandurah Middle Distance Challenge Finalist: The Contenders List will be finalised at the end of December RWWA is the controlling authority of thoroughbred, harness and greyhound racing in Western Australia, and operates the TAB which has more than off-course retail outlets, a call centre and online betting services. The board of directors comprises: Nominations for board members appointed in accordance with paragraph e are now being sought. People with the following attributes are encouraged to apply: Telephone inquiries to 08 Expressions of interest should be addressed to: Reserve Greyhounds not left as Reserves: Total number of unique greyhounds drawn as reserves at the meeting The total of first preferences - unique runners drawn - unique reserves drawn Total number of greyhounds drawn as runners in races at the meeting that had an exemption for an unfulfilled commitment Total number of greyhounds drawn as reserves in races at the meeting that had an exemption for an unfulfilled commitment Excess Nominations:

Chapter 4 : How to Perform an Emergency Baptism

Coming together - alongside producer & friend Ben Baptie - initially in the UK, then upstate New York, before concluding at The Farm Studio in rural Philadelphia, the trio nudged and corralled each delicate wisp of a song, gradually layering it with washes of icy guitar, short staccato drums & Arndt's restrained basslines.

Attorney s appearing for the Case Harry E. Around , MCS and HABCO, now separate entities, recognized that the Burroughs computer system was becoming obsolete and began discussing a project to prepare software to be used in connection with a Data General mini-computer system. We note that MCS characterizes the project as "the developing of new software," while HABCO characterizes the project as "the converting of the old software. The purpose of the payment as well as the meaning of the contract provisions relating to ownership and use of the prepared software are in dispute. We will now refer to this software as the "contract software" or "contract programs. MCS alleged that the back-up tapes contained both the contract programs and its own non-contract programs. HABCO has admitted one such use of the back-up tapes although HABCO may dispute that the program it used from the back-up tapes was a non-contract program proprietary to MCS ; it admits that it used the back-up tapes to develop an "accounts receivable" program and used that program for its own internal purposes and for one client. In addition to the allegations concerning use of the back-up tapes, MCS alleged that HABCO made unauthorized use of the contract software that was delivered with the Data General computer. Specifically, MCS alleged that HABCO made unauthorized copies of the contract software, used those copies on non-designated equipment, sold or licensed copies of the contract software to PHAs across the country, transferred the contract software to HABINC for its use, and converted certain contract programs for use on an Altos computer system. MCS brought this action in the federal district court, alleging fraud, breach of contract, unjust enrichment, and violation of RICO. The court then dismissed the pendent state claims. Under the definitions set forth in the RICO statute, a pattern of racketeering activity requires "at least" two predicate acts of racketeering committed within a ten-year period. It is well settled, however, that merely alleging that the defendant committed two predicate acts does not fulfill the pattern requirement. Chicago Motor Club Insurance Co. The factors include "the number and variety of predicate acts and the length of time over which they were committed, the number of victims, the presence of separate schemes and the occurrence of distinct injuries. Bank of Waukegan, F. We stated in Morgan that no one factor is necessarily determinative. Rather, the focus of the inquiry is to determine whether the predicate acts "can fairly be viewed as constituting separate transactions," id. The Supreme Court this year attempted to provide additional guidance. The question before the Court in H. Northwestern Bell Telephone Co. Adhering to the Sedima formulation, the Court indicated that the inquiry should focus on the two concepts of continuity and relationship. The Court explained that the predicate acts meet the relationship requirement if they are "criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events. We find these explanations of the terms continuity and relationship to be somewhat elastic. Given these two guidelines, we believe that the factors identified in Morgan â€” with the exception of our focus on the presence of separate schemes â€” are still useful in analyzing the pattern element. The case at hand is essentially a contract dispute involving one "victim," one transaction between the parties, and, at most two predicate acts â€” the allegedly unauthorized copying of the contract programs and the allegedly unauthorized copying of the back-up tapes. The same is true of the back-up tapes. Indeed, the copying of the back-up tapes might be characterized as the first allegedly unauthorized copying of both the non-contract and the contract software. Its subsequent and varied uses of the stolen software would not constitute new offenses but would go only to the issue of damages. For the reasons stated herein, the judgment of the district court is affirmed. This court has not treated a failure to specify the final judgment in the notice of appeal as a jurisdictional bar to appeal if "the intent to appeal from the judgment complained of may be inferred from the notice and if the appellee has not been misled by the defect. Here, the intent to appeal from the final judgment is clear, and the defendants do not claim to have been misled. We therefore treat this appeal as an appeal from the final judgment. We note that

the federal copyright laws, 17 U.

Chapter 5 : Hawkins Ash Baptie & Company LLP - Winona CPA in Winona, Minnesota (MN)

By your logic, the thief on the cross didn't have his sins washed away since because he couldn't come down off the cross to be baptized. You are putting salvation as this: Jesus + water = salvation, when Jesus alone saves.

Attorney s appearing for the Case Constantine L. Gross and Robert J. After a seven-day trial, a jury found for Mr. On appeal, Ballard argues primarily that Mr. Russo cross-appeals, submitting that the district court erred in declining to add post-verdict, pre-judgment interest to his award. I A In Ballard introduced its flagship product, the Trach Care 24 catheter, a closed-suction catheter designed to remove debris from endotracheal ventilator tubes without having to disconnect patients from the ventilators on which they depend for oxygen. Russo is an independent medical device designer. In , Ballard retained Mr. Russo in a consulting role with the aim of improving various aspects of its Trach Care catheter. After completing this project, Mr. Russo continued working independently on tracheal suction devices, while Ballard also worked on its own to improve its product. In particular, Ballard focused on enhancing the useful life span of its catheter. In , after several failed attempts to extend the life span of the Trach Care 24, Ballard again sought Mr. Russo agreed and, building on his independent work, he devised various improvements to the Trach Care 24, all memorialized in a series of drawings and a prototype. These improvements included a vented "duckbill" valve that isolated the patient-side of the catheter assembly from the catheter cleaning chamberâ€”an innovation that allowed mucus to be more effectively cleaned from the catheter in the cleaning chamber while minimizing back flow to the patient. In early , Mr. Russo agreed to meet with Ballard to discuss his improvements, but conditioned any meeting on the parties executing a confidential disclosure agreement "CDA". Ballard assented to this condition, sending Mr. Russo a proposed CDA for his consideration. In preparation for the meeting, but after signing the CDA, Mr. Russo forwarded a binder of materials to Ballard disclosing his innovations, and he brought additional drawings and a prototype to the meeting itself. During the course of the conference, Mr. Russo gave the drawings to Ballard engineers, showed them the prototype, explained his various improvements, and answered "a million questions. Before the meeting concluded, Ballard asked Mr. Russo how much it would cost to license his innovations. Over the next few months, the parties continued to negotiate, during which time Mr. Shortly after the parties broke off negotiations, Mr. Hess promised that he would secure the return of Mr. Russo brought this to Mr. Hess represented that Ballard was unable to locate Mr. Russo at the time, Ballard made use of his work to secure two patents and introduce a new product to market. In September , Ballard submitted a patent application embodying the innovations Mr. Both contained the essential innovations embodied in Mr. The only difference between Mr. Otherwise, the designs were "exactly the same" as the ones Mr. At the heart of the product are Mr. Russo filed suit in Rhode Island Superior Court. Ballard removed the action to federal court based on diversity jurisdiction and, pursuant to a forum selection clause in the CDA, the case was transferred to the District of Utah. At the trial that followed, the district court submitted two claims to the jury: Both claims turned on Mr. For his trade secret claim, Mr. Without his innovations, Mr. Russo claimed, Ballard simply could not have created its new product and would have been forced to continue offering only its hour product. Russo also sought compensatory damages for his actual loss under the breach of contract claim. Using several "conservative" assumptions, Mr. For its part, Ballard contended that Mr. Instead, Ballard submitted, its engineers independently developed all of the innovations embodied in its product. Additionally, Ballard argued that Mr. Ballard further challenged Mr. Ultimately, the jury found in favor of Mr. The district court entered judgment for Mr. Ballard now appeals, asking us to hold Mr. For his part, Mr. Russo asserts that our jurisdiction arises under 28 U. Ballard concurs in this analysis, but identifies a potential wrinkle. Ballard draws our attention to the fact that the Federal Circuit has exclusive jurisdiction pursuant to 28 U. Ballard assures us that neither of these provisions pertains to this case but nonetheless flags them for our independent consideration because, it says, they would, if applicable, divest us of subject matter jurisdiction over this dispute. It is our obligation always to be certain of our subject matter jurisdiction. Reliance Standard Life Ins. Neither of his two state law claims for relief was created by federal patent law. And neither "necessarily depends on resolution of a substantial question of federal patent

law. In his trade secret claim, Mr. Russo had to prove to prevail. But the fact that patents may be used as evidence in aid of a trade secret claim is not the same thing as raising a substantial or really, any question of federal patent law. What holds true for Mr. To secure damages for the latter claim, Mr. Russo had to show only that he disclosed materials to Ballard pursuant to the CDA, that Ballard then disclosed those materials to others, that Mr. Russo was harmed by this act and suffered damages, and that this result was reasonably foreseeable to Ballard. Here, again, the fact that Ballard used Mr. First and primarily, the company asserts that, while the nature of the claims presented in Mr. Russo actually presented at trial was "irreconcilable" with federal patent law and so preempted by it. A The Supremacy Clause of the Constitution provides that federal law trumps, or preempts, contrary state laws. While a seemingly simple rule, preemption takes a number of guises, known variously as explicit, field, and conflict preemption. The first two of these species of preemption do not bear on our current problem. Federal patent law does not explicitly preempt state trade secret laws. Neither has Congress evinced an intent to occupy exclusively the entire intellectual property field associated with inventions. Our only concern in this case is thus narrowed to conflict preemption. Conflict preemption arises when state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress," as expressed in this case in the Patent Act. When it comes to assessing this question, two particular doctrinal strands bear upon our analysis, one illustrated by Kewanee Oil, the other by Bonito Boats, Inc. Thunder Craft Boats, Inc. Russo sought relief in this case. At the outset, the Court readily acknowledged that good arguments could be mustered for preempting traditional state trade secret claims. Quick Point Pencil Co. In reaching its conclusion, the Kewanee Oil Court stressed that traditional state trade secret laws and federal patent law usually serve complementary, not conflicting, purposes. Both create incentives to invention, after all, and plainly "[i]n this respect the two systems are not and never would be in conflict. Trade secret serves this shared purpose, moreover, in arenas "where patent law does not reach," thus mitigating the potential for conflict between the two systems of law. Trade secret laws operate only to protect those ideas held in secret, while patent law affords the exclusive means of protecting the right to an invention only after it is disclosed to the public. The Kewanee Oil Court also emphasized the social costs associated with preempting state trade secret laws. Without trade secret protection, the Court observed, the holders of trade secrets would be discouraged from sharing their ideas with potential manufacturers who, in such a regime, could not be bound to pay a license fee or protect any secret. Such a rule of law would serve to encourage the "hoard[ing] rather than [the] disseminat[ion]" of knowledge, requiring trade secret holders to "engage in the time-consuming and economically wasteful enterprise of constructing duplicative manufacturing and marketing mechanisms" to get their ideas to market. Such inefficiencies would deter the development and dissemination of scientific and technological innovations, causing "society, as a whole, [to] suffer," id. At the same time, the Kewanee Oil Court was not blind to costs and considerations on the other side of the ledger. Though not all trade secrets are amenable to patent, many are, and the potential for conflict between state and federal law is, for these secrets, at its "peak. Federal law expresses a strong interest in seeing that patentable innovations do not stay bottled up in secret but are instead shared with the public in order to promote social progress. But even for this class of trade secretsâ€”those amenable to patent and thus for which there is a strong interest in their public disseminationâ€”the Court ultimately declined to preempt traditional state trade secret laws. It did so reasoning that, even here, trade secret laws pose "no reasonable risk" of deterring inventors with patentable ideas from sharing their work with the world through the patent process. Trade secret laws, after all, provide "far weaker protection" than patent law in critical respects. So, "[w]here patent law acts as a barrier, trade secret law functions relatively as a sieve," and a rational inventor would have every reason to choose the barrier over the sieve. Of course, there is the possibility that the occasional "rare inventor" will choose trade secret protection over patent protection, even where a patent is available.

Chapter 6 : Welland History Â» Historical MUSINGS

Hawkins Ash Baptie & Company LLP - Winona Certified Public Accountants is located in Winona, Minnesota. Get directions, unbiased reviews and in-depth information on this Certified Accountants and other CPAs in Minnesota.

This does not include the concurrence which preceded the dissent in the original opinion. Dated this 5th day of December, The punitive award must bear "a reasonable relationship to the award of compensatory damages. Even with "due regard for the discretion of the jury in assessing punitive damages," id. The punitive damages award is times the maximum fine. The compensatory award is in a sense a starting place, since punitive damages equal to compensatory damages are reasonable. The high degree of outrageous conduct and maliciousness exhibited by HABCO is such that a punitive award merely equal to the compensatory award fails to serve the purposes of punishment and deterrence. We reach that conclusion because the record shows how easy it is to steal computer programs, once possession of the physical software is obtained. One contemplating such a theft and watching the development of the law might well consider that the ease of theft, the low risk of detection and the potential profit are worth the cost if punitive damages merely approximate the amount of compensatory damages. We should dissuade software thieves from reaching that conclusion. In this age of computers and the many uses to which they are put in almost every professional, commercial, industrial and governmental context, deterrence of others similarly situated is even more important than punishing the wrongdoer. This amount is approximately ten times the amount of the compensatory damages award, a far more reasonable relationship in this case, and sixty-five times the maximum fine for computer theft. Liability for punitive damages has been fixed. To retry that issue would deprive MCS of a liability finding. The only question for the jury is the amount of punitive damages, and it should consider the degree of outrageousness in fixing that amount. The trial court apparently interpreted Badger Bearings, Inc. That was not our holding. In Badger Bearings, we said that the trial court might grant a partial new trial when the error is confined to an issue which is "entirely separable" from the others. We concluded that "compensatory and punitive damages are separable and that justice would not be served by mandating a new trial on all damages questions as the invariable alternative to acceptance of a changed amount of punitive damages. Consequently, because the liability of the respondents for punitive damages will not be an issue, and that issue is separable from the amount of damages, the only issue at the second trial will be the amount of the punitive damages, and evidence relevant to outrageousness will be admissible only on the degree of that outrageousness. On June 3, , MCS moved to a continuance, on grounds that counsel who had been substituted for trial counsel was not prepared to try the case on that date. HABCO consented to a continuance, provided that interest on the verdict was tolled through the date of the adjourned trial. The court scheduled the trial for October 27, , and tolled interest until that date. MCS asserts that it has a statutory right to the interest the trial court tolled. As MCS points out, the statute has no pertinent exceptions. However, because counsel for MCS and an officer of MCS consented to a continuance and to tolling interest on the verdict through the date of the adjourned trial, and the trial court relied on that consent, MCS is judicially estopped from claiming that it did not consent. Having consented to the adjournment and to the tolling of interest, it has waived the right to interest on the judgment. The wilful, knowing and unauthorized copying of data, computer programs or supporting documentation is a crime. Violation of RICO requires a "pattern of racketeering activity. A "pattern of racketeering activity" requires at least two acts of racketeering activity within a defined period. This is simply not a case that involves long-term criminal conduct or activity that could, in common-sense, be called a pattern of racketeering. Recommended for publication in the official reports. Stealing from clients is outrageous behavior, and deserves to be substantially penalized. Sierp, president of MCS, testified: What the majority fails to recognize is that without software, the computers bought from another vendor would be useless to develop turnkey computer systems for public housing authorities. The software furnished by MCS was highly specialized software developed at great cost and it was very valuable to a company in the business of licensing computer systems to public housing authorities. It answered "yes" to all three special verdict questions. The majority dislikes the questions asked, and proposes an alternative. But that is not the test appellate courts use

when faced with an argument that a jury question was misleading. I cannot join in this sub silentio overruling of Topp. It will only cause confusion for future cases where the proper standard of review for special verdict questions is at issue. Because purchasing computers from MCS was the only practical way HABCO could avoid breaching the contract, question one of the verdict settled the real issue over which the parties contended. In any event, I cannot conclude that asking question one was an erroneous exercise of discretion, nor that the question failed to fairly present what everyone knew were the material issues of fact in the case. The same is true of the second breach question. It then would have used jointly owned software on those computers and paid twenty-five percent of the program value to MCS. I conclude that the verdict form for the second question was not an erroneous exercise of discretion and that it fairly presented the material issues of fact in the case. The final breach question is the only one the majority directly addresses, but it does so in a way which ignores our standard of review of a jury verdict. That was exactly what the jury was asked. Though the jury verdict might have been better drafted, or drafted in a manner which the majority would prefer, that is not what this court reviews. Our review is deferential, not de novo. See Topp, 83 Wis. I conclude that the trial court did not erroneously exercise its discretion in wording the third question of the breach of contract verdict as it did. And, given the focus of the trial, I have no doubt but that the form of the verdict fairly presented the material issues of fact to the jury. There is a problem, however, with this final breach question. I would change the answer to breach question number three to "no. Yet, it never quotes the part of the contract which it believes is indefinite. Apparently, the majority has adopted a new rule of contract law to the effect that a contract is indefinite if it does not mean what one of the parties contends that it means. I am unaware of such a rule. We look to the contract itself to determine whether it is indefinite and therefore unenforceable. A court cannot enforce a contract unless it can determine what it is. It is not enough that the parties think that they have made a contract. They must have expressed their intentions in a manner that is capable of being understood. It is not even enough that they have actually agreed, if their expressions, when interpreted in the light of accompanying factors and circumstances, are not such that the court can determine what the terms of that agreement are. This new holding looks to the pleadings and the positions taken at trial to determine whether a contract is indefinite. The majority cites no authority for this dramatic change in contract law, and I find none. I believe that the proper test for indefiniteness is to look at the language of the contract to determine whether the contract is too indefinite to be enforced. There is no question but that the contract is sufficiently definite. Even the majority notes: But why is ten, aside from being a round number with metric significance, the proper multiplier? Would not eleven or nine be just as appropriate? And if "[t]here is no arbitrary rule that punitive damages cannot equal 15 times the compensatory damages," Malco, Inc. Midwest Aluminum Sales, Inc. The use of a multiplier as the sole means to determine punitive damages has been specifically rejected. Although the amount of compensatory damages and criminal penalties have some relevancy to the amount of punitive damages and may be factors in determining the reasonableness of the punitive damages award, we have not been willing in the past, and are not willing in this case, to adopt a mathematical formula for awarding punitive damages. In punitive damages, as in damages for pain and suffering, the law furnishes no mechanical legal rule for their measurement. The amount rests initially in the discretion of the jury. We are reluctant to set aside an award because it is large or we would have awarded less. We give juries discretion in their award of punitive damages. I agree that the award is large and I would have awarded less. But that is not the test. The message sent by the majority in a world where computers have provided extensive profits to those who can market the technology, is that crime pays, and pays well. It sends the message that courts will not reverse large punitive damage awards where the conduct is criminal and egregious. It allows for the possibility that even larger awards will be sustained when the conduct merits it. And that possibility will, perhaps, give potential computer thieves pause when they contemplate obtaining desired software by theft. For these reasons, I respectfully dissent. The record contains no evidence of the wealth of any respondent. This court has exercised this kind of control in punitive damage cases. We fashion our mandate on that in Powers, 10 Wis. Even if we conclude that a contract is ambiguous, we do not necessarily conclude that it is void for indefiniteness. If a contract is ambiguous, we may construe the contract through the use of extrinsic evidence.

