

Natalie Zitek et al  
PLAINTIFF(S)

D R Horton Inc et al  
DEFENDANT(S)

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
- STAYED DUE TO BANKRUPTCY**
- 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:

Motion for summary judgment filed by 3rd Party Defendant Installed Building Products against Defendant DR Horton.

After considering the filings of the parties, arguments of counsel and the applicable law, the Court finds, after considering the evidence in a light most favorable to the Defendant DR Horton, that there is no evidence to support the negligence, express warranty and implied warranty causes of action. Furthermore, in the absence of any such evidence on the part of Installed Building Products, DR Horton's claims collapse into indemnity. The Defendant also alleges contractual indemnity. The Court finds that the indemnity provisions in the contract between the parties are not clear and unequivocal. Accordingly, the motion for summary judgment is GRANTED.

Mr. Kendall is directed to prepare a formal order within ten (10) days, setting forth full findings of fact and applicable law, copying Mr. Imhoff with same prior to submission to the Court.

ORDER INFORMATION

This order  ends  does not end the case.  See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 07/26/2023 .

M&L General Construction Inc  
M&L General Construction LLC  
Lansing Building Products Inc  
A-Z Inc  
Kings Landscaping LLC  
A&J Framing Inc  
Alpro Textures LLC  
AJ Landscaping & Grading LLC  
Dupree Plumbing Company, Inc.  
Blue Ridge Building Products  
IBP Asset LLC  
Greener Pastures Of Aiken LLC  
Greener Pastures Inc  
GBS Building Supply - US LBM LLC  
Get Floored LLC  
Five Star Construction Inc  
Ferguson Enterprises Inc  
DOM Group LLC  
Caryl Mechanicals Inc  
Latinos Roofing LLC  
Edwin Edgardo Barahona  
Edwin Barahona  
GSF Renovations LLC  
Jose Aristides Hernandez  
Jose Hernandez  
JUS Commercial Construction Inc  
Brothers Contractors Inc  
Brothers Contractors LLC  
The App Phasio Group  
Alexander S. Koenig  
Luis Solis Machado  
J. Rene Padilla  
Padilla Flooring LLC

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

**RECEIVED**  
**Sep 06 2023**  
**SC Court of Appeals**

**Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Anderson Common Pleas

**Case Caption:** Natalie Zitek , plaintiff, et al VS Jane Doe 1 , defendant, et al

**Case Number:** 2019CP0401942

**Type:** Order/Electronic Form 4

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit