Docket # 24-12733

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Defendant Attorney(s): =M=Gregory DiPippo 6109921300 87659

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MAE GABEL, Plaintiff v. SITE READY CONSTRUCTION, DARREN M. HAILE and PROSCAPE LANDSCAPE SUPPLY, LLC, Defendants	IN THE COURT OF COMMON PLEAS OF BERKS COUNTY, PENNSYLVANIA CIVIL ACTION - LAW DOCKET NO. 24-12733 ASSIGNED TO: JAMES E. GAVIN, J.

DECISION AND VERDICT **March 4, 2026** **JAMES E. GAVIN, J.**

INTRODUCTION

On its face, this case involves a dispute between the parties relating to payment of past due debt. The facts also demonstrate, however, the inherent danger associated with proceeding with complex business transactions without the benefit of able legal counsel.

The matter proceeded to trial without a jury on September 18, 2025 and October 30, 2025. Thereafter, due to the complexity of the issues involved, the Court issued multiple orders for post-trial briefing and argument. The record is now complete and this matter is ripe for disposition.

FINDINGS OF FACT

1. In or around July of 2019, the Plaintiff, Mae Gabel (hereinafter referred to as "Mae Gabel"), loaned the Defendant, Site Ready Construction (hereinafter referred to as "Site Ready') the sum of One Hundred Thousand Dollars ($100,000.00)(hereinafter referred to as the "Loan").

2. At or around the time of the Loan, a promissory note was prepared (hereinafter referred to as the "Promissory Note").

3. The Promissory Note was not prepared by an attorney.

4. As originally drafted, the Promissory Note erroneously identified the lender as Ron Gabel, who is the son of Mae Gabel.

5. After reviewing the Promissory Note, Mae Gabel crossed out the word "Ron" and

replaced it with the word "Mae."

6. The Defendant, Darren Haile (hereinafter referred to as "Haile") received the Promissory Note on behalf of Site Ready after Mae Gabel had changed the word "Ron" to "Mae" and Haile signed the Promissory Note on behalf of Site Ready accepting the change as made.

7. Site Ready understood that the Promissory Note evidenced that it was receiving the Loan from Mae Gabel.

8. The Promissory Note provided that the Loan would mature on June 30, 2022.

9. The Promissory Note provided that interest-only payments would be made quarterly beginning in October of 2019 until the Loan is paid in full.

10. The Promissory Note provided for late charges of Five Thousand Dollars ($5,000.00) if any installment of interest of principal is fifteen (15) or more days late.

11. The Promissory Note provided that Mae Gabel was entitled to recover reasonable attorney fees and expenses incurred in her efforts to enforce the Promissory Note.

12. On January 21, 2020, Haile of Site Ready contacted Robert Cammarata (hereinafter referred to as "Cammarata") of the Defendant, Proscape Landscape Supply, LLC (hereinafter referred to as "Proscape") stating that he was, "looking for one or two people to invest in [his] company, Site Ready Construction....If you have any interest, pls let me know."

13. On January 27, 2020, Cammarata, acting on behalf of Proscape responded to Haile with an email stating, "Here is a list of things I would like to see Accounts Payable, Accounts Receivable, Work in progress how much has been billed and balance to bill, debt schedule, equipment list, employee list with names, current insurance policy, 2019 taxes and financials, any legal suits."

14. A balance sheet for Site Ready dated January 30, 2020, identified a "Loan from Ron"

in the amount of One Hundred Thousand Dollars ($100,000.00) as a liability of Site Ready.

15. The "Loan from Ron" identified in the January 30, 2020 balance sheet was intended to be a reference to the Loan that was received from Mae Gabel.

16. On January 30, 2020, Cammarata, acting on behalf of Proscape sent an email to Haile of Site Ready acknowledging Haile's time and once again asking for accounts payable along with other documents.

17. On February 3, 2020, Haile on behalf of Site Ready sent an email to Cammarata on behalf of Proscape that included a list of equipment along with related expenses inclusive of lease information and monthly payments, and suppliers with contact information.

18. On February 3, 2020, Haile on behalf of Site Ready sent an email to Cammarata on behalf of Proscape that included an update on outstanding accounts receivable owed to Site Ready and current open jobs.

19. On February 18, 2020, Cammarata, acting on behalf of Proscape, sent an email to Haile stating the plan he was considering which included assuming all current accounts payable and accounts receivable and he would work on a payment plan for Mae Gabel. Additionally, Haile would be offered employment with Proscape.

20. On February 19, 2020, Haile on behalf of Site Ready and Cammarata on behalf of Proscape executed a document captioned "Business Bill of Sale (Purchase Agreement)" (hereinafter referred to as the "Purchase Agreement").

21. The Purchase Agreement was not prepared by an attorney.

22. The Purchase Agreement was printed on letterhead for Proscape Landscape Supply.

23. The Purchase Agreement identified the Buyer as Proscape Landscape Supply, LLC.

24. The Purchase Agreement identified the Seller as Site Ready Construction, Inc.

25. Proscape's main purpose in entering the Purchase Agreement and assuming the debt owed to Mae Gabel was to serve its own pecuniary and business ends

26. The Purchase Agreement provided, "Seller acknowledges they have the right to sell the business entity known as Site Ready Construction, Inc. incorporated in the State of Pennsylvania with a principal office located at 821 N. Bethlehem Pike City of Ambler, State of Pennsylvania along with all it's [sic] assets, shares, leases, contracts, trademarks, copyrights, and other tangible or intangible interest[.]"

27. The Purchase Agreement also provided, "The Buyer and Seller agree to a purchase price of Zero (US Dollars) to be acceptable for sale of the Business Before [sic], during, and after the sale, the Seller agrees to engage in a two year employment agreement."

28. A written at-will employment agreement was entered into between Proscape and Haile on February 21, 2020 for an annual salary of Seventy-Five Thousand Dollars ($75,000.00)(hereinafter referred to as the "First Employment Agreement").

29. The First Employment Agreement was not prepared by an attorney.

30. The First Employment Agreement contained a commencement date of January 1, 2005, which was fifteen (15) years prior to the execution of the First Employment Agreement,

31. A second employment agreement between Proscape and Haile was entered into on February 24, 2020 and was intended to supersede all prior oral or written agreements or understandings between Proscape and Haile (hereinafter referred to as the "Second Employment Agreement").

32. The Second Employment Agreement was not prepared by an attorney.

33. At or around the time of the execution of the Purchase Agreement, Site Ready provided

Proscape a list of its "Work in Progress," an aging accounts receivable list, and a list of work prospects noted as a "Hot List."

34. On March 6, 2020, Haile sent an email to Cammarata outlining the progress on open jobs.

35. Following the execution of the Purchase Agreement, Proscape began making the interest payments to the Mae Gabel related to the Loan.

36. On March 28, 2020, Haile sent an email captioned "Interest Payment to Mae Gabel" to Cammarata of Proscape stating, "Just a reminder that the interest payment (due every quarter) is due to Mae Gabel April 1st 2020. I believe the payment is roughly $2,500.00."

37. On March 31, 2020, three days after Haile's email of March 28, 2020, Proscape paid Two Thousand Five Hundred Dollars ($2,500.00) to Mae Gabel as an interest payment related to the Loan.

38. On June 11, 2020, Proscape paid One Thousand Dollars ($1,000.00) to Mae Gabel as an interest payment related to the Loan.

39. On July 13, 2020, Proscape paid One Thousand Dollars ($1,000.00) to Mae Gabel as an interest payment related to the Loan.

40. On August 14, 2020, Proscape paid One Thousand Dollars ($1,000.00) to Mae Gabel as an interest payment related to the Loan.

41. On September 11, 2020, Proscape paid One Thousand Dollars ($1,000.00) to Mae Gabel as an interest payment related to the Loan.

42. On October 13, 2020, Proscape paid One Thousand Dollars ($1,000.00) to Mae Gabel as an interest payment related to the Loan.

43. On November 13, 2020, Proscape paid One Thousand Dollars ($1,000.00) to Mae

Gabel as an interest payment related to the Loan.

44. On December 16, 2020, Proscape paid One Thousand Dollars ($1,000.00) to Mae Gabel as an interest payment related to the Loan.

45. On January 14, 2021, Proscape paid One Thousand Dollars ($1,000.00) to Mae Gabel as an interest payment related to the Loan.

46. On February 10, 2021, Proscape paid One Thousand Dollars ($1,000.00) to Mae Gabel as an interest payment related to the Loan.

47. On March 12, 2021, Proscape paid One Thousand Dollars ($1,000.00) to Mae Gabel as an interest payment related to the Loan.

48. Between March 31, 2020 and March 12, 2021, Proscape paid Mae Gabel a total of Twelve Thousand Five Hundred Dollars ($12,500.00) as interest payments related to the Loan.

49. For the tax year of 2020, Proscape sent Mae Gabel a Form 1099-NEC evidencing nonemployee compensation in the amount of Twelve Thousand Five Hundred Dollars ($12,500.00).

50. After March 12, 2021, Proscape discontinued making any payments to Mae Gabel.

51. An Accounts Payable report was generated by Proscape dated April 26, 2021 identifying Mae Gabel as an account payable owed by Proscape.

52. In May of 2021, Haile terminated his employment with Proscape.

53. The Loan matured on June 30, 2022 without being paid off in full.

54. At the time the Loan matured on June 30, 2022, One Hundred Thousand Dollars ($100,000.00) of principal was due and owing, together with accumulated interest at a rate of ten percent (10%) per annum from March 13, 2021.

55. Mae Gabel incurred attorney fees in the amount of Ten Thousand Four Hundred

Ninety-Nine Dollars and Fifty Cents ($10,499.50) in an effort to enforce her rights and remedies pursuant to the terms and conditions of the Promissory Note.

56. The payment of principal and interest pursuant to the Promissory Note is late for fifteen (15) or more days and therefore Mae Gabel is entitled to payment of late charges in the amount of Five Thousand Dollars ($5,000.00).

DISCUSSION

In this case, evidence was presented relating to a series of transactions entered into between the assorted parties without the benefit of professional legal assistance. The evidence demonstrated that those agreements were vague and ambiguous.

The Court will divide the discussion into multiple parts. In Part I, the Court will generally discuss the rules being applied relating to contractual interpretation and construction. In Part II, the Court will address Mae Gabel's claim for breach of contract. In Part III, the Court will address Mae Gabel's claim for Unjust Enrichment. In Part IV, the Court will address Proscape's crossclaim against Haile.

I

The analysis of the appropriate disposition of this case begins with a matter of contractual interpretation relating to the various written agreements at issue in this case. The Court is guided by several principles of contractual interpretation.

> "[W]hen a written contract is clear and unequivocal, its meaning must be determined by its contents alone." *Commonwealth of Penn., Dept. of Transp. v. Manor Mines, Inc.*, 523 Pa. 112, 565 A.2d 428, 432 (1989) (citations omitted). In construing a contract, we must determine the intent of the parties and give effect to all of the provisions therein. *Id.* "An interpretation will not be given to one part of the contract which will annul another part of it." *Cerceo v. DeMarco*, 391 Pa. 157, 137 A.2d 296, 298 (1958) (citations omitted).

Capek v. Devito, 564 Pa. 267, 273-274, 767 A.2d 1047, 1050 (2001). Further guidance has been given as follows:

> A contract must be construed according to the meaning of its language. *Grant v. Southwestern Pennsylvania Water Auth.,* 144 Pa.Cmwlth. 638, 601 A.2d 1359 (1992). "The fundamental rule in construing a contract is to ascertain and give effect to the intention of the parties." *Sun Co., Inc. (R & M) v. Pennsylvania Turnpike Commission,* 708 A.2d 875, 878 (Pa.Cmwlth.1998). "The intention of the parties must be ascertained from the document itself, if its terms are clear and unambiguous." *Id.* The Court's inquiry should focus on what the agreement itself expressed and not on what the parties may have silently intended. *Delaware County v. Delaware County Prison Employees Independent Union,* 552 Pa. 184, 713 A.2d 1135 (1998). "It is not proper, under the guise of construction, to alter the terms to which the parties, whether in wisdom or folly, expressly agreed." *Id.* at 190, 713 A.2d at 1138. The law assumes that the parties chose the language of their contract carefully. *Liazis v. Kosta, Inc.,* 421 Pa.Super. 502, 618 A.2d 450 (1992).

Empire Sanitary Landfill, Inc. v. Riverside School District, 739 A.2d 651, 654 (Pa.Cmwlth. 1999).

Under certain circumstances, however, the court may find that a contract is ambiguous. When such a conclusion is reached, additional considerations are required.

> Where the language of the written contract is ambiguous, extrinsic or parol evidence may be considered to determine the intent of the parties. *In re Herr's Estate,* 400 Pa. 90, 161 A.2d 32 (1960). While courts are responsible for deciding whether, as a matter of law, written contract terms are either clear or ambiguous; it is for the fact finder to resolve ambiguities and find the parties' intent. *Easton v. Washington County Insurance Co.,* 391 Pa. 28, 137 A.2d 332 (1957); *Castellucci v. Columbia Gas of Pennsylvania, Inc.,* 226 Pa.Super. 288, 310 A.2d 331 (1973).
>
> A contract will be found to be ambiguous:
>
> > [I]f, and only if, it is reasonably or fairly susceptible of different constructions and is capable of being understood in more senses than one and is obscure in meaning through indefiniteness of expression or has a double meaning. A contract is not ambiguous if the court can determine its meaning without any guide other than a knowledge of the simple facts on which, from the nature of language in general, its meaning depends; and a contract is not rendered ambiguous by the mere fact that the parties do not agree upon the proper construction.
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> *Commonwealth State Highway and Bridge Authority v. E.J. Albrecht Co.,* 59 Pa.Commw.Ct. 246, 251, 430 A.2d 328, 330 (1981) (Quoting 8 P.L.E.

> CONTRACTS § 146 (1971)). Ambiguities may be either patent or latent. A patent ambiguity appears on the face of the instrument and arises from the defective, obscure, or insensible language used. *Steuart v. McChesney,* 498 Pa. 45, 444 A.2d 659 (1982). Latent ambiguities arise from extraneous or collateral facts which render the meaning of a written contract uncertain although the language, on its face, appears clear and unambiguous. *Id.*

Metzger v. Clifford Realty Corp., 327 Pa.Super. 377, 386, 476 A.2d 1, 5 (1984).

When analyzing a contract that may be ambiguous,

> A court … should hear the evidence presented by both parties and then decide whether "there is objective indicia that, from the linguistic reference point of the parties, the terms of the contract are susceptible of differing meanings." *Mellon Bank, N.A. v. Aetna Business Credit, Inc.,* 619 F.2d 1001, 1011 (3d Cir.1980). Extrinsic evidence may be used to determine the intent of the parties whether the ambiguity be patent or latent.

Z & L Lumber Co. of Atlasburg v. Nordquist, 348 Pa.Super. 580, 586, 502 A.2d 697, 700 (1985).

Ambiguity arises from more than one reasonable interpretation of a contract.

> "A contract is ambiguous if it is reasonably susceptible of different constructions and capable of being understood in more than one sense." *Insurance Adjustment Bureau v. Allstate,* 588 Pa. 470, 481, 905 A.2d 462, 468–69 (2006). The "reasonably" qualifier is important: there is no ambiguity if one of the two proffered meanings is unreasonable. *See Murphy v. Duquesne Univ. Of The Holy Ghost,* 565 Pa. 571, 591, 777 A.2d 418, 430 (2001) ("[C]ontractual terms are ambiguous if they are subject to *more than one reasonable interpretation* when applied to a particular set of facts." (emphasis added)). Furthermore, reviewing courts will not "distort the meaning of the language or resort to a strained contrivance in order to find an ambiguity." *Madison Constr. Co. v. Harleysville Mut. Ins. Co.,* 557 Pa. 595, 606, 735 A.2d 100, 106 (1999).

Trizechahn Gateway LLC v. Titus, 601 Pa. 637, 653, 976 A.2d 474, 483 (2009).

Additionally, as the Pennsylvania Supreme Court has observed, the parties' course of performance is always relevant to interpreting the meaning of a contract. *Atlantic Richfield, Co. v. Razumic,* 480 Pa. 366, 376, 390 A.2d 736, 741 (1978). This is consistent with the Restatement of Law (Second) of Contracts, which says:

> Where an agreement involves repeated occasions for performance by either party with knowledge of the nature of the performance and opportunity for objection to

> it by the other, any course of performance accepted or acquiesced in without objection is given great weight in the interpretation of the agreement.

Restatement of Law (Second) of Contracts §202(4). See also *Pennsylvania Engineering Corp. v. McGraw-Edison, 500 Pa. 605, 612, 459 A.2d 329, 332 (1983)* and *Matt Lamb & Sons v. Christian Schmidt Brewing Co., 336 Pa.Super. 341, 350, 485 A.2d 836, 841 (1984)* (Evidence of performance is perhaps the strongest evidence of what the writing means).

When a court finds that there are ambiguities in a written contract, there are a number of rules of interpretation or construction that a court may consider in an effort to properly understand the contract.

> Rules of interpretation may be divided into two classes: primary and secondary. Primary rules of interpretation are always used by the courts to determine the meaning of particular words or clauses found in a contract, and the contract as a whole, regardless of whether the parties' writing is clear or ambiguous. Secondary rules, by contrast, are only used to determine the meaning of those words or clauses whose meaning remains unclear or ambiguous after and despite the application of the primary rules to the parties' writing. As previously explained, it must be constantly borne in mind that many courts use the terms "interpretation" and "construction" interchangeably, despite the fact that the two terms have very different legal meanings. The rules discussed in this chapter are rules of *interpretation*, employed when the court is seeking to determine what the parties meant or intended when they used a particular word or phrase; rather than rules of *construction*, which are applied after interpretation has occurred and give to the words an artificial legal meaning, or, stated slightly differently, determine, as a matter of law, the legal effect of the parties' agreement.

11 Williston on Contracts §32.1 (4th Ed.)

One of the first steps a court should take is to attempt to discern the main purpose of the contract.

> The law prefers an interpretation which gives effect to all parts of the contract rather than one which leaves part of the contract ineffective or meaningless. However, when this is not possible, the court will seek to interpret the contract in a way that will at least effectuate the principal or main apparent purpose of the parties. Furthermore, if part of the contract is irreconcilable with the main purpose of the contract, that part will be given no effect in order that the main purpose of the contract can be achieved. Similarly, sometimes particular words or provisions of a contract will be disregarded in order to give effect to the general meaning of a contract.

11 Williston on Contracts §32.9 (4th Ed.)

> The presence of contradictory or inconsistent provisions present their own set of problems.
>
> The question of how to interpret a contract containing contradictory clauses has been answered in a variety of ways. Generally, courts will either give preference to the earlier clause when it conflicts with a later clause, the more important or dominant of two conflicting clauses, or the more specific of two clauses that conflict with one another. Historically, one of the first answers provided by the courts for how to deal with conflicting clauses was to enforce the earlier clause and disregard the later. This approach is still followed today. Because of the arbitrary and artificial quality of this rule of interpretation, it is not universally followed and will only be accepted as a rule of last resort.

11 Williston on Contracts §32.15 (4th Ed.). See also *Baldwin v Magen, 279 Pa. 302, 123 A. 815 (1924).*

II

In this part of the discussion, the Court address Count I of Mae Gabel's Amended Complaint asserting a claim for breach of contract.

A

Mae Gabel presents a claim premised upon a theory of a breach of contract against all defendants. In order to prove a breach of contract, the moving party must produce credible evidence of (1) the existence of a contract between the parties, including its essential terms; (2) a breach of a duty imposed by the contract; and (3) damages resulting from a breach of that duty. *Reeves v Middletown Athletic Association, 866 A.2d 1115, 1125 (Pa. Super. 2004).* See also *Hart v Arnold, 884 A.2d 316, 332 (Pa.Super. 2005).*

There is no dispute that Mae Gabel entered into a contract that provided for a large loan that has not been paid back. Thus, there was a breach of contract and the Plaintiff suffered monetary damages.

The dispute in this case, however, is not whether the money is owed. Rather, the dispute is who owes the money. This determination will be discussed in the following sub-sections.

B

In order to determine who owes the money to Mae Gabel, the Court will analyze the agreements and negotiations amongst the Defendants and their impact as to liability.

Initially, the Court finds that there are ambiguities in the Purchase Agreement. As a result, the Court will consider and give weight to the discussions and events both prior to and after the execution of the Purchase Agreement.

Prior to the execution of the Purchase Agreement, the credible evidence established that on January 21, 2020 Haile of Site Ready contacted Cammarata of Proscape stating that he was, "looking for one or two people to invest in [his] company, Site Ready Construction….If you have any interest, pls let me know." On January 27, 2020, Cammarata, acting on behalf of Proscape, responded to Haile with an email stating, "Here is a list of things I would like to see Account Payable, Accounts Receivable, Work in progress how much has been billed and balance to bill, debt schedule, equipment list, employee list with names, current insurance policy, 2019 taxes and financials, any legal suits."

On January 30, 2020, Cammarata sent an email to Haile of Site Ready acknowledging Haile's time and once again asking for accounts payable along with other documents. On February 18, 2020, Cammarata sent another email to Haile stating the plan he was considering which included assuming all current accounts payable and accounts receivable and he would work on a payment plan for Mae Gabel. Additionally, Haile would be offered employment with Proscape.

After completion of the foregoing communications, on February 19, 2020, Haile on behalf of Site Ready and Cammarata on behalf of Proscape executed the Purchase Agreement. In the Purchase Agreement, the Buyer was identified as Proscape Landscape Supply, LLC, and the Seller was identified as Site Ready Construction, Inc.

The Purchase Agreement provided, "Seller acknowledges they have the right to sell the business entity known as Site Ready Construction, Inc. incorporated in the State of Pennsylvania with a principal office located at 821 N. Bethlehem Pike City of Ambler, State of Pennsylvania along with all it's [sic] assets, shares, leases, contracts, trademarks, copyrights, and other tangible or intangible interest[.]"

Following the execution of the Purchase Agreement, Proscape began making interest payments to Mae Gabel related to the Loan. Consistent therewith, on March 28, 2020, Haile sent an email captioned "Interest Payment to Mae Gabel" to Cammarata of Proscape stating, "Just a reminder that the interest payment (due every quarter) is due to Mae Gabel April 1st 2020. I believe the payment is roughly $2,500.00." On March 31, 2020, three days after Haile's email of March 28, 2020, Proscape began paying the interest payments on the Loan to Mae Gabel by paying Two Thousand Five Hundred Dollars ($2,500.00).

Between March 31, 2020 and March 12, 2021, Proscape made eleven (11) interest payments to Mae Gabel a total of Twelve Thousand Five Hundred Dollars ($12,500.00). For the tax year of 2020, Proscape sent Mae Gabel a Form 1099-NEC evidencing nonemployee compensation in the amount of Twelve Thousand Five Hundred Dollars ($12,500.00).

Following the last payment in March of 2021, an Accounts Payable Report generated by Proscape dated April 26, 2021 identified Mae Gabel as an accounts payable of Proscape.

From the inception of the negotiations, the evidence credibly establishes that Proscape wanted information on accounts payable. On February 18, 2020, Cammarata stated in an email that he was considering assuming all current accounts payable and accounts receivable and he would work on a payment plan for Mae Gabel. As drafted and signed, the Purchase Agreement identifies what was being sold included, "assets, shares, leases, *contracts*…." (Emphasis Added). It is axiomatic that a promissory note is fundamentally a contract.

After the signing of the Purchase Agreement, Proscape was reminded of the obligation owed to Mae Gabel. Consistent with the reminder, Proscape made payments of interest to Mae Gabel for approximately a year. Thereafter, Proscape simply abandoned the payments.

An "account payable" is defined as "[a]n account reflecting a balance owed to a creditor; a debt owed by an enterprise in the normal course of business dealing." See *Black's Law Dictionary, p. 21 (11th Edition 2019).* "Accounts payable is a current liability in the balance sheet." *Barron's Dictionary of Accounting Terms, p. 11 (Second Edition 1995).* [1]

In the absence of a valid defense, the evidence demonstrates that Proscape intended to assume responsibility for the Loan, did assume liability for the Loan, and paid on the Loan. As such, the Court will proceed to analyze what defenses, if any, are available to Proscape.

C

In an effort to avoid liability, asserts several defenses. Upon careful review and as will be discussed, the Court finds these issues do not afford Proscape any relief.

Among its defenses, Proscape alleges that it did not purchase the stock of Site Ready. Being mindful that the contents of the Purchase Agreement are ambiguous, it nonetheless says, "Seller acknowledges they have the right to *sell the business entity* known as Site Ready Construction, Inc. incorporated in the State of Pennsylvania with a principal office located at 821 N. Bethlehem Pike City of Ambler, State of Pennsylvania along with all it's [sic] assets, *shares*, leases, contracts,

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[1] A portion of Proscape's argument in this case is premised upon its contention that the Purchase Agreement was an asset purchase agreement only. Clearly, an account payable is not an asset. On the contrary, it is a liability. Through its negotiations and actions, Proscape assumed the account payable to Mae Gabel, i.e. a liability.

trademarks, copyrights, and other tangible or intangible interest[.]" (Emphasis Added). The foregoing paragraph of the Purchase Agreement refers to the "sale of the Business."

Based upon its actions prior to executing the Purchase Agreement, the execution of the Purchase Agreement, and its actions after execution of the Purchase Agreement, the Court finds that Proscape intended to purchase Site Ready in its entirety. Therefore, the argument about stocks offers Proscape no relief.

Proscape then argues that the purchase of assets does not generally assume the debts of the selling corporation. For several reasons, this argument is meritless.

This argument is predicated upon Proscape's argument that the transaction only involved an asset purchase agreement. As discussed above, the Court finds the Purchase Agreement was intended to be a full purchase of Site Ready and not just its assets.

In addition, the Court finds that the assumption of the debt to Mae Gabel was intended. Again, with due consideration to the ambiguity in the Purchase Agreement, Proscape's actions prior to executing the Purchase Agreement, the execution of the Purchase Agreement, and its actions after execution of the Purchase Agreement, the Court finds that Proscape intended to assume the debt owed to Mae Gabel.

Finally, Proscape contends that recovery is barred by the Statute of Frauds. Specifically, the Statute of Frauds says:

> No action shall be brought whereby to charge any executor or administrator, upon any promise to answer damages out of his own estate, or whereby to charge the defendant, upon any special promise, to answer for the debt or default of another, unless the agreement upon which such action shall be brought, or some memorandum or note thereof, shall be in writing, and signed by the party to be charged therewith, or some other person by him authorized.

33 P.S. §3. Discussing the purpose of the Statute of Frauds, the Pennsylvania Superior Court said:

Promises to pay the debt of another must be in writing for at least two reasons. The first is *evidentiary*. The second, *cautionary*.

> Like other provisions of the statute [of frauds], the suretyship provision serves an evidentiary function. Indeed, Williston suggested that the circumstance **884 that 'the promisor has received no benefit from the transaction ... may make perjury more likely, because while in the case of one who has received something the circumstances themselves which are capable of proof show probable liability, in the case of a guaranty nothing but the promise is of evidentiary value.' Furthermore, though in many instances the surety is paid by the principal for his undertaking, in others the surety's motivation is purely gratuitous and, 'as the lack of any benefit received by the guarantor increases the hardship of his being called upon to pay, it also increases the importance of being very sure that he is justly charged.'
>
> In addition to its evidentiary role, the provision serves a cautionary function. By bringing home to the prospective surety the significance of his act, it guards against ill-considered action. Otherwise, he might lightly undertake the engagement, unwisely assuming that there is only a remote possibility that the principal will not perform his duty....

E.A. Farnsworth, *Contracts* § 6.3 (1982).

Thomas A. Armbruster, Inc. v Barron, 341 Pa.Super. 409, 412, 491 A.2d 882, 883-884 (1985).

What is often referred to as the suretyship provision of the Statute of Frauds, does not apply when the main object of the agreement is to serve the pecuniary or business purpose of the promisor. As the Pennsylvania Superior Court observed:

> The suretyship provision of the Statute of Frauds, however, does not apply if the main object of the promisor is to serve his own pecuniary or business purpose. *Biller v. Ziegler,* 406 Pa.Super. 1, 8–10, 593 A.2d 436, 440 (1991); *See Eastern Wood Products Company v. Metz,* 370 Pa. 636, 641, 89 A.2d 327, 330 (1952) (Supreme Court adopts exception to suretyship provision of the Statute of Frauds). This exception, known as the "leading object" or "main purpose" rule, "applies whenever a promisor, in order to advance some pecuniary or business purpose of his own, purports to enter into an oral agreement even though that agreement may be in the form of a provision to pay the debt of another." *Biller,* 593 A.2d at 440. The Restatement (Second) of Contracts explains the rationale of this exception:
>
> > Where the surety-promisor's main purpose is his own primary or business advantage, the gratuitous or sentimental element often present in suretyship is eliminated, the likelihood of disproportion in the values exchanged between promisor and promisee is reduced, and the commercial context commonly provides

> evidentiary safeguards. Thus there is less need for cautionary or evidentiary formality than in other cases of suretyship.

Restatement (Second) of Contracts § 116, Comment a[.]

Webb Mfg. Co. v Sinoff, 449 Pa.Super. 534, 539, 674 A.2d 723, 725 (1996). It is for the trier of fact, who is better able to weigh the evidence and assess the credibility of witnesses, to determine whether a promisor's main purpose for making a guaranty was to serve his own pecuniary or business ends. *449 Pa.Super. at 539, 674 A.2d at 725-726.*

In resolving this issue, the Court finds that given the content of the Purchase Agreement, including its reference to "contracts," the Loan was assumed in writing. Even if it were not, the Court finds that Proscape's main purpose in entering the Purchase Agreement and assuming the debt was to serve its own pecuniary and business ends. Consequently, the Statute of Frauds does not apply and is not a defense.

D

In summation, the Court finds that Proscape has assumed the liability to Mae Gabel. As a result, it owes her damages.

The Loan matured on June 30, 2022 without being paid off in full. At the time the Loan matured on June 30, 2022, One Hundred Thousand Dollars ($100,000.00) of principal was due and remains owing, together with accumulated interest at a rate of ten percent (10%) per annum from March 13, 2021.

Additionally, Mae Gabel incurred attorney fees in the amount of Ten Thousand Four Hundred Ninety-Nine Dollars and Fifty Cents ($10,499.50) in an effort to enforce her rights and remedies pursuant to the terms and conditions of the Promissory Note. She is entitled to recover these attorney fees.

Finally, since the payment of principal and interest pursuant to the Promissory Note is late for fifteen (15) or more days and therefore Mae Gabel is also entitled to payment of late charges in the amount of Five Thousand Dollars ($5,000.00).

These monetary damages are all payable to Mae Gabel by Proscape.

III

The Plaintiff's Amended Complaint also includes a claim for unjust enrichment against all defendants.

> Unjust enrichment is essentially an equitable doctrine, application of which depends on the particular factual circumstances of each individual case. *Schenck v. K.E. David, Ltd.,* 446 Pa.Super. 94, 666 A.2d 327 (1995). To prevail on a claim for unjust enrichment, a plaintiff must prove: (1) benefits conferred on defendant by plaintiff; (2) appreciation of such benefits by defendant; and (3) acceptance and retention of such benefits under such circumstances that it would be inequitable for defendant to retain the benefit without payment of value. *Temple University Hosp., Inc. v. Healthcare Management Alternatives, Inc.,* 832 A.2d 501 (Pa.Super.2003). This Court has summarized our analysis under this doctrine as follows:
>
>> In determining if the doctrine applies, our focus is not on the intention of the parties, but rather on whether the defendant has been unjustly enriched. The most important factor to be considered in applying the doctrine is whether the enrichment of the defendant is *unjust.* Where unjust enrichment is found, the law implies a contract, referred to as either a *quasi contract* or a contract implied in law, which requires that the defendant pay to plaintiff the value of the benefit conferred.
>
> *Schenck, supra.* at 328–329 (citations omitted).