Chapter 7 : Ben Greenhalgh | Revolvy

no. state of wisconsin in court of appeals district iv management computer services, inc., a wisconsin corporation.

Tap on the cross to go to the start page Scroll down for moreâ€¦ How to baptize someone in an emergency Your church probably has a very strong preference that clergy conduct baptisms, so you should not go around the neighborhood baptizing people. However, most churches will recognize a baptism performed by a layperson in an emergency. A couple of websites have linked to this page because they think it is uproariously funny that there could be such a thing as an emergency baptism. It never occurred to me that an act of compassion for a dying person would give anyone the giggles. It is part of my job as pastor to give compassionate help when the giggles stop. Before we Beginâ€¦ Through His incarnation and resurrection, Jesus teaches us that a whole person consists of a body and a spirit. Any attempt to give the spirit priority over the body is Gnosticism, not Christianity. If you are with a person who is suddenly afflicted with a medical emergency, whether they are dying or not, your first priority is to summon professional medical help and to administer first aid until it arrives. Only then should you attempt to administer spiritual help. What Constitutes an Emergency It is an emergency if all of the following statements are true: The candidate urgently requests baptism. Despite having received the best available medical attention, the candidate is reasonably worried that they might die. You have tried and failed to contact a member of the clergy, or a member of the clergy cannot arrive in time. We could all go round and round in theological debates about whether baptism is necessary. We are commanded to be baptized Acts 2: All this theological debate is heartless in an emergency. If someone has good reason to think they are about to die, they urgently want to be baptized, and baptism is physically possible, then it is pastorally necessary to baptize them, no matter what our theology is. Important Considerations Do not baptize a person unless they request it. Do not baptize a person while they are unconscious. Do not baptize a person who has already been baptized in any church. If you are a layperson, pay special attention to the following: Do not baptize a person if a member of the clergy is available. If a member of the clergy declines to baptize the person, do not take it upon yourself to do it. Do not baptize a person if a member of the clergy instructs you not to do it or tells you it is unnecessary. Do not ask the person to confess sins to you. Do not require the person to show you evidence of repentance. Do not attempt to determine whether the person is worthy of baptism. The Essential Parts If you want the baptism to meet the requirements for as many churches as possible, it must have the following three features: You must have the intention of performing a valid baptism. For example, if children are playing church or if you perform a baptism as part of a play, or you are horsing around in a swimming pool, it is not a valid baptism. Water must be involved. Immersion is valid in all churches, but since this is an emergency, that is probably not practical. This instruction goes back to the first-century document called the Didache, or the Teaching of the Twelve Apostles. You must use the formula in Matthew Other things that normally accompany baptisms can include the following, but not necessarily in this order: The candidate formally agrees to be baptized. The candidate renounces Satan and evil. The baptizer blesses the water. The candidate professes faith. The Apostles Creed, in western churches. The candidate is anointed with oil. The candidate receives the laying on of hands. There is a prayer for the candidate to receive the gift of the Holy Spirit. These extra features are not necessary in an emergency, and if you are a layperson, you may not have the authority to perform them anyway. However, you should ask the candidate at the last moment if they desire to be baptized. Ask the candidate if they want to be baptized. If they say no, stop at this point and go no further. If they say yes, proceed. Paragraph might also be helpful. As you are reading the book, note that the paragraph numbers are in boldface; the italic numbers in the margin are cross references. For general information about the theology and practice of baptism in various Christian groups, see this other website: Collins and his licensors. You can get permission to use this material.

