

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

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) IN THE COURT OF COMMON PLEAS
) THE FOURTEENTH JUDICIAL CIRCUIT
) CASE NO.: 2011-CP-07-2700

TAD SEGARS,

JEFFREY L. ROSENEAU
BEAUFORT COUNTY, S.C.
Plaintiff, CLERK OF COURT

vs.

OCEAN ESTATE BUILDERS, INC., ED
FLYNN, INDIVIDUALLY, DAVID
GARCIA D/B/A YINET PLASTERING,
INC., ADVANCED ROOFING, INC.,
TEOFILO LEZCANO, INDIVIDUALLY
AND D/B/A ADVANCED ROOFING,
INC., A/K/A YUKO CONSTRUCTION,
INC., CMC CONSTRUCTION
COMPANY, INC. AND JAGUAR
MASONRY,

Defendants.

)
) **ORDER GRANTING DEFENDANT CMC**
) **CONSTRUCTION COMPANY, INC., AND**
) **ADVANCED ROOFING, INC., TEOFILO**
) **LEZCANO, INDIVIDUALLY AND D/B/A**
) **ADVANCED ROOFING, INC. A/K/A YUKO**
) **CONSTRUCTION, INC.'S MOTIONS FOR**
) **SUMMARY JUDGMENT**

This lawsuit is a construction defect action regarding a single-family residence located at 87 Singleton Beach Road in Hilton Head, South Carolina. On September 4, 2013, this Court heard oral argument from counsel regarding Defendant CMC Construction Company, Inc.'s ("CMC") Motion for Summary Judgment, as well as Defendants Advanced Roofing, Inc.'s, Teofilo Lezcano's, individually and d/b/a Advanced Roofing, Inc. a/k/a Yuko Construction, Inc. (collectively "Advanced") Motion for Summary Judgment as to Plaintiff's claims. Based on the reasoning set forth herein and a review of the record, this Court hereby grants CMC's and Advanced's Motions.

Findings of Fact

Plaintiff alleges that CMC was a framing subcontractor and Advanced was a roofing and waterproofing subcontractor for construction of the residence at issue in this litigation. In his original Complaint, filed on September 23, 2009, Plaintiff sued the general contractor for numerous "defects in construction," including "[i]mproper roofing installation", "[i]mproper

Conclusions of Law

Under the applicable statute of limitations and the discovery rule, Plaintiff had a three year window in which to bring claims against CMC and Advanced from the point Plaintiff knew or should have known he had a claim. Plaintiff filed his actions against CMC and Advanced on February 12, 2013—over three years after filing his original Complaint for construction defects. Taking the evidence in the light most favorable to the Plaintiff, this Court finds that the Plaintiff clearly knew—or in the exercise of reasonable diligence should have known—of a claim against CMC or Advanced at the very latest at the time Plaintiff filed his original Complaint. The statute of limitations was triggered at that point. Accordingly, this Court must find that Plaintiff is barred from pursuing claims against CMC or Advanced pursuant to the applicable statute of limitations. This Court concludes that there is no genuine issue as to any material fact and CMC and Advanced are entitled to judgment as a matter of law as to all of Plaintiff's claims.

WHEREFORE, this Court hereby grants CMC's Motion for Summary Judgment and Advanced's Motion for Summary Judgment and dismisses all of Plaintiff's claims against CMC and Advanced with prejudice.

IT IS SO ORDERED!



Carmen T. Mullen
Fourteenth Judicial Circuit

Dated: 9-11-13
Beaufort, South Carolina