

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

JE&MA Enterprises, LLC,

Plaintiff,

vs.

WB Services, Inc. and Diamond Jubilee
Pelham, LLC,

Defendants.

THIRTEENTH JUDICIAL CIRCUIT
COURT OF COMMON PLEAS

Civil Action No. 2020-CP-23-05689

ORDER

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S.C. SUPREME COURT

SUMMARY

This matter is before the Court on Plaintiff JE&MA Enterprises, LLC's (Contractor) Motion for Summary Judgment (the Motion) as to Defendant Diamond Jubilee Pelham, LLC's (Owner) counterclaims for declaratory judgment and slander of title (the Motion).

A hearing was held on the Motion on June 27, 2023, at which counsel for Contractor and Owner made oral arguments. All counsel agreed that Owner's declaratory judgment claim was ripe and appropriate for judicial determination – as to whether JEMA's mechanic's lien (the Lien) was void and unenforceable as a matter of law. Owner also argued that Contractor could not sustain the necessary burden required for summary judgment on the slander of title claim. After careful consideration of the pleadings, the materials submitted for the hearing by the parties, the applicable law, and the arguments of counsel, and for the reasons set forth below,

the Court finds that the Lien is void and unenforceable as a matter of law and denies Contractor's Motion for Summary Judgment as to Owner's slander of title claim.

ANALYSIS

I. The Lien is Unenforceable as a Matter of Law.

S.C. Code §40-5-310 states that “[n]o person may either practice law or solicit the legal cause of another person or entity in this State unless he is enrolled as a member of the South Carolina Bar pursuant to applicable court rules, or otherwise authorized to perform prescribed legal activities by action of the Supreme Court of South Carolina.” The prohibition against the unauthorized practice of law (UPL) exists to “protect the public from the potentially severe economic and emotional consequences which may flow from the erroneous preparation of legal documents or the inaccurate legal advice given by persons untrained in the law.” *See Linder v. Ins. Claims Consultants, Inc.*, 348 S.C. 477, 478-87, 560 S.E.2d 612, 617 (2002).

The South Carolina Supreme Court has long held that the practice of law is not confined to litigation but encompasses activities and actions in other areas that “entail specialized legal knowledge and ability.” *State v. Buyers Serv. Co.*, 292 S.C. 426, 430, 357 S.E.2d 15, 17 (1987). Particularly, the act of preparing and filing a lien document in the public records in South Carolina by a non-lawyer constitutes the unauthorized practice of law. *See Rogers Townsend & Thomas, PC v. Peck*, 419 S.C. 240, 797 S.E.2d 396 (2017); *See also State v. Robinson*, 321 S.C. 286, 290, 468 S.E.2d 290, 292 (1996) (“This Court has defined the practice of law to include the preparation and filing of legal documents....”).

In this case, the Lien was prepared and recorded by a lien generation software company based in Louisiana, Express Lien, Inc. d/b/a Levelset (Levelset). All pertinent portions of the Lien were executed by a non-lawyer employee of Levelset, Charles Henson. Mr. Henson was deposed in a related arbitration.¹

Levelset generated the mechanic's lien form, which was filled in by JEMA. According to the deposition transcript attached to Owner's Response in Opposition, Charles Henson admitted that recording a mechanic's lien in South Carolina requires an understanding of the specific legal requirements of the State, as it pertains to statutory requirements for mechanic's liens. However, he did not familiarize himself with the applicable statute and requirements to perfect mechanic's liens, outside of administrative "recording requirements" (such as necessary fees and page margin limitations).

There was no lawyer involved on Levelset's behalf in the drafting of the Lien language. The critical lien information was provided by Contractor alone. After Henson executed the lien documents, Levelset then caused the Lien to be recorded in the Office of the Greenville County Register of Deeds.

¹ According to the transcript from the deposition of Levelset employee, Charles Henson, attached to Owner's Response in Opposition to Contractor's Motion (the Henson Transcript), Nathan Budde appeared as counsel for Mr. Henson at the deposition. Henson Transcript at 2, 27:10-19. Levelset, through Mr. Budde, was provided notice of the June 27, 2023 hearing by letter from Contractor's counsel (the Letter). A copy of the Letter was filed with the Court on April 14, 2023. The Letter advised Levelset of Owner's position: "that Levelset's unauthorized practice of law in SC makes JEMA's lien illegal, void and unenforceable". It also informed Levelset that a Summary Judgment Motion had been filed requesting the Court to determine that issue and provided notice and opportunity for Levelset to intervene and defend its actions. *Id.* No representative of Levelset attended the July 27, 2023 hearing.

Here, just as in *Peck*, the Lien's purpose was to encumber Owner's property so it could not be sold without the alleged debt being repaid. Therefore, the Lien is an instrument/written legal document that defines certain rights, duties, entitlements, or liabilities of Contractor and Owner.

The Lien is the result of and permeated with UPL. It was prepared, executed, and recorded by an individual not licensed to practice law in any jurisdiction, let alone South Carolina. The Court therefore finds that the Lien is illegal, void, and unenforceable as a matter of law, and hereby orders that the Lien shall be cancelled of record in the Greenville County Register of Deeds Office within ten (10) days of the entry of this Order.

II. Issues of Material Fact Exist Regarding the Slander of Title Claim.

Reviewing the facts in the light most favorable to the non-moving party, the Court finds there are issues of material fact that would be questions for the jury to determine as it relates to the factual allegations underlying Owner's claim for slander of title. Accordingly, Contractor's Motion for Summary Judgment on that claim is denied.

III. Owner is Entitled to Costs and Reasonable Attorneys' Fees Under S.C. Code § 29-5-20(A).

A party who prevails in defending against a mechanic's lien must be awarded costs of the action and a reasonable attorneys' fee as determined by the Court. S.C. Code § 29-5-20(A). It appears from the affidavit of attorneys' fees submitted by counsel for Owner that Owner has incurred attorneys' fees in the amount of Six Thousand Eight Hundred Sixty-Eight and 50/100 (\$6,868.50) Dollars in defending

against the JEMA Lien. Because the Court finds the Lien to be illegal, void, and unenforceable as a matter of law, Owner has therefore prevailed in defending against the Lien and shall be awarded reasonable attorneys' fees in the total amount of Six Thousand Eight Hundred Sixty-Eight and 50/100 (\$6,868.50) Dollars.

IT IS SO ORDERED.

JUDGE'S ELECTRONIC SIGNATURE PAGE TO FOLLOW



Greenville Common Pleas

Case Caption: JE&MA Enterprises LLC vs. WB Services Inc , defendant, et al

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Type: Order/Other

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