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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas, The Honorable William A. McKinnon

Appellate Case No. 2022-000580
Unpublished Opinion No. 2025-UP-275, filed July 30, 2025

The Grapevine of Riverwalk, Inc. ..... Respondent,

v.

Riverwalk River District Building 6, LLC, Mark Mather, GRH Development Resources, LLC, The Greens of Rock Hill, LLC, and Assured Administration, LLC, ...Appellants.

APPELLANTS' RETURN IN OPPOSITION TO RESPONDENT'S PETITION FOR PARTIAL REHEARING

Appellants hereby respectfully oppose the Petition for Rehearing of this Court's Unpublished Opinion No. 2025-UP-275 (the "Opinion"), which was filed by Respondent the Grapevine of Riverwalk, Inc. ("Grapevine") on September 15, 2025.

Grapevine argues that this Court erred in reversing the trial court's decision to grant specific performance, because Grapevine contends that it was "ready, willing, and able to close on the property." The problem, however, is that there was no purchase contract between the parties on which to "close," or for the court to specifically enforce. The trial court ultimately and erroneously specifically "enforced" ***an imaginary contract***, improperly speculating on what it thought should be the terms of transfer, and wrongly imposing unbargained-for provisions, not only on the parties to this litigation but also on non-parties.[1]

The Opinion is right to reverse the lower court's grant of specific performance, because

[1] The subject property is one unit in a large, mixed-use condominium development. The trial court wrongly allowed Grapevine to dictate terms of the master deed which controls the entire development, including its common element provisions and declarant control terms. (R. pp. 32-33).

the grant was contrary to South Carolina law, which holds that an option is a mere unilateral right – it is not a contract for the purchase of land capable of specific performance. "Before specific performance can be decreed, it is first necessary to determine whether there is a contract between the parties or not. If there is no contract, then there is nothing to enforce. It would be speculative for a Court to say what would have been the rights of the parties if they had made a contract." *Finklea v. Carolina Farms Co*, 196 S.C. 466, 471-472, 13 S.E.2d 596, 599 (1941) (emphasis added).

The trial court's successive orders directing "specific performance" are loaded with speculation about the supposed obligations of the parties and the terms of conveyance. Ultimately the trial court wrongly created a one-sided, Grapevine-centric purchase contract (and master deed) out of whole cloth.[2] The speculative creation by the trial court of obligations that had to be "specifically performed" resulted from the plain reality that there was not an existing contract to enforce. The Opinion correctly recognizes this reality and reverses.

The trial court's error in inventing a contract was all the more egregious given that the Lease between Grapevine and Riverwalk contains a detailed real estate purchase agreement, which was intended to control the transaction. But Grapevine did not consider itself bound by the required agreement; Grapevine never executed, tendered, or provided the necessary consideration for the contemplated purchase agreement, despite the Lease's clear requirement that the Option to Purchase must be exercised "in accordance with the Purchase and Sale Agreement as provided in Exhibit G." (R. pp. 1262; 1282 - 1297). In other words, Grapevine never brought the intended agreement into being, which the Lease's option provision required it to do. The reality that Grapevine did not consider itself bound by the intended agreement is manifested in the very different purchase and sale terms that Grapevine sought to "specifically enforce."

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[2] As examples: the court wrongly allowed Grapevine to dictate to Riverwalk the terms of a master deed governing an entire horizontal property regime, including non-parties; it disregarded the plain meaning of "Common Elements" within a condominium regime; and it ignored rights and obligations on the part of the bank (also not a party). *See* Appellants' Reply Brief, filed December 28, 2023, at pp. 15-20.

The Purchase and Sale Agreement that was contemplated by the Lease (the "PSA") identifies in detail the rights and obligations of the parties in a way that is vastly different from the terms that Grapevine demanded and the trial court erroneously and speculatively "specifically enforced."[3] As one important example, the intended PSA has terms that dictate the remedies of the parties in the event that Riverwalk "shall be unable to give title or to make conveyance, or to deliver possession of the Unit." (*See* R. pp. 1286 - 1288, ¶ 4.3). In such a circumstance, the intended remedy was an extension of the closing date, a cap on the funds that Riverwalk was obligated to expend in its effort to generate title, and the remedy to Grapevine of reimbursement of its escrow deposit in the event closing could not occur. (R. p. 1287) ("If at the expiration of the extended time, the Seller has failed to remove any defects in title, deliver possession, or make the Unit conform, as the case may be . . . the Deposit shall be promptly refunded and all other obligations of all parties hereto shall cease and this Agreement shall be void and without recourse to the parties hereto."). Further—if it had been effectuated by the payment of an earnest money deposit—the PSA obligates Riverwalk only to furnish a quitclaim deed; the trial court ordered a general warranty deed. Moreover, the PSA contemplates multiple

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[3] The trial court's first order dictates an inflexible closing date, changes the purchase price set forth in the Option provision, decides what happens to the Lease, pronounces Grapevine's "right to jointly use the Common Areas," makes no mention of common expenses, and dictates terms of the "condominium documents" that were to control the entire horizontal property regime, including regime members who were not party to the Lease or the litigation. (R. pp. 8-14). The second order requires a general warranty deed, reduces the purchase price, and—shockingly—limits encumbrances to "matters of record not objected to by Buyer." (R. pp. 21-25). In compliance with the first two orders, Riverwalk recorded a Master Deed, creating a Horizontal Property Regime. (R. p. 349—400). But Grapevine did not like the Master Deed, and so it filed a motion to "compel compliance with final judgment." (R. p. 328). The court's third order then altered the entire condominium regime by requiring Riverwalk to collaborate with Grapevine as to what Grapevine believed to be "essential terms" of Riverwalk's horizontal property regime and to amend the Master Deed in accordance with Grapevine's wishes (thereby affecting units not parties to this action). As it happened, Grapevine did not like the length of the declarant control period, nor the references to Building 6 as part of the larger multi-unit "River District" development, nor the possibility of additional property being submitted to the regime (a common practice), nor the right of first refusal by declarant, nor the plat, nor the uniform restrictions on use of common elements, nor the unit numbers, nor the encroachment easements (*inter alia*). (*See* R. pp. 338 - 39). It demanded that Riverwalk change its development scheme, without any right to do so, and the trial court erroneously deemed this to be "specific performance." **This Court correctly reversed.**

encumbrances and use restrictions, but the trial court speculatively ordered that title be encumbered only by "matters of record not objected to by Grapevine," an outrageous requirement to which no reasonable seller would ordinarily agree. (R. pp. 21-25).

The differences between the Lease's contemplated PSA and the imaginary contract which Grapevine demanded, and which the trial court invented and "specifically" enforced, are hallmarks of *why* specific performance was neither a proper nor a just remedy, here. The differences also underscore the reality that Riverwalk breached nothing, because no purchase contract ever came into existence.[4] This Court was right to reverse specific performance where there was no contract to specifically enforce.

Even in its Petition for Rehearing, the Respondent fails to identify a contract between the parties that was capable of specific enforcement. *Campbell v. Carr*, 361 S.C. 258, 264, 603 S.E.2d 625 (Ct. App. 2004) ("in order to compel specific performance, a court of equity must find . . . there is clear evidence of a valid agreement."). It appears that Grapevine wants this Court to specifically enforce the *option*. But an option is not a purchase contract, and an option is not capable of specific enforcement. In the case of *Hutto v. Wiggins*, the Court sought to answer the question: "Is [the subject agreement] an option to purchase running from Wiggins to Hutto, or is it a contract of sale and purchase?" 175 S.C. 202, 203, 178 S.E. 869, 870 (1935). The Court focused on mutuality of obligation, asking if each party could have each compelled the other to act—and noting that the owner of the land could not have forced the holder of the option to exercise it.[5] The Court held that, "[a] test in determining in which of the categories [either option or purchase contract] a particular instrument is to be placed is said to be, 'Could the agreement be specifically

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[4] *See* Appellants' Petition for Partial Rehearing, in which Appellants respectfully request that this Court grant rehearing to reverse the trial court's errors as to Grapevine's breach of contract claims.

[5] If the shoe were on the other foot, Riverwalk could **not** have brought an action to force Grapevine to purchase the property; this lack of mutuality was the *Hutto* Court's reason for reversing the lower court's order of specific performance.

enforced?'" *Id.* at 205.

The Opinion correctly applied the law, which unequivocally holds that an option is not a contract for sale capable of specific enforcement. Instead, an option is a unilateral right to make a possible future purchase contract:

> An option is to be distinguished from a sale, or a contract, or agreement or offer to sell. The chief difference between a contract to sell and purchase real property, and an option to purchase said property lies in the fact that, while the former creates a mutual obligation on the part of one party to sell and the other to purchase, the option merely gives the right to purchase, at a fixed price, within a fixed time, without imposing any obligation to do so.

