



## **INTRODUCTION**

This motion for summary judgment arises out of the Plaintiffs' Complaint alleging the single cause of action of negligence against Home Inspection One. Plaintiffs' lone claim of negligence against Home Inspection One is barred by the economic loss rule. Thus, pursuant to Rule 56, SCRCF, this Court grants Home Inspection One's motion for summary judgment and dismisses Plaintiffs' sole claim of negligence against it.

## **FACTUAL BACKGROUND**

Plaintiffs and Home Inspection One entered an agreement ("inspection agreement" or "contract") for Home Inspection One to perform an inspection of the home located at 901 Valhalla Drive in Columbia, South Carolina ("subject home" or "home") for an inspection fee in the amount of \$310.00. (Home Inspection One Mem. In Supp. of Mot. Summ. J., Ex. A and Ex. B). This inspection occurred during the due diligence phase of the Plaintiffs purchase of the home from Defendant Sunsetter Properties, LLC. (Pl. Compl. ¶¶ 7, 12).

Home Inspection One performed its inspection on April 3, 2019 and invoiced Plaintiffs \$310.00 for the cost of the inspection. (Home Inspection One Mem. In Supp. of Mot. Summ. J., Ex. B). Home Inspection One issued its report on April 3, 2019. (Home Inspection One Mem. In Supp. of Mot. Summ. J., Ex. C).

Plaintiffs filed suit against Home Inspection One and other defendants on May 23, 2022, and asserted claims related to alleged construction deficiencies at the home. As to Home Inspection One, Plaintiffs only alleged a claim of negligence against it. (Pl. Compl. ¶¶ 21-26).

## ARGUMENT

**I. The Plaintiffs have not provided a genuine issue of material fact as to each element of the cause of action they have brought against Home Inspection One, and, as a result, Home Inspection One's Motion for Summary Judgment must be granted.**

Under South Carolina law, a summary judgment motion must be granted when there is no genuine issue of material fact, and the court must grant judgment as a matter of law. Rule 56 (C), SCRPC. Further, it is the Court's function to determine whether a genuine issue exists in a motion for summary judgment, not to resolve any existing factual issues. *See Spencer v. Miller*, 259 S.C. 453, 456, 192 S.E.2d 853, 865 (S.C. 1972). To survive a summary judgment motion by the defendant, the plaintiff must offer some evidence that a genuine issue of material fact exists for each element of the claim at issue, except for those elements that are either uncontested or agreed to by stipulation. *See Kase v. Ebert*, 392 S.C. 57, 61, 707 S.E.2d 456, 458 (S.C. Ct. App. 2011). Here, the Plaintiffs have not provided a genuine issue of material fact for each and every element of their negligence claim against Home Inspection One because Plaintiffs do not have a viable claim against Home Inspection One, as the economic loss rule prevents any tort claim against it.

**A. The Plaintiffs do not have a viable claim of negligence against Home Inspection One because all duties owed by Home Inspection One to Plaintiffs arise out of contract.**

South Carolina courts have long recognized the economic loss rule stating there is no tort liability for purely economic losses suffered from a plaintiff's purchase of a defective product. *See Sapp v. Ford Motor Co.*, 386 S.C. 143, 147, 687 S.E.2d 47, 49 (2009) (citing *Kennedy v. Columbia and Mfg. Co., Inc.*, 384 S.E.2d 730, 737, 299 S.C. 335, 345-46 (1988) (overruled in part on other grounds by *Beachwalk Villas Condominium Ass'n. Inc. v. Martin*, 406 S.E.2d 372, 305 S.C. 144 (1990))). The South Carolina Supreme Court has examined the economic loss rule in this exact context when delineating the narrow real-estate purchase exception to the economic loss rule, and

the Court clarified that the real-estate purchase exception applies to home builders, but does not apply to home inspectors such as Home Inspection One in this case. *See Gladden v. Boykin*, 402 S.C. 140, 144, 739 S.E.2d 882, 884 (2013). In analyzing the real-estate purchase exception to the economic loss rule and its non-applicability to home inspectors, the Court held:

“It is one thing to impose greater demands on a builder of a new home, who is in a position to know of the home’s defects, and another to impose a similar standard on an inspector who makes only a brief survey of the home with the buyer’s full knowledge of the limited service the inspector is offering.”

*See id.*, 402 S.C. at 144, 739 S.E.2d at 884.

As further evidence to show that public policy was not breached, the Court looked to the statutes enacted by the General Assembly and explained that the Residential Property Condition Disclosures Act protects buyers and requires that they are informed by the seller of defects of which the seller has knowledge. *See id.* (citing S.C. Code Ann. § 27-50-10). Thus, the economic loss rule applies to contracts between home inspectors and home purchasers. *See id.*, 402 S.C. at 146, 739 S.E.2d at 885.

Here, Plaintiffs have only asserted a cause of action of negligence against Home Inspection One. Therefore, the only cause of action against Home Inspection One arises under a theory of tort, and, as a result, that cause of action is barred by the economic loss rule. Thus, this Court grants judgment as a matter of law in favor of Home Inspection One and dismisses Plaintiffs’ claim against it.

### **CONCLUSION**

For the reasons stated herein, the Plaintiffs do not have a viable claim of negligence against Home Inspection One, and the Court grants judgment as a matter of law in favor of Home Inspection One and dismisses Plaintiffs’ claim against it. As a result, it is hereby ORDERED that Home Inspection One’s Motion for Summary Judgment is GRANTED.

*(Judge's Signature Page To Follow)*



Richland Common Pleas

**Case Caption:** Elizabeth Ray , plaintiff, et al vs Sunsetter Properties Llc , defendant,  
et al

**Case Number:** 2022CP4002713

**Type:** Order/Summary Judgment

So Ordered

Jocelyn Newman