

# TWENTY-FOURTH JUDICIAL CIRCUIT OF VIRGINIA

JOHN T. COOK, JUDGE  
CAMPBELL COUNTY CIRCUIT COURT  
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COMMONWEALTH OF VIRGINIA  
CITIES OF LYNCHBURG AND BEDFORD  
COUNTIES OF AMHERST, BEDFORD, CAMPBELL AND NELSON

March 20, 2018

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Post Office Box 40013  
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Re: James T. Eadie v. Commercial Steel Erection, Inc.  
Case No.: CL16001439

Dear Mr. Boyer and Mr. Holt:

I am writing to render a decision on Commercial Steel Erection's ("CSE") Motion for Summary Judgment. I have read all the briefs filed by counsel and have considered the arguments at the hearing of February 27, 2018.

The plaintiff, James T. Eadie ("Eadie"), claims a breach of contracts and *quantum meruit* arising out of a "Retirement Contract". This Court granted CSE's Motion for Craving Oyer to have a Split Dollar Agreement and notice of termination made a part of the pleadings. This Court also granted CSE's demurrer on the breach of contract and *quantum meruit* claims based on the Split Dollar Agreement because it was validly terminated. This Court denied CSE's plea in bar on the Statute of Frauds after an evidentiary hearing of August 15, 2017.

Summary judgment is appropriate, where in light of the pleadings, admissions and orders, there are no material facts generally in dispute and a party is entitled to judgment as a matter of law. Rule 3:20 of the Rules of the Supreme Court of Virginia. Testimony in an evidentiary hearing

may be considered. Benjamin v. University Internal Med. Found., 254 Va. 400, 406 (1997). I agree with CSE that the Split Dollar Agreement bars any verbal agreement. The Split Dollar Agreement contains a merger/integration clause (Article XIII) and an Amendment Clause (Article XI). The merger/integration clause provided that the Split Dollar Agreement was the entire agreement of the parties. The Amendment Clause provided the Agreement could only be amended in writing. These clauses bar any verbal agreement.

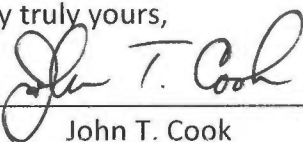
In addition, there was no meeting of the minds on Eadie's alleged agreement. Eadie testified that he did not know what he meant when Mr. Moon said "make it right". Tr. 32. The time period or any terms were not discussed. Tr. 38, Tr. 42. There was no meeting of the minds sufficient to form a contract.

Eadie argues that the facts support an "implied in fact" retirement contract. An implied contract may not be established where the parties have entered into an express contract regarding the same subject matter. Nedrich v. Jones, 245 Va. 465, 477 (1993). The Split Dollar Agreement was an express agreement regarding life and insurance benefits. Under this rule, there can be no "implied in fact" contract.

Lastly, Eadie can not recover in *quantum meruit*. *Quantum meruit* recovery is based on an implied contract to pay the reasonable value of services rendered. Mongold v. Woods, 278 Va. 196, 203 (2009). It applies when nothing is said about compensation. Id., at 203. Eadie was paid compensation throughout his employment. Eadie does not assert that it was not reasonable. The damages claimed are the same damages claimed under the Split Dollar Agreement which was terminable at will. The facts do not support recovery under *quantum meruit*.

For these reasons, I grant CSE's Motion for Summary Judgment and dismiss the Complaint. I request Mr. Holt prepare the order.

Very truly yours,

By:  \_\_\_\_\_, Judge  
John T. Cook

JTC/kfc  
c: Court file