

J. FALKNER WILKES

Attorney at Law

114 Whitsett Street
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April 23, 2012

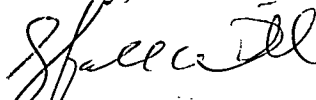
Daniel E. Shearouse, Clerk
South Carolina Supreme Court
P.O. Box 11330
Columbia, SC 29211

Re: Kenneth B. Jenkins v. Benjamin Scott Few and Few Farms, Inc.,
2007-CP-23-0779
Appeal from Greenville County
Hon. D. Garrison Hill
Petition for Writ of Certiorari

Dear Mr. Shearouse,

I represent Mr. Few and Few Farms, Inc., the Petitioners in the above case. I am enclosing another set of the Appendix which have sequential page numbers. I have also corrected the title page. I am enclosing a set of Briefs that also have the corrected title page.

Sincerely,



J. Falkner Wilkes

c.
Fred W. Suggs, Jr.
Robert C. Childs, III

RECEIVED

APR 25 2012

S.C. SUPREME COURT

Robert C. Childs, III
Childs Law Firm
2100 Poinsett Hwy., Ste. E
Greenville, SC 29609

Co-Counsel for Appellant

Fred W. Suggs, Jr.
Roe Cassidy Coates & Price, PA
P.O. Box 10529
Greenville, SC 29603

Counsel for Respondent

Allen, Linda

From: J. Falkner Wilkes <jfalknerwilkes@bellsouth.net>
Sent: Wednesday, April 25, 2012 2:56 PM
To: Allen, Linda
Subject: RE: Jenkins v. Few

*Great. Yes, please shred the set I messed up. Thanks!
Jeff.*

From: Allen, Linda [mailto:LAllen@sccourts.org]
Sent: Wednesday, April 25, 2012 1:24 PM
To: J. Falkner Wilkes
Subject: RE: Jenkins v. Few

Hey Mr. Wilkes, Received the new appendix. Is it ok to recycle the other ones you sent?

From: J. Falkner Wilkes [mailto:jfalknerwilkes@bellsouth.net]
Sent: Tuesday, April 24, 2012 5:24 PM
To: Allen, Linda
Subject: RE: Jenkins v. Few

*Linda,
I apologize for not being available. The best number to reach me at is (864) 321-4618. My office phone is set to forward calls to my cell phone. But the cell phone is most reliable. I will call you tomorrow morning.
I also have mailed the corrected set of Appendix and a new and improved set of Briefs.*

From: Allen, Linda [mailto:LAllen@sccourts.org]
Sent: Tuesday, April 24, 2012 2:50 PM
To: jfalknerwilkes@bellsouth.net
Subject: Jenkins v. Few

Mr. Wilkes, unable to reach you by phone. If you would please give me a call at the number below. Thank you

*Linda Allen
South Carolina Supreme Court
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803-734-1499 (fax)
lallen@sccourts.org*

The Supreme Court of South Carolina

Kenneth B. Jenkins, Respondent,

v.

Benjamin Scott Few and Few Farms, Inc., Petitioners.

The Honorable D. Garrison Hill
Greenville County
Trial Court Case No. 2007-CP-23-00779

ORDER

For good cause having been shown, the time for serving and filing the Brief of Petitioner and additional copies of the Appendix in the above entitled matter is hereby extended until April 13, 2012.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY



Clerk

Columbia, South Carolina

March 13, 2012

cc: J. Falkner Wilkes, Esquire
Robert Clyde Childs, III, Esquire
Fred W. Suggs, III, Esquire

J. FALKNER WILKES

Attorney at Law

114 Whitsett Street
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(864) 282-1292
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March 8, 2012

Daniel E. Shearouse, Clerk
South Carolina Supreme Court
P.O. Box 11330
Columbia, SC 29211

Re: Kenneth B. Jenkins v. Benjamin Scott Few and Few Farms, Inc.,
2007-CP-23-0779
Appeal from Greenville County
Hon. D. Garrison Hill
Petition for Writ of Certiorari

RECEIVED

MAR 18 2012
pm 3-8-12
S.C. SUPREME COURT


Dear Mr. Shearouse,

I represent Mr. Few and Few Farms, Inc., the Petitioners in the above case. My calendar shows a deadline of March 14, 2012, for the filing of briefs and additional copies of the Appendix. Due to a minor illness I have been out of the office some this week. I am also scheduled for trials or hearings all of next week. As a result, I am in need of additional time to complete my work for the filing due next week.

