

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Best Choice Roofing & Home Improvement, Inc.,

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

C.A. No. 2018-CP-40-01318

Plaintiff,

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v.

Dec 21 2023

Tyler Woods,

SC Court of Appeals

Defendant.

ORDER GRANTING SUMMARY JUDGMENT AGAINST PLAINTIFF AS TO THE COMPLAINT AND DENYING PLAINTIFF'S MOTION TO AMEND COMPLAINT

This matter came before the Court on three motions: (1) the motion of Defendant Tyler Woods (Defendant) for entry of summary judgment and damages pursuant to Rule 56(a)-(b), SCRCP, against Plaintiff Best Choice Roofing & Home Improvement, Inc. (Plaintiff); (2) on the motion of Plaintiff for leave to amend its Complaint pursuant to Rule 15, SCRCP; and, (3) on motion of Defendant to Deem Admitted Requests for Admissions not Responded to. A hearing was held on January 30, 2019. Present was defense counsel Nekki Shutt, Esq., and Plaintiff's counsel Townes Johnson, Esq. At the hearing, Defendant withdrew his Motion to Deem Admitted filed on November 16, 2018 with opposing counsel's consent.

Having fully considered all admitted evidence, memoranda of law, as well as oral and written argument presented to the Court, Plaintiff's motion to amend the Complaint is denied and Defendant's motion for summary judgment as to the Complaint is granted with Plaintiff's consent. This Court did not hear oral argument on Defendant's motion for entry of summary judgment and damages in his favor as to his Counterclaims pursuant to Rule 56(a)-(b), SCRCP and, therefore, that part of defense's motion is

denied without prejudice.

Based upon the pleadings and evidence, I find as follows:

1. Defendant would be prejudiced by Plaintiff being granted leave to amend the Complaint under Rule 15, SCRCP at this juncture in the proceedings.
2. Defendant did not work within 100 miles of the location where he worked for Plaintiff.
3. Defendant, accordingly, did not breach the non-competition provision, Section 9, of said employment agreement with Plaintiff.
4. Plaintiff is not entitled to leave to amend the Complaint under Rule 15, SCRCP now to abandon all of its original allegations and to plead previously unraised allegations.
5. Defendant is entitled to summary judgment under Rule 56, SCRCP as to the Complaint as there are no material facts in dispute.
6. Plaintiff consents to summary judgment being granted to Defendant on the original causes of action in the Complaint.

Based upon the foregoing and for good cause shown,

IT IS ORDERED Plaintiff's motion to amend the Complaint is denied.

IT IS FURTHER ORDERED that the Clerk of Court shall enter Summary Judgment in favor of Defendant against Plaintiff as to the Complaint and dismiss the Complaint with prejudice.

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment as to the Counterclaims is denied without prejudice. The Clerk of Court shall move Defendant's Counterclaim forward on the trial docket.

IT IS SO ORDERED.

Re Hood

The Honorable Robert E. Hood
Presiding Judge
Fifth Judicial Circuit

3/19, 2019
W. J. ..., South Carolina