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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1241**

CHS, Inc.,
Respondent,

vs.

Joaquin Galindo Martinez, et al.,
Appellants.

**Filed March 18, 2019
Affirmed
Slieter, Judge**

Ramsey County District Court
File No. 62-CV-18-1076

Brian A. Dillon, Gray, Plant, Mooty, Mooty & Bennett, P.A., Minneapolis, Minnesota; and

Michael A. Duffy (pro hac vice), Baker & McKenzie, LLP, Chicago, Illinois (for
respondent)

Arthur G. Boylan, Philip J. Kaplan, Ryan M. Lawrence, Anthony Ostlund Baer &
Louwagie, P.A., Minneapolis, Minnesota (for appellants)

Considered and decided by Worke, Presiding Judge; Cleary, Chief Judge; and
Slieter, Judge.

UNPUBLISHED OPINION

SLIETER, Judge

Appellants Joaquin Galindo Martinez (Martinez) and Consuagro S.A. de CV (Consuagro) challenge the district court's denial of their motion to dismiss for failure to join a necessary and indispensable party under Minn. R. Civ. P. 19. We affirm.

FACTS

Appellant Martinez is a former employee of respondent CHS, Inc. (CHS). CHS is a Minnesota-based large international farm supply and food processing business, and from 1995 to 2015, Martinez worked in its grain marketing department. As a part of that work, Martinez managed relationships with brokers and suppliers. This included working with a Mexican company, Gradesa S.A. de C.V. (Gradesa). Starting in 2003, CHS contracted with Gradesa to buy large quantities of grain from Mexican farmers on CHS's behalf. Martinez managed this relationship between the two companies, and was responsible for negotiating CHS contracts with Gradesa and facilitating payments to Gradesa. Martinez was the primary point of contact between CHS and Gradesa from 2003 to 2015.

In 2008, Martinez became a business partner with Gradesa's principal owner, Guillermo Navarro Rivera (Rivera). According to the complaint, Martinez invested in three Gradesa-affiliated entities: NG Logistica, Soagro S.A. de CV Sofom ENR, and Consuagro. Martinez owns 90% of the shares and is the general manager of Consuagro, which has also invested in Gradesa-controlled entities.

In 2017, CHS learned of these business ties that Martinez had formed with Gradesa, while he had been employed by CHS. In February 2018, CHS filed a complaint against

Martinez and Consuagro, alleging breach of the duty of loyalty (count 1) and aiding and abetting said breach (count 2). CHS specifically alleged that Martinez had “a substantial conflict of interest when he managed CHS’s relationship with Gradesa, including his negotiation of contracts that were worth tens of millions of dollars,” and “in breach of his duty of loyalty, he negotiated agreements with Gradesa on behalf of CHS, despite his clear financial stake in the success of Gradesa and [Rivera].” Against Consuagro, CHS alleged that it “was aware at all relevant times that [Martinez] maintained investments in Gradesa-affiliated entities while he was an employee of CHS and that he did not disclose his conflict of interest to CHS,” and that it “substantially assisted and/or encouraged [Martinez] to breach his duty of loyalty to CHS” by purchasing property in St. Paul and allowing Martinez to live at that property during his employment at CHS.

Appellants filed an amended motion to dismiss CHS’s complaint for failing to join an indispensable party, Gradesa, under Minn. R. Civ. P. 12.02 and 19. The district court entered its order denying appellants’ motion. The district court concluded that, because Gradesa was not subject to service of process, it could not be joined under rule 19.01. Assuming Gradesa was a necessary party, “the [c]ourt’s inquiry turns to whether in equity or good conscience the action should proceed among the existing parties or should be dismissed because Gradesa is indispensable.” As to that issue, the district court considered the factors under rule 19.02 and held that Gradesa was not an indispensable party.

This appeal follows.

DECISION

I. The district court did not abuse its discretion in denying appellants' motion to dismiss because Gradesa is not a necessary party.

Denial of a motion to dismiss for failure to join indispensable parties is reviewed for abuse of discretion. *Hoyt Props., Inc. v. Prod. Res. Grp., L.L.C.*, 716 N.W.2d 366, 377 (Minn. App. 2006), *aff'd*, 736 N.W.2d 313 (Minn. 2007). Minn. R. Civ. P. 19 establishes the rules for mandatory joinder of parties, and sets up a two-step process for determining whether all of the parties necessary to litigate an action are present. First, the court must determine if a person or entity is a “necessary party” and whether joinder is feasible under rule 19.01. A party is necessary if complete relief cannot be granted in its absence or it claims an interest in the subject of the litigation. *Id.* If a necessary party is subject to the court’s jurisdiction, it must be joined in the action. *Id.* However, if a necessary party cannot feasibly be joined, usually because of jurisdictional issues, the court must determine whether the party is indispensable. Minn. R. Civ. P. 19.02.

Rule 19.01 maintains that “[a] person who is subject to service of process shall be joined as a party in the action” if two possible conditions are met:

(a) in the person’s absence complete relief cannot be accorded among those already parties, or

(b) the person claims an interest relating to the subject of the action and is so situated that the disposition of the action in the person’s absence may (1) as a practical matter impair or impede the person’s ability to protect that interest or (2) leave any one already a party subject to a substantial risk or incurring double, multiple, or otherwise inconsistent obligations by reason of the person’s claimed interest.

Minn. R. Civ. P. 19.01. The district court found that the parties “agree that Gradesa is not subject to service of process and therefore cannot be made a party pursuant to Minn. R. Civ. P. 19.01.” The district court then assumed, for the purposes of argument, that Gradesa is a necessary party, and because it cannot be joined as a foreign corporation, moved directly to the analysis under rule 19.02 of whether it is also an indispensable party.

Respondent argues that while the district court assumed Gradesa was a necessary party for the sake of argument, appellants have not demonstrated that Gradesa is necessary under either prong of rule 19.01. Whether Gradesa is a necessary party therefore hinges on whether appellants have satisfied either of the two prongs, and we address each in turn.

A. Complete relief can be accorded to CHS without Gradesa.

Appellants argue that complete relief cannot be afforded to CHS because CHS seeks to recover payments to Gradesa that Martinez helped arrange. And because appellants did not receive the payments from CHS to Gradesa, “it would be impossible for [appellants] to satisfy CHS’s demand.”

However, according to the complaint, CHS is specifically seeking damages from appellants caused by Martinez’s breach of the duty of loyalty. CHS is not seeking return of the payments it made to Gradesa. The complaint states:

CHS demands a judgment against [Martinez] on Count I for compensatory and/or restitutionary damages, the total amount to be proven at trial, disgorgement of [Martinez’s] compensation from CHS during his period of disloyalty, an accounting of any monies that [Martinez] has received as a result of his interests in Gradesa and Gradesa-affiliated entities.

The damages sought from appellants may include the *value* of payments Martinez facilitated, but could also include the salary he earned during these dealings.

In *Guggenberger v. Minnesota*, 198 F. Supp. 3d 973, 1033-34 (D. Minn. 2016), the federal district court held that “[t]hird-parties are not necessarily required parties under [r]ule 19 merely because they are involved in conduct underlying a plaintiff’s claims.” And that “[i]f the defendant is independently liable for the plaintiffs’ claims, the court may properly conclude that it can accord complete relief in the absence of such third-parties.” *Id.* As an ex-employee, Martinez can be independently liable for the breach of the duty of loyalty he owed to CHS while he worked there. CHS can therefore obtain complete relief against appellants in the present action. Gradesa is not a necessary party under Minn. R. Civ. P. 19.01(a).

B. Gradesa’s absence does not impede its ability to protect its interests.

Appellants next argue that Gradesa is a necessary party under Minn. R. Civ. P. 19.01(b)(1), which requires that the person or entity have an interest relating to the subject of the action and is so situated that the disposition of the action in the person’s absence may impair the person’s ability to protect that interest.

Appellants assert that Gradesa’s interest could be impaired because “CHS could try to use a favorable ruling as evidence or persuasive (if not binding) precedent that Gradesa wrongfully took money from CHS. CHS could also use a favorable ruling to leverage a settlement payment from Gradesa.” It is true that the language of the rule requires only that the disposition of the action “*may . . . as a practical matter,*” impair the person’s ability to protect their interest. Minn. R. Civ. P. 19.01(b)(1) (emphasis added). However, courts

have also held that in conducting this analysis, the focus should be on the relief available between the parties, rather than “the speculative possibility of further litigation between a party and an absent person.” *Gwartz v. Jefferson Mem’l Hosp. Ass’n.*, 23 F.3d 1426, 1428 (8th Cir. 1994).

Appellants’ primary argument seems to be that Gradesa’s interests might be impaired by the possibility that CHS will use the district court’s decision against it in any future litigation. However, that concern over future litigation is not enough to satisfy the requirements under rule 19.01(b). Therefore, Gradesa is not a necessary party to this action.

II. The district court did not abuse its discretion in denying appellants’ motion to dismiss because Gradesa is not an indispensable party.

Even if Gradesa could be considered a necessary party, appellants would also have to prove that Gradesa is an indispensable party under rule 19.02.

Appellants argue that the district court abused its discretion in finding that Gradesa is not an indispensable party under Minn. R. Civ. P. 19.02.

Rule 19.02 applies if a necessary party, as described in rule 19.01, cannot be made a party to the action. The parties agree that, as a foreign corporation, Gradesa cannot feasibly be joined because it is not subject to service of process. Assuming for the sake of argument, as the district court did, that Gradesa is a necessary party, the analysis shifts to 19.02, which requires a court to determine “whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent person

being thus regarded as indispensable.” Minn. R. Civ. P. 19.02. The court is to consider factors such as:

- (a) to what extent a judgment rendered in the person’s absence might be prejudicial to the person or those already parties;
- (b) the extent to which, by protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided;
- (c) whether a judgment rendered in the person’s absence will be adequate; and
- (d) whether the plaintiff will have an adequate remedy if the action is dismissed for nonjoinder.