I am hereby requesting an extension of time in which to serve and file the Petitioner's briefs and additional copies of the Appendix in this case. I have enclosed a twenty five dollar check for the filing fee.

If I need to do anything further in regards to this request please let me know.

Sincerely,


J. Falkner Wilkes

c.
Fred W. Suggs, Jr.
Robert C. Childs, III

how many days?
30

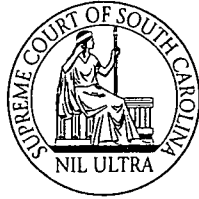
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\$25.00

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Fred W. Suggs, Jr.
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Counsel for Respondent



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
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(803) 734-1080

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February 13, 2012

Robert Clyde Childs, III, Esquire
Childs Law Firm
2100 Poinsett Hwy., Ste. E
Greenville, SC 29609

Re: Jenkins, Kenneth B. v. Few, Benjamin S.

Dear Mr. Childs:

Enclosed is the Order granting your Petition for Writ of Certiorari in the above entitled matter.

It will be necessary for you to furnish this office with an additional thirteen (13) copies of the appendix within thirty (30) days from the date of this letter.

Brief of Petitioner should be served and filed on or before March 14, 2012. The brief is not properly filed until we have proof of service.

Brief of Respondent should be served and filed within thirty (30) days after petitioner's brief is filed. We must have proof of service. Any reply brief should be served and filed within ten (10) days after filing of respondent's brief.

Very truly yours,

Daniel E. Shearouse
25

CLERK

DES/lda

Enclsoure

cc: J. Falkner Wilkes, Esquire
Fred W. Suggs, III, Esquire
The Honorable Tanya Gee

The Supreme Court of South Carolina

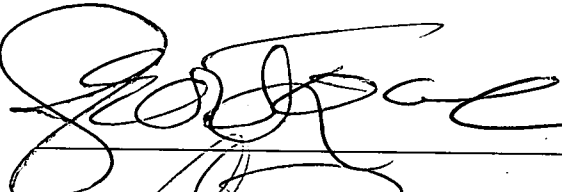
Kenneth B. Jenkins, Respondent,

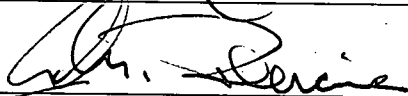
v.

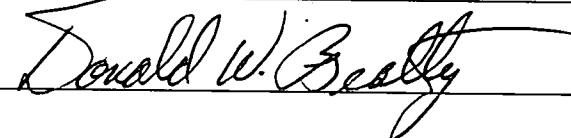
Benjamin Scott Few and Few Farms, Inc., Petitioners.

ORDER

We grant the petition for a writ of certiorari to review the Court of Appeals' decision in *Jenkins v. Few*, 391 S.C. 209, 705 S.E.2d 457 (Ct. App. 2010) as to petitioners' Question 1 and deny the petition as to the remaining questions. The parties shall proceed to serve and file the appendix and briefs as provided by Rule 242(i), SCACR.


C. J.


J.


J.

Columbia, South Carolina

February 13, 2012

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

MAR 31 2011

APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS
D. Garrison Hill, Circuit Judge

S.C. Supreme Court

Case No. 07-CP-23-0779

Kenneth B. Jenkins, Respondent,

v.

Benjamin Scott Few, and
Few Farms, Inc, Petitioners.

PETITION FOR WRIT OF CERTIORARI

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Robert C. Childs, III
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(864) 242-9914 *facsimile*

J. Falkner Wilkes
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(864) 271-6035 *facsimile*

Counsel for Petitioners

STATEMENT OF THE CASE

The Plaintiff/Respondent Kenneth B. Jenkins was represented below and on appeal by Fred W. Suggs, III, of Greenville. The Defendant/Appellant was represented at trial by Robert C. Childs who is joined on this appeal by J. Falkner Wilkes, both also of Greenville.

This action was initiated by Summons and Complaint filed with the Clerk of Circuit Court in Greenville County. The Complaint was timely answered. A jury trial was held on the 25th through the 26th of August 2008 in the Court of Common Pleas in Greenville County, the Honorable D. Garrison Hill presiding. The jury returned a verdict in favor of the Respondent on causes for Trespass to Chattel, Conversion, Civil Conspiracy and for the Defendants on the cause under the Uniform Trade Practice Act. Actual damages were awarded in the amount of \$28,000. Punitive damages were awarded in the amount of \$100,000. Appeal was timely filed. The Court of Appeals, upon hearing the case, issued a published opinion affirming in part and reversing in part. Petitioners filed a motion for rehearing which was denied. This Petition follows.

QUESTIONS PRESENTED FOR REVIEW

Now into Court comes the Petitioners who respectfully represent that several holdings of the Court of Appeals are contrary to prior decisions of this Court, as well as the United States Supreme Court. In particular the decision of the lower courts fail to recognize that the Respondent alleged the same damages under his conspiracy claim that he alleged in other causes of action such that the damages he alleged were not unique to conspiracy.

The decision of the Court of Appeals is also in error by affirming the qualification of the Respondent's witness as a surprise expert in the middle of his testimony.

The decision of the Court of Appeals is further in error by failing to reduce conversion damages down to trespass damages (diminution of value or damage to the chattel).

The decision of the Court of Appeals is further in error by failing to reduce punitive damages award in this case based on prior holdings of this Court, as well as the United States Supreme Court.

ARGUMENT

I. THE OPINION OF THE COURT OF APPEALS FAILS TO RECOGNIZE THAT THE RESPONDENT ALLEGED THE SAME DAMAGES UNDER HIS CONSPIRACY CLAIM THAT HE ALLEGED IN OTHER CAUSES OF ACTION SO THAT THE DAMAGES ARE NOT UNIQUE TO CONSPIRACY.

The Court of Appeals erred in affirming damages under a conspiracy theory where there were no special damages pled or proven. In its decision the Court of Appeals held that the Respondent had alleged special damages from the civil conspiracy as “including, but not limit to, the destruction of [his fertilizer truck,] and the loss of revenue for the nine days which [he] could not operate his business.” The Court of Appeals went on to find that “Jenkins did not allege lost profits in regards to any other cause of action.” Contrary to the Court’s findings, the Respondent’s complaint clearly incorporated additional claims for the very same losses in other causes of action.

In his complaint the Respondent alleged trespass, conversion, conspiracy, unfair trade practice, and defamation. In seeking recovery under conspiracy the Respondent sought to recover damages for the loss to the truck and loss of revenue for nine days. (Paragraph 23, Complaint). What the Court has overlooked is that the Respondent’s claims under unfair trade practices and defamation *explicitly*

incorporated the same losses the Respondent sought to recover under his conspiracy theory. (Complaint, Paragraphs 24, 30). Clearly the loss of revenue and value of the truck were pled in other causes. All or a portion were also recoverable in other causes of action. Since the loss of revenue and value of the truck do not go beyond the damages alleged in the other causes of action, they fail to be unique. Therefore, there can be no recovery under a conspiracy theory.

The elements a Respondent must demonstrate in order to prove civil conspiracy include: (1) the combination of two or more people; (2) for the purpose of injuring the Respondent; (3) causing special damages. Pye v. Estate of Fox, 369 S.C. 555, 566-67, 633 S.E.2d 505, 511 (2006). Because the quiddity of a civil conspiracy claim is the damage resulting to the Respondent, the damages alleged must go beyond the damages alleged in other causes of action. Vaught v. Waites, 300 S.C. 201, 387 S.E.2d 91 (Ct.App. 1989). Pye v. Estate of Fox, 369 S.C. 555 (2006).