Chapter 8 : Management Computer Services, Inc. v. Hawkins

Staff in the National Records of Scotland (NRS) are not able in most cases to carry out detailed research on behalf of paying customers. There are many firms and individuals (usually known as record agents or professional researchers) who undertake work such as legal searches, family history research and transcription and interpretaton of historical records on behalf of remote researchers.

Argued February 11, Decided October 29, Rehearing Denied December 2, We reverse and remand for further proceedings. The Redisis failed to respond to the letter. As a direct result, Redisi, Jr. The FBI kept Astarita apprised of its progress in fighting cable theft through at least ; in particular, it gave him updates on the investigation and the criminal charging of Redisi, Jr. They very quickly resumed operations and later incorporated as Omega Holdings owned by the Redisis and Omega of Elgin owned by Redisi, Sr. Between November and May , the Redisis through various corporate identities and affiliates sold 2, decoders to probable Cablevision customers. On May 26, , Cablevision filed a motion for a temporary restraining order and asset freeze and sought monetary and injunctive relief. Marshal to seize business records and computers. The district court instead granted a preliminary injunction on June 24 and set a briefing schedule under which discovery was to close on September The defendants served written discovery requests on the plaintiffs in July but did not notice any depositions at that time. Cablevision moved for summary judgment on July Astarita was scheduled to be deposed on the morning of September 2, six days after the notice was sent. Cablevision informed the Redisis that it would produce four of the employees but would not produce Astarita, representing that he had no knowledge of events relating to the case that could not be gained from the other four witnesses. Cablevision refused to comply with this notice, and the Redisis then sought reconsideration of their original motion to compel. They further represented that this fact was important to their statute of limitations defense. The district court denied this motion as well on the ground that the deposition was "not relevant. The district court denied both motions but did order Cablevision to provide the Redisis with a summary of its damages calculations and supporting materials other than its customer lists. Flaim testified as to his damages analysis at trial, which the district court in large part accepted. II 10 The parties agree that the relevant statute of limitations is found at 47 U. Cablevision offers two reasons why it should still be permitted to prosecute its claim in its entirety: This is a general legal principle, just as applicable to Title VII and Section cases as it is to copyright violations or business torts. In Morgan, the Court ruled that a Title VII plaintiff could not recover for "discrete discriminatory acts" that occurred outside the relevant EEOC filing deadlines but could recover for such actions on a hostile work environment theory. The Redisis sold over 2, decoders. Each of those sales was a separate and discrete statutory violation for which Cablevision could recover. The mere fact that the Redisis made a regular habit of violating the statute is not enough to convert multiple individual violations into one long continuing wrong. For criminal penalties, the statute expressly declares that the distribution of each individual device "shall be deemed a separate violation. An abstract fear of wrongdoing is not enough. Nonetheless, the statute begins to run once a plaintiff has knowledge which would lead a reasonable person to investigate the possibility that her legal rights had been infringed. At one such meeting in , the agents specifically noted that Redisi, Jr. What did Astarita learn from the FBI meetings? What caused him to launch his investigation in March ? A party has a general right to compel any person to appear at a deposition, through issuance of a subpoena if necessary. A district court may quash or modify a subpoena if it fails to allow a reasonable time for compliance or subjects the deponent to an undue burden. When a district court considers a motion to compel, it must evaluate such factors as timeliness, good cause, utility, and materiality. We will overturn a decision limiting discovery only if: It is true that a district court may deny motions to compel depositions that would not aid in "the exploration of a material issue. Israel Identity Tours, Inc. This is not enough to establish an undue burden under Rule 45 or to show some other exceptional circumstance that would justify prohibiting the deposition altogether. The Redisis presented in their motions evidence that none of the individuals Cablevision produced had been with the company for more than 14 months, while Astarita had worked there for close to a decade. As director of corporate security with

responsibility for cable theft investigations, he alone could provide the answer to the relevant question of whether Cablevision had knowledge sufficient to trigger a duty to investigate more than 24 months before it brought suit. Although discovery rulings are subject to the usual harmless error analysis, see FED. We decline to take this step. III 21 Even in a best-case scenario for the Redisis, we agree with the district court that they are liable for sales within the two-year period of limitations. That means at a minimum that they must account for their post-May sales of illegal decoders. We therefore find it appropriate to address some of the damages issues the Redisis have raised on this appeal, since some money will be due no matter what. First, they argue that there was no basis in evidence for the damages award. Second, they allege that the district court wrongfully denied them the discovery they needed to present their case properly. Cablevision selected the latter option and computed its damages by making a number of assumptions. Bob Willow Motors, Inc. Another way of stating this fact is that absent the decoder, a viewer would not use the same cost of services. And the marginal costs of providing "Optimum Gold" or a pay-per-view movie to one additional subscriber are surely minimal. Thus, the "actual damages" suffered by Cablevision, i. One could even assume that viewers willing to accept the risk of discovery and prosecution for cable theft are users who consume large amounts of cable services and would watch more pay-per-view features than the average cable customer. Even so, however, there must be some evidentiary basis for determining what that figure would be. A reasonable estimate as to pay-per-view usage must be grounded in some record evidence, not numbers pulled from thin air. Indeed, the very calculations Flaim made were rejected as "rank speculation" in a similar case in another court. On remand, Cablevision must tie its estimates to real-world figures of customer usage if it wishes any such damages award to be upheld. Surely Cablevision must have access to its own rates in earlier years. These rates must provide the basis for calculations of damages for the years in question. One cannot rely on estimates when the actual data is readily available. Flaim accidentally may have included customers who subscribed not to Cablevision but to a competing service provider. Beyond this, some of the customers may have purchased "Optimum Gold" or pay-per-view movies even when they did own a decoder, and, if so, their damages for those sales should be reduced. There is no privilege or restriction on releasing customer records to a non-governmental entity pursuant to a court order. Therefore, the district court should have granted the Redisis some form of access to the subscription lists. This concern may have been realistic, but there are mechanisms short of an outright denial of discovery to deal with it. The court could have crafted a protective order under FED. Each of these solutions would have made it possible for the Redisis to mount a defense; the outright denial of access to customer lists did not. Instead, we are confident that such discretionary decisions can be better resolved by the district court in the first instance. Alliance Bond Fund, Inc. That decision held that a district court may not issue an injunction freezing assets in an action for money damages where no equitable interest is claimed. However, the court specifically noted that a restraint on assets was still proper if a suit sought equitable relief. Here Cablevision had the option of seeking either statutory damages, actual damages, or an accounting and profits remedy. This last remedy, sought by Cablevision in the alternative in its initial complaint, is equitable in nature and imposes a constructive trust on the defendant. An asset freeze is thus proper to stop cable piracy that violates the Communications Act. Circuit Rule 36 shall apply on remand. Newsletter Sign up to receive the Free Law Project newsletter with tips and announcements.

Chapter 9 : Samuel David Ferguson | Revolvy

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Court of Appeals of Wisconsin. Submitted on briefs May 6, Decided October 7, For the plaintiff-respondent the cause was submitted on the briefs of James E. Doyle, attorney general, and Roy R. Korte, assistant attorney general. This is an appeal from a judgment of conviction for three counts of theft, one count of obtaining telecommunications service by fraud, and one count of participating in an enterprise through a pattern of racketeering activity. We find no error and affirm. She was an expert on antique dolls and jewelry. She and a volunteer at the historical society, Rodney DeFoe, lived together and began a business of buying and selling antiques. A jury convicted her of the five crimes we have noted, and she appeals. A complaint is sufficient if it answers five questions: Specifically, she asserts that the complaint does not allege that she and DeFoe engaged in an "enterprise," an element of a WOCCA violation. She claims that no facts show any infrastructure between her and DeFoe in support of a continuing relationship, or that they committed the predicate acts themselves. No person employed by, or associated with, any enterprise may conduct or participate, directly or indirectly, in the enterprise through a pattern of racketeering activity. The complaint is fifteen pages long. She admitted that she and DeFoe normally dealt with seven named antique dealers and "other markets. She and DeFoe discussed the prices they should charge for particular antiques. The dolls were owned by the State Historical Society. But some of the business was legitimate. Buying and selling antiques and renting a storage shed for antiques is not criminal. The business needs no infrastructure to be an "enterprise. Even a "group of individuals associated in fact" is an "enterprise. The function of overseeing and coordinating the commission of several different predicate offenses and other activities on an on-going basis is adequate to satisfy the separate existence requirement. Neither was the same as the association or partnership. The disposition of the stolen goods was conducted within the business. This is the infiltration of legitimate business with racketeering money that WOCCA was designed to combat. The information shall be filed with the clerk within 30 days after the completion of the preliminary examination or waiver thereof except that the district attorney may move the court wherein the information is to be filed for an order extending the period for filing such information for cause. Notice of such motion shall be given the defendant. Failure to file the information within such time shall entitle the defendant to have the action dismissed without prejudice. The preliminary examination was held August 14, The following exchange then took place: The district attorney filed the information on September 17, She argues that she must expressly agree to a waiver of the sec. But she cites no authority for this position, and sec. We do not consider undeveloped arguments. But the court extended the time because it had taken a motion to dismiss under consideration. There would have been little sense in requiring an information to be filed as to a count which might be dismissed. The discussion between counsel and the court that we have quoted shows this to be incorrect. If any possibility exists that the jury could have drawn the appropriate inferences from the evidence adduced at trial to find the requisite guilt, we will not overturn a verdict. She sees no difference between the enterprise and the pattern of racketeering activity. But the evidence shows a different picture. She concluded that they were in business because "[t]hey were always saying that they [were] buying or they were selling dolls or pottery. He identified her as one of the brightest persons he had ever worked with. She had an excellent memory and was expert in some areas of antiques. She was a formidable advocate for what she considered the proper path. But he was trying to learn. She admits that several witnesses had the impression or felt that there was a business enterprise. As a result, she focuses on the inferences that she believes the jury ought to have drawn. Perhaps a jury could have accepted her assertion that she was not much more than a passive bystander. But that test is the reverse of the one we use. The correct test is whether there is a reasonable possibility that the jury could have drawn its guilty verdict from the evidence presented. The evidence we have repeated is more than sufficient to meet this test. She asserts that the antique business had no continuity, no framework or superstructure, and no distinguishing characteristics. She contends that the result of this is that the required "enterprise" is no