Walter v. Magee-Womens Hospital of UPMC Health System, 876 A.2d 400, 407 (Pa.Super. 2005).

The law is clear, however, that a claim of unjust enrichment is inapplicable when the claim is based upon a written contract. See *Wilson School District v Skepton, 586 Pa. 513, 520, 895 A.2d 1250, 1254 (2006).* Inasmuch as the Mae Gabel's claims are based upon the violation of a written promissory note, awarding her damages for unjust enrichment would be inappropriate and redundant.

In consideration of the foregoing, a verdict will be entered in the favor of all of the Defendants and against Mae Gabel on Count II of the Plaintiff's Amended Complaint.

IV

Proscape has filed a crossclaim against Haile. In an asserted claim for breach of contract, Proscape contends that Haile breached what it has described as the "Agreed Upon Circumstances" and an Employment Agreement. See ¶55 of Proscape Answer to Amended Complaint, New Matter and Crossclaim (hereinafter referred to as the "Proscape Answer"). Proscape alleges that it has suffered a loss of income as a result of the alleged breach by Haile. See ¶55 of Proscape Answer.

As alleged by Proscape the "Agreed Upon Circumstances" were that "Proscape, Darren M. Haile, and [Site Ready] contracted whereby Proscape would acquire the assets of [Site Ready] and use the assets to create a division of Proscape that would be known as the Site Ready division of Proscape (hereinafter the New Division) and that the New Division would finish up [Site Ready's] existing contracts and solicit new work. It was further agreed that Darren Haile would become an employee of Proscape and be responsible for the day to day operations of the New Division." See ¶38 of the Proscape Answer.

In view of the evidence of the manner in which the parties proceeded, the Court rejects Proscape's argument that the evidence credibly supports a finding that "Agreed Upon Circumstances" existed or created a legally enforceable obligation upon Haile. On the contrary, the Court finds that: (i) a Purchase Agreement existed between Proscape and Site Ready, (ii) an at-will employment agreement was entered between Proscape and Darren Haile, and (iii) another employment agreement was entered into between Proscape and Darren Haile. Each is subject to enforceability under its own terms.[2]

[2] The Court finds it is best to adhere to the principle of Occam's Razor, i.e. when presented with competing explanations for events, the simplest is likely to be the correct one. Proscape's argument as to "Agreed Upon

A

Beginning with an analysis of any claims that Proscape may have against Haile arising from the Purchase Agreement, by its terms it is clear that the agreement is between Proscape and Site Ready. Therefore, Proscape has no claims against Haile under the Purchase Agreement.

Plainly, Darren Haile was neither the buyer nor the seller as defined in the Purchase Agreement. As a result, he is not personally liable for breaches of the Purchase Agreement, if any.

B

Moving onto the employment agreements, Pennsylvania adheres to a presumption of at-will employment. See *DeVore v Metro Aviation, 328 A.3d 1012, 1017 (Pa.Super. 2024).* "An at-will employee is defined as one whose employment is not governed by a written contract for a specific term and who is terminable at the will of either the employer or the employee." *McNichols v Commonwealth, Department of Transportation, 804 A.2d 1264, 1267 (Pa.Cmwlth. 2002).* "An employment agreement is presumptively terminable at will by either party. The employee may leave the job for any or no reason or the employer may terminate the employee for any cause or no cause." *Greene v Oliver Realty, Inc., 363 Pa.Super. 534, 543, 526 A.2d 1192, 1196 (1987).* When a party claims that an agreement is for a definite period of time, that party has the burden of proving that fact. *Id.* In order to rebut the presumption of at-will employment, the following must be proven: (1) sufficient additional consideration; (2) an agreement for a definite duration; (3) an agreement specifying that the employee will be discharged only for just cause; or (4) an applicable

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Circumstances" is a complex effort to avoid the ramifications of entering into transactions that were not precise and without the benefit of sound legal advice. The simpler explanation, and the correct one in the opinion of this Court, is that there were multiple agreements entered into between various parties. Each of which is enforcable on its own terms.

recognized public policy exception. *Robertson v Atlantic Richfield Petroleum Products Co., A Division of Atlantic Richfeild, Co., 371 Pa.Super. 49, 58, 537 A.2d 819 (1987).*

The Purchase Agreement made reference to an employment agreement in vague terms stating, "the Seller agrees to engage in a two year employment agreement." The word "Seller" is a defined term identified as Site Ready Construction Inc. It is well recognized that when a contract contains definitions for the words contained therein, a court will apply those definitions in interpreting the contract. See *Monti v Rockwood Insurance, Co., 303 Pa.Super. 473, 476, 450 A.2d 24, 25 (1982).* See also *Toth v Toth, 324 A.3d 469, 486 (Pa.Super. 2024).* As a result, the Purchase Agreement did not specifically provide for Haile's employment.

The First Employment Agreement specifically said it was at-will. The Second Employment Agreement, however, states that it supersedes all prior oral and written agreements. See Second Employment Agreement, ¶12. As a result, it supersedes the First Employment Agreement.

Nonetheless, the Second Employment Agreement uses the words, "Employment **Two Year Term**" (Bold in the Original) as the title of Paragraph No. 1 of the Second Employment Agreement. Despite the inclusion of this title, the subsequent paragraph does not detail the term of the employment nor address whether it is at-will. On the contrary, it says:

> The Employee agrees that he will at all times faithfully, industriously, and to the best of his skill, ability, experience and talents, perform all of the duties required of his position. In carrying out these duties and responsibilities, the Employee shall comply with all Employer policies. Procedures, rules and regulations, both written and oral, as are announced by the Employer from time to time. It is also understood and agreed to by the Employee that his assignment, duties and responsibilities and reporting arrangements may be changed by the Employer in its sole discretion without causing termination of this agreement.

See Second Employment Agreement, ¶1.

In light of the foregoing, the Court finds that Proscape has not overcome the presumption of at-will employment. For that reason, Haile was permitted to leave his employment without ramifications and a verdict must be entered for Haile on Proscape's cross-claim.

CONCLUSIONS OF LAW

1. The Court of Common Pleas of Berks County, Pennsylvania has jurisdiction and venue to hear and decide this matter pursuant to and under the authority of *42 Pa.C.S.A. §931*.

2. In order to prove a breach of contract, a party must produce credible evidence of (1) the existence of a contract between the plaintiff and defendant, including its essential terms; (2) a breach of a duty imposed by the contract; and (3) damages resulting from a breach of that duty.

3. The Plaintiff, Mae Gabel has proven (1) the existence of a contract including its essential terms; (2) a breach of a duty imposed by the contract; and (3) damages resulting from a breach of that duty.

4. At the time the Loan matured on June 30, 2022, One Hundred Thousand Dollars ($100,000.00) of principal was due and owing, together with accumulated interest at a rate of ten percent (10%) per annum from March 13, 2021.

5. The Plaintiff, Mae Gabel incurred attorney fees in the amount of Ten Thousand Four Hundred Ninety-Nine Dollars and Fifty Cents ($10,499.50) in an effort to enforce her rights and remedies pursuant to the terms and conditions of the Promissory Note.

6. The payment of principal and interest pursuant to the Promissory Note is late for fifteen (15) or more days and therefore the Plaintiff, Mae Gabel is entitled to payment of late charges in the amount of Five Thousand Dollars ($5,000.00).

7. Unjust enrichment is essentially an equitable doctrine, application of which depends on the particular factual circumstances of each individual case

8. A claim of unjust enrichment is inapplicable when the claim is based upon a written contract.

9. Since the claims of the Plaintiff, Mae Gabel, are premised upon the breach of a written contract, she is not entitled to relief for unjust enrichment.

10. Pennsylvania adheres to a presumption of at-will employment.

11. An employment agreement is presumptively terminable at will by either party. The employee may leave the job for any or no reason or the employer may terminate the employee for any cause or no cause.

12. The Defendant, Proscape Landscape Solutions, LLC has not overcome the presumption of at-will employment with relation to its cross-claim against the Defendant, Darren Haile.

13. Accordingly, the Court enters the attached verdict.

MAE GABEL, Plaintiff, v. SITE READY CONSTRUCTION, DARREN M. HAILE and PROSCAPE LANDSCAPE SUPPLY, LLC, Defendants.		IN THE COURT OF COMMON PLEAS OF BERKS COUNTY, PENNSYLVANIA CIVIL ACTION - LAW DOCKET NO. 24-12733 ASSIGNED TO: JAMES E. GAVIN, J.

VERDICT

AND NOW, this 3rd Day of March 2026, upon completion of a trial, without a jury, and upon due consideration of the evidence presented along with the legal arguments of the parties, this Honorable Court hereby ORDERS and DIRECTS as follows:

1. On Count I of Plaintiff's Amended Complaint – Breach of Contract, the Court finds:

    a. A verdict shall be entered in the favor of the Plaintiff, Mae Gabel, and against the Defendant, Proscape Landscape Supply, LLC in the amount of One Hundred Thousand Dollars ($100,000.00), interest at a rate of ten percent (10%) per annum accumulating from March 13, 2021 until paid in full, and attorney fees in the amount of Ten Thousand Four Hundred Ninety-Nine Dollars and Fifty Cents ($10,499.50) with continued attorney fees until paid in full, and late charges in the amount of Five Thousand Dollars ($5,000.00).

    b. A verdict shall be entered in the favor of the Defendants, Site Ready Construction and Darren Haile and against the Plaintiff, Mae Gabel, for Zero Dollars ($0.00).

2. On Count II of the Plaintiff's Amended Complaint – Unjust Enrichment, a verdict shall be entered in the favor of the Defendants, Site Ready Construction, Darren M. Haile, and Proscape Landscape Supply, LLC and against the Plaintiff, Mae Gabel for Zero Dollars ($0.00).

3. On Count I of the Defendant, Proscape Landscape Supply, LLC's Crossclaim – Breach

of Contract against the Defendant, Darren Haile, a verdict is entered in the favor of the Defendant, Darren Haile and against the Defendant, Proscape Landscape Supply, LLC for Zero Dollars ($0.00).

BY THE COURT:

JAMES E. GAVIN, J.

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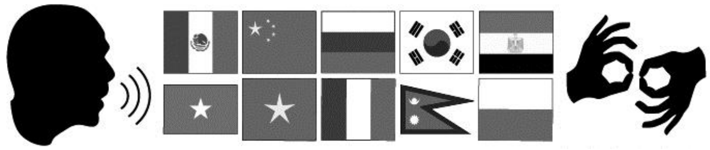

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