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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE BERKELEY COUNTY COURT OF COMMON PLEAS
Roger M. Young, Circuit Court Judge
Case No. 2010-CP-08-1771

RECEIVED
AUG 25 2015
SC Court of Appeals

Appellate Case No. 2014-000183

North Pleasant, LLC and Vanguard Development Group, LLC, Appellants

vs.

South Carolina Coastal Conservation League and Edward Dana Beach, Defendants

Of whom South Carolina Coastal Conservation League is the Respondent.

PETITION FOR REHEARING BY APPELLANTS NORTH PLEASANT, LLC AND VANGUARD DEVELOPMENT GROUP, LLC

Appellants, North Pleasant, LLC and Vanguard Development Group, LLC, hereby petition pursuant to Rule 221 of the SCACR for rehearing of the decision of this Court filed August 12, 2015 affirming the rulings of the trial judge from which Appellants appealed granting summary judgment to the Defendant on their claim for violation of the S.C. Unfair Trade Practices Act and granting a directed verdict to Defendant on the claim for tortious interference with contract.

MEMORANDUM IN SUPPORT OF PETITION FOR REHEARING

I.

Summary of Proceedings

This case involves interference by the S.C. Coastal Conservation League ("the League") and Dana Beach, its Director, with a contract for the sale of a tract of land in Berkeley County called the

Keystone Tract. At the time of the contract, the land was owned by North Pleasant, LLC ("North Pleasant") who contracted to sell it to Vanguard Properties of the Carolinas, LLC, a Charlotte based land investment company owned by Robert Pittinger ("Pittinger"). The purchase price was to be $23,920,000.00. The listing real estate agency for the sale was Charleston based Vanguard Development Group, LLC whose principal is David Grubbs ("Grubbs"). [1] Three days before the end of the due diligence period, on May 18, 2007, the office of the buyer received a telephone call from a staff employee of the League in which he announced the League was opposed to any development in that part of Berkeley County, threatened the buyer with opposition to any development and falsely claimed that the League had fought and stopped a development by D. R. Horton on land near the Keystone Tract.

After receiving this threat, Robert Pittinger, directed his staff to cancel the contract and demand return of the earnest money previously deposited. This action was commenced by North Pleasant and Vanguard Development with a complaint filed on May 20, 2010 alleging that both the League and Dana Beach were liable to them for their losses and for punitive damages for intentional interference with a contract, for intentional interference with prospective contractual relations, breach of the S.C. Unfair Trade Practices Act, S.C. Code § 39-5-10, and publication of injurious falsehoods. Defendants answered on July 19, 2010.

Defendants moved for partial summary judgment on May 26, 2011 as to the Unfair Trade Practices Act claim arguing that because it was a "public advocacy group," the League was not engaged in trade or commerce as defined by the Act. Both parties submitted affidavits and other evidence. On July 20, 2011, the trial judge, the Honorable Roger Young, issued an order denying

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[1] Vanguard Development Group is in no way affiliated with the buyer, Vanguard Properties of the Carolinas.

Defendant's motion, incorrectly characterizing it as a motion to dismiss, and holding, "I have carefully considered the arguments presented by counsel, as well as supporting memoranda. ***Viewing the evidence as a whole and in the light most favorable to the plaintiff***, I find that the plaintiff has stated facts sufficient to constitute a cause of action in the pleadings filed with this court." (Emphasis supplied). (R.p. 1).

Defendants filed a motion for summary judgment as to all claims on July 30, 2012. On December 18, 2012, the trial judge, the Honorable Roger Young, granted Defendants' motion as to Dana Beach for all claims and as to the Unfair Trade Practices Act claim as to both defendants. He denied the motion as to the tortious interference with contract and prospective contractual relationships claims, as well as the injurious falsehood claims. As to the Unfair Trade Practices claim, Judge Young held, contrary to his Order in 2011, that as the League was a public advocacy group, it was not engaged in trade or commerce as a matter of law and, thus, not subject to the Unfair Trade Practices Act. (R.p. 5).

The case was tried before a jury in Berkeley County December 9 – 11, 2013. At the conclusion of Appellants' case, Defendants moved for directed verdict as to the interference with contract and injurious falsehood claims. The trial judge, the Honorable Roger Young, granted the motion as to all claims. His decision is reflected only in his statements from the bench, the Order itself being a form order. (R.p. 1001-1015, 761). The basis for his grant of directed verdict was his finding that no evidence was presented to the jury that the League's actions caused the buyer to abandon the contract to purchase the Keystone Tract. [2] Appellants filed a Motion to

[2] While the only legal basis for a directed verdict is the *total lack of evidence* of causation, that is not what the trial judge found. His statements, in which he clearly weighed the evidence for and against causation, constitute his finding that the evidence did not sufficiently *prove causation*.