Alexander's Land Co. v. M & M & K Corp., 390 S.C. 582, 596, 703 S.E.2d 207, 216 (2011), *quoting Faulkner v. Millar*, 319 S.C. 216, 220, 460 S.E.2d 378, 380 (cleaned up).

An option is not a purchase contract; it is an exclusive right to make a future agreement. And, as a preemptive right and restraint on the alienability of real property, South Carolina law and public policy requires that an option be strictly construed and complied with exactly. *Alexander's Land Co.*, 703 S.E.2d at 214. As this Court correctly held, the Lease is clear that Grapevine could exercise its option only "in accordance with the Purchase and Sale Agreement as provided in Exhibit G," which PSA unambiguously requires an earnest money deposit of $25,000. (Opinion at 10-12). On this, the law applied by the Opinion is clear: "[T]he transition of an option into a contract of purchase and sale can only be effected by an unqualified and unconditional acceptance of the offer in accordance with the terms and within the time specified in the option contract." *Ingram v. Kasey's Associates*, 340 S.C. 98, 108, 531 S.E.2d 287. "[I]f the option requires performance in a certain manner . . . **exact compliance with the terms of the option are required**." *Alexander's Land Co.*, at 595, 703 S.E.2d at 214 (emphasis added).

The Opinion correctly held that the execution of the Purchase and Sale Agreement (in conjunction with the $25,000 purchase money deposit) was a condition of the Lease's option provision that was necessary to transform Grapevine's option into a valid contract for sale. (R.

pp. 1262 ¶ 33, 1281—97). Because Grapevine never fulfilled this condition, the option never became an enforceable purchase contract, as a matter of law. (Op. at p. 12); *Alexander's Land Co.* at 596, 703 S.E.2d at 214 ("A condition precedent is an act which must occur before performance by the other party is due."). This is a simple and straightforward calculus because Grapevine ***admitted*** that it never executed nor tendered the intended purchase contract, nor the earnest money that would have been required to bring the PSA to life. Another way to look at the facts, here, is to take the Lease and its option provision out of the equation. What if these same parties came to the court arguing about whether Grapevine's notice letter, and its successive emails demanding a closing, were a purchase contract capable of specific performance? Through that lens, it is clear that the elements of a valid, mutual, enforceable contract were lacking: there was no consideration, no meeting of the minds, no acceptance of the offered terms, and no mutually binding purchase agreement to specifically enforce. *See Cotter v. James L. Tapp Co.*, 267 S.C. 647, 654-56, 230 S.E.2d 715, 715-19 (1976) ("When an individual grants an option . . . he is entitled to strict compliance with time limits and other terms of the option.").

Throughout its Petition for Rehearing, Grapevine urges the Court to find that the trial court was right to invent a contract and specifically enforce it, because—according to Grapevine—this was the fair and equitable thing to do. Grapevine blames Riverwalk for its own failure to perform, alluding that Grapevine certainly would have been willing to tender a purchase contract and escrow the $25,000 purchase deposit if only Riverwalk had hurried up and formed a complicated, multi-building, multi-million-dollar condominium regime for the sake of one unit. Grapevine's reasoning is backwards—the optionee's proper exercise of its option is what triggers the optionor's obligation to perform. *Alexander's Land Co.* at 596, 703 S.E.2d at 214 ("Since the Buyer never satisfied the condition precedent . . . no duty arose on the part of the Seller to convey the real property."). The essence of Grapevine's argument is an admission that

it never paid the required deposit nor executed the PSA, both of which it was obligated to do in order to transform its option into an enforceable contract.

In an effort to justify the use of "equity" to "specifically enforce" a non-existent contract, Grapevine's Petition for Rehearing dedicates a lot of space to casting alleged facts in its favor and generally villainizing Appellants as being "financially motivated" tellers of "untruths."[6] (Pet. p. 6). The Petition is driven by what Grapevine thinks would be "fair," despite that South Carolina law holds that "harsh" results[7] are often necessary in option cases. *Cotter*, 267 S.C. at 656, 230 S.E.2d at 719 ("harsh results in option cases are necessary to further more compelling considerations of public policy").

Moreover—minus the polarizing adjectives interjected by Grapevine—what the facts argued on pages 3-7 of the Petition really demonstrate is that **Grapevine never properly exercised its option, through no fault of the Appellants**. The facts show:

1. Half a year before the Option period commenced, Grapevine notified Riverwalk that it was going to exercise its option. (R. p. 1298). The law is unequivocal, and the Opinion correctly finds, that the Grapevine's letter giving notice of a future intent, without earnest money or a purchase contract, was just that: notice of its future intent to exercise the option. *Cotter*, at 654-56, 230 S.E.2d at 715-19 ("Defendant could have given written notice every day in the month of February 1975, and such notice still would not have satisfied a requirement to [comply exactly with the terms of the option].").

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[6] Importantly, neither the jury nor the trial court "found" the "facts" argued by Grapevine. The trial court specifically rejected Grapevine's claims for fraud and misrepresentation. (R. pp. 1; 943—989).

[7] Respectfully, the Opinion's reversal of the trial court is not a harsh nor "unfair" result—it is a correct application of South Carolina law to contract terms to which Grapevine agreed but now thinks are inequitable. Grapevine bargained for the option provision, acknowledged that it is unambiguous, initialed every page of the Lease, including the page on which the option appears and every page of the intended PSA, and yet it admitted that it did not take the steps necessary to effectuate the option. (*See* Appellants' Brief, filed Dec. 28, 2023, at pp. 1-4, 5-6, 23-32).

2. Riverwalk acknowledged this statement of future intent, and it began to take steps to be ready to convey the property, in the future, assuming Grapevine exercised its option. (R. pp. 1304-05).
3. At the beginning of the third lease year, early in the option period, Grapevine grew impatient, becoming more and more insistent on closing; but it nonetheless did not pay earnest money nor execute the PSA, nor otherwise take the prerequisite steps to transform its option into a purchase contract.
4. Meanwhile, Riverwalk, in anticipation of a potential future sale, was acting to draft a master deed and plat for a complex, multi-building, multi-party, multi-million-dollar horizontal property regime. This was not an easy process, and Riverwalk ran into various delays involving the bank, its attorneys, and its engineer (precisely the sort of delays contemplated by the intended PSA, which Grapevine never tendered or executed). (R. pp. 1358-62).
5. Grapevine continued to demand a closing date and to demand that Riverwalk record a master deed, despite not having tendered earnest money or the purchase contract.
6. Riverwalk was communicating with Grapevine; these communications do not indicate that Riverwalk had some nefarious purpose – instead, they show that Riverwalk was navigating plat issues with surveyors, condominium questions with its attorneys, and loan issues with its bank. (R. pp. 1363-1443; 1506-11; 1010, 1016-45).
7. Grapevine *still* had not put forward earnest money or the purchase contract, although it continued to demand that Riverwalk record the master deed and convey the property. *Alexander's Land Co.* at 596, 703 S.E.2d at 214 ("Since the Buyer never satisfied the condition precedent . . . no duty arose on the part of the Seller to convey the real property.").
8. Riverwalk did not record the master deed, for any number of rational reasons that have nothing to do with "misconduct" and everything to do with the complexities of a multi-

building mixed-use development. (R. pp. 1024-25).

9. Before the expiration of the third lease year (*i.e.* before the expiration of the option period), and without having tendered the earnest money deposit or executed the purchase contract, Grapevine went ahead and sued Riverwalk for specific performance, fraud, and unfair trade practices. (R. pp. 39-51).
10. **Grapevine also put a *lis pendens* on the leased premises, demonstrating that it was perfectly capable of identifying the property, and thus undermining its claim to this Court that it could not execute the PSA because it had no way of filling in the blanks to identify the property for purchase.** (R. pp 52-54).
11. Grapevine's lawsuit had a chilling effect on the parties' relationship, and the atmosphere grew even colder when Grapevine amended its complaint to bring a barrage of tort claims against a multitude of additional defendants. (R. pp. 95-117).
12. The parties proceeded to litigate, through discovery, trial, and appeal.

In sum, the facts that Grapevine argues, including its accusation that Riverwalk was financially motivated to tell "untruths" about its intent to convey the property: (a) are immaterial to the question of whether or not Grapevine properly exercised the Option, and (b) were expressly rejected by the trial court when it granted directed verdict and dismissed Grapevine's causes of action for fraud and misrepresentation. (R. pp. 1; 943—989). The facts simply lay bare the reality that Grapevine did not have a specifically enforceable contract for sale.

Essentially, Grapevine is asking this Court to blame Riverwalk for Grapevine's own failure to transform the option into a purchase contract. In support of its argument that Riverwalk "made compliance impossible," the Petition protests in footnote 1 that Riverwalk probably would have rejected a payment of earnest money, anyway—which is sheer, imaginary, unproven conjecture and not justification for rehearing. Moreover, the fact that Grapevine could (and did)

put a *lis pendens* on the property defeats its argument that it was "impossible" for Grapevine to identify the property in the PSA because of Riverwalk's failure to record a master deed.

Grapevine asks the Court to override in the name of "equity" the clear requirements for exercise of the option—and Grapevine's own testimony that it never submitted purchase money or a purchase contract—based on its own, unproven assertions, which the trial court rejected, that Riverwalk was acting "willfully for financial gain" and should not "be rewarded for its misconduct."[8] (Pet. p. 6). Grapevine misses the point: Grapevine concedes[9] that it never tendered the $25,000 purchase money deposit "due upon execution of this Agreement," nor executed a purchase and sale agreement at all, let alone "the Purchase and Sale Agreement as provided in Exhibit G," which was required by the Lease's option provision. (R. pp. 1262, 1281 - 1297). For these reasons, the Opinion is right that "there was no meeting of the minds and therefore no valid contract to enforce."

This Court correctly applied South Carolina law to the facts to find that "the transition of an option into a contract of purchase and sale can only be effected by an unqualified and unconditional acceptance of the offer in accordance with the terms and within the time specified

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[8] Grapevine's reliance on the case of *Mullins v. Benton* is entirely misplaced. 309 S.C. 85, 419 S.E.2d 838 (Ct. App. 1992). In that case, the parties had an independent option contract, which expressly required that both the optionor and the optionee obtain an appraisal of the property, which appraisals would then form the basis for potential exercise of the option. But the optionor refused to obtain an appraisal. The lower court ordered the optionor to comply with his contractual obligation to obtain an appraisal, and this Court affirmed that discrete relief. However, the *Mullins* Court reversed the grant of specific performance, holding, "we find the master acted prematurely in ordering specific performance of an anticipated contract to buy and sell real property. It is still a matter of speculation whether [optionee] will exercise the option once the purchase price is determined. The courts will only enforce an option consummated by acceptance. Acceptance of the option creates a bilateral contract between the giver and the holder of the option which is binding on both parties." *Mullins*, 419 S.E.2d at 840. In other words, the *Mullins* Court applied the same law on options as this Court did in its Opinion, and it arrived at the same conclusion that this Court did: there can be no speculative specific performance of an option until it is unequivocally exercised in accordance with its terms, thereby transforming it into an enforceable bilateral purchase contract.

[9] "Q: At any time during the third lease year did Grapevine ever tender a contract in the form of Exhibit G to its landlord in order to exercise a purchase? A: No" (R. p. 777:16–21); "Q: And you never tendered purchase money, right? A: Right." (R. p. 779:7–15; *see also* pp. 779–83).

in the option contract . . . if the option requires performance in a certain manner, time is of the essence and exact compliance with the terms of the option are required." *Ingram,* 340 S.C. at 108, 531 S.E.2d at 292. **Without proper compliance by Grapevine, its option did not transform into a purchase contract. Without an enforceable purchase contract, the remedy of specific performance is not available.** *Royal v. Free Kindergarten Ass'n of Charleston*, 914 S.E.2d 856 (Ct. App. 2025), *citing Time Warner Cable v. Condo Servs., Inc.*, 381 S.C. 275, 281, 672 S.E.2d 816, 819 (Ct. App. 2009) (the first element of specific performance is that "a valid contract exists between the parties"); *Finklea v. Carolina Farms Co.*, 196 S.C. 466, 471-72, 13 S.E.2d 596, 599 (1941) ("Before specific performance can be decreed, it is first necessary to determine whether there is a contract between the parties or not."); *Yawkey v. Lowndes*, 150 S.C. 493, 513, 148 S.E. 554, 560 (1929) ("If there is no contract, then there is nothing to enforce.").

This Court should deny Respondent's Petition for Rehearing.

II. This Court correctly reversed the award of attorney fees when it reversed the grant of specific performance.

Grapevine deploys preservation as its grounds to request rehearing of the Opinion's reversal and remand on attorney fees. But this Court correctly reversed the award of fees when it reversed the grant of specific performance.[10] The attorney's fees provision relied upon by the trial court appears in the Lease, along with the option provision that Grapevine wrongly sought to specifically enforce, and it allows attorney's fees in the event of "default by Landlord." (R. pp. 1263-64, § 38). The trial court awarded the fees in conjunction with its orders granting specific performance, which the Opinion has reversed. Quite simply, because this Court correctly reversed that underlying relief, it is likewise proper for it to reverse and remand the associated

[10] Respectfully, this Court should grant Appellants' Petition for Partial Rehearing, filed September 15, 2025, and reverse the trial court's errors of law regarding the construction of the Lease contract, including because of the law on options set forth in this Return. For this additional reason, upon such rehearing, the award of attorney's fees should be reversed.

award for attorneys' fees, which were generated by six partners, five associates, two experts, five paralegals, and a legal assistant, in pursuit of Grapevine's ten causes of action against five defendants.

As to preservation, Grapevine wrongly urges an overly stringent application of the preservation rules. It was sufficient to preserve the issue of the reasonableness of Grapevine's attorney fees that Appellants (1) raised to the trial court the argument that Grapevine's fees were unreasonable and unsupported,[11] including under the *Blumberg* factors, and (2) that the trial court then ruled that it had carefully considered each of those factors in rendering its award—specifically arriving at is ruling notwithstanding that "Plaintiff's billing statements make it difficult to determine and delineate the work completed in furtherance of the breach of lease claims." (R. pp. 10, *citing Blumberg v. Nealco, Inc.*, 427 S.E.2d 659 (1993)). Because the question was thus raised to and ruled upon by the trial court, the issue of reasonableness of the fees, including in light of the redacted invoices, was thereby preserved—and this Court properly reversed and remanded.

Appellants were not required under the preservation rules to further prod the trial court for more rulings on reasonableness and the *Blumberg* factors, although Grapevine wrongly urges this Court to find that they were. *Elam v. South Carolina Dept. of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772 (2004) ("[O]ur rules contemplate two basic situations in which a party should consider filing a Rule 59(e) motion. A party *may* wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party *must* file such a motion when an

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[11] Citing *Blumberg*, Appellants argued to the trial court: "With due respect to Plaintiff's Counsel, the fee affidavit submitted in support of Plaintiff's motion is not reasonable. While it is impossible for Defendants to determine the precise nature of the legal services provided by each of the seventeen lawyers, paralegals and support staff whose fees are claimed as part of Plaintiff's fee application, the staffing levels assigned to this case by Plaintiff's Counsel appear excessive. It is also troubling that Plaintiff now claims Defendants somehow 'complicated' this case by defending it." (R. pp. 300-306).

issue or argument has been raised, but not ruled on, in order to preserve it for appellate review.") (emphasis in original). Appellants nonetheless did ask for reconsideration (a "may wish" situation under *Elam*), arguing that "the court failed to consider that the plaintiff also pursued claims against multiple defendants, most of whom had no contractual relationship with the plaintiff. As a result, the court's award of attorney's fees and costs places a disproportionate burden upon Defendant Riverwalk River District Building 6, LLC to pay attorney's fees and costs ***for which it has no contractual obligation*** and it disproportionately awards to Plaintiff attorney's fees and costs that it has no contractual or statutory right to recover." (R. p. 314). The trial court rejected this argument, denying the motion to reconsider. (R. pp. 27-28). This argument, as well, is therefore preserved, and it also sustains the Opinion's reversal of the award.

Ultimately, the trial court's errors each boil down to error of law in its construction of the Lease, and the issue of attorney's fees is no exception. Because this Court correctly reversed the trial court's error as to specific performance, this Court also correctly reversed and remanded the award of attorney's fees. Respondent's Petition for Rehearing should be denied.

CONCLUSION

For the reasons set forth herein, as well as in Appellants' Brief and Reply Brief, this Court should deny Respondent's Petition for Rehearing on the issues of specific performance and attorney fees. However, the Respondent's argument accentuates the reality that Grapevine did not transform the Lease's option clause into an enforceable purchase contract; Appellants therefore respectfully request that this Court grant Appellants' Petition for Partial Rehearing and reverse the trial court's errors of law on contract construction and breach of contract.

[signature block appears on next page]

Respectfully submitted,

FORD WALLACE THOMSON LLC

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……..……..……Appellants.

PROOF OF SERVICE

I certify that on September 15, 2025, I served Appellants' Return in Opposition to Respondent's Petition for Rehearing on Respondent by sending the same to its attorneys of record at their email addresses of record with AIS.

s/ Ainsley Tillman

Attorney for Appellants