The decision of the Court of Appeals overlooks the fact that the Respondent specifically incorporated the loss of revenue and value to the truck in his other causes of action. There are therefore no damages unique to the conspiracy and therefore, no special damages alleged aside from the damages on all other causes. The verdict form, as accepted by the Respondent, fails to provide for any findings

as to special damages. There being no damages unique to the conspiracy, nor special damages found by the jury, the conspiracy action is barred. See Vaught v. Waites, 300 S.C. 201, 387 S.E.2d 91 (Ct.App. 1989). The Court should therefore reconsider its decision and grant a new hearing.

The decision of the Court of Appeals is therefore in conflict with prior decisions of this Court including Pye v. Estate of Fox, 369 S.C. 555 (2006).

II. THE COURT OF APPEALS ERRED IN AFFIRMING THE QUALIFICATION OF A FACT WITNESS AS A SURPRISE EXPERT IN THE MIDDLE OF HIS TESTIMONY.

This Court of Appeals misperceived important facts relevant to the application of law in this case. The decision of the Court of Appeals overlooks the factual similarity between this case and this Court's decision in Bensch. The Court of Appeal's opinion also overlooks the fact that the Bensch, under similar facts, this Court *upheld* the exclusion of the expert witness based on the same Rule 33 violation as presented in the present case.

As in Bensch, the Respondent in this case failed to give notice of his intent to call his witness as an expert. Appellants timely objected to the witness [Stokes] being asked questions as an expert on the ground that the Respondent failed to properly notify the Defendants of his intention to call him as an expert. Appellants

made specific requests to the Respondent as to whether he would call any expert witnesses. Appellants specifically asked during the deposition of Stokes whether the Appellant intended to call him as an expert. The Respondent denied that Stokes would be called as an expert and as a result, Appellant limited his deposition to fact testimony in reliance on the Respondent's representations. Respondent did not disclose his intent to call Stokes as an expert until the trial had begun and Stokes was in the middle of his testimony.

The Appellant, through no fault of his own, was clearly prejudiced by the Respondent's representations. The Respondent clearly knew that his representation would be relied on by the Appellant, as the Appellants indicated that their examination of the Stokes during deposition would be limited to his being a fact witness. At trial, Appellants indicated that had they been aware that Stokes would be called as a witness they would have called additional witnesses to rebut his testimony. Based on the gross lack of qualifications of Stokes to be qualified as an expert, the lack of those additional witnesses further prejudiced the Appellants. The limitation on the Appellant's right to discovery through full deposition, as well as the inability to call witnesses to rebut Stokes, is precisely the injury Rule 33 is designed to protect against.

Contrary to the Court of Appeals' opinion, the deposition of Stokes did little

to reduce surprise to the Appellants where the deposition examination was limited based on the Defendants' belief that he would be only a fact witness. The lower courts failed to address the similarity of the present facts to those in Bensch v. Davidson, 354 S.C. 174 (2003). In Bensch this Court outlined the factors for the trial court's consideration when the issue of surprise is raised. The Court of Appeals failed properly apply those factors or give them effect in its decision.

In this case there is little doubt that the Appellant was surprised by the Respondent not identifying Stokes as a potential expert prior to trial. The parties' disclosure of information before trial is designed to avoid surprise and to promote decisions on the merits after a full and fair hearing. Reed v. Clark, 277 S.C. 310, 286 S.E.2d 384 (1982). When it appears a violation of Rule 33 has occurred, it lies within the discretion of the trial court to decide what sanction, if any, should be imposed. Jackson v. H&S Oil Co., Inc., 263 S.C. 407, 211 S.E.2d 223 (1975) (case decided under former Circuit Court Rule 90). The sanction of excluding a witness should never be lightly invoked. Kirkland v. Peoples Gas Co., 269 S.C. 431, 237 S.E.2d 772 (1977). Before so ruling, the trial court should ascertain the type of witness involved, the content of the evidence, the explanation for the failure to name the witness in answer to the interrogatory, the importance of the witness' testimony, and the degree of surprise to the other party. Laney v. Hefley, 262 S.C.

