NORTH CAROLINA BUSINESS COURT, SUPERIOR COURT DIVISION

Child Care Inc. v. LJ Schools (Carolina), Inc.

2026 NCBC 8 · No. 24CV008443-590 · Decided February 6, 2026

SUMMARY

The North Carolina Business Court grants Defendant LJ Schools (Carolina), Inc.'s motion for summary judgment and denies the plaintiffs' motion in a dispute over a contingent payment under an Asset Purchase Agreement. The court holds that the agreement is clear and unambiguous, grants the defendant sole discretion to determine variables in the EBITDA calculation, and is not illusory because that discretion is limited by the implied covenant of good faith and fair dealing. The dispute concerned whether COVID-19 grant funds were subject to mandated expense obligations and therefore should be treated as recurring or non-recurring revenue.

CASE DETAILS

COURT	North Carolina Business Court, Superior Court Division
WRITING FOR THE COURT	A. Todd Brown
JURISDICTION	North Carolina Business Court, Superior Court Division, Mecklenburg County
DECIDED	February 6, 2026
DOCKET	24CV008443-590
DISPOSITION	other
PROCEDURAL POSTURE	Both sides moved for summary judgment under North Carolina Rule of Civil Procedure 56 on claims arising from an Asset Purchase Agreement, including breach of contract, breach of the implied covenant of good faith and fair dealing, and declaratory relief.
STANDARD OF REVIEW	Summary judgment is proper when the pleadings, discovery, admissions, and affidavits show no genuine issue of material fact and a party is entitled to judgment as a matter of law. The evidence is viewed in the light most favorable to the nonmoving party. An affirmative motion for summary judgment by a party bearing the burden of proof is subject to a heightened burden requiring the movant to show no genuine factual issue, no gaps in proof, no inconsistent inferences, and no fact-dependent standard that must be applied by a jury.

PRECEDENTIAL VALUE	Published North Carolina Business Court opinion
PARTIES	Child Care Inc., Early Childhood Services Inc., Day Care Inc., Child Development Inc., Child Learning Programs Inc., Sam Newell Child Development, LLC, South Point Child Development LLC, Ruben Linker Child Development Center LLC, Monroe Road Child Development Center LLC v. LJ Schools (Carolina), Inc.

TOPICS

breach of contract · contract interpretation · implied covenant of good faith · summary judgment · commercial litigation

PRACTICE AREAS

contracts · commercial litigation · civil procedure

QUESTIONS PRESENTED

1. Whether the Asset Purchase Agreement was clear and unambiguous regarding Defendant's discretion to determine the variables used in calculating the contingent payment.
2. Whether the contractual provision granting Defendant sole discretion to determine EBITDA variables was illusory or otherwise invalid.
3. Whether Defendant exercised its contractual discretion in bad faith by classifying the Fixed Costs and Families Grants as nonrecurring revenue.
4. Whether Plaintiffs' claims for breach of the implied covenant of good faith and fair dealing and declaratory relief failed with their breach-of-contract claim.
5. Whether either party was entitled to summary judgment.

HOLDINGS

1. The Asset Purchase Agreement is clear and unambiguous concerning the contingent-payment formula, Defendant's discretion to determine the formula's variables, and the treatment of nonrecurring revenue.
2. Because the Agreement was clear and unambiguous and no fraud or mistake was alleged, the Court would not consider prior negotiations or other extrinsic evidence to contradict or supplement the Agreement.
3. The provision granting Defendant sole discretion to determine the variables in the EBITDA formula was not illusory or invalid.
4. Defendant properly exercised its contractual discretion in classifying the Fixed Costs and Families Grants as nonrecurring revenue, and Plaintiffs failed to show that Defendant acted arbitrarily, dishonestly, or to evade the Agreement.

5. The claims for breach of the implied covenant of good faith and fair dealing and declaratory relief failed as a matter of law because they were based on the same facts, evidence, and arguments as the unsuccessful breach-of-contract claim.

KEY QUOTATIONS

> *"The APA clearly grants to Defendant sole discretion in determining the variables in the EBITDA formula and, without limiting Defendant's discretion, defines Non-Recurring Revenue to include grants free of mandated expense obligations."* (¶ 31)

> *"Therefore, the Court concludes that Section 4.2(c)(iii) of the APA, which grants sole discretion to Defendant in determining the variables in the EBITDA formula, is not invalid as illusory."* (¶ 41)

> *"Therefore, the Court concludes that there is not a genuine issue of material fact as to whether Defendant abused its discretion or breached the implied covenant of good faith and fair dealing by its interpretation of "mandated expense obligations.""* (¶ 56)

> *"WHEREFORE, the Court hereby GRANTS Defendant's Motion and DENIES Plaintiffs' Motion."* (¶ 68)

FACTUAL BACKGROUND

Plaintiffs sold childcare facilities and related assets to Defendant under an Asset Purchase Agreement that included a contingent payment calculated using rolling twelve-month EBITDA. The Agreement gave Defendant sole discretion to determine specific variables in the EBITDA formula and defined nonrecurring revenue to include grants free of mandated expense obligations. During the earn-out period, Defendant received North Carolina and South Carolina COVID-19-related grants and classified certain Fixed Costs and Families Grants as nonrecurring revenue, resulting in a zero contingent payment under Defendant's calculation while Plaintiffs claimed they were owed the full $6 million. The parties agreed there were no genuine disputes of material fact and that the dispute concerned the interpretation and application of the contractual phrase mandated expense obligations.

PROCEDURAL HISTORY

Plaintiffs filed a verified complaint on February 20, 2024, alleging that Defendant improperly calculated a contingent payment under an Asset Purchase Agreement and miscategorized COVID-19-related grant funds. Defendant answered on March 22, 2024. Defendant moved for summary judgment on April 18, 2025, and Plaintiffs moved for summary judgment on April 21, 2025. After a July 30, 2025 hearing, the Business Court granted Defendant's motion and denied Plaintiffs' motion in its entirety.

DISPOSITION

other

CASES CITED

- Collier v. Collier, 204 N.C. App. 160, 161-62 (2010)
- Da Silva v. WakeMed, 375 N.C. 1, 10 (2020)

- Curlee v. Johnson, 377 N.C. 97, 101 (2021)
- DeWitt v. Eveready Battery Co., 355 N.C. 672, 681 (2002)
- Bartley v. City of High Point, 381 N.C. 287, 292 (2022)
- Belmont Ass'n v. Farwig, 381 N.C. 306, 310 (2022)
- Liberty Mut. Ins. Co. v. Pennington, 356 N.C. 571, 579 (2000)
- Dobson v. Harris, 352 N.C. 77, 83 (2000)
- Cummings v. Carroll, 379 N.C. 347, 358 (2021)
- Futures Grp. v. Brosnan, 2023 NCBC LEXIS 7, at *4 (N.C. Super. Ct. Jan. 19, 2023)
- Parks Chevrolet, Inc. v. Watkins, 74 N.C. App. 719, 721 (1985)
- Kidd v. Early, 289 N.C. 343, 370 (1976)
- Blackwell v. Massey, 69 N.C. App. 240, 243 (1984)
- Davis v. Woods, 286 N.C. App. 547, 561 (2022)
- Chappell v. Roth, 353 N.C. 690, 692 (2001)
- United Therapeutics Corp. v. Liquidia Techs., Inc., 2024 NCBC LEXIS 47, at *28 (N.C. Super. Ct. July 31, 2024)
- Lane v. Scarborough, 284 N.C. 407, 409-10 (1973)
- Walton v. City of Raleigh, 342 N.C. 879, 881 (1996)
- Lynn v. Lynn, 202 N.C. App. 423, 432 (2010)
- Root v. Allstate Ins. Co., 272 N.C. 580, 587, 590 (1968)
- Zinn v. Walker, 87 N.C. App. 325, 333 (1987)
- Canteen v. Charlotte Metro Credit Union, 386 N.C. 18, 26-27 (2024)
- State v. Philip Morris USA Inc., 363 N.C. 623, 641-42 (2009)
- Mezzanotte v. Freeland, 20 N.C. App. 11, 16-17 (1973)
- Governor's Club Inc. v. Governors Club Ltd. P'ship, 152 N.C. App. 240, 251 (2002)
- Banyan GW, LLC v. Wayne Preparatory Acad. Charter Sch., Inc., 2019 N.C. App. LEXIS 112, at *17-21 (N.C. Ct. App. Feb. 5, 2019)
- Conleys Creek Ltd. P'ship v. Smoky Mt. Country Club Prop. Owners Ass'n, 255 N.C. App. 236, 253 (2017)
- Intersal, Inc. v. Wilson, 2023 NCBC LEXIS 29, at *67 (N.C. Super. Ct. Feb. 23, 2023)
- Morris Commc'ns Corp. v. City of Bessemer, 365 N.C. 152, 158 (2011)
- James H. Q. Davis Trust v. JHD Props., 2022 NCBC LEXIS 153, at *11-12 (N.C. Super. Ct. Dec. 9, 2022)
- Encompass Servs., PLLC v. Maser Consulting P.A., 2021 NCBC LEXIS 59, at *43 (N.C. Super. Ct. June 28, 2021)
- Lovell v. Nationwide Mut. Ins. Co., 108 N.C. App. 416, 421 (1993)
- Cordaro v. Harrington Bank, FSB, 260 N.C. App. 26, 38-39 (2018)
- Southeast Anesthesiology Consultants, PLLC v. Rose, 2019 NCBC LEXIS 52, at *23 (N.C. Super. Ct. Aug. 20, 2019)
- Meridian Renewable Energy LLC v. Birch Creek Dev., LLC, 2025 NCBC LEXIS 172, at *8-9 (N.C. Super. Ct. Dec. 29, 2025)

- Oak Grove Techs., LLC v. Seventh Dimension, LLC, 2025 NCBC LEXIS 111, at *29-30 (N.C. Super. Ct. Aug. 22, 2025)