Alter or Amend on December 19, 2013 which was denied by the trial judge on January 17, 2014. (R.p. 752, 9). Appellants filed a Notice of Appeal on January 7, 2014. (Notice of Appeal).

This Court affirmed the decision of the Circuit Court on August 12, 2015. The decision of this Court held that South Carolina does not recognize the tort of injurious falsehood. On the causes of action for tortuous interference with contract and for violation of the S.C. Unfair Trade Practices Act, this Court held that there was no evidence in the record: 1) sufficient to allow the issue of causation as to the tort of tortuous interference with contract to go to the jury; or 2) sufficient to raise a genuine issue of material fact as to whether the League committed unfair or deceptive acts within the meaning of the Act. In both of the latter holdings the Court disregarded substantial evidence in the record and in doing so was in error.

II.

Evidence of Unfair and/or Deceptive Acts by the League

Standard for Summary Judgment.

"Because it is a drastic remedy, summary judgment should be cautiously invoked so no person will be improperly deprived of a trial of the disputed factual issues." McCall v. State Farm Mut. Auto. Ins. Co., 359 S.C. 372, 376-77, 597 S.E.2d 181, 184 (Ct. App. 2004)(quoting Murray v. Holnam, Inc., 344 S.C. 129, 138, 542 S.E.2d 743, 747 (Ct. App. 2001). Furthermore, in determining whether any triable issues of fact exist, the court must view the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the non-moving party. Manning v. Quinn, 294 S.C. 383, 365 S.E.2d 24 (1988). If there is a "scintilla of evidence" in the record which gives rise to a genuine issue of material fact, summary judgment should not be granted. Howle v. Woods, 231 S.C. 75, 97 S.E.2d 205 (1957).

A trial court may grant a motion for summary judgment only when 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; *See also,* Tupper v. Dorchester County, 326 S.C. 318, 487 S.E.2d 187 (1997). "Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied."

Evidence of Unfair or Deceptive Acts:

The trial judge did not find that there was a lack of evidence of unfair or deceptive acts within the meaning of the S.C. Unfair Trade Practices Act. He found that the League could not violate the Act because it was a public interest organization engaged in advocacy of issues related to what it claimed was environmental protection. This Court did not address that issue, but instead held that there was no evidence sufficient to give rise to a genuine issue of material fact which would make a grant of summary judgment erroneous. It has frequently been held that a "mere scintilla" of evidence is sufficient to defeat a motion for summary judgment. The record is more than sufficient to create a genuine issue of material fact that the League engaged in acts that were both unfair and deceptive within the meaning of the Act.

When the Leauge, acting through Beach and Davis, set out, first, to coerce North Pleasant to either part with title completely in favor of a public agency, or to agree to give up the right to make profitable development use of the property, and, second, to cause Pittenger not to purchase the property, they did so by spreading falsehoods among the Highway 41 community and among local government and landowning interests and lying to Pittenger. Specifically, 1) they inflamed the residents by telling them what they knew or should have known to be false that their taxes would go up and they would be required to pay for infrastructure improvements if the Keystone

property was developed; 2) they falsely claimed to landowners and local government leaders that North Pleasant only planned to develop 35 home sites; and 3) they deliberately lied to Pittenger claiming falsely that they had stopped D.R. Horton from developing a nearby site. (R.p. 237-242, 245-246, 251-252). These actions are precisely the kind of deceptive and unfair practices recognized to fall under the Act's prohibition. Gentry v. Younce, 337 S.C. 1, 12, 522 S.E.2d 137, 143 (1999), "an act is 'unfair' when it is offensive to public policy or when it is immoral, unethical, or oppressive." The evidence, including the admissions of the League's own representatives, is conclusive that bullying, threatening and spreading falsehoods are "unfair acts" as defined by our courts. (R.p. 297-299).

To constitute an unfair trade practice, an act must affect the public interest, which has been interpreted as an act capable of repetition. Our courts have recognized that actual repetition establishes the capacity of repetition sufficient to prove an effect on public policy. Daisy Outdoor Advertising Co. v. Abbott, 322 S.C. 489, 473 S.E.2d 47 (1996). The record that was before the trial judge contained substantial evidence that the League has repeatedly employed the same unfair and deceptive practices as those employed against the Appellants with respect to the Keystone property. In Awendaw, the League repeatedly made the same false claims to residents that development would increase their property taxes as was made by Hamilton Davis with respect to the Keystone Property. (R.p. 428-432). In addition, the record of three other projects confirms that the League routinely employs unfair and deceptive practices to advance the goals of its client contributors. (R.p. 60-63, 434-468, 694-742). [3]

III.

[3] The sole basis for the trial judge's grant of summary judgment on the UPTA claim was his erroneous ruling that the League was not engaged in trade or commerce, as a matter of law despite all the evidence in the record that they sell their services.

Evidence that the League's Actions Caused Pittinger to Breach the Contract

In its discussion of the record related to tortuous interference with contract, this Court made the same mistake as the trial court. Only the evidence supporting an inference that Pittinger abandoned the contract because of motivations other than the dishonesty and the threats communicated to him by the League. In doing so, the Court disregarded the precedent cited in the decision to the effect that a directed verdict is proper only when the evidence is such that only one reasonable inference may be deduced from it and that such inference in the context of this case is that the League did not cause Pittinger to breach the contract. As the Court noted, proximate cause is normally a question of fact for determination by the jury. Eldeco , Inc. v. Charleston County School District, 372 S.C. 470, 480, 642 S.E.2d 726, 731 (2007); and McKnight v. S.C. Department of Corrections, 385 S.C. 380, 390, 684 S.E.2d 566 (Ct. App. 2009).

On appeal of an order granting directed verdict, the appellate court applies the same standard as that required of the trial court. The evidence and all reasonable inferences from the evidence must be considered in the light most favorable to the party opposing the motion. Fairchild v. S.C. Department of Transportation, 398 S.C. 90, 727 S.E.2d 407 (2012), citing Weir v. Citicorp Nat'l Servs, Inc., 312 S.C. 511, 435 S.E.2d 864 (1993). A case should be submitted to the jury when the evidence is susceptible to more than one reasonable inference. Fairchild, 727 S.E.2d at 411.

Neither the trial judge nor the appellate court has authority to weigh the testimony and other evidence in ruling on a motion for a directed verdict. Fairchild, 727 S.E.2d at 411. Nor should the trial or appellate courts decide credibility issues or resolve conflicts in testimony or evidence in ruling on a directed verdict motion. Harvey v. Strickland, 350 S.C. 303, 308, 566 S.E.2d 529, 532 (2002); and Winters v. Fiddle, 394 S.C. 629, 716 S.E.2d 316 (Ct. App. 2011). In

ruling on a motion for directed verdict, the trial court is only authorized to determine the existence or non-existence of evidence. Roddey v. Wal-Mart Stores East, LP, 400 S.C. 59, 732 S.E. 2d 635, 647 (2012) (citing S.C. Fed. Credit Union v. Higgins, 394 S.C. 189, 714 S.E.2d 550 (2011)); Winters, and Pond Place Partners, Inc. v. Poole, 351 S.C. 1, 567 S.E.2d 881, 888 (Ct. App. 2002).

The sole basis for the trial court's decision to grant the League's motion for a directed verdict was its determination that Appellants had not shown any evidence that the League's actions, and specifically the Davis call, proximately caused their harm. Appellants argued that the contract was effectively terminated on Sunday, May 20, when Pittinger gave the ultimatum to either grant an extension or have the contract terminated that day. In addressing this argument, the trial court made the factual distinction that while termination on Sunday the 20th would have been the proximate cause of Appellants harm, the termination on the 25th could not, as a matter of law, amount to proximate cause. Specifically and clearly, Judge Young said:

> If they had pulled the plug on the deal that day, then you got but for, and I say you go to the jury, but the problem is they asked for an extension, and they didn't pull the plug on the deal for another week or so after they got information about significant opposition from Dan Davis. Judge Young, Hearing (R.p. 1009, lines 5-10).
>
> The conversation itself that took place a couple of days earlier with Hamilton Davis simply alerted them that they needed to look into some factors and they did, but they didn't cancel the contract on that day, so that's not a jury issue as to causation, or proximate cause. It was not a but for Hamilton Davis's conversation they cancelled the deal. (R.p. 1009, lines 17-23).

If termination on the 20th would amount to enough evidence of proximate cause to get to a jury, which Judge Young conceded, it is also for the jury to decide whether termination five days later would also be proximate cause. Since Judge Young agrees that if proximate cause had been satisfied the case would have gone to the jury, that is the sole issue to consider with respect to the Tortious Interference claims.

The elements of a claim of tortious interference with contractual relations are: (1) the existence of a contract; (2) knowledge of the contract; (3) intentional procurement of its breach; (4) the absence of justification; and (5) resulting damages. Eldeco, Inc. v. Charleston County Sch. Dist., 642 S.E.2d 726, 731 (S.C. 2007). The elements of a claim of intentional interference with prospective contractual relations are: (1) intentional interference with prospective contractual relations; (2) for an improper purpose or by improper methods; and (3) resulting in injury. Id., p. 731. The only elements at issue in this appeal are the proximate cause elements, "resulting damages," the fifth and third elements, respectively. Since the proximate cause language for both torts is identical, they will be addressed together, and will be referred to collectively as the "Tortious Interference" claims.

In order to establish proximate cause, a plaintiff is only required to establish that the action was either a "substantial factor" in the harm or a "but for" cause of it. "In other words, if the actor's conduct is a substantial factor in the harm to another, the fact that he neither foresaw nor should have foreseen the extent of harm or the manner in which it occurred does not negative his liability." J.T. Baggerly v. CSX Transp., Inc., 370 S.C. 362, 635 S.E.2d 97, 101 (S.C. 2006). See, also, Bocook Outdoor Media, Inc. v. Summey Outdoor Adver., Inc., 294 S.C. 169, 178, 363 S.E.2d 390 (Ct. App. 1987), overruled on other grounds by, O'Neal v. Bowles, 314 S.C. 525, 431 S.E.2d 555 (Ct. App. 1987), citing Todd v. South Carolina Farm Bureau Mutual Insurance, 283 S.C. 155, 164; 321 S.E.2d 602, 607 (Ct. App. 1984). (In the context of a tortious interference claim, the plaintiff only needs to establish "but for" causation.) See Santoro v. Schulthess, 384 S.C. 250, 681 S.E.2d 897 (App., 2009) (Plaintiff only needed to allege "but for" causation to avoid dismissal of a tortious interference claim.) In order to survive the League's motion for a directed verdict, Appellants only needed to produce "some evidence" that the Davis call was a "but for" factor in Pittinger's

termination of the agreement. Not only did Appellants succeed in producing such evidence, there was no contrary evidence.

The issue of whether the actions of the defendant proximately caused the injury complained of by a plaintiff in an action in tort is a question of fact for determination by the jury. Gause v. Smithers, 403 S.C. 140, 742 S.E.2d 644, 649 (2013)(citing Player v. Thompson, 259 S.C. 600, 193 S.E.2d531, 533 (1972)). The question of proximate cause, "may be resolved either by direct or circumstantial evidence." Roddey, 732 S.E.2d at 647 (quoting Madison ex rel. Bryant v. Babcock Center, Inc., 371 S.C. 123, 638, S.E.2d 650, 662 (2006). The touchstone of proximate cause is foreseeabilty which is determined by looking to the natural and probable consequences of the defendant's conduct. Gause,, 742 S.E.2d at 649 (citing J.T. Baggerly v. CSX Transp., Inc., 370 S.C. 362, 635 S.E.2d 97, 101 (2006)).

The question of proximate causation is completely factual. All aspects of the inquiry into causation are factual questions for the jury. "Only in rare or exceptional cases may the issue of proximate cause be decided as a matter of law." Gause,, 742 S.E.2d at 649 (citing Bailey v. Segars, 346 S

There was evidence, both direct and circumstantial, from which it can be inferred that the actions of the South Carolina Coastal Conservation League caused the injury complained of by Appellants.

Josh Hulen, the realtor representing North Pleasant in the contract with Pittenger, testified that there was no hint of any problem from Pittenger prior to the Davis call. Despite the fact that extensive due diligence had been undertaken by Pittenger, no problems had been identified by Pittenger's staff. (R.p. 850-851). On the Wednesday (May 16) before the due diligence period was to end on Monday, May 21, he was assured by Pittinger's office that they were "on track for

Monday" when the final $450,000 of earnest money was to be deposited. (R.p. 854, 1179). The $450,000 was deposited by Pittinger. (R.p. 776, 855-856). Hulen also testified that the Hamilton Davis call was the reason for Pittenger's refusal to go forward with the purchase of the property. (R.p. 878-879).

The testimony by Robert Pittenger leaves no doubt that the reason he chose not to consummate his contract to purchase the property was the Hamilton Davis call to Daniel Burns on May 18. In fact, prior to the call, his office had not only confirmed to Josh Hulen, North Pleasant's agent, that the sale was "on track," he was actively marketing the property to investors. (R.p. 1160). After Hamilton Davis' call to, Burns, Pittinger commenced an investigation into the League. He concluded that he had a "tiger by the tail" and would be in for "a war" with "some opposing group out there that was going to get real engaged" (meaning the League), a war he did not want to fight. (R.p. 1110-1114, 1115-1116, 1118, 1124-1127, 1130-1131, 1140, 1143-1144). Pittinger did not find any environmental or physical properties at the property during the due diligence period that prompted him to abandon the purchase. (R.p. 850-851). There was substantial evidence presented in the Appellants' case in chief from which the jury could conclude that it was the threat by the League coupled with the lies Hamilton Davis told Burns which caused Pittinger to cancel the contract. Pittinger's characterization of the impact of the Hamilton Davis call is summarized in this exchange:

> Q: Let me ask you this. If there had not been opposition that was communicated to you by Mr. Davis from the county and Mr. Davis from the Coastal Conservation League, and everything else were the same, would this have been a desirable project for you at the time, if you know?

A: Well the information we had, yes. It was fortunate we kept digging. (R.p. 1146-1147).

The only thing Pittinger learned as the result of the call from Hamilton Davis is that he was being threatened by the League to involve him in an expensive fight he did not wish to suffer through.

There is also ample circumstantial evidence from which the jury could conclude that Pittinger's cancellation of the contract was the direct result of the threats made to him by the League's Hamilton Davis. There was no hesitation by Pittinger's staff about purchasing the property until Davis called Daniel Burns as is evidenced by the email to Appellants that Pittinger was "on track for Monday" when the final $450,000 of earnest money was to be deposited. (R.p. 854, 1179). Pittinger was marketing the property and the final $450,000 of earnest money was deposited by Monday, May 21. The proximity of the Davis call to the termination (two days before the "ultimatum" and seven days before termination) is, in and of itself, ample evidence of causation. [4]

Even if the jury were to believe that other considerations also clouded Pittinger's mind concerning buying the property, on a directed verdict motion, it is not necessary that there be evidence that the defendant's acts were the sole cause of harm to the plaintiff. It is sufficient to deny a directed verdict if there is any evidence that the defendant's actions were one cause of that harm. Gause, 742 S.E.2d at 649; and J. T. Baggerty, 635 S.E.2d at 101.

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[4] The trial judge did not touch on foreseeability in his ruling. The evidence presented to the jury was not only sufficient to raise the inference that Pittinger cancelled the contract. It was also more than sufficient to raise the inference that it was entirely foreseeable to the League that making statements such as those by Hamilton Davis to Daniel Burns could cause a buyer to cancel a contract.

The trial judge erred by weighing and evaluating the credibility of the evidence in deciding to grant the motion for directed verdict and this Court seems to have also done so.

On every facet of the motion for directed verdict, the trial judge did not simply determine whether there was evidence of that element of proof; he weighed the evidence and disregarded evidence tending to support the Appellants' causes of action, explaining that he found the Defendants' evidence more persuasive. In doing this, he committed fundamental error and assumed the role of the jury. Roddey, 732 S.E.2d at 647; and Pond Place Partners, 727 S.E.2d at 411.

1. The telephone conversation between Hamilton Davis and Daniel Burns:

The trial judge repeatedly disregarded the contemporaneously prepared email summary of the conversation by Burns – which was admitted into evidence – commenting that when deposed years later, Burns did not recall the details of the conversation. The trial judge referred to the testimony of Davis as if his characterization of the conversation were the only evidence of what he said to Burns. For instance with respect to the portion of the email recounting that Davis had told Burns the League "working with the county to get rezoning for the Keystone tract to a conservation easement so it can't be development (sic)", what Burns called the "scariest thing mentioned", the trial judge said:

> Mr. Hamilton Davis said, We can't do that. The government can't do that. Everybody knows that. So they got -- it's not like they told him the government was going to put a conservation easement on that. That seems to be Mr. Burns's mishearing, or misunderstanding of what he was hearing. (R.p. 976-977).

The email is clearly evidence from which the jury could conclude that its account of the call is accurate and not that of Davis. (R.p. 1186).

2. Whether the League fought D.R. Horton and stopped their nearby development:

The trial judge disregarded the clear statements by Daniel Burns in his email summary of his conversation with Hamilton Davis to the effect that Davis had claimed the League "fought" and "stopped" D.R. Horton from going forward with a development near the Keystone Tract. Burns was so impressed with this statement that he said that, "If they've in fact halted D. R. Horton, they've accomplished something." (R.p. 1186). The trial judge simply adopted the testimony of Hamilton Davis who claimed the League did not fight D.R. Horton, but worked with them. In doing so, he ignored the testimony of Mitchell Flannery, the D. R. Horton employee who dealt directly with Hamilton Davis and who testified Davis' statements to Burns were completely false. [5] The trial judge classified the difference between Davis' and Burns' version of what Davis said to Burns as "semantics." (R.p. 994). It was clearly not a matter of semantics to Burns and Pittinger. It was not a matter of semantics to Hamilton Davis, either, who described the Burns email as "inaccurate" with respect to the D.R. Horton comments. (R.p. 892-895). It was entirely improper for the trial judge to evaluate and weigh the testimony in this way, to reject the evidence submitted by Appellants and embrace the evidence submitted by Respondents.

3. The reason Pittinger cancelled the contract:

The trial judge completely disregarded evidence indicating that Pittinger cancelled the contract with North Pleasant because of the threats and lies from the League. He singled out only the conversation between Pittinger and Daniel Davis, the Berkeley County Administrator, in which Davis informed him there was opposition to development of the Keystone Tract as the "real but for" cause of the contract being cancelled. (R.p. 1007-1012). In doing so, he ignored the many

[5] Q: From your recollection, was it a true statement to say that the Coastal Conservation League fought D.R. Horton? A: No. (R.p. 1052, lines 15-18).
Q: Was it true to say the D.R. Horton halted the D.R. Horton project? A: No. (R.p. 1053, lines 16-18).

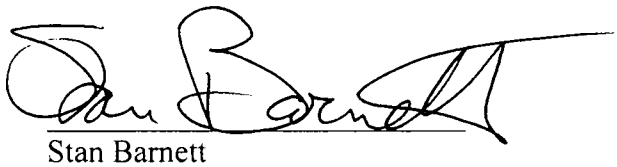
other statements by Pittinger as to his reasons for cancelling the contract. Pittinger testified that the call from Hamilton Davis "absolutely" caused him concern. (R.p. 1110). Prior to receiving this call, Pittinger was sending out letters to potential investors declaring that he was "in the process of acquiring" the property. (R.p. 1160). The call from the League triggered Pittinger's investigation into the League. (R.p. 1110-1111). His investigation led him to conclude that he had a "tiger by the tail" and would be involved in "a war" with the League. (R.p. 1116, 1124, 1130-1131). In addition, Josh Hulen testified that the Hamilton Davis call caused the contract to be terminated. (R.p. 878-879). At a minimum, the totality of the evidence creates a circumstantial case that the League's interference in the contract between North Pleasant and Pittinger was the cause of Pittinger's cancellation of the contract.

This competent, credible evidence was presented to the jury. They should have been allowed to weigh it, and it was improper for the trial court to do so. Certainly, a reasonable jury could have found that the Davis call was a "but for" cause of Pittinger's termination. Since Appellants produced evidence that the Davis call proximately caused their damages, the trial court erred in granting the League's motion for directed verdict with respect to the Tortious Interference claims.

CONCLUSION

Based on the arguments and evidence cited above, Appellants respectfully request that this Court reconsider its decision in this case affirming the grant of directed verdict as to the cause of action for tortuous interference with contract and the grant of summary judgment as to the S.C. Unfair Trade Practices Act.

Respectfully submitted,



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vs.

South Carolina Coastal Conservation League and Edward Dana Beach, Defendants,

Of whom South Carolina Coastal Conservation League is the Respondent,

CERTIFICATE OF SERVICE

I, Cindy Grooms, an employee of Smith, Bundy, Bybee & Barnett, P.C., hereby certify that a true and correct copy of the Memorandum in Support of Petition for Rehearing by Appellants was served on the undersigned parties by depositing a copy of same in the United States Mail, postage prepaid, first class, this 24th day of August, 2015 addressed as follows:

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August 24, 2015

VIA FEDERAL EXPRESS

The Honorable Jenny Abbott Kitchings
Clerk of Appeals Court of South Carolina
1015 Sumter Street
Columbia, SC 29201

RE: North Pleasant, LLC, et al. v. SCCCL, et al
Appellate Case No. 2014-000183

Dear Ms. Kitchings:

Enclosed for filing with your office please find the original and six (6) copies of the MEMORANDUM IN SUPPORT OF PETITION FOR REHEARING BY APPELLANT'S NORTH PLEASANT, LLC AND VANGUARD DEVELOPMENT, LLC in the above matter.

Our check for $25.00 is enclosed as the required filing fee. Please file the original and return one copy to me in the enclosed self-addressed stamped envelope.

Thank you for your assistance with this matter.

With kindest personal regards, I remain

Sincerely yours,

Stan Barnett
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SEB/cmg
Enclosures

cc: Charles E. Reynolds, Esquire
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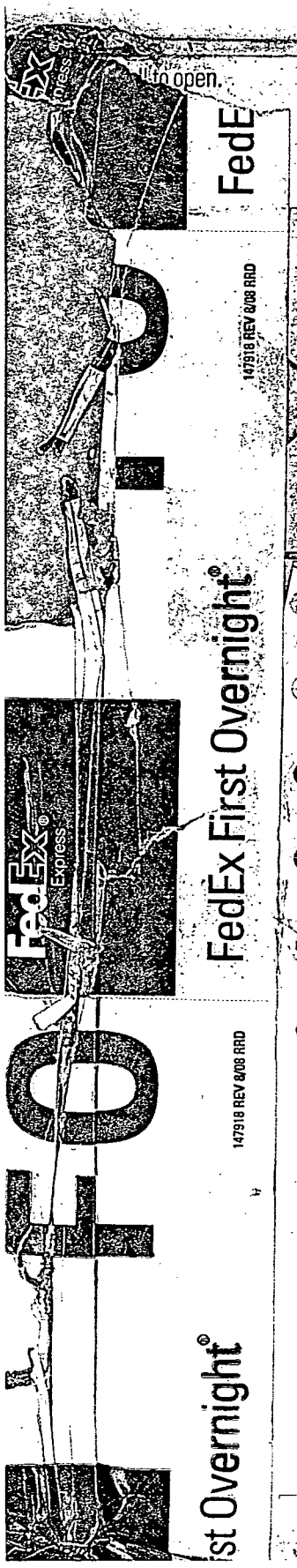

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FID 846277 24AUG15 CHSA 537C1

1 From Date 8-24-15
Sender's Name Stan Barnett Phone 843 881-1623
Company SMITH BUNDY BYBEE & BARNETT
Address [redacted] BLVD STE 100 Dept./Floor/Suite/Room
City MT PLEASANT State SC ZIP 29464-4146

RECEIVED
AUG 25 2015

2 Your Internal Billing Reference 10-0661
3 To Recipient's Name Hon. Jenny Hoyt Kitchings Phone
Company Clerk, SC Court of Appeals
Address 1015 Sumter Street
We cannot deliver to P.O. boxes or P.O. ZIP codes. Dept./Floor/Suite/Room
Address
Use this line for the HOLD location address or for continuation of your shipping address.
City Columbia State SC ZIP 29201

HOLD Weekday
FedEx location address REQUIRED. NOT available for FedEx First Overnight.
HOLD Saturday
FedEx location address REQUIRED. Available ONLY for FedEx Priority Overnight and FedEx 2Day to select locations.

0111283192

8042 4162 6032

FedEx
RK# 8042 4162 6032
0215
N1 USCA

4 Express Package Service
NOTE: Service order has changed. Plea
Next Business Day
FedEx First Overnight
Earliest next business morning delivery to sele locations. Friday shipments will be delivered o Monday unless SATURDAY Delivery is selecte
FedEx Priority Overnight
Next business morning.* Friday shipments wi delivered on Monday unless SATURDAY Deliv is selected.
FedEx Standard Overnight
Next business afternoon.* Saturday Delivery NOT available.
5 Packaging *Declared value lim
FedEx Envelope*
6 Special Handling and De
SATURDAY Delivery
NOT available for FedEx Standard Overnight
No Signature Required
Package may be left without obtaining a signature for delivery.
Does this shipment contain dang
One box must be check
No
Yes
As per attached Shipper's Declaration.
Dangerous goods (including dry ice) cannot be shipp or placed in a FedEx Express Drop Box.
7 Payment Bill to:
Sender
Acct. No. in Section 1 will be billed.
Recipient
Total Packages Total Weight
lbs
*Our liability is limited to US$100 unless you declare a h
Rev. Date 2/12 • Part #163134 • ©1994–2012 FedEx

Pull to open.