54, 202 S.E.2d 12 (1974).

The decision of the Court of Appeals minimizes the facts surrounding the failure to identify and disclose Stokes as an expert prior to trial. First, looking at the Respondent's explanation for his failure to name Stokes as an expert, Respondent admitted it was an error. But this was not a mere oversight since Respondent admitted that he intended to call Stokes as a expert. At what point he made that decision is unclear but it appears to have been made sometime prior to trial. Respondent did not disclose the intent in his responses to interrogatories. Respondent was asked specifically by Defendants in Stokes's deposition and they did not disclose the intent to call him as an expert. Respondent never updated his responses to interrogatories with the disclosure of such an intent. Respondent therefore was without a valid explanation for his failure to give notice under Rule 33.

Second, looking to the importance of Stokes's testimony the Court concluded that the prejudice was reduced by the fact that other experts would be testifying. This however overlooks the fact that the failure of notice under Rule 33 prevented the Defendants' from being able to adequately depose Stokes as to his qualifications and opinions prior to court. Defendant's failure is especially troublesome where they were asked specifically during Stokes's deposition if

Stokes would be called as an expert. Based on the Respondent's actions the Defendants were prejudiced in their ability to properly prepare their case.

The record in this case shows a high degree of surprise to the Appellant in this case. As it was not until the trial had begun that the Respondent gave notice of his intentions to call Stokes as a expert, the Appellants were effectively prevented from calling witnesses to rebut that testimony. The deposition of Stokes as a fact witness was simply insufficient to prevent surprise or prejudice in this case. And contrary to the decision of the lower courts, the opportunity to cross-examine a surprise expert witness in camera is insufficient to cure any prejudice. The Court of Appeals has overlooked the similarity between the facts of this case and those of Bensch where this Court held that exclusion of the witness was proper. See Bensch v. Davidson, 354 S.C. 173 (2003). Wherefore, the decision of the Court of Appeals is in conflict with the prior decisions of this Court.

III. THE COURT OF APPEALS ERRED BY FAILING TO REDUCE CONVERSION DAMAGES DOWN TO TRESPASS DAMAGES (DIMINUTION OF VALUE OR DAMAGE TO THE CHATTEL.)

The Court of Appeals correctly held that conversion was not supported by the facts of the case. However, despite its holding, the Court failed to make a

corresponding reduction in the award of actual damages to remove any damages recovered under the theory of conversion. Additionally, the Court of Appeals failed to reduce the award for damages where a recovery for the replacement value of the whole truck is otherwise unsupported by the facts. Absent the conversion cause, and considering that the Respondent chose to replace a truck he could have repaired, the award of damages for the vehicle should have been reduced to the truck's diminution in value as allowable under Respondent's trespass claim.

The jury's award in this case clearly includes damages exceeding the diminution in value to the truck which can be easily determined based on the cost of repairing the truck. Rather than limiting recovery to the truck's diminution in value, the Court of Appeals has allowed the Respondent to recover close to the total value of the truck as if under a conversion theory. The Court of Appeals has overlooked that the Respondent chose to purchase a new and substantially bigger truck rather than simply repairing the damage done to his old truck. This fact being overlooked by the Court of Appeals is significant as the cost of repair was minor in relation to the cost of the new truck. The Court of Appeals, in failing to limit damages to diminution in value, essentially nullified the granting of a directed verdict on the ground of conversion.

The record shows that Respondent chose to upgrade with a newer and

bigger truck. The decision was strictly a business decision to help him be more competitive in the market. R. 187-188. Respondent sought to make Defendants' pay for his choice in upgrading his equipment. In allowing recovery greater than the truck's diminution in value the Court of Appeals allows the Respondent to exceed what is properly recoverable under a claim for trespass to chattel or personal property.

A person is a "trespasser to a chattel" if he was "intentionally using or intermeddling of a chattel in possession of another." Ferris v. Monsanto Co. 380 Mass. 694 (1980). Trespass to personalty is an injury to, or interference with, possession of the property, unlawfully, with or without the exercise of physical force. Mountain States Tel. & Tel. Co. v. Vowell Constr. Co., 341 S.W.2d 148, 150 (Tex. 1960); Jamison v. Nat'l Loan Investors, L.P., 4 S.W.3d 465, 469 n. 2 (Tex.App.-Houston [1st Dist.] 1999, pet. denied). Destruction of, or injury to, personal property, regardless of negligence, may be a trespass. Mountain States, 341 S.W.2d at 150; Jamison, 4 S.W.3d at 469. Russell v. American Real Estate, 89 SW 3D (Tex.App. [13TH DIST] 2002).

Historically, a distinction has been drawn between trespass to chattel and conversion. Recovery in trespass is limited to the diminished value of the chattel because of any damage to it, or for the damage to his interest in its possession or

use. Usually, although not necessarily, such damages are less than the full value of the chattel itself. Restatement (Second) of Torts § 222A (1965). Young v. Century Lincoln-Mercury, Inc., 302 S.C. 320 (Ct.App. 1989). The Court of Appeals in this case, although denying the Respondent's conversion cause, has not given its decision meaning as it leaves the Respondent with conversion damages rather than adjusting damages down to diminution value appropriate under the trespass claim.

In the present case the Respondent was awarded \$28,000 which appears to be based, in whole or in part, on the value of the new and bigger truck that he decided purchase rather than simply repairing the old truck. R. 277. The maximum amount of damage or diminished value to the Respondent's truck was no more than the \$5,300 which the Respondent's mechanic testified that it would cost to repair the truck. R. 236. Respondent's testimony is clear that he chose to replace the truck rather than repair it since it was an old truck. R. 222. The measure for recovery as explained in Young is the diminished value rather than the full value of the chattel itself. The Court of Appeals' opinion allows recovery in this case to exceed the proper limits for damages under the Respondent's trespass claim. The Petitioner therefore moves this Court to grant him relief on this issue.

IV. THE COURT ERRED IN FAILING TO REDUCE PUNITIVE DAMAGES AWARD.

An adjustment of the damages award based on the foregoing arguments necessitates a corresponding adjustment in punitive damages. Even assuming damages of \$5,300 for diminution in the value of the truck, plus lost profits of \$5,891 and \$2035 in reward money, damages in this case would total only \$13,226, approximately half of the figure underpinning the jury's punitive damage award. With the conversion damages properly removed, the punitive damage award of \$100,000 on only \$13,226 dollars in actual damages becomes clearly excessive. RRR, INC. v. Toggas, 26612 (S.C. 3-9-2009); B.M.W. of N. Am., Inc. v. Gore, 517 U.S. 559 (1996); Phillip Morris USA v. Williams, 549 U.S. 346 (2007); State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408 (2003).

In reviewing punitive damage awards the United States Supreme Court identified with approval three major concerns. First, the trial court's jury instruction explains the nature, purpose and basis for the award; second, post-trial procedures enable the court to scrutinize the award; and, third, an appellate review process ensures that the award is reasonable and rational. Haslip, 111 S.Ct. at 1044-45. These procedural protections, the Haslip Court found, impose "a

sufficiently definite and meaningful constraint on the discretion of Alabama fact finders in awarding punitive damages." 111 S.Ct. at 1045.

To ensure that a punitive damage award is proper, the trial court shall conduct a post-trial review and may consider the following: (1) Appellant's degree of culpability; Page 112 (2) duration of the conduct; (3) Appellant's awareness or concealment; (4) the existence of similar past conduct; (5) likelihood the award will deter the Appellant or others from like conduct; (6) whether the award is reasonably related to the harm likely to result from such conduct; (7) Appellant's ability to pay; and finally, (8) as noted in Haslip, "other factors" deemed appropriate. 305 S.C. 104, 406 S.E.2d 350 (1991).

