

Sports Unlimited, Inc. v. Lankford Enterprises, Inc.

275 F.3d 996 (10th Cir. 2002).

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Sports Unlimited, Inc. (“Sports Unlimited”) brought this suit in federal court against its competitor, Lankford Enterprises, Inc. (“Lankford”), alleging Lankford tortiously interfered with its relationship with several clients and potential clients in Kansas by giving them a referral sheet containing defamatory statements about Sports Unlimited’s business installing gym floors. The district court held that Sports Unlimited’s claim was barred by the one-year statute of limitations for defamatory statements and the 10th Circuit Court of Appeals affirmed.

Sports Unlimited alleged the claim was not barred because it was not an action for defamation, but for tortious interference in its contractual relationship with clients and potential clients. Tortious interference claims have a two-year statute of limitations, which the lawsuit was filed within. The courts, however, held that Sports Unlimited’s claims were primarily defamation claims and could not be disguised under the doctrine of tortious interference. Thus, the one-year statute of limitations for defamation actions applied and the case was dismissed.

Sports Unlimited also argued the federal courts were not bound to recognize the one-year statute of limitations for defamation cases because it had been set forth in a Kansas court of appeals case. Because the rule had not been set forth by the Kansas Supreme Court, it argued, the federal courts were not bound to follow it. The district court rejected this argument and the court of appeals affirmed, stating that a federal court is not free to reject a state’s laws merely because it has not been sanctioned by the highest court.

Finally, Sports Unlimited asserted a claim for false or misleading description or misrepresentation of fact in commercial advertising or promotion under §43(a) of the Lanham Act. Sports Unlimited argued that the submission of the reference sheet by Lankford to two to seven clients and potential clients of Sports Unlimited constituted a commercial advertisement and the defamatory statements on that sheet violated its rights under the Lanham Act. The level of circulation required to constitute advertising and promotion varies from industry to industry and from case to case. However, the courts held that the submission of the reference sheet to, at most, seven of Sports Unlimited’s 150 clients a year was not sufficiently pervasive to constitute commercial advertising under the Lanham Act. Moreover, Sports Unlimited identified only one contract it had not been awarded despite being the lowest bidder on the project and has brought forth no evidence even showing that that client had even seen the reference sheet.

Accordingly, the 10th Circuit Court of Appeals affirmed the district court’s dismissal of Sports Unlimited’s claims for tortious interference and violations of the Lanham Act.