

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS  
THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2020-CP-23-01886

ARO-D Enterprises, LLC,

Plaintiff,

v.

Tiger Enterprises & Trading, Inc., Bonnie  
Walker and Dwight Walker,

Defendants/Counterclaimants.

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Tiger Enterprises and Trading, Inc.,

Third-Party Plaintiffs,

v.

Rudy A. Dixon, Frank T. Gangi, and T3  
Aviation, LLC,

Third-Party Defendants.

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AUG 06 2021

**SC Court of Appeals**

**ORDER ON THIRD-PARTY  
DEFENDANTS' MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

**THIS MATTER** came before the Court on a Motion for Partial Summary Judgment filed by T3 Aviation, Inc. and Frank T. Gangi. A virtual hearing on this Motion—which was heard at the same time as several other motions filed in the case—was held on Tuesday, March 9, 2021. Present at the hearing were the following: (1) for Third-Party Defendants T3 Aviation, Inc. and Frank T. Gangi, Steven Edward Buckingham, Esq.; (2) for Defendants and Third-Party Plaintiff, Wesley D. Few, Esq.; and (3) for Plaintiff and Third-Party Defendant Rudy A. Dixon, J.J. Andrighetti, Esq. Upon due consideration of the written submissions of the parties, as well as the arguments of their

counsel, the Motion for Partial Summary Judgment of T3 Aviation, Inc. and Frank T. Gangi is **GRANTED.**

Because the Court is entering a separate order on a motion for partial summary judgment submitted by ARO-D Enterprises, LLC, which has a more complete discussion of the facts pertinent to the disposition of this motion, the Court will here be brief.

The long-and-short of the matter is this: Plaintiff and Defendant Tiger Enterprises & Trading, Inc. (“TET”) were engaged in a business relationship that fell apart before a contract could be formed. It seems undisputed that Plaintiff, who participates in the aircraft industry buying and selling decommissioned aircraft, purchased a passenger plane from a foreign government. The plane could not be sent back to the United States as one piece; instead, it had to be torn down piece-by-piece then shipped to the United States. As the Court understands the situation, as Plaintiff was able to remove parts from the aircraft, those parts were sent back to TET’s warehouse in Greenville County.

It seems that, early on in this arrangement, there were discussions between Plaintiff and TET about TET buying parts from the aircraft, or perhaps the aircraft as a whole; later, it seems that the discussion shifted to where the parties were contemplating Plaintiff entering into some form of a consignment agreement with TET with regard to parts of the plane. However, it does not appear that any agreement was ever entered into between Plaintiff and TET before their relationship soured. As the Court understands the situation, whatever arrangement the parties were previously operating under had ended by September 2019, when Plaintiff demanded that TET release the parts of the aircraft that TET was still in possession of and TET refused. This exchange seems to have prompted the initiation of legal action, which has devolved into the present tangle of counterclaims and third-party claims.

For purposes of resolving the immediate motion, however, there are only a few salient facts the Court needs to acknowledge. In considering these facts, the Court is mindful of the familiar standards of review. Summary judgment is appropriate when there is no genuine issue of material fact such that the moving party must prevail as a matter of law. Rule 56(c), SCRCP. When determining if any triable issues of fact exist, the evidence and all reasonable inferences therefrom must be viewed in the light most favorable to the non-moving party. See, e.g., Summer v. Carpenter, 328 S.C. 36, 492 S.E.2d 55 (1997). The Court has carefully considered the merits of the instant motion, and, despite Rule 56's predisposition toward non-moving parties, finds that the partial summary judgment requested by T3 Aviation, Inc. and Mr. Gangi is warranted.

The first issue on which T3 Aviation, Inc. and Mr. Gangi have requested summary judgment pertains to TET's third-party claim against them for tortious interference. According to the allegations of the third-party complaint, T3 Aviation, Inc. and Mr. Gangi are alleged to have tortiously interfered with a contract between Plaintiff and TET. However, T3 Aviation, Inc. and Mr. Gangi, through their counsel, have been adamant that no contract ever existed between Plaintiff and TET. In their motion for partial summary judgment, T3 Aviation, Inc. and Mr. Gangi explained that it is the undisputed testimony of TET's vice-president that TET never had a contract with Plaintiff, and that this is corroborated by an affidavit filed by Plaintiff's owner. TET, for its part, was unable to rebut these assertions. When pressed at the hearing on these motions whether a valid, enforceable agreement existed between Plaintiff and TET with regard to TET's claim to ownership or possession of the parts at issue, TET was unable to present even a scintilla of admissible evidence to the Court to establish that such an agreement did, in fact, exist. Accordingly, to the extent that any action is predicated on the existence of a valid, enforceable agreement between Plaintiff and TET, that action must necessarily fail as a matter of law.

This determination affects not only the sufficiency of legal actions between Plaintiff and TET, which are addressed in a separate order. It also affects T3 Aviation, Inc. and Mr. Gangi. As these parties have pointed out, they have been sued by TET for tortious interference with contract. The foundational element of an action for tortious interference is the existence of a valid contract. See, e.g., Camp v. Springs Mortg. Corp., 310 S.C. 514, 517, 426 S.E.2d 304, 305 (1993). Having concluded that a valid, enforceable agreement did not exist between Plaintiff and TET with regard to the aircraft parts at issue, it necessarily follows that TET cannot have a legally cognizable claim against T3 Aviation, Inc. and Mr. Gangi for tortious interference with that non-existent contract. Consequently, summary judgment is granted in T3 Aviation, Inc.'s and Mr. Gangi's favor on that third-party cause of action.

Moreover, the Court understands that T3 Aviation, Inc. and Mr. Gangi filed counterclaims against TET seeking, among other things, a declaratory judgment that no valid, enforceable contract existed between TET and Plaintiff capable of sustaining claims for tortious interference against them. To the extent that such actions for declaratory relief seek to establish that judgment, that is also necessarily granted.

The final matter that T3 Aviation, Inc. and Mr. Gangi have sought partial summary judgment on pertains to TET's third-party claim against them for violation of the South Carolina Unfair Trade Practices Act. S.C. Code § 39-5-10 et seq. To recover in an action under SCUTPA, the plaintiff must show that: (1) the defendant engaged in an unfair or deceptive act in the conduct of trade or commerce; (2) the unfair or deceptive act affected public interest; and (3) the plaintiff suffered monetary or property loss as a result of the defendant's unfair or deceptive acts. See, e.g., Wright v. Craft, 372 S.C. 1, 20, 640 S.E.2d 486, 498 (Ct. App. 2006).

According to the allegations of the third-party complaint against T3 Aviation, Inc. and Mr. Gangi, these defendants made false statements of fact to TET by which TET was deceived. However, in their motion for partial summary judgment, T3 Aviation, Inc. and Mr. Gangi asserted that TET has failed to identify what false statements were made by either of them to TET, how TET has sustained any damages in reliance on those statements, and how this matter—a dispute among private parties to a single commercial transaction—is within the scope of protection afforded by SCUTPA. TET has not rebutted these deficiencies. Accordingly, as a matter of law, summary judgment must be entered in favor of T3 Aviation, Inc. and Mr. Gangi as to TET’s SCUTPA action.

Accordingly, for the foregoing reasons, and to the extent described above, the motion for partial summary judgment submitted by T3 Aviation, Inc. and Mr. Gangi is **GRANTED**.

It is **SO ORDERED**.

*Judge Gravely’s E-Signature Page to Follow*



Greenville Common Pleas

**Case Caption:** ARO D Enterprises LLC , plaintiff, et al vs. Tiger Enterprises & Trading Inc , defendant, et al  
**Case Number:** 2020CP2301886  
**Type:** Order/Summary Judgment

So Ordered

s/ Honorable Perry H. Gravely, #2755