

STATE OF SOUTH CAROLINA
 COUNTY OF CHARLESTON
 IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2013-CP-1404
 2013-CP-10-1404

FILED
 2016 MAR 29 PM 2:39
 JULIE J. ARMSTRONG
 CLERK OF COURT

Ten State Street, LLP

William E. Danielson and Carol Danielson

William E. Danielson and Carol Danielson (Third Party Plaintiffs)

Timothy Scrantom (Third-Party Defendant)

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: Plaintiff Defendant
 or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

RECEIVED
 MAY 02 2016
 SC Court of Appeals

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: \$8,000.00 judgment in favor of William E. Danielson and Carol Danielson against Ten State Street, LLP and Timothy Scrantom (Third-Party Defendant) jointly and severally.

ORDER INFORMATION

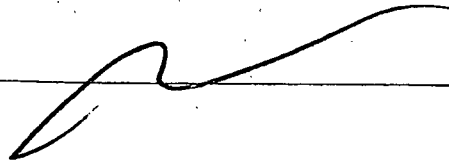
This order ends does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE PUBLIC INDEX		
Complete this section below when the judgment affects title to real or personal property, or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
William E. Danielson and Carol Danielson	Ten State Street, LLP	\$8000
William E. Danielson and Carol Danielson	Timothy Scrantom (Third-Party Defendant)	\$8000
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge



3062

Judge Code

3/25/16
Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

Ten State Street, LLP,)

Plaintiff,)

v.)

William E. Danielson and Carol Danielson,)

Defendants.)

William E. Danielson and Carol Danielson,)

Third- Party Plaintiffs,)

v.)

Timothy Scrantom,)

Third-Party Defendant.)

) IN THE COURT OF COMMON PLEAS
) IN THE NINTH JUDICIAL CIRCUIT

) CASE NO.: 2013-CP-10-1404

ORDER AND JUDGMENT

BY
JULIE J. ARMSTRONG
CLERK OF COURT
2016 MAR 29 PM 2:39

FILED

A trial was held on January 13, 2016 and February 10, 2016, attended by the attorneys of record. Testimony was taken, and from the testimony and evidence presented, I find and conclude as follows:

FINDINGS OF FACT


This case arises out of a Purchase Option Lease Agreement (“Agreement”) entered into between the parties. It was for the property located at 2302 Atlantic Avenue, Sullivan’s Island, South Carolina (the “Property”). The property is owned by William E. and Carol Danielson (hereafter as “Danielson” or “Owner”).

Ten State Street, LLP (hereafter as "Buyer" or "Ten State") entered into the Agreement with the Owner, and Timothy D. Scrantom personally guaranteed the payments due under the Agreement. Ten State Street is an entity controlled by Scrantom.

Mr. Scrantom had previously lived in the Sullivan's Island property for approximately two years under a lease agreement with the Owner before entering into the Agreement. At the time Buyer entered the Agreement, Scrantom was not in a financial position to purchase the Property because of credit issues arising out of his recent divorce. The Agreement provided Buyer with beneficial ownership while he lived in the home and undertook the due diligence to hire a contractor and design professional to design and price a major renovation of the home.

The Property consisted of a Main House which would be occupied by the Buyer and a Cottage that would be retained by the Danielsons for a 3 year time period.

The Purchase Option Lease Agreement

The Agreement is dated April 1, 2012. It is terminable at will by the Buyer for any reason. Conversely, the Agreement was not terminable by the Owner. *TT Ex 7A # 1.03* 


The Agreement provided the Buyer an exclusive option to purchase the Property at any time during the Option Period which is defined as three years from the April 1, 2012 effective date.

All prior payments made to Owner by Ten State Street, LLP were to be retained by Owner after Buyer terminated. Buyer took the property in an "as is" condition. As stated, Scrantom had lived in the home for the prior two years so was aware of the condition of the property.

The Agreement provides that the Buyer is to pay 1) quarterly Option Continuation Payments; 2) all costs and expenses of Owner relative to the Property - either directly or via

reimbursement to Owner; 3) Property taxes; 4) Property insurance; and 4) two Annual Purchase Price Payments. The Annual Purchase Price Payments were two \$50,000 payments – the first on April 1, 2012 and the second due on April 6, 2013.

As part of the beneficial ownership provided by the Agreement, the Buyer was allowed to apply for Building Permits and proceed with structural and cosmetic alterations to the Property. Buyer agreed to keep the main house in good working order, at his cost.

At the time the Agreement was executed, the Danielsons were approximately \$23,000 in arrears on payments due under their first mortgage. All parties were aware of the arrearage and it was included in the Agreement. The Owner agreed to pay such arrearage to avoid a default on the mortgage if pursued as a default by the mortgagee. *Att Ex 7A, # 11.04* 

The Parties also agreed that the Owner would use its best efforts, upon request by Buyer, to obtain the consent of the mortgage holders to the assumption of the mortgage debt by Buyer under the terms of the existing mortgage debt instrument. The Owners provided Mr. Scrantom with the applicable loan documents, which he held for approximately one year.

The Agreement states that if the Buyer remained in the Property past the last day of the term of the Agreement, he would become a tenant at will and shall pay rent of \$8,000 per month.

History

The Agreement was negotiated between the parties over a several month time period in early 2012. Timothy D. Scrantom is an attorney and English Barrister and is an expert in the field of business contracts. Specifically, he practices in the area of International Tax, Finance, Commercial Claim Investing and Fiscal Planning. He provides complex legal advice to clients all over the world, to include actually advising at least seven foreign countries on their offshore financial systems and regulations.

The Agreement was drafted by Mr. Scrantom and his attorney, John B. Hagerty of Nelson Mullins Riley & Scarborough, LLP.

It is undisputed that for the majority of the first year of the Agreement the Parties got along well and there were no significant issues. The mandatory payments were made. The Buyer proceeded with hiring design professionals, getting a number of competing bids to complete the work, and applying for the various building permits to perform the work. It is undisputed the necessary permits were granted and the buyer would be able to undertake the renovations.

In February 2013, the Buyer notified the Danielsons that he wanted to accelerate the closing date and close in April 2013 – prior to the deadline for the second \$50,000 Annual Purchase Price Payment. The Parties proceed^{ed} with the plan for a closing in March/April 2013. Then, in late February 2013 the Parties had a disagreement over several issues with subtenants in the Cottage – including Scrantom's daughter. One issue related to Scrantom's daughter's unreturned security deposit. This episode angered Scrantom and the relationship between the Parties became tense.

Soon thereafter a disagreement arose over a provision in the Agreement defining the Exercise Price and Interest Carry. The terms are defined as follows:


Exercise Price means (A) the unpaid Option Purchase Price plus the Option Exercise Fee, and (B) all Interest Carry and Unrealized Cottage Rents due and unpaid through and up to the later of (i) the Closing Date and (ii) the Option Expiration Date.

Interest Carry means an amount equal to two percent (2%) per annum on outstanding Mortgage Debt and Owner Debt, prorated to the date of payment.

The evidence shows that during the negotiation process in 2012, Bill Danielson didn't want to sell at 2012 prices. He believed that the market was getting stronger and wanted to base

the price on a market that would exist closer to the 2015 time period. Additionally, because of the very low interest rate on the Note for the property, he wanted to capitalize on Scrantom's "use" of that rate for the time period between 2012 – 2015. Meaning, before agreeing to sell the Property to Buyer at Buyer's sole option. Danielson expected to be paid 2% over the actual mortgage rate for the relevant time period, regardless of the date the closing actually occurred.

During the same mid-February 2012 time period the final bid was submitted for the Buyer's renovation project by Kelly Builders. The proposal was a good bit more than had been originally contemplated as there were both increases in the scope of improvements desired and structural issues with the house related to the porch additions / renovations the Buyer hoped to make. The final bid was in the amount of \$456,237.60.

Also during this time period a house came on the market located at 200 Bank Street on the harbor in the Old Village, Mount Pleasant SC. Mr. Scrantom and his wife Leigh Wilkes Scrantom went to view the home on or about Friday, February 22, 2013. On Monday, February 25, 2013, Timothy Scrantom sent the listing agent for the property the following email:  Ek. 9.

"There's a real negotiating point though, in addition to the ones you know about – I have been leasing 2302 Atlantic on Sullivan's for three years. Last March, I renegotiated a lease-purchase, and paid \$50,000 for the option and further \$35,000 in option continuation payments over the course of the year. We have been working with architects and builders for eight months, and have final plans and a "final final" bid from the builder who was selected from a round of bids. I have to close the option purchase before April 1 (which we have been working towards until we saw Bank Street) – or get out of it and lose the prior payments, investments (including design, time, etc. not to mention commitment).

We both love the house on Bank, but it quite a bit more than the house on Atlantic – and we still spend a good deal of time out of town so we are going to move, one way or another, in the next few days on a house, and we both hope the owners of Bank Street can meet our price."

Shortly thereafter, a purchase offer in the amount of \$2,400,000 was made for the purchase of the 200 Bank Street property. The purchase was made "all cash, not dependent on financing."

A contract was ultimately entered into between Mr. Scrantom and the Sellers of the Old Village property on February 26, 2013 for a purchase price of \$2,525,000. Then, only after a contract to purchase another house was finalized, did Scrantom attempt to rescind the Agreement. On March 1, 2013 Buyer sent Mr. Danielson an email attempting to rescind based on "mistakes/breaches." Thereafter, Buyer remained in the house through March and almost a week into April 2013 and never returned the keys to the home.

Thereafter, the Buyer filed suit against the Danielsons seeking a return of the monies paid pursuant to the Agreement less what he deemed fair rent for the year he had lived in the Property, plus additional damages.

Claims

The Second Amended Complaint has Causes of Actions for 1) Rescission – Mutual Mistake; 2) Rescission – Unilateral Mistake; 3) Breach of Contract; 4) Unjust Enrichment; 5) Equity; and 6) Constructive Trust. At trial, the Plaintiff/Buyer produced evidence and arguments in support of the claims for Rescission – Mutual Mistake, Rescission – Unilateral Mistake, and Breach of Contract.

Defendants filed a counterclaim against Ten State Street, LLP for breach of contract and a Third Party Complaint against Timothy Scrantom as guarantor.

Plaintiff's claims for breach of contract and rescission are based on three primary issues:

1. The fact that the Defendants were in "default" of their Note as of the time of execution of the Purchase Option Lease Agreement;



2. The purported failure to take reasonable steps to allow the Plaintiff/Buyer to assume the applicable mortgage; and
3. The disagreement over whether the 2% interest carry applies for the full three year time period.

Claimed Damages

Buyers' damage demand is for the return of all monies paid pursuant to the Agreement minus what he deems to be fair market rent. The monies paid are as follows:

1. First Annual Purchase Price Payment	\$50,000
2. First Option Continuation Payment	\$21,671
3. Second Option Continuation Payment	\$24,000
4. Third Option Continuation Payment	\$24,000
5. Fourth Option Continuation Payment	\$24,000
6. Property Taxes	\$14,681
7. Property Insurance (approximately)	\$10,000

At trial I limited the Plaintiff's damages claim to only those monies claimed owed that he paid to the Danielsons. I did not allow evidence about other purported damages as they lacked the necessary foundation and legal support.

The Danielsons have counterclaimed for damages to the Property caused by the Buyer, holdover rent of one month at \$8,000 based on Buyer's failure to vacate the property for almost a week into April, and related damages.

BUYER'S CLAIMS FOR BREACH / RESCISSION

I. Default

As stated, at the time the Agreement was executed, the Danielsons were in arrears approximately \$23,000 on their Note. This information was communicated to the Buyer and included in the Agreement. On a monthly basis, the loan servicer sent the Danielsons letters that were titled Demand Letter – Notice of Default. The letters contained the amount in arrears and



stated: "the monthly installments on your mortgage loan have not been paid when due, resulting in a breach of the agreement in the Deed of Trust or Mortgage. Unless such breach is corrected within thirty-one (31) days from the date of this notice, your loan may be accelerated shortly thereafter, and may be referred to outside counsel to commence foreclosure action."

Mr. Danielson testified he called the loan servicer at least once a month in response to receiving these letters. He testified he always makes a payment and continues to communicate with the lender. As of March 1, 2013, the date of the purported notice of rescission, the amount in arrears was still approximately \$23,000. The loan servicer has never taken steps to accelerate the loan or proceed with foreclosure. The loan is in the same condition it was in as of the date the Agreement was executed and caused no damages to the Plaintiff.

II. Assumption

The Defendants' mortgage documents included an adjustable rate rider that provided the following:

"If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this security instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by applicable law. Lender also shall not exercise this option if: a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender."

This document, along with the other loan documents, had been provided by the Danielsons to Mr. Scramton for his review prior to entering into the Purchase Option Lease Agreement. The Agreement provides that the Danielsons will "use its best efforts" to obtain the



consent of the Mortgage holders to the assumption of the Mortgage Debt by Buyer under the terms of the existing debt instruments. The debt instruments provide the conditions outlined above requiring the Borrower (Buyer) to submit normal underwriting information to the Lender for its determination as to whether it would allow the assumption.

Here, Mr. Scramton testified he requested the Danielsons seek the Lender's approval to assume the mortgage. Mr. Danielson testified that he made multiple inquiries with the Lender and provided information to the Lender in response to Mr. Scramton's request. Mr. Danielson testified that the Lender responded that Mr. Scramton would need to submit the underwriting information to evaluate the assumption transfer as if a new loan was being made. Mr. Danielson testified he used his best efforts to obtain the consent, including presenting Mr. Scramton's requested loan modification.

The evidence shows Mr. Scramton was aware the mortgage documents had a due on sale clause and that the Lender could agree, but did not have to agree, to an assumption. The evidence also shows Mr. Scramton stated he "could be happy", but only if the Lender modified the loan to a fixed rate, interest only, at a reduced interest rate at 2.5%. Essentially he wanted to renegotiate the terms of the loan – not just assume it.

Mr. Danielson testified Mr. Scramton had alternative financing available and was unwilling to provide the necessary information to the Lender for them to perform the necessary underwriting spelled out in the loan documents. Mr. Scramton also testified that when he purchased the Old Village house in April 2013 he paid cash for the property using the same type of alternative financing Danielson testified he was told Scramton had obtained to exercise the option.

III. 2% Interest Carry

As stated, the Agreement was negotiated over a several month time period in 2012. Many of the negotiations were carried out by email. Mr. Danielson repeatedly stated in these negotiations that he was unwilling to sell at 2012 prices. He was also unwilling to forgo the benefit of his low interest only rate on the loan on the Property. As such, the Agreement provides at the time of sale, part of the Exercise Price will be 2% per annum on outstanding Mortgage Debt and Owner Debt, prorated to the date of payment, up to the **later** of the Closing Date and the Option Expiration Date. The Option Expiration Date is defined in the Agreement as March 31, 2015.

A dispute arose towards the end of February 2013 as to whether the 2% per year until March 31, 2015 (the later of the two dates noted above) would be owed if Scrantom closed in April of 2013. Scrantom argues the "prorated to the date of payment" language trumps the "later of the Closing Date and the Option Expiration Date" language.

APPLICABLE LAW

Breach of Contract

To prevail on a claim for breach of contract, a party must prove the contract, its breach, and the damages caused by such breach. Branche Builders, Inc. v. Coggins, 386 S.C. 43, 686 S.E.2d 200 (Ct. App. 2009). Courts will construe the language of the contract to give effect to the intentions of the parties. Lee v. Univ. of S. Carolina, 407 S.C. 512, 757 S.E.2d 394 (2014).

"The cardinal rule of contract interpretation is to ascertain and give legal effect to the party's intentions as determined by the contract language." McGill v. Moore, 381 S.C. 179, 672 S.E.2d 571 (2009). "A court will construe any doubt and ambiguities in an agreement between



the drafter of the agreement.” Mathis v. Brown & Brown of S.C., Inc., 389 S.C. 299, 698 S.E.2d 773 (2010).

The general rule for awarding damages in a breach of contract action is that the Defendant is liable for whatever damages follows the normal consequence and the approximate result of such breach. Fuller v. E. Fire and Cas. Ins. Co., 240 S.C. 75, 124 S.E.2d 602 (1962). The purpose of an award of damages for breach of contract is to put the Plaintiff in as good as a position as he would have been in if the contract had been performed. Minter v. Goct, Inc., 322 S.C. 525, 473 S.E.2d 67 (Ct. App. 1996). The proper measure of compensation is the loss actually suffered by the Plaintiff as a result of the breach. Id.

Rescission - Mistake

The contract may be rescinded for mistake, if justice so requires, in the following circumstances:

1. Where the mistake is mutual and is in reference to the facts or supposed facts upon which the contract is based;
2. When the mistake is mutual and consists in the omission or assertion of some material element effecting the subject matter or terms and stipulation of the contract, inconsistent with the true agreement of the parties;
3. Where the mistake is unilateral and has been induced by the fraud, deceit, misrepresentation, concealment or imposition of the party opposed to the rescission, without negligent from the party claiming rescission, or
4. Where the mistake is unilateral and is accompanied by very strong and extraordinary circumstances which make it a great wrong to enforce the agreement, sustained by the competent evidence of the clearest kind.

King v. Oxford, 282 S.C. 307, 318 S.E.2d 125 (Ct. App. 1994). Rescission is appropriate only if both parties can be returned to the status quo prior to the contract. Id.

CONCLUSIONS OF LAW

Timothy D. Scramton is an expert in the field of business contracts. He provides complex legal advice to clients all over the world. He, together with his attorney, drafted the



Purchase Option Lease Agreement. As such, any ambiguity will be viewed against Scrantom/Ten State Street, LLP.

I. Breach of Contract

The Purchase Option Lease Agreement is a valid and binding contract. It provided the Buyer with beneficial ownership and use of the property during the time period the Buyer lived in the property.

I find that there has been no breach of contract in this matter. First, I find that the Danielsons are not in default of their loan. While they have received notice of demand letters from the Lender, the Lender has taken no steps to move forward with a foreclosure or to accelerate the loan. The evidence is clear that the loan remains in the same condition it was in at the time the Agreement was executed. Furthermore, any default on the note cannot be the basis of a breach of contract claim in favor of the Plaintiff because the Plaintiff was on notice of the arrearage at the time the Plaintiff entered into the Agreement.

The information that the loan was in arrears was provided to the Buyer at time the Agreement was entered. It is specifically detailed in the Agreement. Mr. Scrantom is a highly sophisticated business / contract attorney. He had the assistance of another sophisticated business / contract attorney when drafting and negotiating the Agreement. To the extent that Buyer did not fully investigate the impact of the arrearage with the Lender, he proceeded at his own peril. "One cannot rely upon misstatement of facts, if the truth is easily within his reach. King v. Oxford, 282 S.C. 307, 318 S.E.2d 125 (Ct.App. 1984). "A party must avail himself of the knowledge or means of knowledge open to him. The court will not protect the person who, with full opportunity to do so, will not protect himself." Id.

In this instance the fact that the Danielsons were in arrears and may use that as leverage with the lender to renegotiate better terms was discussed between the Parties. The Buyer was either aware, or should have been aware, of the Lender's position related to the arrears.

Additionally, since the Lender took no steps to foreclose on the property there is no harm to Scrantom as a result of the Danielsons continued arrearage. Simply put, all of this information was known at the time the Agreement was entered into and had no impact on the Buyer's full and complete enjoyment of the Agreement entered into with the Danielsons. There was no evidence presented at trial showing the condition of the loan negatively affected the Buyer's ability to assume it.

Second, turning to the Buyer's ability to assume the mortgage, the applicable information was provided to the Buyer prior to entering into the Agreement. Specifically, the Adjustable Rate Rider was given to the Buyer and he held on to the information for approximately one year. The evidence shows that he was aware that the Lender could, but did not have to, allow the assumption. Furthermore, the rider quite clearly specifies that the Buyer would have to provide the necessary information so that the Lender could appropriately underwrite the loan.

As a highly sophisticated international business/contract lawyer, Mr. Scrantom more so than most would be aware of the significance of this specific contractual language contained in the Adjustable Rate Rider. It is not plausible that he would anticipate a Lender disregarding this language and simply "rubberstamping" his request for assumption. Furthermore, the evidence shows that Mr. Danielson carried out his contractual obligation to use his best efforts to get the Lender to allow the assumption of the Note. It does not appear that Mr. Scrantom made any efforts to actually move forward with this process. The evidence does shows that he would only consider assuming the Note if the Lender actually renegotiated to allow for a lower interest rate.

Regardless, it does not appear Mr. Scramtom moved forward on this process and cannot now claim a breach.

Third, related to the two percent interest carry, based on the review of the contractual language I find that Mr. Scramtom's position is incorrect. The definitions clearly show that the Buyer would pay the two percent interest per annum till the later of the date of closing or March 2015. As such, it appears clear that the March 2015 would be the expiration period by which Scramtom would have to pay the interest carry. Here again, I find no breach.

Finally, turning to damages, I find that the Buyer has suffered no damages as a result of any of the claimed breaches. The Buyer negotiated and contracted for an option on the Property. He wanted beneficial ownership during the time period where he could live in the home and plan for a renovation project. By his own testimony he could not qualify for financing in 2012 due to his poor credit. The Agreement allowed him to live in the house and move forward with the remodel prior to purchase. He received what he bargained for – beneficial ownership of the property.

MLD *The court finds the most significant fact in this case is that Mr. Scramtom*
~~It appears he~~ found a home he preferred (200 Bank Street) and proceeded with the closing on that property. He is not entitled to recoup money paid pursuant to his option contract.

For these reasons I conclude there was not breach and the Plaintiff has suffered no damages. Based on the foregoing, I find in favor the Defendants on the breach of contract claim.

II. Rescission – Mutual Mistake

As a starting point I find that there are no mutual mistakes. Mr. Danielson testified 1) he was always aware of the condition of his loan and does not believe there is a default; 2) still believes that the Note is assumable if Mr. Scramtom had provided the necessary information as spelled out in the loan documentation; and 3) believes the two percent interest language is clear

and effective. As such, it does not appear to be a mutual mistake in this case as the Danielsons do not claim to be mistaken. Additionally, even if I were to find that a mutual mistake existed, rescission would still not be appropriate because the Danielsons cannot be returned to status quo prior to entering into the agreement. Mr. Danielson testified that based on the way Mr. Scrantom vacated the property it was both damaged and he was unable to rent the property for at least several months based on his prior belief that the property had been sold. The Danielsons were caught flat footed by the manner of the Buyer's termination of the Agreement. As such, I conclude 1) there is no mutual mistake and 2) rescission would be inappropriate regardless based on the inability to return the Danielsons to the position they were in prior to entering into the Agreement.

III. Rescission – Unilateral Mistake

Mr. Scrantom offered a number of mistakes that he is relying on for unilateral rescission. These include the ones listed above as well as others associated with what he could or could not do with the cottage, the various aspects to how the cottage could be rented, use of the cottage as a business, and other similar complaints. I find that none of these were the primary focus of the Agreement and that most, if not all, would have been uncovered with any amount of due diligence prior to entering into the Agreement. This is additionally true here when Mr. Scrantom resided in the home for the approximately two years prior to entering into the Agreement and had ample opportunity to perform his investigation during this time period. The Court will not now allow him to unwind all of this by his failure to do his own due diligence prior to entering into this Agreement. There has been no showing of fraud, deceit, misrepresentation, concealment, or imposition by the Danielsons. I conclude the Buyer was negligent in his failure to investigate the issues he is now relying upon for rescission. I also conclude find that there are no strong or



extraordinary circumstances in this instance that would provide for rescission based on unilateral mistake. Based on the foregoing I conclude the rescission claim based on unilateral mistake is improper and must be denied.

IV. Other Claims

The remaining causes of action contained in the Second Amended Complaint and argued at trial are unsupported by the evidence. As such, I hereby rule in favor of the Defendants on all other claims made by the Plaintiff in this matter.

V. Plaintiff's Claimed Damages

Although I have ruled in favor of Defendant on all of the claims asserted by the Plaintiff, for the sake of judicial economy I will also address the damage claims.

I find that the payments made by Buyer during the term of the Agreement were pursuant to the Agreement and provided the beneficial ownership that he contracted to receive. He contracted for an option to purchase and paid for such. I hereby conclude that Plaintiff has suffered no damage.

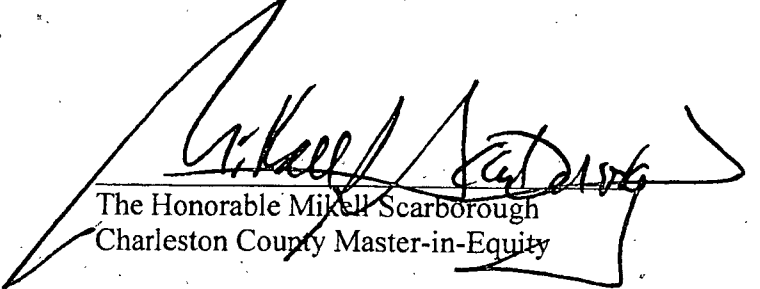
VI. Counterclaim / Third-Party Complaint

Turning to the counterclaim, I conclude that the Danielsons have failed to provide the necessary evidence to establish damages caused by the Buyer to the Property. Although there was testimony about damage to the main house, I conclude there was insufficient proof of these damages and therefore find in favor of the Buyer / Plaintiff on the property damage breach of contract claim. I do find that the failure of the Buyer to vacate by the end of April did trigger a one month holdover rent, therefore, I find in favor of the Danielsons on the counterclaim in the amount of \$8,000. Furthermore, I find Timothy Scrantom jointly and severally liable for this award pursuant to the guarantee.

CONCLUSION

THEREFORE, it is hereby ORDERED that the Plaintiff's claims are denied. It is further ORDERED the Defendant's counterclaim is granted and damages in the amount of \$8,000 are awarded. Finally, it is ORDERED that the Third-Party Defendant is jointly and severally liable for the \$8,000 award based on the guarantee.

AND IT IS SO ORDERED.



The Honorable Mikell Scarborough
Charleston County Master-in-Equity

3/18, 2016
Charleston, South Carolina