

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	CIVIL ACTION NO.: 08-CP-07-3018
COUNTY OF BEAUFORT	)	2013 SEP 11, PM 4:32
	)	JERRI ANN ROSENEAU
DOCKSIDE INCORPORATED OF	)	BEAUFORT COUNTY, S.C.
PORT ROYAL, a/k/a Dockside of	)	CLERK OF COURT
Port Royal, Inc., a South Carolina)	
Corporation,)	
)	
Plaintiff,)	
)	
vs.	)	ORDER DENYING DEFENDANT'S
THE SOUTH CAROLINA STATE	)	MOTION FOR JUDGMENT
PORTS AUTHORITY, an Agency	)	NOTWITHSTANDING THE VERDICT; OR
and/or Political subdivision of the	)	IN THE ALTERNATIVE, MOTION
State of South Carolina; TOMMY	)	FOR NEW TRIAL
OLIVA AND TERI OLIVA,)	
)	
Defendants.)	

This case is a commercial lease dispute in regard to a lease between the Plaintiff, Dockside Incorporated of Port Royal, a/k/a Dockside of Port Royal, Inc., a South Carolina Corporation (hereinafter "Dockside") and Defendant South Carolina Ports Authority (hereinafter "Defendant SPA"). The case was tried before a jury and a verdict was rendered on February 15, 2013 in favor of Dockside on its breach of contract claim in the amount of One Million Four Hundred Thousand and 00/100 (\$1,400,000.00) Dollars.

On February 25, 2013, Defendant SPA filed its Post Trial Motion seeking a judgment notwithstanding the verdict, or in the alternative, requesting a new trial. The motion is based on three grounds. First, Defendant SPA alleges that Dockside failed to establish that a triangular parcel in dispute was included in the leased premises and, therefore, failed to establish that there was a breach of the lease agreement between the parties. Second, Defendant SPA contends that

Dockside failed to establish its damages by a preponderance of the evidence. Third, Defendant SPA argues that Dockside's breach of contract claim was barred by the Statute of Limitations. A hearing was held in front of the Trial Court on Friday, May 24, 2013, and counsel for both parties presented their respective arguments.

After careful consideration of the testimony and the evidence presented at trial as well as argument of counsel, I hereby make the following findings of fact and conclusions of law:

1. As to Defendant SPA's first ground, I find that there was ample evidence at trial to support the jury's verdict in regards to Defendant SPA's breach of the lease agreement, and the jury considered this evidence in its determination.

2. As to Defendant SPA's second ground, I further find that there was ample evidence at trial to support the damages returned by the jury. First, Dockside's financial expert testified that Dockside's lost opportunity and/or profit in losing the sale of its leasehold interest was approximately Two Million One Hundred Thousand and no/100 (\$2,100,000) Dollars. Dockside's financial expert's calculation of the damages was also admitted into evidence. Also, the unconsummated copy of the contract establishing a purchase price of Dockside's leasehold interest in the amount of One Million Eight Hundred Thousand and 00/100 (\$1,800,000) Dollars between Dockside and the Subtenant was entered into evidence with no objection from Defendant SPA. This evidence along with other competent evidence and the inferences that can be reasonably drawn therefrom does support the verdict. The testimony at trial as well as the values of Dockside's leasehold interest and the calculation of damages presented are neither speculative nor uncertain, and the evidence amply supports the jury's verdict in this matter. I further find that Defendant's contention that the proper measure of damages of lost profit in this


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case is the same as in a case of a lost sale of a real estate interest is without merit.

3. As to Defendant SPA's third ground, I find that there was ample evidence at trial to establish that the material breach of the lease agreement occurred in 2007 when Dockside was in negotiations to sell its leasehold interest to the Sub-Tenant. Therefore, this action was not barred by the statute of limitations, as found by the jury.

Accordingly, based upon the foregoing, Defendant SPA's Motion for Judgment Notwithstanding the Verdict; or in the alternative, Motion for New Trial, is DENIED.

AND IT IS SO ORDERED.

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August, 2013



Roger L. Couch
Circuit Court Judge