

**STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND  
BUSINESS COURT**

**DIMITRIOS FLERIANOS, ET AL,**  
**Plaintiffs,**

v.

**Case No. 14-138338-CK  
Hon. James M. Alexander**

**KONSTANTINOS MARSELIS, ET AL,**  
**Defendants.**

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**OPINION AND ORDER RE: SUMMARY DISPOSITION**

This matter is before the Court on Defendant Alex Boosalis's motions for summary disposition. As stated in a previous summary opinion, this litigation arises out of a business relationship between Plaintiff Dimitrios Flerianos and Defendant Konstantinos Marselis. From April 2008 until April 2011, these parties were 50/50 shareholders in Plaintiff International Box Solutions, which supplied commodities, recycled materials and dealt in information technology.

In their Complaint, Plaintiffs claim that Marselis formed Defendant Ona Metals while still a 50% shareholder in International Box. Plaintiffs generally allege that Defendant Marselis failed to disclose that he intended to continue in the scrap metal business after the parties' separation in early 2011. Plaintiff also claims that he had no idea that the former business was being wound down.

On these allegations, Plaintiff brought a sprawling twelve-count Complaint. While Plaintiffs' Complaint is based on claims that Marselis defrauded Plaintiffs and tortuously interfered with International Box's contracts and business relationships, Plaintiffs allege that Boosalis's liability is solely based on conspiring with Marselis to commit these torts against Plaintiffs. As a result, Plaintiffs named Boosalis a Defendant only on the conspiracy claims (Counts IX-XII).

Defendant Boosalis now moves for summary disposition under MCR 2.116(C)(10). A motion under (C)(10) tests the factual support for Plaintiff's claims. *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999). In such a motion, "the moving party has the initial burden of supporting its position by affidavits, depositions, admissions, or other documentary evidence. The burden then shifts to the opposing party to establish that a genuine issue of disputed fact exists." *Quinto v Cross & Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996), citing *Neubacher v Globe Furniture Rentals*, 205 Mich App 418, 420; 522 NW2d 335 (1994).

As stated, Boosalis is only a named Defendant to Plaintiff's conspiracy claims. Defendant argues that he is entitled to summary disposition of these claims because he never made any false statements, never stole any business, was not a fiduciary of any Plaintiff, and Boosalis had no decision-making authority at Cadillac Castings.

Plaintiff argues that Boosalis is a proper Defendant even when he did not directly commit all of the elements of the underlying tort. In support, Plaintiff cites *Edwards Publications, Inc v Kasdorf*, an unpublished opinion per curiam of the Court of Appeals, issued January 20, 2009 (Docket No. 281499). The *Edwards* panel held that summary was improper where a defendant pursued an employee despite knowing that the employee was subject to a competitor's non-compete.

While this Court previously held that the Edwards' panel's reasoning was compelling for purposes of a prior motion, the Court also noted that Plaintiffs' allegations against Boosalis were **thin**. The Court was also compelled to deny Boosalis's prior summary request based on counsel's offer of proof based on statements made by Boosalis at a recent deposition. Additionally, discovery remained open for several months. As a result, the Court found summary was also premature.

In his present motion, Boosalis argues that he never told anyone at Cadillac Casting to stop

doing business with IGS. Additionally, IGS and Cadillac did not have a contract for supply of a certain amount of material. Rather, Cadillac would simply issue purchase orders. Boosalis also argues that he did not “have the authority to commit to a purchase order on behalf of Cadillac Casting.” In support of each of these claims, Boosalis cites to evidence in the form of deposition testimony and emails.

Boosalis also argues that Flerianos admitted at his deposition that Boosalis only “opened the door” to Cadillac, that he did not set pricing, and IGS had no written agreement for continued work with Cadillac. Further, Marselis testified that he called Cadillac’s CEO, Dean Vivian, (and nobody else) in February 2011 – when he wanted Ona Metals to work with Cadillac.

In response, Plaintiffs do not dispute any of Boosalis’s factual claims. Rather, Plaintiffs simply establish that Boosalis may have known about ONA Metals before Flerianos did.

Based on the foregoing and viewing all evidence in the light most favorable to Plaintiffs, the Court finds that there are no material questions of fact in dispute and Defendant Boosalis is entitled to judgment as a matter of law. The Court specifically finds that, even if it were to fully accept the *Edwards*’ panel’s reasoning, Boosalis’s position with Cadillac and conduct does not rise to a level of wrongdoing sufficient to subject him to liability on Plaintiff’s conspiracy claims.

Therefore, the Court GRANTS Defendant Boosalis’s motion for summary disposition under (C)(10) and DISMISSES Plaintiffs’ Complaint, as to Defendant Boosalis only, in its entirety.

Since the Court previously found that Plaintiff may have had a colorable claim against this Defendant, Defendant’s request for costs and attorney fees is denied.

**IT IS SO ORDERED.**

June 10, 2015  
Date

/s/ James M. Alexander  
Hon. James M. Alexander, Circuit Court Judge