

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-13664

WHARF RETAIL PROPERTIES, LLC,

Plaintiff-Appellant,

versus

LANDMARK AMERICAN INSURANCE COMPANY,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Alabama
D.C. Docket No. 1:22-cv-00449-KD-B

Before ROSENBAUM, KIDD, and WILSON, Circuit Judges.

PER CURIAM:

Plaintiff-Appellant Wharf Retail Properties, LLC (Wharf) sued Defendant-Appellee Landmark American Insurance Company (Landmark) for breach of contract and bad faith related to an insurance policy between the parties. The policy covered Wharf's

properties, which sustained damage from Hurricane Sally. As relevant here, the jury determined that Landmark breached its agreement with Wharf and calculated the damages. Wharf then moved for a new trial, which the district court denied.

We have considered all arguments raised on appeal by Wharf, including that:

- I. The district court misled the jury by using a special interrogatories form without appropriate instruction.
- II. The district court erred by failing to inform the jury it would subtract additional amounts from their damages calculations.
- III. The verdict form failed to include a necessary question regarding whether Landmark met its burden of proof as to the insurable property values.
- IV. Landmark's affirmative defenses were effectively applied twice, which wrongfully reduced Wharf's award amount.
- V. The jury erred by relying on the 2020 and 2023 expert reports because neither party intended for those reports to be used for calculating damages.
- VI. The district court erred by denying Wharf's motion for a new trial because the jury's damage calculations were not supported by the evidence.

After careful consideration of the parties' briefs and the record, and with the benefit of oral argument, we find no reversible

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error in the district court's proceedings. Therefore, the district court's decision is affirmed.

AFFIRMED.