

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Sidney Lyles,)	Civil Action No. <u>3:20-cv-03473-MGL</u>
)	
Plaintiff,)	PLAINTIFF’S LOCAL RULE 26.03 RESPONSES
)	
)	
Allstate Insurance Company,)	
)	
Defendant.)	

Pursuant to Local Rule 26.03 of the Federal Rules of Civil Procedure, the Plaintiffs make the following report to the Court:

1. A short statement of the facts of the case.

RESPONSE: The gravamen of this litigation is a breach of contract. The parties executed a ten (10) page contract entitled “Allstate R3001S Exclusive Agency Agreement” (“Agreement”) with an effective date of March 1, 2013. The Agreement concerned Plaintiff’s Allstate Agency located at 11134 Broad River Road, Suite B, Irmo, South Carolina 29603. From this office Plaintiff acted as an Allstate Agent and sold Allstate home, life, and car insurance policies. Defendant improperly attempted to terminate the Agreement. Defendant breached the Agreement by (1) failing to provide proper notice to Plaintiff for the termination of the Agreement, (2) by requiring Plaintiff to discriminate against minorities while selling Allstate insurance policies, and (3) by failing to give Plaintiff the contractually required time period to market and sell his agency’s “book of business.” Plaintiff also states that Defendant converted his “book of business” and violated the South Carolina Unfair Trade Practices Act.

2. The names of fact witnesses likely to be called by the party and a brief summary of their expected testimony.

RESPONSE:

1. Plaintiff, care of his attorneys of record. This witness will testify about the allegations contained in the Complaint as well as the damages he has suffered. For example, he will testify about the facts and circumstances surrounding the Allstate R3001S Exclusive Agency Agreement at issue in this litigation as well as the bad faith and pretextual termination for the same. He will testify that Defendant’s true reason for termination was racially motivated.

2. A 30(b)(6) corporate representative(s) for Defendant, care of its attorneys of record. Upon information and belief, this witness will testify about Allstate R3001S Exclusive Agency Agreement at issue in this litigation.
3. Kenneth Porter care of Defendant's attorneys of record. This witness was at all times relevant hereto the Defendant's Regional Manager for the Southeast Region. Upon information and belief, this witness will testify about Plaintiff's relationship with Defendant.
4. DaJuan Mack care of Defendant's attorneys of record. This witness was at all times relevant hereto the Defendant's Regional Sales Leader for the Southeast Region. Upon information and belief, this witness will testify about Plaintiff's relationship with Defendant.
5. Tamara Gunter care of Defendant's attorneys of record. This witness was at all times relevant hereto the Defendant's Field Sales Leader. Upon information and belief, this witness will testify about Plaintiff's relationship with Defendant.
6. Plaintiff reserves the right to supplement this response.

3. The names and subject matter of expert witnesses (if no witnesses have been identified, the subject matter and field of expertise should be given as to experts likely to be offered).

RESPONSE: No experts have been retained by Plaintiff to date. If Plaintiff retains an expert(s) said expert is expected to opine on the valuation of Plaintiff's Allstate Agency formerly located at 11134 Broad River Road, Suite B, Irmo, South Carolina 29603 and its "book of business."

4. A summary of all claims or defense with statutory and/or case citations supporting the same.

RESPONSE: Plaintiff's five (5) causes of action are as follows:

1. Breach of Contract

- In bringing an action for a breach of contract the burden is upon the Plaintiff "to prove the contract, its breach, and the damages caused by such breach." *Baughman v. Southern Railway Co.*, 127 S.C. 493, 121 S.E. 356 (1924).

- The general rule is that for a breach of contract the defendant is liable for whatever damages follow as a natural consequence and a proximate result of such breach. *Smyth v. Fleischmann*, 214 S.C. 263, 52 S.E.2d 199 (1949).

2. Tortious Interference with Contract

- “The theory of this doctrine is that the parties to a contract have a property right therein, which a third person has no more right maliciously to deprive them of, or injure them in, than he would have to injure their property. Such an injury, without sufficient justification, amounts to a tort for which the injured party may seek compensation by an action in tort for damages.” *Chitwood v. McMillian*, 189 S.C. 262, 1 S.E.2d 162, 163 (1939)

3. Tortious Interference with Prospective Economic Opportunity and loss of Prospective Profits

- The elements for interference with prospective contractual relations are (1) intentional interference with prospective contractual relations, (2) for an improper purpose or by improper methods, and (3) resulting injury. *Crandall Corp. v. Navistar Int'l Transp. Corp.*, 302 S.C. 265, 266, 395 S.E.2d 179, 180 (1990).

4. Conversion

- Conversion is the “unauthorized assumption and exercise of the right of ownership over goods or personal chattels belonging to another, to the alteration of their condition or the exclusion of the owner's rights.” *Powell v. A.K. Brown Motor Co.*, 200 S.C. 75, 78, 20 S.E.2d 636, 637 (1942).

- The measure of damages for a willful and intentional conversion, where the property is converted with knowledge of the owner's rights in the property, is the highest market value of the property with interest up to the time of trial, including any additional value due to additions or improvements made by the converter. *Industrial Welding Supplies, Inc. v. Atlas Vending Co.*, 276 S.C. 196, 277 S.E.2d 885 (1981); *Gregg v. Bank of Columbia*, 72 S.C. 458, 52 S.E. 195 (1905); [Restatement \(Second\) of Torts Section 927 \(1981\)](#); 1 Am.Jur.2d *Accession and Confusion* Section 29 (1962). Only if the owner seeks punitive damages must the evidence show that the conversion was done recklessly and with conscious indifference to the owner's rights. *Long v. Gibbs Auto Wrecking Co.*, 253 S.C. 370, 171 S.E.2d 155 (1969); *Lumpkin v. Allstate Insurance Co.*, 251 S.C. 19, 159 S.E.2d 852 (1968)

5. Violation of the South Carolina Unfair Trade Practices Act

- Please see S.C. Code Ann. §39-5-10, *et. seq.*

5. Absent special instructions from the assigned judge, the parties shall propose dates

for the following deadlines listed in Local Civil Rule 16.02:

- (a) Exchange of Fed. R. Civ. P.26 (a)(2) expert disclosures; and
- (b) Completion of discovery.

RESPONSE: Plaintiff has filed separately a proposed Amended Conference and Scheduling Order which seeks a thirty (30) day extension on all deadlines from the Court's order in ECF #14. In Plaintiff's proposed order:

(a) the exchange of Fed. R. Civ. P.26 (a)(2) expert disclosures is on October 1, 2021; and,

(b) the completion of discovery is on December 31, 2021.

6. The parties shall inform the Court whether there are any special circumstances which would affect the time frames applied in preparing the scheduled Order.

RESPONSE: No special circumstances.

7. The parties shall provide any additional information requested in the Pre-Scheduling Order (Local Civil Rule 16.01) or otherwise requested by the assigned Judge.

RESPONSE: None.

Charleston, South Carolina
June 24, 2021

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