BMW of N. Am., Inc. v. Gore, 517 U.S. 559 (1996). Reprehensibility, ratio, sanctions for comparable misconduct. In Haslip the Supreme Court concluded that even though a punitive damages award of "more than 4 times the amount of compensatory damages," might be "close to the line," it did not "cross the line into the area of constitutional impropriety." 499 U.S., at 23-24. TXO, following dicta in Haslip, refined this analysis by confirming that the proper inquiry is "whether there is a reasonable relationship between the punitive damage award and the harm likely to result from the Appellant's conduct as well as the harm that actually has occurred." TXO, 509 U.S., at 460 (emphasis in original), quoting Haslip, 499

U.S., at 21. In the present case the jury's award of \$100,000 bears no reasonable relationship to the actual damages based on the diminution in value of \$5,300 or less under the theory of trespass to chattel. At close to twenty times the actual damages, the punitive award exceeds the ratio analysis outlined in Gore.

Comparing the punitive damages award and the civil or criminal penalties that could be imposed for comparable misconduct provides a third indicium of excessiveness. Similar cases are a good indicator of the reasonableness of an award where the facts are similar. Although somewhat dated, a \$2,000 award in punitive for putting sugar in a gas tank of a competitor's truck is still a fair indication that a person would not be on notice that a \$100,000 penalty would be assessed for such conduct. Coonis v. Rogers, 429 S.W.2d 709 (Mo. 1968).

Especially true where the act only resulted in \$5,300 in damage to the vehicle and at best, \$13,226 in total damages based on the Respondent's own testimony. Based on the actual damages to the chattel occasioned by the trespass, the punitive damage award is excessive. The Court of Appeals decision is therefore in conflict with prior decisions of this Court and the United States Supreme Court.

CONCLUSION

Based on the foregoing the Petitioners move this Court to grant this Petition and allow briefing on the issues raised herein.

Respectfully submitted,



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Counsel for Petitioners

March 30, 2011.

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS
D. Garrison Hill, Circuit Judge

RECEIVED

MAR 31 2011

S.C. Supreme Court

Case No. 07-CP-23-0779

Kenneth B. Jenkins, Respondent,

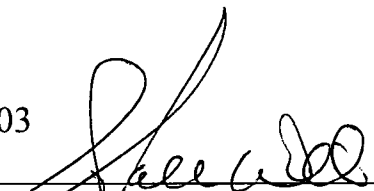
v.

Benjamin Scott Few, and
Few Farms, Inc, Petitioners.

CERTIFICATE OF SERVICE

I certify that on March 30, 2011, I served the Petition for Writ of Certiorari on the Respondent by delivering copies into the U.S. Mail, postage prepaid, addressed to the Respondent's counsel of record as follows:

Fred W. Suggs, III
Roe Cassidy Coates & Price, PA
P.O. Box 10529
Greenville, SC 29603
(864) 349-2616
and via facsimile also to: (864) 349-0303



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THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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MAR 31 2011

APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS
D. Garrison Hill, Circuit Judge

S.C. Supreme Court

Case No. 07-CP-23-0779

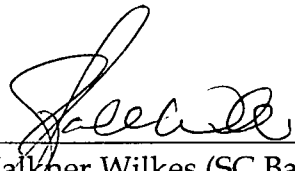
Kenneth B. Jenkins, Respondent,

v.

Benjamin Scott Few, and
Few Farms, Inc, Petitioner.

CERTIFICATE OF REDACTION

I certify that on the Appendix has been redacted in compliance with the Supreme Court's Order as to personal identifiers, personal data, financial data and other private information.



J. Falkner Wilkes (SC Bar #12893)
114 Whitsett Street
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(864) 282-1292
(864) 271-6035 (facsimile)
Counsel for Appellant

March 27, 2011.

