

FORM 4

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

JUDGMENT IN A CIVIL CASE

CIVIL ACTION NO.: 2019CP0401942

Natalie Zitek, plaintiff, et al  
PLAINTIFF(S)

Jane Doe 1, defendant, et al  
DEFENDANT(S)

<b>Submitted By:</b> <b>Address:</b>	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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**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.  See Page 2 for additional information.
- 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:

This matter is before the Court pursuant to the Third Party Defendant JLS Masonry, Inc.’s Motions for Judgment Notwithstanding the Verdict (JNOV) and New Trial Absolute and/or New Trial Nisi Remittitur. Also included in the motions was a renewal of the Motion to Decertify the Class. The motion contained thirteen (13) grounds, including, but not limited to, the Statute of Limitations, the Statute of Repose, contractual indemnity, and the insufficiency of the evidence.

The Court presided over the trial and considered the motion, briefs, applicable case law, and the arguments of counsel. The Court viewed the evidence in a light most favorable to the Plaintiff as required by law. The Court finds that there was evidence in the record that reasonably supports the jury’s verdict. Accordingly, the Third Party Defendant’s Motion for Judgment Notwithstanding the Verdict (JNOV) on all the stated grounds is DENIED.

The Court finds no evidence that the jury reached its verdict as the result of caprice, passion, prejudice, partiality, or any other improper motive. The verdict is not unduly liberal or excessive given the evidence presented in the trial. The Court notes that the jury found that the total amount of the damages in the areas of work pertaining to JLS Masonry was twenty-five (25%) percent less than that claimed by the Plaintiff (\$15,000,000.00 rather than the claimed \$20,000,000.00) indicating that the jury gave consideration to the Third Party

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Defendant’s arguments that the Plaintiff’s expert had overstated the value of the damages. Further, the Third Party Defendant performed the work in question on a stipulated forty-six (46%) percent of the houses in the subdivision. The Plaintiff asserted, in assumption of Defendant D.R. Horton’s claims as part of the settlement, that JLS Masonry should be responsible for the same percentage of the damages. JLS Masonry challenged that assertion. The jury, with its \$4,000,000.00 verdict, held JLS Masonry responsible for fifty-eight (58%) percent of the damages, again indicating that the jury gave consideration to the Third Party Defendant’s arguments. The Court finds that the verdict is well within the range of verdicts possible from a reasonable consideration of the evidence and that the Third Party Defendant JLS Masonry’s Motion for New Trial Absolute and/or New Trial Nisi Remittitur should be DENIED.

The Court has heard the Motion to Decertify the Class multiple times during the case and continues to DENY that motion.

**ORDER INFORMATION**

This order  ends  does not end the case.

Additional Information for the Clerk: \_\_\_\_\_

<b>INFORMATION FOR THE PUBLIC INDEX</b>		
<b>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.</b>		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
If applicable, describe the property, including tax map information and address, referenced in the order: _____ _____ _____		

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 for judgment details.**

\_\_\_\_\_  
Circuit Court Judge

2752  
\_\_\_\_\_  
Judge Code

\_\_\_\_\_  
Date





Anderson Common Pleas

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

**Case Number:** 2019CP0401942

**Type:** Order/Form 4

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit