THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas
Martha M. Rivers, Circuit Court Judge

Appellate Case No. 2025-000150
Case No. 2022-CP-02-2323
Case No. 2022-CP-02-2324

Heather Crespo, Respondent/Appellant,

v.

Rhett Riviere, Josee Riviere, Chase Enterprises, LLC, and R.C. Riviere Properties, LLC, Defendants,

AND

Gabriel Crespo, Respondent/Appellant,

v.

Rhett Riviere, Josee Riviere, Chase Enterprises, LLC, and R.C. Riviere Properties, LLC, Defendants,

of which Rhett Riviere, Chase Enterprises, LLC, and R.C. Riviere Properties, LLC, are the Appellants/Respondents,

and

Josee Riviere is the Respondent/Appellant.

Respondents/Appellants Heather Crespo and Gabriel Crespo's Reply Brief to Appellants/Respondents Brief of Rhett Riviere, Chase Enterprises, LLC, and R.C. Riviere Properties, LLC

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February 9, 2026
Greenville, South Carolina

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I. The circuit court erred in limiting damages under the South Carolina Unfair Trade Practice Act and revising the jury's verdict.

The South Carolina Unfair Trade Practices Act ("UTPA"),provides that "[a]ny person who suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of an unfair or deceptive method, act or practice declared unlawful by § 39-5-20 may bring an action individually, but not in a representative capacity, to recover actual damages." S.C. Code Ann. § 39-5-140. Citing to two federal cases, Appellants/Respondents Rhett Rivere, Chase Enterprises, LLC of South Carolina, and R.C. Rivere Properties, LLC (herein "Respondents") argue that the UTPA does not allow for the recovery of any non-economic damages. (Appellants/Respondents' Initial Br. at 9) (citing *Jones v. Ram Med., Inc.*, 807 F. Supp. 2d 501, 510 (D.S.C. 2011) and *Green v. Momentum Motor Grp., LLC*, No. 0:17-cv-01499-CMC, 2017 WL 5593750, at *6 and 15 (D.S.C. Nov. 21, 2017)). While the courts in these two cases discuss damages under the UTPA, neither actually analyzes the issue. In *Jones,* the court held that because the plaintiff did not join in the UTPA claim, "there is no issue to be resolved." 807 F. Supp. 2d at 510. Likewise, in *Green*, the court essentially ruled that in the "the absence of any South Carolina decision holding emotional distress damages available under SCUTPA, the court finds such damages are not recoverable." 2017 WL 5593750, at 16. The court did not conduct any statutory analysis. Moreover, these decisions are not binding South Carolina precedent.

Turning to the South Carolina cases cited by Respondents, these cases also did not rule on the specific issue before the Court. In *Global Prot. Corp. v. Halbersberg*, the Court specifically stated "[a]ctual damages under the UTPA include special or consequential damages that are a natural and proximate result of deceptive conduct." 332 S.C. 149, 503 S.E.2d 483 (Ct. App. 1998). Contrary to Respondents' argument, actual damages were not limited to "demonstrable economic

losses or applied common-law measures of economic harm." The Court also did not limit damages in that manner in *Fields v. Yarborough Ford, Inc*., 307 S.C. 207, 210-11, 414 S.E.2d 164, 166-67 (1992); and *Payne v. Holiday Towers Inc*., 283 S.C. 210, 216, 321 S.E.2d 179, 182 (Ct. App. 1984). In fact, in *Payne*, the court held that actual damages "means common law damages" and "'[a]ctual damages' or 'compensatory damages' are damages in satisfaction of, or in recompense for, loss or injury sustained." 283 S.C. at 216, 321 S.E.2d at 182.

The evidence supports the jury's verdicts and the circuit court erred in reducing them. Despite acknowledging in its own finding that both Plaintiffs testified as to reputational injury, (R. p. 52; R. p. 64), the circuit court erred in failing to consider any special or consequential damages, which includes reputational injury. The circuit court erred in limiting damages under the UTPA.

II. The circuit court erred by invading the jury's province and substituting its damages calculation amount for the jury's verdict under the UPTA claim.

Respondents acknowledge that the circuit court erred by invading the jury's province when it substituted its damages calculation amount for the jury's verdict under the UTPA claim. (Appellants/Respondents' Br. at 6). Here, the circuit court did not find the verdict was grossly excessive nor provide compelling reasons to invade the jury's province. When reducing a verdict amount, the trial court must (1) provide "compelling reasons" to invade the province of the jury with respect to damages determinations and (2) support that decision with unassailable evidence that the jury disregarded the facts to reach a grossly excessive award. *See Riley v. Ford Motor Co.,* 414 S.C. 185, 193, 777 S.E.2d 824, 828 (2015). Here, the circuit court specifically held that the verdicts were not excessive, but yet it still reduced the verdict for the UTPA claim relying on a speculative assessment of how the jury determined different damages. The circuit court should not, and could not, simply reduce the amount of the verdict for the UTPA claim. In doing so, the circuit

court improperly invaded the jury's province. Accordingly, the circuit court erred in reducing the verdicts.

III. The circuit court erred by invading the jury's province and substituting its damages calculation amount for the jury's verdict under the constructive fraud claim.

As Respondents acknowledge, the circuit court by substituting its own valuation for the jury' verdict on the constructive fraud claim committed the same procedural error as it did on the UTPA claim. (Appellants/Respondents' Br. at 6).

IV. The circuit court erred by awarding only 1/6 of the requested attorneys' fees based simply on the UTPA claim being one of the six claims brought by Plaintiffs.

Respondents contend that the circuit court's approach was reasonable and the award of one-sixth of the requested fees was "mathematically logical and conservative" and necessary because the fee petition was not detailed enough to discern what time was spent on which claim. Plaintiffs disagree.

Specifically, Respondents argue that Plaintiffs mischaracterize the holding in *Taylor v. Nix*, 307 S.C. 551, 557, 416 S.E.2d 619, 622 (1992). (Appellants/Respondents' Br. at 12). Plaintiffs, however, did not mischaracterize the holding in *Taylor*; rather Respondents attempt to create an exception and misapply *Taylor*. In *Taylor*, the Court specifically held that "when an action in which attorney fees are recoverable by statute is joined with alternative theories of recovery based on the same transaction, *no allocation of attorney's services need be made except to the extent counsel admits that a portion of the services was totally unrelated to the statutory claim* or it is shown that the services related to issues which were clearly beyond the scope of the statutory claim proceeding. 307 S.C. at 557, 416 S.E.2d at 622 (emphasis added).

Respondents acknowledge that *Taylor* holds that no allocation is required when counsel admits services were unrelated to the statutory claim or when services are clearly beyond its scope, but argue that the exception does not apply here because "counsel sought to recover the entirety of their fees based on success in (sic) one of six claims." (Appellants/Respondents' Br. at 11). Nothing in *Taylor* supports this argument. In fact, the holding in *Taylor* contradicts such an argument.

Plaintiffs' counsel did not admit that a portion of their services were unrelated to the UTPA claim. In fact, counsel argued the exact opposite – that the claims were intertwined such that it was not possible to separate the time spent on each individual claim. Importantly, the circuit court agreed that the claims were intertwined and could not be broken down by claims. (R. p. 77) (finding that "the plaintiffs were not able to break down the fees and costs by causes of action and all causes are based on the same nexus of fact."). Respondents also acknowledge all of the claims arose from the same factual nucleus and that the UTPA claim required more specific proof of deceptive trade practices, ascertainable monetary losses, and willfulness. (Appellants/Respondents' Br. at 11). As argued in their Initial Brief, the circuit court erred by reducing the attorneys' fees award to only 1/6 of the fees requested when the claims here are intertwined and cannot be broken down by claim - as everyone has acknowledged they are in this case. Accordingly, the circuit court erred in reducing the fees sought by 5/6.

CONCLUSION

For the above reasons and those stated in Respondents/Appellants' Brief, the Court should reinstate the jury's verdict and reverse the circuit court's award of attorneys' and award the fees sought in the fee petition.

Respectfully submitted,

/s/ Deborah B. Barbier

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