different from her. But the legislature has addressed this issue. And, we addressed a similar argument in Judd, Wis. In Judd, a single individual, apparently the sole shareholder of a corporation, defrauded the purchasers of five used silos and issued a worthless check to a sixth. In particular, she alleges that the word "pattern" in this phrase has no meaning. But what that something more is, is beyond me. Acts occurring at the same time and place which may form the basis for crimes punishable under more than one statutory provision may count for only one incident of racketeering activity. Justice Scalia was joined by three justices in his concurrence. A majority of the court decided H. Had even one justice in the majority agreed with the concurrence, that would now be the law. But it is not. And in United States v. The historical society thefts fit all of these definitions, though that is unnecessary because the statute is worded in the disjunctive. The intent in all of the thefts was to steal antique items and convert them to cash. The results were receipts of cash. Certainly on its face, and as applied to the facts of this case, the WOCCA definition of "pattern of racketeering activity" is not unconstitutionally vague. DeFoe was permitted to call his attorney, and after doing so, he decided that he did not want to testify. Judge, in light of the fact that we went until 9: In light of the fact that it does not appear that there is going to be any problem with what the Court set forth in the previous schedule, I would respectfully request that we adjourn until tomorrow morning. The state noted that it did not oppose the motion. The trial court gave reasons from denying her motion. The judge was not going to be in court the next week, and had planned to leave on Saturday. But, the court explained, that plan could be canceled, and this was not a primary reason for denying the motion for a continuance. Since long before the trial began. Her decision could have been made in the one-hour continuance the court granted. As an example, she argues: It was not necessarily a lie on her part. She could be found guilty if she directly committed the crimes, if she aided or abetted DeFoe in committing the crimes, if she was a party to a conspiracy with DeFoe to commit the crimes, or if she advised, hired, counseled or otherwise procured DeFoe to commit the crimes. She had access to a vault where the stolen items were stored. DeFoe did not have that access. Her fingerprint was found on a display case which had been substituted for a display case where the stolen watch had been stored. She was observed with a display case identical or very similar to the case which had contained the stolen watch. Both were present when DeFoe told the dealer that "they" had bought the watch at a sale in Maple Bluff. She explained the significance of markings on the bottles. DeFoe took a stolen pottery bowl to the owner of a gallery on Monroe Street in Madison. The gallery owner would not accept the bowl on consignment because she was uncomfortable with keeping a very expensive bowl on her premises. Later, she called DeFoe on the telephone, but he was not at home. Theft is defined not only as the act of removing property from an owner, but also the unlawful use, concealment, transfer or retaining of possession of property. I concur in our mandate. The definition of "pattern of racketeering activity" contained in sec. See also State v. First, the definition implies "that while two acts are necessary, they may not be sufficient. Second, "two isolated acts," "sporadic activity," and "proof of two acts of racketeering activity, without more" would not be enough to constitute a pattern. Third, "[i]t is this factor of continuity plus relationship which combines to produce a pattern. Justice Scalia stated that: