COUSINS RESTAURANTS, INC.	*	**NO. 2025-CA-0816**
	*	
VERSUS		**COURT OF APPEAL**
	*	
PHILIP WERLEIN, LTD.		**FOURTH CIRCUIT**
	*	
		STATE OF LOUISIANA

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CONSOLIDATED WITH:	**CONSOLIDATED WITH:**
COUSINS RESTAURANTS, INC.	**NO. 2025-CA-0817**
VERSUS	
PHILIP WERLEIN, LTD.	

APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2025-01056, DIVISION "A"
Honorable Ellen M. Hazeur, Judge
* * * * * *
Judge Joy Cossich Lobrano
* * * * * *

(Court composed of Judge Joy Cossich Lobrano, Judge Rosemary Ledet, Judge Karen K. Herman)

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REVERSED IN PART; AFFIRMED IN PART; REMANDED
AUGUST 11, 2026

JCL
RML
KKH

This consolidated appeal arises from a dispute over the interpretation of a commercial lease (the “Lease”) of a building and land (the “Property”) which gave Appellant and the lessee, Cousins Restaurants, Inc. (“Cousins”), the option to purchase the Property from Appellee and lessor, Philip Werlein, Ltd. (“PWL”), at the end of the thirty-five-year term of the lease for the Property’s fair market value, determined by appraisal as set forth in the Lease. The parties could not agree on whether the appraised value of the Property included the value of the improvements made by Cousins at Cousins’ sole expense during the term of the Lease. The district court granted summary judgment in favor of PWL, holding that the value of the Property includes the value of the improvements made by Cousins. Cousins appeals the district court’s ruling granting summary judgment in favor of

PWL, denying Cousins' motion for summary judgment in favor of PWL, and denying Cousins' motion for new trial. For the reasons that follow, we reverse the district court's judgment granting PWL's motion for summary judgment; we affirm the district court's judgment denying Cousins' motion for summary judgment; and we pretermit review of the district court's judgment denying Cousins' motion for new trial as moot. The matter is remanded to the district court for further proceedings consistent with this opinion.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

In March 1990, Cousins and PWL entered into a lease of a vacant historic building at 605 Canal Street. The Lease had a term of thirty-five years, commencing July 1, 1990, and terminating June 30, 2025. The Lease included provisions that required Cousins to spend a minimum of $750,000 on improvements to the Property suitable for the Property to be used by Cousins as a restaurant. The Lease permitted Cousins to make further improvements to the Property at its own expense throughout the term. Cousins invested substantially more than the minimum required under the Lease, transforming the Property into the Palace Café. Under the Lease, those improvements were expressly designated and recognized as the property of the lessee, Cousins, during the term of the Lease. At the termination of the Lease, all improvements, other than Removable Property, became PWL's property. During the life of the Lease, Cousins insured and maintained the improvements and was further entitled to the tax depreciation and any other tax benefits associated with them.

The Lease also contained provisions granting Cousins the option to purchase the Property at the end of the thirty-five-year term, subject to certain conditions, pursuant to a specific and express procedure. First, upon Cousins giving notice of its desire to determine the fair market value of the Property, the parties were to negotiate and attempt to agree on that value. If the parties could not agree, the Lease provided for an appraisal process where each party would select an appraiser, and the two appraisers were to attempt to agree on the fair market value. However, if the two appraisers could not agree, the two appraisers would select a third appraiser. The third appraiser would then conduct his own appraisal, and the middle appraisal would be binding as the fair market value of the Property. Once the fair market value was determined, Cousins would have thirty days to notify PWL whether it would exercise its option to purchase the Property at that price.

As the end of the lease term approached, Cousins gave PWL notice of its intent to determine the fair market value of the Property under the Lease's appraisal process. The parties were unable to agree on a purchase price, and thus under the terms of the Lease, Cousins and PWL each retained their own appraiser to value the Property and attempt to agree on the fair market value of the Property. Cousins' appraiser valued the Property without including the value of the improvements made by Cousins. PWL's appraiser valued the Property as though the Lease had terminated and all of the improvements made by Cousins had become the property of PWL, and thus appraised the Property in its then current condition and inclusive of all improvements made by Cousins. As a result of this disputed issue of valuation, the appraisers selected by Cousins and PWL were unable to agree on a fair market value for the Property. Thereafter, the two initial appraisers selected a third appraiser, who ultimately withdrew from the assignment amid the parties' disagreement over the proper methodology, and the appraisal process was never completed.

Unable to resolve the dispute, Cousins filed suit on February 6, 2025, seeking a declaratory judgment that the valuation of the "Leased Premises," as set forth in the option provision of the Lease, does not include the value of the improvements made by Cousins since Cousins alleged it owned the improvements separate and apart from the Property at the time Cousins sought to exercise its option to acquire the Property. The district court granted a preliminary injunction preserving the status quo pending resolution of that claim. Both parties later moved for summary judgment on Cousins' declaratory judgment claim.

Following a hearing, the district court granted PWL's motion for summary judgment and denied Cousins' motion for summary judgment, dismissing Cousins' petition with prejudice. In ruling the fair market value of the Property included the value of all improvements to the Property made by Cousins, the district court held that "the language of the Lease is clear and explicit and does not require the Court to look outside of the four corners of the Lease." On that basis, the district court also excluded the affidavits and other evidence Cousins offered concerning the parties' intent. The district court further held that "the term 'Leased Premises' as used within Section 5 is inclusive of all improvements notwithstanding the fact that [Cousins] owns those improvements during the term of the Lease."

Cousins moved for a partial new trial, or alternatively, reconsideration or clarification, arguing that the existence of two reasonable readings of the Lease should have prompted the district court to consider extrinsic evidence, and that the ruling produced an inequitable result. The district court denied that motion, explaining that Cousins' motion "simply reasserts issues that this Court has already considered." Cousins appealed both the June 30, 2025 judgment granting summary judgment in favor of PWL, docketed in this Court as case number 2025-CA-0816, and the July 15, 2025 judgment denying its motion for new trial, docketed as case number 2025-CA-0817. This Court consolidated the two appeals for disposition.

STANDARD OF REVIEW

Appellate courts review a grant of summary judgment *de novo*, using the same criteria that governs the trial court's determination of whether summary judgment is appropriate. *Chalmette Dental Assocs., LLC v. Mzadehdds LLC*, 20-0328, p. 3 (La. App. 4 Cir. 3/3/21), 314 So.3d 884, 886 (citation omitted). Summary judgment is proper only when the record shows no genuine issue of material fact and the mover is entitled to judgment as a matter of law. La. C.C.P. art. 966(A)(3). When the evidence supports more than one reasonable conclusion, summary judgment is inappropriate.

In the case *sub judice*, the district court based its judgment on its interpretation of the lease. "When appellate review is not premised upon factual findings made at the trial level, but instead is based upon an independent review and examination of the contract on its face … appellate review of questions of law is simply whether the trial court was legally correct." *Koeniger v. Newsome*, 03-1492, p. 5 (La. App. 4 Cir. 2/4/04), 873 So.2d 652, 655 (citation omitted); *Armstrong Airport Concessions v. K-Squared Restaurant, LLC*, 15-0375, p. 9 (La. App. 4 Cir. 10/28/15), 178 So.3d 1094, 1101 (stating "a legal question of contractual interpretation … is subject to *de novo* review on appeal") (citations omitted).

ASSIGNMENTS OF ERROR

Cousins raises two assignments of error: (1) the district court erred in holding that the Lease unambiguously requires the value of the improvements to be included in the option price; or (2) in the alternative, the district court erred in refusing to consider extrinsic evidence, given that its reading of the Lease requires

Cousins to pay for improvements it already owns. Considering resolution of the second assignment of error depends on our resolution of the first, we begin with the text of the subject lease agreement.

DISCUSSION

The Louisiana Civil Code provides the applicable framework for contract interpretation. A contract constitutes the law between the parties. La. C.C. art. 1983. "Interpretation of a contract is the determination of the common intent of the parties." La. C.C. art. 2045. "When the words of a contract are clear and explicit and lead to no absurd consequences, no further interpretation may be made in search of the parties' intent." La. C.C. art. 2046. In that instance, the meaning and intent of the parties to a written contract must be determined from the four corners of the instrument, without resort to extrinsic evidence. *Landis Const. Co., L.L.C. v. St. Bernard Parish*, 14-0096, p. 5 (La. App. 4 Cir. 10/22/14), 151 So.3d 959, 962 (citation omitted).

Applying the principles of contract interpretation, the district court concluded that the term "Leased Premises" was not ambiguous and that its meaning, consistent with PWL's interpretation that the fair market value included the valuation of the improvements made by Cousins, could be determined from the four corners of the Lease without resort to extrinsic evidence. Cousins challenges that conclusion, arguing that "Leased Premises" unambiguously means the Property as it existed at the Lease's inception, excluding Cousins' subsequent constructed improvements. In the alternative, Cousins argues that if this Court finds the Lease is not clear on this point, it is ambiguous, and the district court erred in declining to consider extrinsic evidence of the parties' intent.

First, Section 1 of the Lease defines "Leased Premises" as "the property described on the attached Exhibit 'A.'" Cousins argues that Exhibit A describes the land and buildings as they existed when the parties signed the Lease in 1990 and before Cousins made any improvements to the Property. Specifically, Exhibit A described the Leased Premises as including five parcels of land, "together with all buildings and improvements thereon…." Second, Section 5 (the option provision) provides Cousins with the option to purchase the Leased Premises at the end of the thirty-five-year term if certain requirements were met. Section 5 simply grants Cousins the option to purchase the "Leased Premises" for its fair market value, but the provision does not itself state whether the term "Leased Premises" includes or excludes the improvements made by Cousins during the lease term. Read together, Cousins argues that these provisions suggest the price is tied to the Property as it existed at the start of the Lease. In other words, the fair market value does not include the improvements Cousins made during the lease term.

Section 12(D) of the Lease provides that during the life of the Lease, Cousins (as lessee) was the owner of any improvements made to the Leased Premises, but adds a parenthetical that "notwithstanding the foregoing, the term 'Leased Premises,' as used herein, shall include all Improvements." That same section provides that when the Lease ends, the improvements automatically become PWL's property without compensation to Cousins. PWL argues that this parenthetical operates as a lease-wide redefinition of "Leased Premises." Consequently, PWL avers that the fair market value includes any and all improvements made during the Lease.

Neither Section 5 nor Section 12(D) specifies which of these two provisions governs the price Cousins must pay under the option. Section 5 does not mention Section 12 or the term "Improvements." Section 12(D) does not mention Section 5 or the option. The district court resolved this gap in PWL's favor, holding that Section 12(D)'s parenthetical supplies the controlling definition throughout the Lease. As a result, the district court held that "Leased Premises" as used in Section 5 is "inclusive of all improvements notwithstanding the fact that [Cousins] owns those improvements during the term of the Lease."

Louisiana law requires that a contract be read as a whole, with each provision "given the meaning suggested by the contract as a whole." La. C.C. art. 2050. Where a contract defines a term clearly, that definition ordinarily controls wherever the term is used. *See* La. C.C. art. 2046; *CA One/Pampy's v. Brown*, 07-1377, pp. 8-9 (La. App. 4 Cir. 4/2/08), 982 So.2d 909, 915 (holding that a sublease's definition controlled the identity of the subleased premises notwithstanding outside parties referred to the location by a different name). We are not persuaded that the Lease answers this question as clearly as the district court concluded.

We address, in turn, whether the lease is ambiguous, whether that ambiguity is reinforced by the doctrine against absurd results, and whether the district court erred in excluding evidence of the parties' intent.

The word "herein" in Section 12(D) is itself ambiguous. The term is commonly defined as meaning "in this thing (such as a document, section, or matter)." Black's Law Dictionary (12th ed. 2024). This definition is broad enough to support either of two readings. "Herein" may refer to the lease as a whole, supporting PWL's position that Section 12(D)'s expanded definition governs throughout the document. Or it may refer only to the specific provision in which it appears, limiting the expanded definition to Section 12(D) alone. The Lease does not indicate which usage was intended. Notably, elsewhere in the Lease where it was intended for one section of the Lease to reach into another, it does so directly. Section 20(C)(b), for instance, expressly refers to improvements "[PWL] required to be removed under Paragraph 12 hereof." Section 5 contains no comparable cross reference to Section 12.

The term "Leased Premises" also appears numerous times before Section 12(D)'s parenthetical terms, and several of those earlier uses only make sense if the term excludes improvements that did not exist at the signing of the Lease. Section 2(A), for example, describes occupancy being delivered to Cousins "in order to effect improvements to the Leased Premises," with the premises coming first and the improvements following. Section 6(A) speaks of completing the "Initial Improvements" and then opening a restaurant "in the Leased Premises," again treating the two as distinct. Section 12(A) requires Cousins to "construct such improvements to the Leased Premises," a phrase that presumes the premises and the improvements are not the same things. This recurring usage supports Cousins' reading that the term, as ordinarily used in the Lease, refers to the unimproved property.

Even so, we are not prepared to hold, as Cousins urges, that its reading is the only one the Lease will bear. The Lease's placement of definitions is not entirely consistent. The term "Brennan Family," for example, appears in Section 8(A) before it is formally defined in Section 25(C). Section 12(D)'s statement that improvements automatically transfer to PWL "[a]t the expiration or other termination of this Lease" is also broad enough that it could reasonably be read to apply to any transfer of the Property occurring at the end of the term, including one triggered by the exercise of the option.

Both readings, then, find some support in the text, and neither side has shown that the Lease admits of one interpretation. A contract is ambiguous when its language is reasonably "susceptible to more than one interpretation, there is uncertainty or ambiguity as to its provisions, or the intent of the parties cannot be ascertained from the language employed." *Campbell v. Melton*, 01-2578, p. 6 (La. 5/14/02), 817 So.2d 69, 75 (citations omitted). This is true for the case *sub judice*, and the district court's holding was legal error.

Our conclusion is reinforced by the principles of contract interpretation. "When the words of a contract are clear and explicit and lead to no absurd consequences, no further interpretation may be made in search of the parties' intent." La. C.C. art. 2046. Under PWL's reading, Cousins would be required to pay fair market value for the Property that Cousins improved at its own expense, arguably an inequitable result requiring Cousins to pay for the improvements "twice" in a sense. PWL responds that the result is not inequitable because Cousins is giving full consideration for something it did not previously possess, that being permanent ownership of the Property following termination of the Lease, rather than a temporary possessory interest in the form of the Lease during its term. The text of the Lease does not resolve this issue on its own. The mandate of Louisiana Civil Code Article 2046 that a contractual provision be interpreted to avoid an absurd result requires further consideration of the parties' intent in interpreting Section 5 of the Lease. The potential consequence of requiring Cousins to pay for the value of tenant financed improvements is therefore further support for our conclusion that the disputed provisions are ambiguous and that the parties' intent cannot be determined from the Lease alone.

Once a contract is found to be ambiguous, Louisiana law directs courts to look beyond its text to determine the parties' intent, considering the conduct of the parties, the negotiating history, and the purpose the disputed provision was meant to serve. *See* La. C.C. art. 2053 (providing “[a] doubtful provision must be interpreted in light of the nature of the contract, equity, usages, the conduct of the parties before and after the formation of the contract, and of other contracts of a like nature between the same parties”); *see also Maggio v. Parker*, 17-1112, pp. 4-6 (La. 6/27/18), 250 So.3d 874, 879-80 (holding circumstances surrounding execution of a release raised a genuine issue of material fact regarding intent sufficient to defeat summary judgment). Cousins offered affidavits bearing on that history, including testimony that it originally sought to purchase the property outright in 1990, that the option was negotiated as an alternative to an outright sale, and that PWL never suggested during those negotiations that Cousins would be required to pay for its own improvements a second time. Cousins also offered the competing appraisals described above.

The district court excluded all of this evidence based on its conclusion that the lease’s meaning was already clear. Because that conclusion cannot stand, neither can the exclusion of this evidence.

We decline to resolve that evidentiary conflict for the first time on appeal. The affidavits conflict, and the two appraisals rest on different assumptions about what the option was meant to accomplish. Weighing that evidence is the task of the factfinder on a developed record, not for this Court on appellate review of a summary judgment record where genuine issues of material fact remain. Summary judgment was therefore improper as to both parties’ competing motions.

Motion for New Trial

Lastly, in case number 2025-CA-0817, Cousins seeks review of the district court’s denial of its motion for new trial, which the court denied on the same ground it granted summary judgment, namely, its conclusion that the Lease unambiguously required the valuation of the improvements to be included in the option to purchase price. We find the Lease susceptible to different interpretations. We therefore reverse the district court's judgment granting summary judgment in PWL's favor, affirm its judgment denying summary judgment in Cousins' favor, and remand for further proceedings. In light of this disposition, review of the denial of the motion for new trial is rendered moot. *See IPF22, LLC v. Sholes*, 24-0552, p. 19 (La. App. 4 Cir. 4/3/25), 421 So.3d 89, 102 (dismissing the new trial issue as moot upon reversal of the underlying judgment granting summary judgment).

CONCLUSION

On *de novo* review, we find the Lease, considered as a whole, is not uniform in its construction. It defines the term "Leased Premises" in different ways across two separate provisions, and nothing in the Lease indicates which definition governs the price Cousins must pay under its option to purchase. This inconsistency leaves the Lease ambiguous as to the parties' intent as to whether the option price was meant to include the value of improvements made by Cousins during the life of the Lease. Because that ambiguity exists, the district court erred in resolving the dispute on the Lease's text alone and requires that the district court consider the evidence the parties offered concerning their actual intent.

For the foregoing reasons, in case number 2025-CA-0816, we reverse the district court's June 30, 2025 judgment granting summary judgment in favor of PWL; we affirm the district court's judgment denying summary judgment in favor of Cousins; and in case number 2025-CA-0817, we pretermit review of the district court's July 15, 2025 judgment denying Cousins' motion for new trial as moot.

The consolidated matter is remanded to the district court for further proceedings consistent with this opinion.

REVERSED IN PART; AFFIRMED IN PART; REMANDED