

RECEIVED

IOS, LLC,

LANDER UNIVERSITY

Dec 03 2021

PLAINTIFF(S)

DEFENDANT(S)

SC Court of Appeals

Submitted by: COURT	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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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. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRCP; Rule 41(a), SCRCP (Vol. Nonsuit); Rule 43(k), SCRCP (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRCP; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

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:

This matter comes before the Court on Defendant's motion for summary judgment. Having reviewed Defendant's motion, Plaintiff's memorandum in opposition, Defendant's reply memorandum, and considered the applicable law, the Court finds as follows:

As to all causes of action related to breach of contract, breach of oral promise to purchase, promissory estoppel, negligent misrepresentation, and negligence, the Court grants summary judgment to Defendant. Based upon the specific, undisputed facts, none of these theories offer a viable theory of recovery for Plaintiff. Essentially, Defendant's lease of the Inn offered a lifeline which delayed the ultimate foreclosure. Although Plaintiff and Defendant may have entertained the possibility of Defendant purchasing the property, at no time did Defendant enter into any valid or legally enforceable contract of sale. Additionally, any alleged oral side agreement is simply unenforceable as a matter of law. Finally, one may not recover in tort where the underlying basis for the action is breach of contract.

However, the Court does find that Plaintiff's cause of action for property damage under the lease survives Defendant's motion for summary judgment. Defendant maintains that Plaintiff's assignment of any lease proceeds to Plaintiff's lender negated the possibility of Plaintiff recovering from Defendant for any alleged damages to the property. The Court notes that the bank's foreclosure on the property resulted in a deficiency judgement against Plaintiff,

and this foreclosure took place after Defendant vacated the property. Accordingly, an issue of fact exists as to whether Plaintiff may recover for any alleged damage to the Inn after Lander vacated the property and prior to the lender's foreclosure of any interest which Plaintiff may have had in the property. Defendant may renew its assignment argument, however, at the directed verdict stage.

Defense counsel is requested to prepare a more formal, detailed order within the sixty (60) days, and the parties shall consult with each other and the Chief Administrative Judge for Common Pleas concerning a scheduling order.

IT IS SO ORDERED.

ORDER INFORMATION

This order ends does not end the case.

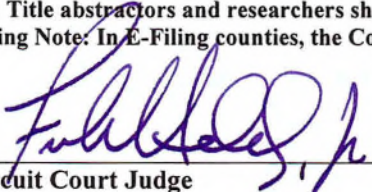
Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT 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)
		\$
		\$
		\$
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.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.



 Circuit Court Judge
 2159

 Judge Code
 3/7/19

 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:

James E. Smith, Esq., Christopher James Moore, Esq.

ATTORNEY(S) FOR THE PLAINTIFF(S)

Lena Meredith, Esq.

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT