JUDGMENT

Court of Appeals

First District of Texas

NO. 01-23-00453-CV

MICHAEL B. BELL AND COMMUNITY RV INVESTMENTS, LLC, Appellants

V.

BAY AREA RV PARKS, L.L.C. F/K/A BAY AREA UTILITIES, L.L.C., CHARLES E. SIMMONS, CHARLES STEVEN SIMMONS, CHARLES STEVEN SIMMONS AS TRUSTEE OF THE H.S. SIMMONS TRUST, JUDSTON F. WELLING, JONATHAN D. GIBBS, AND WGB RV PARKS LLC, Appellees

Appeal from the 113th District Court of Harris County. (Tr. Ct. No. 2019-32654).

This case is an appeal from the final judgment signed by the trial court on June 21, 2023. After submitting the case on the appellate record and the arguments properly raised by the parties, the Court holds that there was reversible error in the portion of the trial court's judgment granting the motion for judgment notwithstanding the verdict filed by appellee Bay Area RV Parks, L.L.C. *f/k/a* Bay Area Utilities, L.L.C. Accordingly, the Court **reverses** the portion of the trial court's judgment relating to the claim of appellant Community RV Investments, LLC against Bay Area RV Parks, L.L.C. for breach of Section 6.8 of the Company Agreement and **remands** that claim and any associated defenses to that claim to the trial court for further proceedings consistent with this opinion.

The Court further holds that there was error in the portion of the trial court's judgment awarding appellate attorney's fees to appellees Judston F. Welling and Jonathan D. Gibbs because the award was not conditioned on Community RV Investments LLC's unsuccessful appeal. Accordingly, the Court **modifies** the referenced portion of the trial court's judgment to reflect that Judston F. Welling and Jonathan D. Gibbs conditionally recover their reasonable attorney's fees for any appellate proceedings as follows:

> ii) in the event of an unsuccessful appeal of the Final Judgment by Community RV to the court of appeals, an additional $15,000 for representation through appeal to the court of appeals; iii) in the event Community RV files a petition for review to the Supreme Court of Texas, an additional $5,000 for representation at the petition for review stage if the petition is denied; iv) in the event the Supreme Court of Texas requests briefing, an additional $5,000 through the merits briefing stage in the Supreme Court of Texas if Community RV is unsuccessful; v) in the event oral argument is granted in the Supreme Court of Texas, an additional $7,500 if Community RV is unsuccessful.

The Court further holds that there was no reversible error in the remaining portions of the trial court's judgment. Therefore, the Court **affirms** the remainder of the trial court's judgment **as herein modified**.

The Court **orders** that the appellee Bay Area RV Parks, L.L.C. pay all appellate costs.

The Court **orders** that this decision be certified below for observance.

Judgment rendered June 24, 2025.

Panel consists of Chief Justice Adams and Justices Rivas-Molloy and Gunn. Opinion delivered by Justice Gunn.