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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas
The Hon. Heath P. Taylor, Circuit Court Judge

Appellate Case No. 2024-000677

Jennifer Pringle and Dewayne Pringle,.....Plaintiffs,

Of Whom Jennifer Pringle is the .....Appellant,

v.

Mackenzie Alice Hunt and Thomas Christopher Newman, ...Respondents.

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the circuit court err in granting Respondents' motion to enforce settlement when the insurer failed to comply with all material terms of the settlement offer by rejecting Appellant's offer to settle both claims for the insurance policy limits but instead purporting to settle one of the claims, thereby creating a counteroffer that Appellants did not accept?

STATEMENT OF THE CASE

Jennifer and Dewayne Pringle were seriously injured in a motor vehicle wreck on September 8, 2022. On July 3, 2023, the Pringles sent an Offer of Compromise to Respondents offering to settle both claims for the policy limits. On July 14, 2023, Respondents sent payment offering to settle only Jennifer Pringle's claim and refused to accept the settlement and make payment on her husband's claim.

On December 4, 2023, the Pringles filed suit against Mackenzie Hunt and Christopher Newman for the injuries the Pringles suffered due to Respondents' negligence. Respondents answered on December 19, 2023, and filed a motion to enforce settlement four days later. On February 1, 2024, both parties filed memoranda addressing the motion to enforce settlement, and Appellant Jennifer Pringle filed a supplemental memorandum three days later. The circuit court held a hearing on February 5, 2024, and took the matter under advisement. On March 6, 2024, the court granted Respondents' motion to enforce settlement in a Form 4 order, and Appellant filed a motion to reconsider the next day. On March 26, 2024, the circuit court denied the motion to reconsider in a Form 4 order. On April 23, 2024, Appellant served and filed a notice of appeal.

STATEMENT OF FACTS

This appeal arises from a serious motor vehicle collision causing significant injuries to the Pringles, who are a married couple with three children. On September 8, 2022, Dewayne was

driving his GMC Yukon with his wife on U.S. Highway 176 in Berkeley County when Mackenzie Hunt, who was stopped at a stop sign in her Ford Explorer, proceeded into the intersection into oncoming traffic. Compl. ¶ 12-14. The Pringles were driving at approximately 40-45 mph and had the right-of-way, as there was no stop sign in their direction. The Pringles violently T-boned the side of Hunt's Ford Explorer, causing the Ford Explorer to roll over multiple times. *Id.* at ¶ 14-15; Offer of Compromise, p. 3. The airbags in the Pringles' vehicle deployed, the front end of their GMC Yukon was crushed, and both Jennifer and Dewayne were transported to Trident Medical Center.

Jennifer Pringle suffered significant injuries, presenting at Trident with pain in her head, neck, knees, wrist, and abdominal areas. Offer of Compromise 5. She lost consciousness during the wreck and suffered a "closed head injury." *Id*. She experienced anemia, a significant drop in her hemoglobin levels, and hyponatremia. She required "close medical management" and could not walk on her own. *Id.* She suffered a torn patella tendon in her left knee, which required surgical repair using a FiberWire while under the administration of anesthesia. *Id.* She was not discharged from the hospital until five days later, and she thereafter required follow-up treatment and therapy from multiple hospitals and health care facilities. In total, she incurred $242,680.80 in medical bills at the time of the Offer of Compromise. *Id.* at 6.

Dewayne, Jennifer's husband, also was transported to the Trident Medical Center for injuries to his neck, knee, upper extremities, and lower back. Upon discharge, Dewayne thereafter obtained additional chiropractic treatment, and his medical bills totaled $6,275.00. *Id.* at 3.

On July 3, 2023, the Pringles sent Hunt's insurer, State Farm Insurance Company, an Offer of Compromise to settle both of their claims. This Offer of Compromise constituted a single offer to State Farm to settle Jennifer and Dewayne Pringle's claims; it did not permit State Farm to select

which claim it wanted to settle and which it preferred to litigate. The Pringles offered State Farm a package deal to settle both claims—an all or nothing proposition—and there could be no meeting of the minds and therefore no contract unless the offer to settle BOTH claims was accepted.

On July 13, 2023, State Farm responded to the Pringles' Offer of Compromise "as to Jennifer Pringle only." 7.13.23 Letter by State Farm (emphasis in original). State Farm also noted that it offered to split the remaining coverage available to Dewayne and another injured person who had made a claim. This constituted a counteroffer—not an acceptance of the original offer to settle both claims. The Pringles declined to accept State Farm's counteroffer and filed suit on December 4, 2023.

Approximately three weeks later, Respondents filed a motion to enforce settlement against Jennifer Pringle contending Respondents had accepted the offer as to Jennifer Pringle despite the fact that the Pringles only offer was to settle both claims for the maximum policy limits. Ignoring their own clear counteroffer, Respondents contended a valid contract existed as to Jennifer's claims. The circuit court agreed, and now the sole issue on appeal is whether the court erred in determining a valid contract existed to settle Jennifer Pringles' claims.

STANDARD OF REVIEW

An action to enforce a purported settlement agreement is reviewed as an action at law. *Byrd v. Livingston*, 398 S.C. 237, 241, 727 S.E.2d 620, 621 (Ct. App. 2012) ("In South Carolina jurisprudence, settlement agreements are viewed as contracts….An action to construe a contract is an action at law."). In an action at law, on appeal of a case tried without a jury, the judge's findings will not be disturbed unless they are without evidentiary support. *Townes Assocs. v. City of Greenville*, 266 S.C. 81, 86, 221 S.E.2d 773, 775 (1976). However, this court is free to decide

questions of law with no particular deference to the trial court." *Byrd*, 398 S.C. at 241, 727 S.E.2d at 622.

ARGUMENT

The circuit court erred in enforcing a settlement when State Farm did not accept Appellant's offer but instead presented a counteroffer that Appellant rejected.

Jennifer and Dewayne Pringle made a single offer to settle both their claims against Respondents for the policy limits. This offer presented State Farm with a simple choice: it could either accept the offer and settle both claims for the policy limits, or it could present a counteroffer by negotiating at least one material term. State Farm selected the second option by offering to settle Jennfier Pringle's claim only and negotiate her husband's claim. That constituted a classic counteroffer. *Weisz Graphics Div. of Fred B. Johnson Co. v. Peck Indus.*, 304 S.C. 101, 106, 403 S.E.2d 146, 149 (Ct. App. 1991) ("[A]n acceptance which adds different or additional terms is treated as a counteroffer, which may be accepted or rejected by the other party.").

After deciding to negotiate the terms of the Pringles' offer rather than to accept it, State Farm tries vainly to have its proverbial cake and eat it too. State Farm wants to pick and choose from among the terms and accept that portion of the offer most palatable to it. But this argument ignores basic principles of contract law, as State Farm's "acceptance" of the Pringles' offer was quite clearly a counteroffer because it changed the terms of the original offer. State Farm's decision to alter the terms of the Pringles' offer, and then purport to accept those new and different terms cannot disguise the fact that, under fundamental contract principles, State Farm's actions constituted a counteroffer. Because the Pringles did not accept State Farm's counteroffer, no

meeting of the minds occurred, and no valid contract existed capable of being enforced by the circuit court.[1]

It is basic contract jurisprudence, learned by every first-year law student, that to form a contract, there must be "an offer, acceptance, and valuable consideration." *Sauner v. Pub. Serv. Auth*., 354 S.C. 397, 406, 581 S.E.2d 161, 166 (2003). Without these three elements, there is no contract. Further, when construing whether there has been an offer that has been accepted, "the parties must have a meeting of the minds as to all essential and material terms of the agreement." *Davis v. Greenwood Sch. Dist. 50*, 365 S.C. 629, 634, 620 S.E.2d 65, 67 (2005); *Player v. Chandler*, 299 S.C. 101, 105, 382 S.E.2d 891, 893 (1989) ("South Carolina common law requires that, in order to have a valid and enforceable contract, there must be a meeting of the minds between the parties with regard to *all* essential and material terms of the agreement."). Indeed, "[p]art of proving that some enforceable contract exists is being able to identify the terms thereof." *Allegro, Inc. v. Scully*, 418 S.C. 24, 35, 791 S.E.2d 140, 146 (2016).

This appeal concerns the very heart and soul of basic contract law: whether an offer and acceptance have created a binding contract. Identifying the terms of the offer, as well as the terms of the acceptance, is critically important to ascertaining whether a contract exists. If the terms of the acceptance mirror those of the offer—rather than providing different or conditional terms—then a valid and enforceable contract is formed. *Columbia Hyundai, Inc. v. Carll Hyundai, Inc.*,

[1] In one footnote which appeared in three prior, unpublished decisions of this Court involving the law firm representing Appellant before the circuit court, this Court indicated its disapproval of the settlement offers made in those cases. Appellants stress that the Offer of Compromise in this case was very different than the prior offers under consideration, as the dispute here does not involve the form of payment or the method of delivery. Rather, this case concerns whether State Farm's inclusion of a materially different term in its purported "acceptance"—regardless of the reason why State Farm chose to do so and which Appellants rejected—somehow created a binding contract.

326 S.C. 78, 80, 484 S.E.2d 468, 469 (1997) ("At common law, a purported acceptance containing terms which did not 'mirror' those of the offer operated as a rejection thereof and amounted to a counteroffer."). Stated differently,

> Nothing is better settled than that in order to constitute a contract there must be an offer on one side and an unconditional acceptance on the other. So long as any condition is not acceded to by both parties to the contract, the dealings are mere negotiations and may be terminated at any time by either party while they are pending. There must be a meeting of minds in order to constitute a contract. * * * "To constitute a contract the acceptance of the offer must be absolute and identical with the terms of the offer. If one offers another to do a definite thing, and that other person accepts conditionally or introduces a new term into the acceptance, his answer is either a mere expression of willingness to treat or it is in effect a counter proposal." "* * * A qualified acceptance does not constitute a contract."

Sossamon v. Littlejohn, 241 S.C. 478, 485-86, 129 S.E.2d 124, 127 (1963) (quoting *Cohn v. Penn. Beverage Co. et al*., 169 A. 768, 769 (Pa. 1934) (internal citation omitted)).

Because the written language is the best expression of the party's intent, it is important to review what the July 3, 2023 Offer of Compromise stated, and just as importantly, what it did not state. *Ecclesiastes Prod. Ministries v. Outparcel Assocs., LLC*, 374 S.C. 483, 497, 649 S.E.2d 494, 501 (Ct. App. 2007) ("The parties' intention must, in the first instance, be derived from the language of the [alleged] contract."). Looking at the following specific provisions of the offer, it is abundantly clear that the Offer of Compromise was *a single offer* to settle both Jennifer and Dewayne's claims together:

- The sub-heading is "**Offer of Compromise"** and delineates a single offer (emphasis in original)
- "The Offer of Compromise ("Offer") regards our clients' claims against your insureds in the above-referenced matter" speaks to single offer for "our clients' claims"
- "Your insurance company may accept our Offer only by performing the requirement of this letter."
- "Acceptance must be unequivocal and without variance."

- "This letter is our clients' formal Offer…"
- "You must accept this Offer by performing according to its provisions in order for this firm and our clients to agree that a binding agreement has been formed."
- "[I]f you attempt to impose any additional condition or requirement upon our clients, then there has been no acceptance and no agreement."

The Offer of Compromise used the singular "offer" over twenty times, and never once used the plural "offers." The Offer of Compromise also specifically required the insurer to send *checks* as opposed to one check and explained how the checks were to be addressed. *Id.* at 9. In other words, the Offer of Compromise unambiguously required State Farm to settle *both* of the Pringles' claims for the policy limits, and the offer to settle both the Pringles' claims as opposed to only Jennifer's claim was unquestionably a material term of the offer. *Cf. Damico v. Lennar Carolinas, LLC*, 437 S.C. 596, 619, 879 S.E.2d 746, 760 (2022) (noting "[i]t goes without saying" that a clause in a contract that addressed who may be sued was "a material term of the agreement").

In response to the Pringle's offer, State Farm acknowledged that the offer was to settle both claims: "I am in receipt of your Offer of Compromise of July 3, 2023, wherein you demand the maximum per person bodily injury limits and pro rata apportionment of remaining property damage limits *on behalf of your clients, Dewayne and Jennifer Pringle*, in exchange for Covenants Not to Execute…" 7.13.23 State Farm Letter (emphasis added). The letter continued, "State Farm Mutual Automobile Insurance Company has authorized me to accept your demand <u>as to Jennifer Pringle only</u> by tendering the maximum per person bodily injury liability policy limits…" *Id.* (emphasis in original). State Farm then included signed affidavits and a check, concluding that this

"meet[s] the terms of your demand as to Jennifer Pringle." It would be difficult to find a better textbook example of a counteroffer than State Farm's response.[2]

Not only does State Farm's decision to send only one check demonstrate its alteration of the terms of the Pringles' offer, but State Farm's very own words acknowledge that it had changed the Pringles' offer. The underlining "as to Jennifer Pringle only" makes crystal clear that the unified offer was being rejected and that State Farm was making a counteroffer as to only Jennifer. State Farm was offering to settle Jennifer's case only, and on terms different than set out in the Offer of Compromise. In no way should State Farm's counteroffer be construed as an acceptance. Restatement 2d of Contracts § 59 ("A reply to an offer which purports to accept it but is conditional on the offeror's assent to terms additional to or different from those offered is not an acceptance but is a counter-offer.").

Additionally, in Respondents' memorandum in favor of its motion to enforce the settlement, their words again demonstrate they readily understood what common-sense dictates: that the Offer of Compromise was a single, unified offer to settle both Jennifer and Dewayne's claims for the maximum policy limits. Indeed, Respondents characterized the Pringles' offer as "[t]he *Offer(s)* alleged," and "[t]he *Offer(s)* required." Resp. Memo in Support of Mtn. to Enforce Settlement, p. 2 (emphasis added). There would be no reason to add an (s) to the term "Offer" if the Pringles' Offer of Compromise encompassed more than one unified offer. By recharacterizing

[2] In purporting to "accept" the Offer of Compromise as to Jennifer Pringle only, State Farm essentially sought to pick and choose which terms it preferred versus those that it did not. But one cannot select the most favorable terms and reject the others when the offer is extended as one package, and then contend a contract exists. For example, if a department store offers one shirt at full price and a second shirt at half-price, the customer cannot demand to buy only the second shirt at half-price. Just as here, the offer encompassed both shirts, and the customer's offer to purchase only one is a classic counteroffer.

the terms of the offer, Respondents demonstrate yet again that they knew the Pringles' offer was to settle both Jennifer and Dewayne's claims for maximum policy limits.

Respondents also argued that the Pringles' claims are legally capable of being resolved independently. Appellant acknowledges the truth of this statement, but it is irrelevant to the case before this Court.[3] The fact that the Pringles' claims could be capable of being resolved independently is of no moment when the offer to settle clearly was a unified offer covering BOTH claims. Instead, this Court's focus should be on whether State Farm assented to all material terms of the Pringles' offer or whether it added different terms that created a counteroffer. Reviewing State Farm's purported acceptance, it is clear that State Farm changed the terms by offering to settle one claim and negotiate the other. Therefore, there was no meeting of the minds, no valid contract existed, and the circuit court erred in granting the motion to enforce the settlement. *H&H of Johnston, LLC v. Old Republic Nat'l Title Ins. Co.*, 405 S.C. 469, 475, 748 S.E.2d 72, 75 (Ct. App. 2013) ("[I]n order to have a valid and enforceable contract, there must be a meeting of the minds between the parties with regard to *all* essential and material terms of the agreement.").

Moreover, while it is true that settlements generally should be encouraged, an equally compelling principle is the freedom to contract. *S.C. DOT v. M & T Enters. of Mt. Pleasant, LLC*, 379 S.C. 645, 657, 667 S.E.2d 7, 13-14 (Ct. App. 2008) ("The courts must construe and enforce contracts as written, in order to preserve the fundamental right of freedom of contract.").[4] No party

[3] Every contract must be legally capable of being executed; otherwise, the contract is not enforceable. *Berkebile v. Outen*, 311 S.C. 50, 53, 426 S.E.2d 760, 762 (1993) ("An illegal contract has always been unenforceable."). Therefore, the fact that the claims are independent or that the purported contract addresses a valid basis has no bearing on the question before this Court.

[4] Whether a party has accepted an offer or made a counteroffer when presenting a settlement demand in a personal injury case certainly is an issue that is not unique to South Carolina. *See*

should be forced to accept terms different than those proposed in the offer. This is especially true in this instance, where the Pringles elected to attempt to resolve their claims together rather than have one spouse settle his claim while the other spouse litigates hers. Indeed, it is understandable that the Pringles did not want to proceed separately, as both were injured in the accident and therefore were witnesses who would likely be called at trial in support of one another. By avoiding splitting the couple's claims, the Pringles sought to either resolve their cases together and move on with their lives or litigate both claims together. They never offered to settle their cases separately, and State Farm cannot change the terms of the offer and then require the Pringles to accept its counteroffer. The circuit court's decision to force the Pringles to accede to State Farm's counteroffer goes against fundamental principles of contract law.

CONCLUSION

The Pringles offered to settle both of their claims within policy limits or litigate those claims together. The July 3, 2023 Offer of Compromise unambiguously conveyed a single offer requiring two checks to settle both of the Pringles' claims. This was one unified offer; it was not presented in the alternative as an offer to settle one or the other claim. Because State Farm altered the terms of the Pringles' offer, its July 13, 2023 response was a counteroffer, which the Pringles

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Bennett v. Novas, 874 S.E.2d 871, 877 (Ga Ct. App. 2022) (finding an insurer's request to add an additional person to the release constituted a counteroffer rather than an acceptance of the plaintiff's offer); *Duenas v. Cook*, 818 S.E.2d 629, 633 (Ga Ct. App. 2018) (finding an insurer made a counteroffer when the plaintiff offered to settle the personal injury/bodily injury claims but the insurer responded with a release that offered to settle all claims, including ones for property damage); *Penn v. Muktar*, 711 S.E.2d 337, 338-39 (Ga. Ct. App. 2011) ("[T]he parties failed to reach a meeting of the minds regarding settlement because, in response to the Penns' offer to settle their bodily injury claims for the bodily injury policy limits, State Farm tendered the $50,000 bodily injury policy limits along with the letter and the proposed release that, in effect, asserted a counteroffer of the $50,000 bodily injury limit to settle and release the bodily injury claims, the property damage claims, and any other claims resulting from the collision.").

had the right to refuse. As a result, the parties did not agree on all material terms, and no valid contract was formed for the circuit court to enforce. Accordingly, this Court should reverse the circuit court's order granting the motion to enforce the settlement and remand for the Pringles to pursue their claims.

Respectfully submitted,

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