Id. In balancing these various considerations, a court’s ultimate decision must turn on the facts of each case. *Murray v. Harvey Hansen-Lake Nokomis, Inc.*, 360 N.W.2d 658, 661 (Minn. App. 1985). Each factor will be addressed in turn.

A. Gradesa will not be prejudiced by a judgment in this action.

As to this first factor, appellants argue that “a judgment in this case could prejudice Gradesa due to its potential preclusive effect, persuasive value, or weight in settlement negotiations.”

The district court held that this factor weighed in favor of CHS, finding that because the cause of action is between an employer and its former employee, “Gradesa is not a party to these causes of action and has no identified financial or other tangible stake in the outcome.” The district court further explained that:

[w]hile the [c]omplaint identifies Gradesa as a witness to the claimed breach of fiduciary duty and is not complimentary in its characterizations of Gradesa, the filings demonstrate that [appellants] are fully capable of recharacterizing and defending

the actions of Gradesa as pertaining to the asserted causes of action. In any event, the record does not demonstrate any tangible prejudice to Gradesa.

The district court's reasoning is sound. As discussed above, there is a possibility that Gradesa might be negatively affected by a favorable judgment for CHS in this action. However, this fact alone is insufficient to demonstrate prejudice. The district court was correct in noting that mere speculation that there could be future litigation between CHS and Gradesa is not enough to demonstrate prejudice. *See Guggenberger*, 198 F. Supp. 3d at 1033-34 (holding that the mere fact that defendant might later seek indemnification or contribution from third parties does not create an interest that makes them necessary to the present action). This factor favors CHS.

B. Protective measures can lessen the prejudice.

Appellants argue that the district court cannot shape any relief to lessen the prejudice to Gradesa without also destroying most of CHS's case.

The district court found that "CHS has agreed to shape its requested relief and adopt other protective measures to minimize the potential of prejudice to Gradesa." Although the complaint identifies the value of payments made by CHS to Gradesa, it is only meant as a potential measure of damages. Other potential damages award could be Martinez's salary while working at CHS. Additionally, any judgment could be shaped in such a way that would not preclude claims by Gradesa in any other action. The district court found that appellants share such common interests with Gradesa that they are more than capable of effectively advocating for those interests here. It is reasonable therefore to infer that

protective measures can be crafted by both parties to lessen any potential prejudice to Gradesa. This factor weighs in favor of CHS.

C. Judgment will be adequate without Gradesa.

Appellants argue that the district court cannot grant CHS all of the relief it seeks from appellants because “CHS demands that [Martinez] and Consuagro pay damages for payments CHS made to Gradesa that neither [Martinez] nor Consuagro ever received.”

The district court held to the contrary, finding that:

The only claims in this action relate to the alleged breach of the duty of loyalty by [Martinez] . . . [a]s for damages, CHS only seeks relief from [Martinez] and Consuagro for the measure of losses allegedly caused by their conduct. That those losses might be measured by the value of business transactions between CHS and Gradesa is of no actual consequence to Gradesa, as CHS has not asserted a direct claim for damages against the company.

The district court is correct in its reading of CHS’s claims, which appellants read too broadly. CHS is not seeking any damages from Gradesa. Rather, it alleges that using the payments made to Gradesa is a potential tool to measure damages. Appellants provide no other basis for finding otherwise, and this factor therefore favors CHS.

D. CHS would not have an adequate remedy if the action was dismissed.

Finally, appellants argue that CHS will still have a remedy if the action is dismissed because it will be able to pursue its claims against appellants and Gradesa in Mexico.

However, the district court held that “[t]his is an action arising under Minnesota law for breach of the common law duty of loyalty of a Minnesota employee to a Minnesota employer.” Additionally, the district court noted that it had no assurances that CHS would

be able to pursue these theories in any other jurisdiction. Given that CHS, a Minnesota-based company, is making a common law tort claim, against a resident of Minnesota, it is reasonable to assume that CHS would not have the same opportunity for relief in Mexico. Furthermore, as a matter of equity, Minnesota law weighs heavily in favor of allowing plaintiffs to pursue their claims when there is a possibility that they will not be able to obtain relief elsewhere. This court has explained “[w]hen a party who might otherwise be joined is beyond the jurisdiction of the court, it is better that a defendant should be put to the danger and inconvenience of several suits than that a plaintiff should be deprived of a remedy.” *Murray*, 360 N.W.2d at 661 (Minn. App. 1985) (quotation omitted). This factor favors CHS.

In sum, given that balancing these various factors turns on the facts of each individual case, the district court did not abuse its discretion when it denied appellant’s motion to dismiss. Gradesa is neither a necessary nor indispensable party under rule 19. Appellants’ judicial economy argument is without merit because “with torts and analogous statutory claims, it is well-established that a plaintiff is not required to join all tortfeasors in a single suit.” *Rilley v. MoneyMutual, LLC*, 863 N.W.2d 789, 796 (Minn. App. 2015), *aff’d*, 884 N.W.2d 321 (Minn. 2016); *see also Harrison ex rel. Harrison v. Harrison*, 733 N.W.2d 451, 456 (Minn. 2007) (holding joinder not required under common law, and plaintiff in products liability action may proceed in one or more actions).

Affirmed.