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS

MAR 31 2011

D. Garrison Hill, Circuit Judge

S.C. Supreme Court

Case No. 07-CP-23-0779

Kenneth B. Jenkins, Respondent,

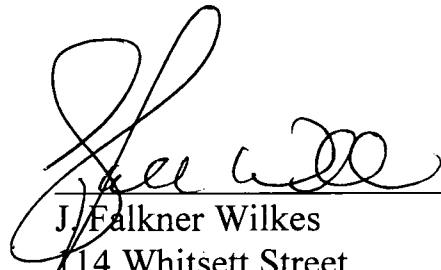
v.

Benjamin Scott Few, and

Few Farms, Inc, Petitioners.

CERTIFICATE

I certify that a petition for rehearing was made and finally ruled on by the Court of Appeals.



J. Falkner Wilkes
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
(864) 271-6035 facsimile

Counsel for Petitioners

March 30, 2011.

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March 30, 2010

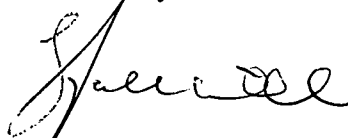
Daniel E. Shearouse, Clerk
South Carolina Supreme Court
P.O. Box 11330
Columbia, SC 29211

Re: Kenneth B. Jenkins v. Benjamin Scott Few and Few Farms, Inc.,
2007-CP-23-0779
Appeal from Greenville County
Hon. D. Garrison Hill
Petition for Writ of Certiorari

Dear Mr. Shearouse,

I am enclosing herewith the filing fee for the above case.

Sincerely,



J. Falkner Wilkes

c.
Honorable Tanya Gee
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

Robert C. Childs, III
Childs Law Firm
2100 Poinsett Hwy., Ste. E
Greenville, SC 29609

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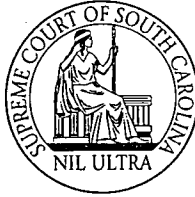
APR 04 2011

S.C. SUPREME COURT

Co-Counsel for Appellant

Fred W. Suggs, Jr.
Roe Cassidy Coates & Price, PA
P.O. Box 10529
Greenville, SC 29603

Counsel for Respondent



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

April 1, 2011

J. Falkner Wilkes, Esquire
114 Whitsett
Greenville, SC 29601

Re: Jenkins, Kenneth B. v. Few, Benjamin S.
Case Tracking No. 2011-188648

Dear Mr. Wilkes:

This office has received your Petition for Writ of Certiorari and Appendix in the above matter. It has been assigned the Case Tracking Number that appears above. Please use this number on all future correspondence relating to this matter.

I do wish to call the attention of the parties to the attached order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Very truly yours,

CLERK

DES/lda

Enclosure

cc: Robert Clyde Childs, III, Esquire
Fred W. Suggs, III, Esquire
The Honorable Tanya Gee

J. FALKNER WILKES

Attorney at Law

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Greenville, South Carolina 29601

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March 30, 2010

Daniel E. Shearouse, Clerk
South Carolina Supreme Court
P.O. Box 11330
Columbia, SC 29211
via facsimile also to: (803) 734-1499

RECEIVED

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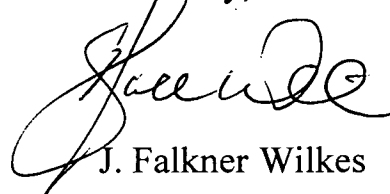
S.C. Supreme Court
pm 3-30-11

Re: Kenneth B. Jenkins v. Benjamin Scott Few and Few Farms, Inc.,
2007-CP-23-0779
Appeal from Greenville County
Hon. D. Garrison Hill
Petition for Writ of Certiorari

Dear Mr. Shearouse,

I am enclosing herewith the original and six copies of the Petitioner's Petition for Writ of Certiorari in the above case, two copies of the Appendix, one of which is unbound, a check for the filing fee, a Certificate of Service, and a Certificate of Compliance with the Order of the Supreme Court regarding the redaction of records. If you need anything further on this case please let me know.

Sincerely,



J. Falkner Wilkes

c.
Honorable Tanya Gee
South Carolina Court of Appeals
1015 Sumter Street
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via facsimile also to: (803) 734-1839

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