THE MIDDLEBERG RIDDLE GROUP	*	**NO. 2018-CA-0687**
	*	**COURT OF APPEAL**
VERSUS		
	*	**FOURTH CIRCUIT**
201 ST. CHARLES PLACE, LLC	*	**STATE OF LOUISIANA**
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LEDET, J., DISSENTING WITH REASONS

This is a lease dispute between the Middleberg Riddle Group ("MRG"), a law partnership, and 201 St. Charles Place, LLC ("PSC"), the owner of 201 St. Charles Avenue, New Orleans, Louisiana. This case presents a question of contractual interpretation. Indeed, the majority, as did the trial court, frame the principal issue presented as whether there was an option to renew the lease.

Summarizing the governing jurisprudential and statutory principles applicable to the review of a contractual interpretation issue, this court in *New Orleans Jazz & Heritage Found., Inc. v. Kirksey*, 09-1433, pp. 9-10 (La. App. 4 Cir. 5/26/10), 40 So.3d 394, 401-02, stated as follows:

> Generally, a contract, subject to interpretation on the four corners of the instrument without the necessity of extrinsic evidence, is interpreted as a matter of law. *Bartlett Constr. Co., Inc. v. St. Bernard Parish Council*, 99-1186, p. 6 (La. App. 4 Cir. 5/31/00), 763 So.2d 94, 98. The appellate standard of review with regard to contractual interpretations is as follows:
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> > Where factual findings are pertinent to the interpretation of a contract, those factual findings are not to be disturbed unless manifest error is shown. However, when appellate review is not premised upon any factual findings made at the trial level, but is, instead, based upon an independent review and examination of the contract on its face, the manifest error rule does not apply. In such cases, appellate review of questions of law is whether the trial court was legally correct or legally incorrect.

> *Clinkscales v. Columns Rehabilitation and Retirement Center*, 08-1312, p. 3 (La. App. 3 Cir. 4/01/09), 6 So.3d 1033, 1035-36.
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> 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. A provision in a contract susceptible of different meanings must be interpreted with a meaning that renders it effective and not one that renders it ineffective. La. C.C. art. 2049. Furthermore, each provision in a contract must be interpreted in light of the other provisions so that each is given the meaning suggested by the contract as a whole. La. C.C. art. 2050. 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. La. C.C. art. 2053.
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> If, after examining the four corners of a contract, the contract is ambiguous, the agreement shall be construed according to the intent of the parties, which is to be inferred from all of the surrounding circumstances. *Derbes v. GBS Properties*, 04-1460, p. 5 (La. App. 5 Cir. 4/26/05) 902 So.2d 1109, 1111.

Id.

The starting point in addressing this issue is the language of the contract. *See Celt Oil, Inc. v. Jackson*, 469 So.2d 261, 263 (La. App. 1st Cir. 1985) (observing that "[t]he starting point in settling any dispute over the interpretation of a contract is of course the instrument itself"). In addressing this issue, the majority narrowly focuses on the language of the third amendment to the lease—Renewal 3—to find that "[i]f MRG intended for Renewal 3 to contain an option to renew, it could have ensured that the option to renew was listed prior to execution of the agreement as it had done in previous lease amendments." Continuing, the majority reasons that "[t]he four corners of Renewal 3 provide that there was no option to renew listed in the agreement" and that "MRG presented evidence at the trial on its declaratory action and the trial court ultimately made a finding based on the evidence presented." The majority thus labels this as a factual dispute subject to the manifest error standard. Finding no manifest error in the trial court's determination that MRG did not possess an option to renew and that PSC thus did not breach its lease agreement with MRG, the majority affirms. I disagree.

In order to determine if this is a factual dispute, it is first necessary to determine if there is any ambiguity in the written contract—here, the lease and the amendments to it. La. C.C. art. 2046 (providing that "[w]hen 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"). The pivotal provision that I find dispositive in the third amendment to the lease—Renewal 3—reads as follows:

> Except as hereby amended, said *Lease* shall continue in full force and effect, shall be binding upon and inure to the benefit of the parties hereto and their respective permitted assigns, and is hereby ratified and confirmed.

(Emphasis supplied). The "Lease" is defined in Renewal 3 as the original lease and the two prior amendments to it—the "Agreement of Lease, made as of the 14th day of December, 1987 and amended with Amendment #1 dated March 1, 1993 and Amendment #2 dated October 5,1993 (hereinafter referred to as 'said Lease')."[1]

Contrary to the majority, I would find the issue of contractual interpretation presented here can be resolved based solely on the language of the lease and the amendments to it. For this reason, I would find that this case presents a legal issue to which a *de novo* standard of review applies. Based on a *de novo* review of the lease and the amendments to it, especially the pivotal provision quoted above, I would find that MRG had an option to renew the lease for an additional five years. The effect of the parties' failure to address the option to renew in Renewal 3, contrary to the majority's finding, is that the option to renew contained in the prior amendment—Renewal 2, remained in effect.

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[1] The fourth amendment to the lease likewise included similar, even clearer, language, stating: "[t]he *Existing Lease* together with this Fourth Amendment shall be read together as one unified document (the "Lease")" (Emphasis supplied), and defining the "Existing Lease" as "an Agreement of Lease dated December 14, 1987 (the "Original Lease"), as amended by First Lease Amendment March 1, 1993, Second Lease Amendment dated October 5, 1993 and Third Lease Amendment dated February 20, 2003 (collectively, the 'Existing Lease')."

Based on this finding, I would find, as MRG contends, that PSC's failure to honor this option and its lease of the 31st floor to General Electric constituted a breach of the lease, relieving MRG of its obligations under the lease.

Accordingly, I respectfully dissent.