

STATE OF MICHIGAN
COURT OF APPEALS

BROWN COUNTY SHERIFF'S DEPARTMENT,

Plaintiff-Appellant,

v

MICHIGAN STATE POLICE,

Defendant-Appellee.

UNPUBLISHED

October 17, 2006

No. 270372

Court of Claims

LC No. 05-000198-MK

Before: Cavanagh, P.J., and Bandstra and Owens, JJ.

PER CURIAM.

Plaintiff appeals as of right from the order of the court of claims denying its motion for summary disposition, granting defendant's motion for summary disposition, and dismissing the case. We affirm. We decide this case without oral argument pursuant to with MCR 7.214(E).

In the course of responding to a stabbing incident, an Escanaba Police officer shot and wounded the suspect. The suspect was taken to a local hospital, then, for reasons not apparent from the record, transported to a hospital in Brown County, Wisconsin. After the shooting, the Escanaba Police Department turned the case over to defendant.

A sergeant with defendant faxed a request for mutual aid to plaintiff, asking that its officers maintain a presence at the hospital where the suspect was being treated, and arrest him upon his release. The fax included no indication that expenses would be reimbursed, and the sergeant was in any event not authorized to bind the state to a contract.

According to plaintiff, during the course of his hospital treatment, the suspect threatened to commit suicide. When the suspect was medically discharged from the hospital, plaintiff transferred him to court for a hearing attendant to an emergency mental commitment, then to a mental health facility in Madison, Wisconsin. Defendant thereafter transported the suspect to a mental facility in Brown County, then to court for an extradition hearing, then back to the facility in Madison. A final extradition hearing followed, after which the suspect was transferred to the custody of the State of Michigan. Plaintiff maintains that it incurred \$6,781.31 in expenses from handling this suspect, and has demanded reimbursement, but defendant has refused to pay.

Plaintiff filed suit, on theories of implied contract, express contract, and unjust enrichment. Plaintiff moved for summary disposition of the latter claim, while defendant moved for summary disposition of all three. The court granted defendant's motion.

The court dismissed the express contract claim on the ground that the evidence could not be interpreted to indicate that there was any meeting of the minds concerning any reimbursement of expenses. The court dismissed the implied contract claim on the ground that the state could not be bound by an implied contract when there was no authority to make an express one. The court dismissed the unjust enrichment claim on the ground that "the State, likewise, cannot be bound here in an implied in law contract or an unjust enrichment theory, as there was no authority by anyone . . . to be bound by such a contract."

On appeal, plaintiff seeks reversal of the dismissal of its unjust enrichment claim only. "We review a trial court's decision with regard to a motion for summary disposition de novo as a question of law." *Ardt v Titan Ins Co*, 233 Mich App 685, 688; 593 NW2d 215 (1999). "When reviewing an order of summary disposition under MCR 2.116(C)(10), we examine all relevant documentary evidence in the light most favorable to the nonmoving party to determine whether a genuine issue of material fact exists on which reasonable minds could differ." *Id.* A motion under MCR 2.116(C)(8) tests the legal sufficiency of a claim as pleaded. *Smith v Stolberg*, 231 Mich App 256, 258; 586 NW2d 103 (1998). We accept as true all factual allegations in the claim and determine whether the claim is unenforceable as a matter of law, regardless of possible factual development. *Id.*

"The elements of a claim for unjust enrichment are: (1) receipt of a benefit by the defendant from the plaintiff and (2) an inequity resulting to plaintiff because of the retention of the benefit by defendant." *Barber v SMH (US), Inc*, 202 Mich App 366, 375; 509 NW2d 791 (1994). "In such instances, the law operates to imply a contract in order to prevent unjust enrichment." *Id.* This theory of recovery is also labeled quasi-contract or contract-in-law. See *Dumas v Auto Club Ins Assoc*, 437 Mich 521, 546; 473 NW2d 652 (1991).

Plaintiff cites no authority for the proposition that, whenever the police respond to a call, the caller thus gains a benefit that it would be inequitable for that caller to retain without paying the responding police agency its attendant expenses. We decline the invitation to announce any such rule. If the State of Michigan, including its state police force, derived a benefit from having its criminal suspect secured and returned, so did the Wisconsin communities involved benefit from having a man wanted in connection with a violent crime guarded and then delivered across state lines for criminal proceedings. This was not a matter of Michigan's agency deriving a benefit at the expense of a Wisconsin entity, but rather one of mutual benefit, and, we prefer to think, mutual good will.

Moreover, contract claims against the state are valid only if the state contracting partner was legally authorized to bind the state. *Roxborough v Michigan Unemployment Compensation Comm'n*, 309 Mich 505, 510; 15 NW2d 724 (1944). The rule restricting the formation of contractual obligations on the part of the state to persons authorized to do so logically extends to the formation of quasi-contracts as well. It would be illogical to shield public funds from contract claims stemming from state agents who lack specific legal authority to bind the state, but to open them to quasi-contract claims stemming from any state agent's actions.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Richard A. Bandstra
/s/ Donald S. Owens