

THE STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) THE NINTH JUDICIAL DISTRICT
) CASE NO.: 2016-CP-10-03468

CHARLES BLANCHARD CONSTRUCTION)
CORP., INC.,)
)
Plaintiff,)

vs.)
480 KING STREET, LLC)
)
Defendant.)

480 KING STREET, LLC,)
)
Plaintiff,)

vs.)
GLICK/BOEHM & ASSOCIATES, INC.)
)
Defendant.)

**ORDER ON GLICK/BOEHM &
ASSOCIATES, INC.'S MOTION TO DISMISS
AND MOTION FOR SANCTIONS**

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SC Court of Appeals

FACTS

Defendant Glick/Boehm & Associates, Inc. (“Defendant”) filed a Motion to Dismiss the Complaint of Plaintiff 480 King Street, LLC (“480 King” or “Plaintiff”), pursuant to Rule 12(b)(6), SCRCF and a Motion for Sanctions against 480 King pursuant to Rule 11, SCRCF. Plaintiff filed a Memorandum in response and opposition to both Motions and Defendant thereafter filed a responsive Memorandum. The Court read and considered all of these written submissions and thereafter, on December 2, 2021, heard oral argument from counsel for both parties. At the close of that hearing, the Court announced it would grant Defendant’s Motion to Dismiss and deny the Motion for Sanctions. This written Order will formally memorialize those rulings.

MOTION TO DISMISS

In its Motion, Defendant contends that the claims asserted against it by Plaintiff are all based upon its alleged negligent performance of professional services as an Architect, and that Plaintiff failed to file a proper Affidavit in support of those claims as required by S.C. Code Ann. §15-36-100(B). The Court agrees with those and other arguments presented by Counsel for Defendant and, as a result, grants the Motion.

Defendant is an Architect, and not a Professional Engineer. Architects are one of the 22 professional groups specifically afforded protection in actions for damages alleging professional negligence under S.C. Code Ann. § 15-36-100(G) (2015). The sole Affiant presented by Plaintiff in support of its Complaint, Louis Hackney, is a Professional Engineer and not an Architect. Professional Engineers are a different and separate group covered by the same statute. Architects and Professional Engineers receive different educational degrees, are licensed and regulated by separate registration boards, and otherwise are, simply stated, different professions.

The initial provision of the Act defines "expert witness" as "an expert who is qualified as to the acceptable conduct of *the professional whose conduct is at issue*." S.C. Code Ann. § 15-36-100 (A) (emphasis added). The "expert witness must specify at least one negligent act of omission claimed to exist," keeping in mind that negligence in that context is the failure of an accused professional to abide by the standard of care applicable to the profession against whom the negligence is alleged. S.C. Code Ann. § 15-36-100 (B). As previously noted, the Defendant in this case is an Architect and its services must be judged against the standard of care of an Architect. Given Mr. Hackney's acknowledgement that he is not an Architect; the statement in his affidavit that his experience has been "[a]s a Professional Engineer," with no corresponding expression of any experience "as an Architect;" his failure to express any opinion against the Defendant in terms

of the standard of care of an Architect and his deposition testimony stating that, “[b]y signing the Affidavit, (he) did not intend to offer an opinion about the standard of care of an Architect,” and that he does “not intend in this case to offer a professional opinion about the standard of care of an Architect,” this Court concludes that Plaintiff has failed to present an affidavit in support of the claims against this Defendant, as required by n S.C. Code Ann. §15- 36-100, et. seq. As a result, Defendant’s Motion to Dismiss must be granted, and Defendant Glick/Boehm & Associates, Inc. is hereby dismissed with prejudice.

MOTION FOR SANCTIONS

While the Court disagrees with the arguments asserted by Plaintiff’s counsel pertaining to the merits for Defendant’s dismissal, it cannot be said that those arguments are specious or of any nature giving rise to an award of sanctions in favor of Defendant. Therefore, that portion of Defendant’s Motion is denied.

ORDER

ORDERED for the reasons set forth above and otherwise under this Court’s interpretation of the legal principles applicable, that Defendant’s Motion to Dismiss is **GRANTED**, and the case against Defendant is dismissed with prejudice.

ORDERED for the reasons set forth above and otherwise under this Court’s interpretation of the legal principles applicable, that Defendant’s Motion for Sanctions is **DENIED**.

AND IT IS SO ORDERED.

The Honorable Jennifer B. McCoy
Circuit Court Judge

Charleston, South Carolina

This ____ day of _____, 2021.



Charleston Common Pleas

Case Caption: Charles Blanchard Construction Corp Inc VS 480 King Street LLC ,
defendant, et al
Case Number: 2016CP1003468
Type: Order/Other

So Ordered

s/Jennifer B. McCoy #2764