

STATE OF SOUTH CAROLINA
 COUNTY OF RICHLAND
 IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

RECEIVED

CASE NUMBER:

Davis M. Reed

Hurricane Construction et al.

JUL 05 2022

PLAINTIFF(S)

DEFENDANT(S)

SC Court of Appeals

Submitted by: _____

Attorney for : Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk:

This matter came before the Court pursuant to Defendant's Motion for Summary Judgment or, in the alternative, to Compel Arbitration. The Court held a hearing on April 20, 2022, by Webex, where counsel for Plaintiff and Defendants were present, and the Court took the matter under advisement. Upon review of the evidence and arguments of counsel, the Court finds that the arbitration provision contained in the contract of sale is valid and enforceable. The Court of Appeals explained in *Carlson v. S.C. State Plastering, LLC*, that courts should determine by clear and convincing evidence whether the parties to an agreement intended for an arbitration provision contained in one writing to be merged into a subsequent writing. 404 S.C. 250, 260-261, 743 S.E.2d 868, 874 (Ct. App. 2013) ("[T]he party denying merger has the burden of proving by clear and convincing evidence that merger was not intended." (quoting *Hughes v. Greenville Country Club*, 283 S.C. 448, 450-51, 322 S.E.2d 827, 828 (Ct. App. 1984)). Here, notice of arbitration is contained at the top of the first page of the contract of sale and is "typed in underlined capital letters ..." S.C. Code Ann. § 15-48-10 (2005). The arbitration clause in the contract of sale further states that "[a]ny controversy ... and any claim or dispute arising out of or relating to this Contract of Sale or Purchaser's purchase of the Home ... shall be settled by Arbitration." The Court finds by clear and convincing evidence that the parties did not intend for the arbitration provision to be merged into the deed. IT IS THEREFORE ORDERED that Defendant's Motion for Summary Judgment is DENIED and Defendant's Motion to Compel Arbitration is GRANTED. The parties are to submit the case to arbitration pursuant to the provisions of the contract of sale.

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled

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		\$
		\$
		\$

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge DeAndrea Gist Benjamin Judge Code 2161 Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20 _____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20 _____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court _____

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Kershaw Common Pleas

Case Caption: David M Reed VS Hurricane Construction Inc , defendant, et al

Case Number: 2018CP2800548

Type: Order/Form 4

So Ordered

s/DeAndrea Gist Benjamin, #2161