

STATE OF SOUTH CAROLINA

COUNTY OF DARLINGTON

Adams Outdoor Advertising Limited
Partnership,

Plaintiff,

vs.

West & Joyce, LLC, successor in interest to
West Oil Company,

Defendant.

IN THE COURT OF COMMON PLEAS

C/A # 2024-CP-16-00922

ORDER

RECEIVED

Aug 28 2025

SC Court of Appeals

INTRODUCTION

This matter is before the Court on motion by Defendant West & Joyce, LLC, successor in interest to West Oil Company (“Defendant”) for summary judgment as to the breach of lease cause of action asserted against it by Plaintiff Adams Outdoor Advertising Limited Partnership (“Plaintiff”) in its Complaint, and as to Defendant’s counterclaims for injunctive relief, damages and declaratory judgment. The Court heard oral argument on Defendant’s Motion, filed on January 13, 2025, on February 10, 2025. Present were Michael Hopewell, attorney for Plaintiff, and Jeffrey Payne, attorney for Defendant. After hearing oral argument and reviewing the parties’ submissions, the Court hereby grants Defendant’s motion in its entirety for the reasons set forth below in greater detail.

LEGAL STANDARD

Summary judgment is appropriate “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Rule 56(c), SCRCP; Baughman v. Am. Telephone & Telegraph Co., 306 S.C. 101, 114-

115, 410 S.E.2d 537, 545 (1991). The party seeking summary judgment bears the “initial responsibility of demonstrating the absence of a genuine issue of material fact.” Baughman, 306 S.C. at 115, 410 S.E.2d at 545 (citing Celotex Corp. v. Catrett, 477 U.S. 317 (1986)). Once this initial burden has been met, the party opposing summary judgment must, under Rule 56(e), “do more than simply show that there is some metaphysical doubt as to the material facts’ but must come forward with ‘specific facts showing that there is a genuine issue for trial.’” Id. (quoting Rule 56(e), SCRCP; Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586-87 (1986)). “Indeed, Rule 56(e) specifically prohibits the nonmoving party from resting upon the mere allegations or denials of its pleadings.” Id., (citing Moody v. McLellan, 295 S.C. 157, 367 S.E.2d 449 (Ct. App. 1988) (additional citation omitted)).

In determining the appropriateness of granting summary judgment, the Court is not “required to single out some one morsel of evidence . . . to create an issue of fact that is not genuine.” Englert, Inc. v. Netherlands Ins. Co., 315 S.C. 300, 302, 433 S.E.2d 871, 873 (Ct. App. 1993) (quoting Main v. Corley, 281 S.C. 525, 527, 316 S.E.2d 406, 407 (1984)). Where a defendant establishes an entitlement to judgment as a matter of law, the court must grant summary judgment. *See* Humana Hospital-Bayside v. Lightle, 305 S.C. 214, 216, 407 S.E.2d 637, 638 (1991) (“Where the plaintiff relies solely upon the pleadings, files no counter-affidavits, and makes no factual showing in opposition to a motion for summary judgment, the lower court is required under Rule 56, to grant summary judgment, if, under the facts presented by the defendant, he was entitled to judgment as a matter of law.”) (citation omitted); Dyer v. Moss, 284 S.C. 208, 210-211, 325 S.E.2d 69, 70 (Ct. App. 1985).

FACTS

I. Plaintiff’s cause of action for breach of lease.

Plaintiff's breach of lease cause of action hinges on the distinction between two separate parcels of property: a .5479 acre parcel bearing TMS No. 058-00-01-167 and containing a billboard ("Billboard Property") and a 1.95+ acre parcel of land bearing TMS No. 058-00-01-101 and containing a convenience store that was owned and operated by the Defendant ("Convenience Store Property"). The Billboard Property is still owned by Defendant, a successor to West Oil Company. On April 27, 2019, Defendant sold the Convenience Store Property and the convenience store business located thereon for Eight Million Two Hundred Forty-Five Thousand and 00/100 (\$8,245,000.00). Plaintiff contends that it has rights in both parcels of land, while Defendant asserts that Plaintiff's rights are limited to the Billboard Property. Ultimately, the question is whether a lease between the parties gave Plaintiff a right of first refusal in the Billboard Property or in both the Billboard Property and the Convenience Store Property.

On July 15, 2009, Plaintiff and West Oil Company entered into a Lease Agreement ("Lease") pursuant to which the Plaintiff leased an existing billboard structure (the "Billboard") and some amount of the surrounding property which was owned by West Oil Company for the price of \$500.00 annually. (Exhibit A, Lease Agreement). The Lease Agreement described the Billboard Property as:

105 West Bobo Newsome Highway. . .Adjacent to State road 151 bypass, **approximately 1/10 mile west of US Hwy. 15** intersection on the north side of the roadway, more described as *on the west end of West Oil Company's store property* adjacent to SC 151 Hwy.

Exhibit A, pg. 1 (emphasis added). The description also contains a checked box next to the term "Existing Structure(s)", which refers to the Billboard. *See id.* Plaintiff claims that it holds an interest, not just in the billboard and the portion of land on the west end of the store property, but in all of the Billboard Property and the Convenience Store Property, such that it was entitled to a right of first refusal if the Convenience Store Property was sold. Defendant contends that the plain

language of the Lease provides that Plaintiff leases a parcel of land located on the west end of the store property, not the entirety of the Convenience Store Property. Defendant argues that an easement provision in the Lease further supports the interpretation that Plaintiff's lease did not extend to any property beyond the Billboard Property. Specifically, the Lease provides that:

Lessor also hereby grants to Lessee the following easements over the Property and adjacent property owned or controlled by Lessor: a) an easement for reasonable access to Lessee's Structures; b) an easement to maintain an unobstructed view of the advertising copy on the Structures by passing motorists and pedestrians, including, but not limited to, the right to trim and remove any trees and other vegetation as often as Lessee in its sole discretion deems appropriate to prevent obstructions; and c) an easement to connect utilities to Lessee's structures.

Exhibit A, pg. 1. Defendant argues that if Plaintiff had a leasehold interest in the Convenience Store Property, then it would not have needed an easement over the adjacent Property. By extension, Defendant argues that Plaintiff would not have a right of first refusal in property that it did not lease from Defendant.

II. Defendant counterclaims for injunction, damages and declaratory judgment.

Defendant also moved for summary judgment on its counterclaims for injunction, damages and declaratory judgment. Defendant has presented facts that show that the term of the Lease expired on October 1, 2024, and that Defendant decided not to renew the Lease. Defendant notified Plaintiff that the Lease would not be renewed, and that it expected Plaintiff to remove the Billboard from the Billboard Property. To date, Plaintiff has failed and refused to do so. Accordingly, Defendant seeks an injunction enjoining Plaintiff from trespassing on the Billboard Property and a declaratory judgment finding that Plaintiff has no right to access the Billboard Property, Defendant has not sold the Billboard Property, and Defendant has the right to remove and destroy the Billboard.

In support of its Motion for Summary Judgment, Defendant presented the Affidavit of Alexander West, which stated that the Lease had ended on October 1, 2024 and that Defendant had notified Plaintiff of the same. Plaintiff has not presented any contradictory evidence, nor does the Plaintiff address this issue in its Memorandum in Opposition to Defendant's Motion for Summary Judgment.

DISCUSSION

In its Complaint, Plaintiff claims that Defendant breached the Lease by selling the Convenience Store Property without offering Plaintiff the right of first refusal. In its Motion for Summary Judgment, Defendant relies upon the plain language of the Lease and its context to argue that the Lease only encompasses the Billboard Property. Defendant also submitted aerial photographs of the properties and an affidavit by Defendant's representative. In response, Plaintiff merely restates its claim that the Lease is clear that Plaintiff has a right of refusal in the Convenience Store Property. This Court would agree that the Lease is clear. However, it is clear that Defendant only leased the Billboard Property to the Plaintiff. As stated in the Lease, Plaintiff was leased a portion of Property on the west end of the "store property". Not the entirety of the Convenience Store Property. Defendant's position is further supported by the fact that the Convenience Store Property and the business was sold for over eight million dollars. It defies logic that Plaintiff, who leased only a Billboard and a small parcel of land for \$500.00 per year, should have a right of first refusal in an adjacent property and a business worth over eight million dollars. For these reasons, the weight of the evidence indicates that Plaintiff did not lease the Convenience Store Property. Because Plaintiff only leased the Billboard Property, Defendant cannot have breached the Lease by selling the Convenience Store Property without honoring a right of first refusal.

This Court also finds that summary judgment is appropriate on Defendant's counterclaims. Defendant has presented ample evidence to show that the Lease term has ended, and Plaintiff has not presented any contradictory evidence. When the moving party puts forward facts and evidence in support of its Motion, and the opposing party makes no factual showing in opposition to the Motion, the Court must grant summary judgment. *See Humana Hospital-Bayside v. Lightle*, 305 S.C. at 216, 407 S.E.2d at 638, *supra*. Therefore, summary judgment is appropriate on Defendant's counterclaims.

CONCLUSION

For all of the reasons stated herein, the Court is persuaded that no genuine issue of material fact exists for trial. As such, summary judgment is awarded to Defendant and all claims against it in Plaintiff's Complaint are hereby dismissed with prejudice. Further, summary judgment is hereby awarded to the Defendant on its counterclaims. THEREFORE, it is hereby ORDERED that Defendant's Motion for Summary Judgment be, and hereby is, GRANTED, and the Court finds and declares as follows:

1. Plaintiff's Complaint is hereby dismissed with prejudice;
2. Plaintiff is hereby enjoined from continuing to access the Billboard Property, and has no continued right to access the Billboard Property or any right to remove the Billboard located thereon;
3. The Billboard Property is the only property Plaintiff had a right of first refusal in, and the Defendant did not sell the Billboard Property; and
4. Defendant has the right to remove and destroy the Billboard if it elects to do so;
5. Defendant shall file a separate motion with supporting affidavit as to its request for attorney's fees as set forth in its Answer and Counterclaim.

AND IT IS SO ORDERED.

DATE: _____

Electronic Signature to Follow
Paul M. Burch, Circuit Court Judge



Darlington Common Pleas

Case Caption: Adams Outdoor Advertising Limited Partnership VS West & Joyce
Llc , defendant, et al
Case Number: 2024CP1600922
Type: Order/Summary Judgment

So Ordered

s/Paul M. Burch, Judge #2048