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Aug 07 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of
Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Mark J. Hayes, Circuit Court Judge

Appellate Case No. 2022-001826

Carolina Real Estate Holdings, LLC, Appellant,

v.

Brilin Electric, LLC and W & L Services, LLC, Defendants,

Of Which Brilin Electric, LLC is the Respondent.

RESPONDENT’S RETURN OPPOSING APPELLANT’S MOTION FOR COSTS

Pursuant to Rules 222(a), 222(d) and 240(e), Respondent hereby submits this Return opposing Appellant’s Motion for Costs submitted July 30, 2025. This entire case, including this Appeal, is entirely of Appellant’s own making and Appellant should not be awarded its costs of this appeal. Appellant sued Respondent before repairs could be made and Respondent made multiple attempts to resolve this case prior to trial to avoid the costs associated with litigation, especially given the relatively small dollar amount at issue.¹ Appellant refused every attempt to

¹ To be clear, despite multiple efforts to divine Appellant’s claimed damages number, Respondent only discovered Appellant’s claimed dollar amount of damages during Appellant’s closing argument.

resolve this case, necessitating a jury of 12 South Carolinians to resolve this case in Respondent's favor.

First and foremost, this was a breach of contract case and the issue on appeal – the jury's finding that the Appellant violated the South Carolina Unfair Trade Practices Act claim – was never the heart of this case. And while this Court found error with respect to the trial court's JNOV ruling, this Court in its opinion readily acknowledged that Respondent's conduct was "lamentable."² Appellant's actions were more than lamentable, they were reprehensible. Appellant filed suit before Respondent even had a chance to make repairs required by the Lease and two years later a jury found in favor of Respondent on Respondent's counterclaims that Appellant breached the Lease and violated the UTPA, which violation was an extension of Appellant's breaches of the contract. Of all the issues put forth to the jury, they only found in favor of Appellant on one thing – the costs to repair the demising wall, the one repair Respondent could not make because Appellant locked Respondent out of the premises prior to the end of the Lease term – in breach of the quiet enjoyment provision of the Lease – thus depriving Respondent the ability to make this repair.

² To be quite candid with the Court, the Court ultimately missed the primary issue that triggered Appellant's UTPA counterclaim and why both the judge and jury were correct in determining Appellant violated the UTPA. This Court at oral argument and in its ruling incorrectly reduced the issue to competing "quotes" for repairs. This was not the issue. The issue was the fact that Appellant demanded Respondent use Appellant's preferred vendors for repairs, something the Lease did not call for and which was a breach of the contract and the covenant of good faith and fair dealing. The UTPA counterclaim extended from these counterclaims because Appellant's preferred vendors' quotes were exorbitantly higher than the vendors Respondent's counsel was able to procure (acting in his capacity as a de facto general contractor per instructions from Appellant's counsel) and was a result of Respondent's fraudulent invoicing by entities wholly-owned by Appellant's principal. The UTPA claim was never about competing quotes – it was about the unfair and deceptive acts of forcing Respondent's counsel to interface with preferred vendors in contravention of the Lease, try to make Respondent use those preferred vendors, and the reasonable inference – an inference a jury of 12 South Carolina citizens agreed with – that Appellant was receiving a kickback from the preferred vendors. The bottom line is this: had Appellant just left Respondent alone to do all the repairs per the terms of the Lease, Respondent would have never brought the UTPA claim in the first place and none of the litigation related to this claim would have occurred, including this appeal.

Respondent respects the Court's judgment on the JNOV issue; however, this Court should not reward Appellant its costs on appeal because of its lamentable conduct. The reversal of the jury's trebled UTPA damages award is enough of a windfall for this lamentable Appellant.

Respectfully submitted,

August 7, 2025

/s/ Nathan A. White

Nathan A. White

S.C. Bar No. 74015

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PROOF OF SERVICE

I hereby certify that I served Respondent's Return Opposing Appellant's Motion for Costs on the Attorney for Appellant, Brian S. McCoy, Esq., of McCoy Law Firm, LLC, by e-mail to bmccoy@mccoylawfirm.com, on August 7, 2025, simultaneously with filing it with the Clerk of the Court of Appeals.

/s/ Nathan A. White

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