

The State of South Carolina
In the Court of Appeals

Appeal from Richland County
Robert Hood, Circuit Court Judge
Case number 2015CP40-4319
Appellate Case Number 2017-001574

JK Trading Inc.,
Appellant

Vs.

Karl & Sasha, Inc.,

Respondent

Brief of Appellant

Trace Dillon

Attorney for Appellant JK Trading, Inc.

P.O. Box 1207

Buford Ga 30515

770-513-6400

trace@dillonlawfirm.com

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SC Court of Appeals

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II. Statement of Issues on Appeal

Whether the trial court erred in granting judgment to Karl & Sahsa when no evidence was introduced contradicting the testimony of JK Trading, Inc that Karl & Sahsa owed \$57,809.01 for unpaid product.

III. Statement of the Case

This case concerns the appeal of a judgment rendered in the Circuit Court of Richland County on June 20, 2017. A notice of appeal was filed on July 20, 2017. The underlying case was filed on July 17, 2015 and concerned a debt allegedly owed by Karl & Sasha, Inc. to JK Trading, Inc. The complaint alleges an account stated, a breach of contract and a claim for quantum meruit. A judgment was rendered in favor of Karl and Sasha after a bench trial of the case.

IV. Argument

A. Statement of Facts

JK Trading Inc. filed suit to collect on hair products sold to Karl & Sasha. At trial, the only testimony offered was from the Chief Financial Officer of JK Trading, Ms. Chung. There was no testimony offered to contradict the testimony. Ms. Chung testified that various items were ordered from JK Trading and delivered to Karl & Shasha. See Transcript at pg 10. Ms. Chung testified that items were shipped Cash on Delivery or COD with an invoice. T. at 33. Each time, the items were shipped, an invoice was attached that included terms for interest and restocking fees. T. at 19. With each shipment, a check was tendered by Karl & Sasha. Some of these checks bounced. When JK Trading sought payment, some items were returned. Ms. Chung testified that the Statements tendered into evidence represented the unpaid invoices that were still due. T. at 20. Ms. Chung also testified to receiving a letter from Kar & Sasha that admitted a balance was still due. T. at 29. After JK Trading rested its case, Karl & Sasha moved for a directed verdict. Karl & Sasha's motion for a directed verdict was denied. T. at 79. Karl & Sasha attempted to call an undisclosed witness at trial. The Court did not allow this witness and as such, Karl & Sasha offered no testimony at trial. T. at 80. After the close of the evidence, JK Trading moved for a directed verdict. T. at 80. For the legal reasons that follow, JK Trading Inc.'s directed veredict motion should have been granted and judgment should have been issued to JK Trading in the amount of \$57,809.01.

B. The court erred in granting judgment to Karl and Sasha, when the testimony of JK Trading, Inc. was not contradicted.

In this case, the uncontradicted testimony of Ms. Chung is that the amount owed from Karl & Sasha is \$57.809.01. In deed, correspondence from Karl & Sasha admits a balance is

owed. Although Ms. Chung was cross examined about the documents produced in discovery, there is no evidence in the record contradicting the balance testified as due from Ms. Chung. These invoices and records were introduced at trial, and no one testified that the balance was incorrect. Where evidence is full upon the matter of proof of an account by the books of original entry, and there is no evidence to the contrary, a circuit judge should be justified in assuming the proof of the account. W.T. Rawleigh Co. v. Thompson 122 S.C. 43 (1922). When relevant and competent testimony is introduced, the inference of law is that it tends to prove the fact to which it is directed. Wingo v. New York Life Ins. Co., 155 S.C. 206 (1919).

In this case, evidence was presented that the balance due on the account was \$57,809.01 based on unpaid invoices. There was no evidence from Karl & Shash that this amount was incorrect. At trial, Karl & Sasha's counsel crossed JK Tradings, witness about invoices for product shipped and paid for, indicating these invoices and payments were not listed in the statements. The uncontradicted testimony of Ms. Chung was that the invoices paid were not listed in the statements presented. See T. at 20. Since this evidence was uncontradicted, the trial court erred in failing to infer the balance was proven.

C. JK Trading, Inc.'s Directed Verdict Motion should have been granted.

A court on a directed verdict motion must determine whether any evidence existed on each element of a cause of action. If the evidence as a whole is susceptible of more than one reasonable inference, a jury issue is created and a motion should be denied. However, a directed verdict should be granted when the evidence raises no issue for a jury as to a defendant's liability. Fay v. Grand Strand Reg'l Med. Ctr., 412 S.C. 185 (2015). In this case, Ms. Chung's testimony was not contradicted by any opposing testimony. Although opposing counsel raised the issue of paid invoices not being included in the statements presented at trial, her testimony

was uncontradicted that those invoices were paid and payments were credited to the missing invoices, and thus not included in the suit to collect the unpaid amounts. As such, the court should have directed verdict in JK Trading's favor.

V. Conclusion

Given the uncontradicted testimony of JK Trading, this court should reverse the trial court and remand this case to enter judgment on behalf of JK Trading in the amount of \$57,809.01

Submitted this 20 Day of April, 2018.



Trace Dillon S.C. Bar 16857
Attorney for Appellant JK Trading, Inc.
P.O. Box 1207
Buford Ga 30515
770-513-6400

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Certificate of Service

I hereby certify that I have this day served counsel of record with a copy of the foregoing
Brief of Appellant by First Class U.S. Mail addressed as follows:

Tucker Player
P.O. Box 21005
Columbia SC 29221

Respectfully submitted this 20 day of April, 2018.



Trace Dillon
Ga Bar Number 222404
The Dillon Law Firm PC
P.O. Box 1207
Buford, GA 30515
770-313-8652

Trace Dillon, Esq.
Admitted to GA, SC and
TN Bars

THE DILLON LAW FIRM, PC
ATTORNEY AT LAW

P.O. Box 1207
Buford, GA 30518

(770) 513-6400
trace@dillonlawfirmpc.com
www.dillonlawfirmpc.com

April 20, 2018

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P.O. Box 11629
Columbia SC 29201

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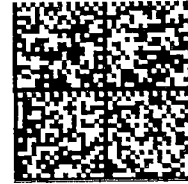
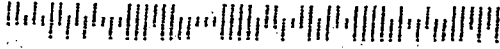
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Sincerely Yours,
THE DILLON LAW FIRM PC


Trace Dillon

Enclosure

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The Dillon Law Firm PC
P.O. Box 1207
Buford GA 30515

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Columbia SC 29201