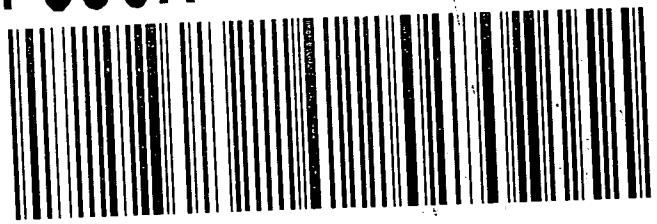
IIGHT

R ST

FedEx
RK# 8042 4162 6032
0215

TUE - 25 AUG 8:00A
FIRST OVERNIGHT
DSR
29201
SC-US
CAE

N1 USCA



FID 846277 24AUG15 CHSA 537C1/FECA/EE4B

ge
irbill

FedEx Tracking Number 8042 4162 60

Barnett Phone 843 881-1623

IDY BYBEE & BARNETT

VED BLVD STE 100 Dept./Floor/Suite/Room

State SC ZIP 29464-4146

5 2015 10-0660

of Appeals

ny Phone Kitchings

SC Court of Appeals

umter Street Dept./Floor/Suite/Room

HOLD Weekday
FedEx location address
REQUIRED. NOT available for FedEx First Overnight.

HOLD Saturday
FedEx location address
REQUIRED. Available ONLY for FedEx Priority Overnight and FedEx 2Day to select locations.

tinuation of your shipping address.

ia State SC ZIP 29201

0111283192

8042 4162 6032

4 Express Package Service * To most locations.

NOTE: Service order has changed. Please select carefully.

Packages up to 150 lbs.
For packages over 150 lbs., use the FedEx Express Freight US Airbill.

Next Business Day

- [x] FedEx First Overnight — Earliest next business morning delivery to select locations. Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
- [ ] FedEx Priority Overnight — Next business morning.* Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
- [ ] FedEx Standard Overnight — Next business afternoon.* Saturday Delivery NOT available.

2 or 3 Business Days

- [ ] FedEx 2Day A.M. — Second business morning.* Saturday Delivery NOT available.
- [ ] FedEx 2Day — Second business afternoon.* Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
- [ ] FedEx Express Saver — Third business day.* Saturday Delivery NOT available.

5 Packaging * Declared value limit $500.

- [x] FedEx Envelope*
- [ ] FedEx Pak*
- [ ] FedEx Box
- [ ] FedEx Tube
- [ ] Other

6 Special Handling and Delivery Signature Options

- [ ] SATURDAY Delivery — NOT available for FedEx Standard Overnight, FedEx 2Day A.M., or FedEx Express Saver.

- [ ] No Signature Required — Package may be left without obtaining a signature for delivery.
- [x] Direct Signature — Someone at recipient's address may sign for delivery. Fee applies.
- [ ] Indirect Signature — If no one is available at recipient's address, someone at a neighboring address may sign for delivery. For residential deliveries only. Fee applies.

Does this shipment contain dangerous goods? One box must be checked.

- [x] No
- [ ] Yes — As per attached Shipper's Declaration.
- [ ] Yes — Shipper's Declaration not required.
- [ ] Dry Ice — Dry Ice, 9, UN 1845 ____ x ____ kg

Dangerous goods (including dry ice) cannot be shipped in FedEx packaging or placed in a FedEx Express Drop Box.

- [ ] Cargo Aircraft Only

7 Payment Bill to:

Enter FedEx Acct. No. or Credit Card No. below.

- [x] Sender — Acct. No. in Section 1 will be billed.
- [ ] Recipient
- [ ] Third Party
- [ ] Credit Card
- [ ] Cash/Check

Obtain recip. Acct. No. [ ]

Total Packages ____ Total Weight ____ lbs.

Credit Card Auth. ____

†Our liability is limited to US$100 unless you declare a higher value. See the current FedEx Service Guide for details.

611

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fedex.com 1.800.GO-FedEx 1.800.463.3339

Insert shipping document here.