

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

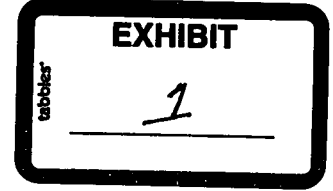
STONELEDGE AT LAKE KEOWEE OWNERS' ASSOCIATION, INC., C. DAN CARSON, JEFFREY J. DAULER, JOAN W. DAVENPORT, MICHAEL FURNARI, DONNA FURNARI, JESSY B. GRASSO, NANCY E. GRASSO, ROBERT P. HAYES, LUCY H. HAYES, TY HIX, JENNIFER D. HIX, PAUL W. HUND, III, RUTH E. ISAAC, MICHAEL D. PLOURDE, MARY LOU PLOURDE, CAROL C. POPE, STEVEN B. TAYLOR, BETTE J. TAYLOR, AND ROBERT WHITE, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED

Plaintiffs,

vs.

IMK DEVELOPMENT CO., LLC, KEOWEE TOWNHOUSES, LLC, LUDWIG CORPORATION, LLC, SDI FUNDING, LLC, MEDALLION AT KEOWEE, LLC, INTEGRYS KEOWEE DEVELOPMENT, LLC, MARICK HOME BUILDERS, LLC, BOSTIC BROTHERS CONSTRUCTION, INC., MILLER/PLAYER & ASSOCIATES, JOHN LUDWIG, CLEAR VIEW CONSTRUCTION, LLC, MICHAEL FRANZ, MHC CONTRACTORS, MIGUEL PORRAS CHONCOAS, BUILDERS FIRST SOURCE SOUTHEAST GROUP, MIKE GREEN, SOUTHERN CONCRETE SPECIALTIES, CARL COMPTON D/B/A COMPTON ENTERPRIZE A/K/A COMPTON ENTERPRISES, GUNTER HEATING & AIR, ALL PRO HEATING, A/C & REFRIGERATION, LLC, COLEMAN WATERPROOFING, HEYWARD ELECTRICAL SERVICES, INC., TINSLEY ELECTRICAL, LLC, HUTCH N SON CONSTRUCTION, INC., CARL CATOE CONSTRUCTION, INC., T.G. CONSTRUCTION, LLC, DELFINO CONSTRUCTION, FRANCISCO JAVIER ZARATE D/B/A ZARATE CONSTRUCTION, ALEJANDRO AVALOS CRUZ, HERBERTO ACROS HERNANDEZ, MARTIN HERNANDEZ-AVILES, FRANCISCO VILLALOBOS LOPEZ, AMBROSIO MARTINEZ-RAMIREZ, ESTER MORAN MENTADO, SOCORRO CASTILLO MONTEL, UPSTATE UTILITIES, INC., MJG CONSTRUCTION AND HOMEBUILDERS, INC.

IN THE COURT OF COMMON PLEAS FOR THE TENTH JUDICIAL CIRCUIT CASE NUMBER: 2009-CP-37-0652



ORDER GRANTING LEAVE TO FILE THIRD AMENDED COMPLAINT

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FEB 23 2015

SC Court of Appeals

FILED OCONEE, SC BEVERLY H. WHITFIELD CLERK OF COURT 2012 MAR 29 AM 10 52

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The September 28, 2011 Order on *Plaintiffs' Motion to Amend* provided Defendants until October 3, 2011 to submit objections to *Plaintiffs' Motion to Amend* and provided that any Reply from the Plaintiffs was to be submitted by October 7, 2011. Counsel for Marick Home Builders, LLC submitted objections on behalf of Rick Thoennes ("Thoennes"), Rick Thoennes, III ("Thoennes, III"), and M Group Construction and Development, LLC ("M Group"). The only other objection was submitted by Cynthia Buck Brown, Esq., counsel for William C. Cox ("Cox") and Larry D. Lollis ("Lollis"). No other objections have been received.

The Plaintiffs filed a reply to the objections of defendants and to the objections of Cox and Lollis. On December 2, 2011, Frederick Richard Thoennes, III (AKA Rick Thoennes, III) filed a petition for Chapter 7 bankruptcy. In light of the bankruptcy proceedings, Plaintiffs have withdrawn their request to add Rick Thoennes, III as a party defendant.

For the reasons set forth below, this court grants Plaintiffs' Motion to File the Third Amended Complaint attached hereto as Exhibit "A."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This case arises out of the development, construction, sales, and maintenance of the townhome community known as Stoneledge at Lake Keowee (hereinafter "Stoneledge"), located in West Union, South Carolina. At the time the instant motion was filed, the First Amended Complaint included claims against entities involved in the development, construction, sale, management and maintenance of Stoneledge, including IMK Development Co., LLC ("IMK"); SDI Funding, LLC ("SDI"); Medallion at Keowee, LLC ("Medallion"); Integrys Keowee Development, LLC ("Integrys"); Marick Home Builders, LLC ("Marick"); and Bostic Brothers Construction, Inc. ("Bostic").

Additional discovery has revealed evidence that several principals of these defendants were involved in the development, construction, marketing, sales, management, and/or maintenance of Stoneledge. Discovery has also revealed evidence that M Group Construction & Development, LLC ("M Group") may be a successor to Marick. For these reasons, Plaintiffs moved this Court for leave to

amend its Complaint to assert claims against M Group and the principals of certain previously-named defendants, including IMK, SDI, Medallion, Integrys, Marick and Bostic. As explained above and as set forth in the *Supplement to Plaintiffs' Motion to Amend*, Plaintiffs also seek to add an additional subcontractor as a party defendant and to add allegations relating to piercing the corporate veil of several existing defendants.⁴

Leave to amend pleadings "shall be freely given when justice so requires and does not prejudice any other party." Rule 15(a), SCRPC. A motion to amend a pleading is addressed to the sound discretion of the trial judge, Duncan v. CRS Sirrine Engineers, Inc., 337 S.C. 537, 524 S.E.2d 115 (Ct.App. 1999); however, Rule 15 "strongly favors amendments and the court is encouraged to freely grant leave to amend." Parker v. Spartanburg Sanitary Sewer Dist., 362 S.C. 276, 286, 607 S.E.2d 711, 716-17 (Ct. App. 2005).

A party opposing the motion has the burden of establishing prejudice. Harvey v. Strickland, 350 S.C. 303, 566 S.E.2d 529 (2002); Tanner v. Florence County Treasurer, 336 S.C. 552, 521 S.E.2d 153 (1999); Kelly v. South Carolina Farm Bureau Mut. Ins. Co., 316 S.C. 319, 323, 450 S.E.2d 59, 61 (S.C. App. 1994). The prejudice that Rule 15 contemplates is lack of notice that the new issue will be tried and lack of a full opportunity to refute it. Stanley v. Kirkpatrick, 357 S.C. 169, 592 S.E.2d 296 (2004), rehearing denied; Duncan, 337 S.C. 537, 524 S.E.2d 115; Parker, 362 S.C. 276, 607 S.E.2d 711. In other words, a party opposing a motion to amend must establish prejudice by showing a lack of notice that the new issue is going to be tried, and a lack of opportunity to refute it. See Tanner, 336 S.C. 552, 521 S.E.2d 153 (1999). Having to defend a case is not prejudice.

Based on the arguments and briefs submitted by counsel and on the applicable case law, this court finds that justice requires that leave to amend be granted so that Plaintiffs can pursue claims against all individuals and entities responsible for their losses.

⁴ The additional allegations are set forth in the proposed Third Amended Complaint which was attached as Exhibit A to the *Supplement to Plaintiffs' Motion to Amend*. The Proposed Third Amended Complaint is attached hereto as Exhibit A.

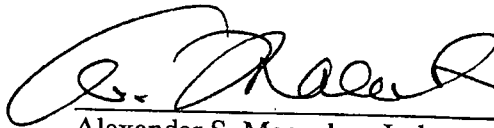
Further, despite arguments presented by counsel for Marick, as well as counsel for Cox and Lollis, this Court finds the proposed amendments to the Complaint are not futile. For a motion to amend a pleading to be denied for futility, the amendment must be clearly insufficient or frivolous *on its face*. Enhance-It, LLC v. American Access Technologies, Inc., 413 F.Supp. 2d 626 (D.S.C. 2006) (emphasis added). In South Carolina, leave to amend has been denied on the basis of futility only where the proposed amended Complaint fails to state a cause of action. Jennings v. Jennings, 389 S.C. 190, 697 S.E.2d 671 (2010). In Jennings, the proposed amended complaint omitted an element necessary to the cause of action at issue.

The proposed Third Amended Complaint in this case sets forth several causes of action against each of the Additional Defendants; therefore, the amendment is not futile. Plaintiffs are not required to present evidentiary support the Motion to Amend. See e.g., Tanner, 336 S.C. 552, 521 S.E.2d 153 (1999). Allegations must be taken as true at the pleadings stage. Id.⁵ Plaintiffs' proposed amended complaint need only set forth allegations sufficient to state a cause of action against the defendants. This Court finds that the proposed Third Amended Complaint sets forth allegations sufficient to state a cause of action against the defendants.

CONCLUSION

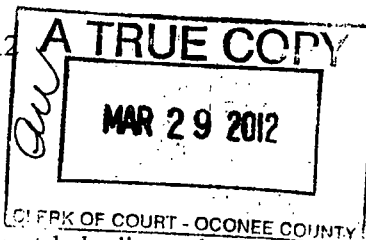
For the reasons set forth above, this Court grants Plaintiffs leave to file the Third Amended Complaint which is attached hereto as Exhibit "A."

AND IT IS SO ORDERED!


Alexander S. Macaulay, Judge

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2012 MAR 29 AM 10 52


Walhalla, South Carolina, 2012



⁵ Although Tanner involved a supplemental pleading under Rule 15(d), as opposed to a motion to amend pleadings under 15(a), the court recognized that "the standard for granting or denying these motions is the same" and that "South Carolina case law interpreting Rule 15(a), SCRCP, is authoritative in analyzing" the request to supplement under Rule 15(d). Id., 336 S.C. at 558, 521 S.E.2d at 156.

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2009 CP-37-00652

Stoneledge at Lake Keowee Owners Association
 Inc; et al

IMK Development Co LLC; et al

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : Plaintiff Defendant
 or
 Self-Represented Litigant

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
- 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:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

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.

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 order for judgment details.

S/ALEXANDER S. MACAULAY

2063

03/29/2012

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ATTORNEY(S) FOR THE PLAINTIFF(S)

Court Reporter: N/A

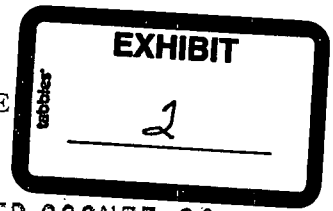
ATTORNEY(S) FOR THE DEFENDANT(S)
Beverly H. Whitfield
CLERK OF COURT

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2009 CP-37-00652



Stoneledge at Lake Keowee Owners Assn; et al

IMK Development Co. LLC; et al
 FILED OCONEE, SC
 BEVERLY H. WHITFIELD
 CLERK OF COURT

PLAINTIFF(S)

DEFENDANT(S)

2013 JUL 25 AM 8 49

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or
	<input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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- 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.
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- 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

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 SC Court of Appeals

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: #5 Defendants Cox and Lollis' Motion for Summary Judgment as to the Claims of the Plaintiffs is DENIED.

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

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.

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		\$

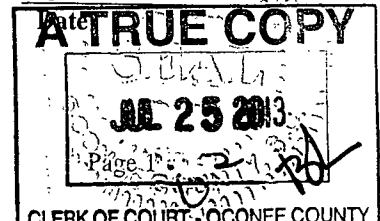
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[Signature]
 Circuit Court Judge

2063
 Judge Code

07/24/2013



For Clerk of Court Office Use Only

This judgment was entered on the 25th day of July, 2013 and a copy mailed first class or placed in the appropriate attorney's box on this 25th day of July, 2013 to attorneys of record or to parties (when appearing pro se) as follows:

Robert T. Lyles, Jr.

Cynthia Buck Brown

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Beverly A. Whitfield
CLERK OF COURT

Court Reporter:

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

FILED O'DONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2013 JUL 25 AM 8 49

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STATE OF SOUTH CAROLINA)

COUNTY OF OCONEE)

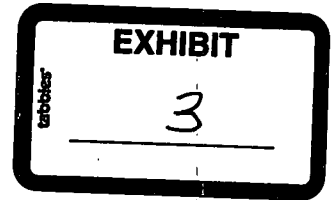
STONELEDGE AT LAKE KEOWEE OWNERS')
ASSOCIATION, INC., C. DAN CARSON, JEFFREY)
J. DAULER, JOAN W. DAVENPORT, MICHAEL)
FURNARI, DONNA FURNARI, JESSY B. GRASSO,)
NANCY E. GRASSO, ROBERT P. HAYES, LUCY)
H. HAYES, TY HIX, JENNIFER D. HIX, PAUL W.)
HUND, III, RUTH E. ISAAC, MICHAEL D.)
PLOURDE, MARY LOU PLOURDE, CAROL C.)
POPE, STEVEN B. TAYLOR, BETTE J. TAYLOR,)
AND ROBERT WHITE, INDIVIDUALLY AND ON)
BEHALF OF ALL OTHERS SIMILARLY SITUATED)

Plaintiffs,)

vs.)

IMK DEVELOPMENT CO., LLC, KEOWEE)
TOWNHOUSES, LLC, LUDWIG CORPORATION,)
LLC, SDI FUNDING, LLC, MEDALLION AT)
KEOWEE, LLC, INTEGRYS KEOWEE)
DEVELOPMENT, LLC, MARICK HOME)
BUILDERS, LLC, BOSTIC BROTHERS)
CONSTRUCTION, INC., MILLER/PLAYER &)
ASSOCIATES, JOHN LUDWIG, , CLEAR VIEW)
CONSTRUCTION, LLC, MICHAEL FRANZ, MHC)
CONTRACTORS, MIGUEL PORRAS CHONCOAS,)
BUILDERS FIRST SOURCE SOUTHEAST GROUP,)
MIKE GREEN, SOUTHERN CONCRETE)
SPECIALTIES, CARL COMPTON D/B/A COMPTON)
ENTERPRIZE A/K/A COMPTON ENTERPRISES,)
GUNTER HEATING & AIR, ALL PRO HEATING,)
A/C & REFRIGERATION, LLC, COLEMAN)
WATERPROOFING, HEYWARD ELECTRICAL)
SERVICES, INC., TINSLEY ELECTRICAL, LLC,)
HUTCH N SON CONSTRUCTION, INC., CARL)
CATOE CONSTRUCTION, INC., T.G.)
CONSTRUCTION, LLC, DELFINO)
CONSTRUCTION, FRANCISCO JAVIER ZARATE)
D/B/A ZARATE CONSTRUCTION, ALEJANDRO)
AVALOS CRUZ, HERBERTO ACROS)
HERNANDEZ, MARTIN HERNANDEZ-AVILES,)
FRANCISCO VILLALOBOS LOPEZ, AMBROSIO)
MARTINEZ-RAMIREZ, ESTER MORAN)
MENTADO, SOCORRO CASTILLO MONTEL,)
UPSTATE UTILITIES, INC., MJG CONSTRUCTION)

IN THE COURT OF COMMON PLEAS)
FOR THE TENTH JUDICIAL CIRCUIT)
CASE NUMBER: 2009-CP-37-0652)



ORDER GRANTING SUMMARY)
JUDGMENT TO DEFENDANTS MARICK)
HOME BUILDERS, LCC AND RICK)
THOENNES AS TO CROSS CLAIMS)
FROM INTEGRYS KEOWEE)
DEVELOPMENT, LLC, IMK)
DEVELOPMENT CO., LLC, LARRY D.)
LOLLIS, AND WILLIAM C. COX)

FILED OCONEE, SC)
BEVERLY H. WHITFIELD)
CLERK OF COURT)
2013 OCT 21 PM 2 07)

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FEB 23 2015

SC Court of Appeals

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AND HOMEBUILDERS, INC. D/B/A MJG)
 CONSTRUCTION, KMAC OF THE CAROLINAS,)
 INC., EUFACIO GARCIA, EVERADO)
 JARMAMILLO, GARCIA PARRA INSULATION,)
 INC., J&J CONSTRUCTION, JOSE NINO, JOSE)
 MANUEL GARCIA, EASON CONSTRUCTION, INC.,)
 AND VINCENT MORALES D/B/A MORALES)
 MASONRY,)
)
 Defendants;)
)
 BOSTIC CONSTRUCTION, INC.,)
)
 Third-Party Plaintiff)
)
 vs.)
)
 SOUTHERN STONE, INC., AND BUCK)
 SMITH CONSTRUCTION,)
)
 Third-Party Defendants.)
)

This matter came before the court on September 23, 2013, by way of Motions for Summary Judgment filed by Defendants Marick Home Builders, LLC ("Marick") and Rick Thoennes ("Thoennes") (collectively "Defendants"). For the reasons set out below, this Motion for Summary Judgment is granted.

This suit arises from the construction of The Stoneledge at Lake Keowee ("Stoneledge" or the "project"), located in West Union, South Carolina. Stoneledge consists of approximately 80 individual units among 19 buildings, built in two phases, Phase I and Phase II. Bostic was the general contractor for Phase I, and subcontracted with Jose Nino, KMAC, Eason, and Jaramillo. The project was eventually sold to IMK, for whom Lollis was a principal. Lollis and Cox were also principals of IK, which was also a subsequent developer at the project. Marick then completed Phase I and constructed Phase II. Plaintiffs initially filed suit on May 29, 2009, with their most recent pleading, the Third Amended Complaint, filed on or around April 3, 2012. Plaintiffs have filed suit against numerous parties, including IK, IMK, Lollis, and Cox. In turn, IK, IMK, Lollis, and Cox filed cross-claims

against Defendants. The Cross-claims asserted by IK, IMK, Lollis, and Cox are for contractual and/or equitable indemnity.

I. STANDARD FOR MOTION FOR SUMMARY JUDGMENT.

Rule 56(c) of the South Carolina Rules of Civil Procedure requires that summary judgment be granted “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” S.C.R. Civ. P. 56(c). “In determining whether a genuine question of fact exists, the court must view the evidence and all inferences which can be reasonably drawn from the evidence in the light most favorable to the nonmoving party.” *Faile v. S.C. Dep’t of Juvenile Justice*, 350 S.C. 315, 323-24 (2002).

II. SUMMARY JUDGMENT IS PROPER BECAUSE THERE ARE NO VIABLE INDEMNIFICATION CLAIMS AS TO DEFENDANTS

All indemnity claims against Defendants are barred, as Defendants have no applicable contractual relationship with IK, IMK, Lollis, or Cox, and IK, IMK, Lollis, and Cox are joint tortfeasors. IK, IMK, Lollis, and Cox have asserted equitable and contractual indemnity against Defendants. As a preliminary matter, no contractual indemnity can exist between Defendants and IK, IMK, Lollis, and Cox, as there is no corresponding applicable contractual relationship. For that reason alone, summary judgment is appropriate as to any contractual indemnity claims against Defendants.

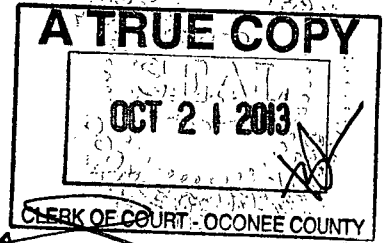
Equitable indemnity arises “in cases of imputed fault or where some special relationship exists between the first and second parties.” *Rock Hill v. Globe Communications*, 363 S.C. 385, 389 (2005) (citation omitted). “Equitable indemnity cases involve a fact pattern in which the first party is at fault, but the second party is not.” *Walterboro Comm. Hosp. v. Meacher*, 392 S.C. 479, 486 (Ct.App. 2010) (citations omitted). “The most important requirement for the finding of equitable indemnity is that the party seeking to be indemnified is adjudged without fault and the indemnifying party is the one at fault.” *Id.*

IK, IMK, Lollis, and Cox have offered no evidence of a special relationship between themselves and Defendants, and IK, IMK, Lollis, and Cox can not be adjudged to be without fault. Pursuant to *Rock Hill* and *Meacher*, no claims for equitable indemnity can exist, thus entitling Defendants to judgment as a matter of law.

CONCLUSION

Based on the foregoing, this Court finds that Defendants Marick and Thoennes are entitled to judgment as a matter of law with respect to indemnification claims made by IK, IMK, Lollis, and Cox. Accordingly, this Court grants summary judgment in favor of Defendants with respect to these claims.

IT IS SO ORDERED.



Alexander S. Macaulay
ALEXANDER S. MACAULAY, Judge

Walhalla, South Carolina
October 16, 2013

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2013 OCT 21 PM 2 07

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2009-CP-37-00652

Stoneledge at Lake Keowee Owners Association
 Inc, et al

IMK Development Co LLC, et al

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

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s/Alexander S. Macaulay

2063

10/16/2013

Circuit Court Judge

Judge Code

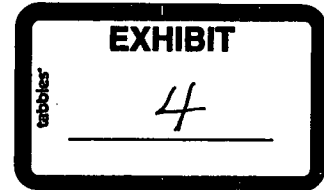
Date

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2009-CP-37-00652



STONELEDGE AT LAKE KEOWEE OWNERS' ASSOCIATION,
 INC. ET AL

IMK DEVELOPMENT CO., LLC, LARRY D. LOLLIS,
 WILLIAM C. COX, INTEGRYS KEOWEE DEVELOPMENT,
 LLC; MARICK HOME BUILDERS, LLC, BOSTIC
 BROTHERS CONSTRUCTION, INC., RICK THONNES

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

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

FILED OCONEE, SC
 BEVERLY H. WHITFIELD
 CLERK OF COURT
 2:13 NOV 8 PM 12 '09

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: Jury found for the Plaintiff on the cause of action for negligence as to Defendants Bostic Brothers Construction, Inc., IMK Development Co., LLC, and Marick Home Builders, LLC in the amount of \$3,000,000.00; Jury found for the Plaintiff on the cause of action for breach of warranty of workmanlike service as to Defendants Bostic Brothers Construction, Inc. and Marick Home Builders, LLC in the amount of \$1,000,000.00. Jury found for the Plaintiff on the cause of action for breach of fiduciary duty as to Defendants IMK Development Co., LLC, IntegrYS Keowee Development, LLC, Rick Thoennes, William C. Cox and Larry D. Lollis in the amount of \$1,000,000.00 (See Attached Verdit Form and Apportionment Form for more specific details.) All parties have 10 days to submit post-trial motions.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : This trial encompassed Phase 1 of Stoneledge only.

INFORMATION FOR THE JUDGMENT INDEX

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.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
Stoneledge at Lake Keowee Owner's Assoc., Inc., C. Dan Carson, Jeffrey J. Dauler, Joan W. Davenport, Michael Furnari, Donna Furnari, Jessy B. Grasso, Nancy E. Grasso, Robert P. Hayes, Lucy H Hayes, Ty Hix, Jennifer D. Hix, Paul W. Hund, III, Ruth E. Isaac, Michael D.	IMK Development Cp., LLC	\$1,150,000.00

<p>Plourde, Mary Lou Plourde, Carol C. Pope, Steven B. Taylor, Bette J. Taylor, Robert White</p>		
<p>Stoneledge at Lake Keowee Owners' Assoc., Inc., C. Dan Carson, Jeffrey J. Dauler, Joan W. Davenport, Michael Furnari, Donna Furnari, Jessy B. Grasso, Nancy E. Grasso, Robert P. Hayes, Lucy H. Hayes, Ty Hix, Jennifer D. Hix, Paul W. Hund, III, Ruth E. Isaac, Michael D. Plourde, Mary Lou Plourde, Carol C. Pope, Steven B. Taylor, Bette J. Taylor, Robert White</p>	<p>Larry D. Lollis</p>	<p>\$ 200,000.00</p>
<p>Stoneledge at Lake Keowee Owners' Assoc., Inc. C. Dan Carson, Jeffrey J. Dauler, Joan W. Davenport, Michael Furnari, Donna Furnari, Jessy B. Grasso, Nancy E. Grasso, Robert P. Hayes, Lucy H. Hayes, Ty Hix, Jennifer D. Hix, Paul W. Hund, III, Ruth E. Issac, Michael D. Plourde, Mary Lou Plourde, Carol C. Pope, Steven B. Taylor, Bette J. Taylor, Robert White</p>	<p>William C. Cox</p>	<p>\$ 200,000.00</p>
<p>Stoneledge at Lake Keowee Owners' Assoc., Inc., C. Dan Carson, Jeffrey J. Dauler, Joan W. Davenport, Michael Furnari, Donna Furnari, Jessy B. Grasso, Nancy E. Grasso, Robert P. Hayes, Lucy H. Hayes, Ty Hix, Jennifer D. Hix, Paul W. Hund, III, Ruth E. Issac, Michael D. Plourde, Mary Lou Plourde, Carol C. Pope, Steven B. Taylor, Bette J. Taylor, Robert White</p>	<p>Integrays Keowee Development, LLC</p>	<p>\$ 200,000.00</p>
<p>Stoneledge at Lake Keowee Owners' Assoc., Inc., C. Dan Carson, Jeffrey J. Dauler, Joan W. Davenport, Michael Furnari, Donna Furnari, Jessy B. Grasso, Nancy E. Grasso, Robert P. Hayes, Lucy H. Hayes, Ty Hix, Jennifer D. Hix, Paul W. Hund, III, Ruth E. Issac, Michael D. Plourde, Mary Lou Plourde, Carol C. Pope, Steven B. Taylor, Bette J. Taylor, Robert White</p>	<p>Marick Home Builders, LLC</p>	<p>\$ 950,000.00</p>
<p>Stoneledge at Lake Keowee Owners' Assoc., Inc., C. Dan Carson, Jeffrey J. Dauler, Joan W. Davenport, Michael Furnari, Donna Furnari, Jessy B. Grasso, Nancy E. Grasso, Robert P. Hayes, Lucy H. Hayes, Ty Hix, Jennifer D. Hix, Paul W. Hund, III, Ruth E. Issac, Michael D. Plourde, Mary Lou Plourde, Carol C. Pope, Steven B. Taylor, Bette J. Taylor, Robert White</p>	<p>Bostic Brothers Construction, Inc.</p>	<p>\$2,100,000.00</p>

STATE OF SOUTH CAROLINA)

COUNTY OF OCONEE)

STONELEDGE AT LAKE KEOWEE OWNERS')
ASSOCIATION, INC., ET AL)

Plaintiffs,)

vs.)

IMK DEVELOPMENT Co., LLC, LARRY D. LOLLIS,)
WILLIAM C. COX, INTEGRYS KEOWEE)
DEVELOPMENT, LLC, MARICK HOME BUILDERS, LLC,)
BOSTIC BROTHERS CONSTRUCTION, INC., RICK)
THOENNES,)

Defendants,)

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT
CASE NUMBER: 2009-CP-37-0652

VERDICT FORM

2013 NOV 8 AM 9 09

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

1. On the cause of action for negligence as to the Defendant Bostic Brothers Construction, Inc., we, the jury, unanimously find for the:

 ✓ Plaintiff

 Defendant

On the cause of action for negligence as to the Defendants IMK Development Co., LLC, and Marick Homebuilders, LLC, we, the jury, unanimously find for the:

 ✓ Plaintiff

 Defendants

If you find for the Plaintiff on the negligence cause of action as to any of the above Defendants, please set forth the amount of actual damages resulting to the Plaintiff as a result of negligence.

three million dollars (\$ 3,000,000.00)

After you have completed the above, please respond to Number 2, below.

2. On the cause of action for breach of warranty of workmanlike service as to the Defendant Bostic Brothers Construction, Inc., we, the jury, unanimously find for the:

Plaintiff
 Defendant

On the cause of action for breach of warranty of workmanlike service as to the Defendant Marick Homebuilders, LLC, we, the jury, unanimously find for the:

Plaintiff
 Defendant

If you find for the Plaintiff on the breach of warranty of workmanlike service cause of action as to any of the above Defendants, please set forth the amount of actual damages resulting to the Plaintiff as a result of the breach of warranty of workmanlike service.

one million dollars (\$ 1,000,000.00)

After you have completed the above, please respond to Number 3 below.

3. On the cause of action for breach of fiduciary duty as to the following Defendants we, the jury, unanimously find for the:

a. Plaintiff
 Defendant IMK Development Co., LLC

b. Plaintiff
 Defendant Integrys Keowee Development, LLC

c. Plaintiff
 Defendant Rick Thoennes

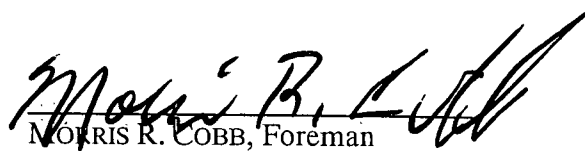
d. Plaintiff
 Defendant William C. Cox

e. Plaintiff
 Defendant Larry D. Lollis

If you find for the Plaintiff as to any of the of the above Defendants on the breach of fiduciary duty on this cause of action, please set forth the amount of actual damages resulting to the Plaintiff as a result of the breach of fiduciary cause of action.

one million dollars (\$1,000,000.00)

Walhalla, South Carolina
November 7, 2013


NORRIS R. COBB, Foreman

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF OCONEE)

TENTH JUDICIAL CIRCUIT)

Stoneledge at Lake Keowee Owners' Association, Inc.,)
C. Dan Carson, Jeffrey J. Dauler, Joan W. Davenport,)
Michael Furnari, Donna Furnari, Jessy B. Grasso,)
Nancy E. Grasso, Robert P. Hayes, Lucy H. Hayes, Ty)
Hix, Jennifer D. Hix, Paul W. Hund, III, Ruth E. Isaac,)
Michael D. Plourde, Mary Lou Plourde, Carol C. Pope,)
Steven B. Taylor, Bette J. Taylor, and Robert White,)
Individually and on Behalf of All Others Similarly)
Situated)

Civil Action No.: 2009-CP-37-0652

APPORTIONMENT FORM

2013 NOV 8 AM 9 09

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

Plaintiffs,

vs.

IMK Development Co., LLC, Larry D. Lollis, William)
C. Cox, Integrys Keowee Development, LLC, Marick)
Home Builders, LLC, Bostic Brothers Construction,)
Inc., Rick Thoennes,)

Defendants

Using the combined **negligence** that proximately caused the plaintiffs' injuries as one hundred percent (100%), what percentage of that negligence is attributable to each defendant? [The percentage must add up to 100%.]

IMK Development Co., LLC/Marick Home Builders, LLC

40 %

Bostic Brothers Construction, Inc.

60 %

Total

100%

Using the combined breach of **implied warranty of workmanlike service** that proximately caused the plaintiffs' injuries as one hundred percent (100%), what percentage is attributable to each defendant? [The percentage must add up to 100%.]

IMK Development Co., LLC/Marick Home Builders, LLC

70 %

Bostic Brothers Construction, Inc.

30 %

Total

100%

Walhalla, South Carolina
November 7, 2013

Morris R. Cobb
MORRIS R. COBB, Foreman

STATE OF SOUTH CAROLINA)

COUNTY OF OCONEE)

STONELEDGE AT LAKE KEOWEE OWNERS')
ASSOCIATION, INC., C. DAN CARSON, JEFFREY)
J. DAULER, JOAN W. DAVENPORT, MICHAEL)
FURNARI, DONNA FURNARI, JESSY B. GRASSO,)
NANCY E. GRASSO, ROBERT P. HAYES, LUCY)
H. HAYES, TY HIX, JENNIFER D. HIX, PAUL W.)
HUND, III, RUTH E. ISAAC, MICHAEL D.)
PLOURDE, MARY LOU PLOURDE, CAROL C.)
POPE, STEVEN B. TAYLOR, BETTE J. TAYLOR,)
AND ROBERT WHITE, INDIVIDUALLY AND ON)
BEHALF OF ALL OTHERS SIMILARLY SITUATED)

Plaintiffs,)

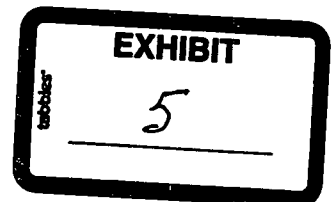
vs.)

IMK DEVELOPMENT Co., LLC, KEOWEE)
TOWNHOUSES, LLC, LUDWIG CORPORATION,)
LLC, SDI FUNDING, LLC, MEDALLION AT)
KEOWEE, LLC, INTEGRYS KEOWEE)
DEVELOPMENT, LLC, MARICK HOME)
BUILDERS, LLC, BOSTIC BROTHERS)
CONSTRUCTION, INC., MILLER/PLAYER &)
ASSOCIATES, JOHN LUDWIG, , CLEAR VIEW)
CONSTRUCTION, LLC, MICHAEL FRANZ, MHC)
CONTRACTORS, MIGUEL PORRAS CHONCOAS,)
BUILDERS FIRST SOURCE SOUTHEAST GROUP,)
MIKE GREEN, SOUTHERN CONCRETE)
SPECIALTIES, CARL COMPTON D/B/A COMPTON)
ENTERPRIZE A/K/A COMPTON ENTERPRISES,)
GUNTER HEATING & AIR, ALL PRO HEATING,)
A/C & REFRIGERATION, LLC, COLEMAN)
WATERPROOFING, HEYWARD ELECTRICAL)
SERVICES, INC., TINSLEY ELECTRICAL, LLC,)
HUTCH N SON CONSTRUCTION, INC., CARL)
CATOE CONSTRUCTION, INC., T.G.)
CONSTRUCTION, LLC, DELFINO)
CONSTRUCTION, FRANCISCO JAVIER ZARATE)
D/B/A ZARATE CONSTRUCTION, ALEJANDRO)
AVALOS CRUZ, HERBERTO ACROS)
HERNANDEZ, MARTIN HERNANDEZ-AVILES,)
FRANCISCO VILLALOBOS LOPEZ, AMBROSIO)
MARTINEZ-RAMIREZ, ESTER MORAN)
MENTADO, SOCORRO CASTILLO MONTEL,)

IN THE COURT OF COMMON PLEAS)
FOR THE TENTH JUDICIAL CIRCUIT)
CASE NUMBER: 2009-CP-37-0652)

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2015 JAN 22 PM 2 02

**ORDER DENYING DEFENDANTS'
POST-TRIAL MOTIONS**



1
[Handwritten signature]

UPSTATE UTILITIES, INC., MJG CONSTRUCTION)
AND HOMEBUILDERS, INC. D/B/A MJG)
CONSTRUCTION, KMAC INC. D/B/A KMAC)
NORTH CAROLINA, EUFACIO GARCIA,)
EVERADO JARMAMILLO, GARCIA PARRA)
INSULATION, INC., J&J CONSTRUCTION, JOSE)
NINO, JOSE MANUEL GARCIA, EASON)
CONSTRUCTION, INC., AND VINCENT MORALES)
D/B/A MORALES MASONRY,)

Defendants;

BOSTIC CONSTRUCTION, INC.,

Third-Party Plaintiff

vs.

SOUTHERN STONE, INC., AND BUCK
SMITH CONSTRUCTION,

Third-Party Defendants.

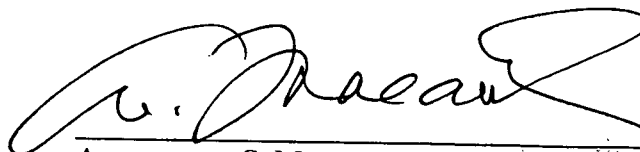
FILED O'CONNOR, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2015 JAN 22 PM 2 02

Defendants Marick Home Builders, LLC, Rick Thoennes, IMK Development Co., LLC, Integrys Keowee, LLC, William C. Cox, and Larry D. Lollis timely made post-trial motions including motions for JNOV pursuant to Rule 50; Alter/Amend; New Trial, New Trial Absolute, New Trial Nisi Remittitur, Set off, and Election of Remedies.

After careful consideration of the record, along with the and filings and able arguments of Counsel, the Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or fact not appropriately considered.

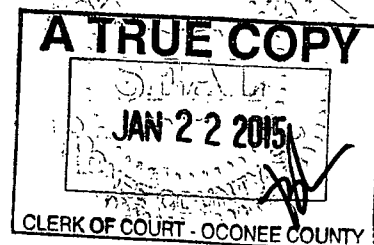
Accordingly, the Defendants' Motions, pursuant to Rules 50 and 59, SCRCP, are hereby DENIED.

AND, IT IS SO ORDERED.



ALEXANDER S. MACAULAY, Judge

Walhalla, South Carolina
January 21, 2015



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

JUDGMENT IN A CIVIL CASE

CASE NO. 2009-CP-37-00652

Stoneledge at Lake Keowee Owners Association
 Inc, et al

IMK Development Co LLC, et al

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

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:

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

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.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A	N/A	\$N/A
		\$
		\$

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 order for judgment details.**

s/Alexander S. Macaulay
 Circuit Court Judge

2063
 Judge Code

01/21/2015
 Date

Stoneledge at Lake Keowee Owners' Association, Inc., et al.

IMK Development Co., LLC et al.

FILED OCONEE, SC
 BEVERLY H. WHITFIELD
 CLERK OF COURT
 2015 JUN 30 PM 3:29

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : Plaintiff Defendant
 or
 Self-Represented Litigant

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.
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- 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

EXHIBIT
 6

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: Jury found for the Plaintiffs on the cause of action for negligence as to Defendants Bostic Brothers Construction, Inc., IMK Development Co., LLC, and Marick Home Builders, LLC in the amount of \$3,000,000.00; Jury found for the Plaintiff on the cause of action for breach of warranty of workmanlike service as to Defendants Bostic Brothers Construction, Inc. and Marick Home Builders, LLC in the amount of \$1,000,000.00. Jury found for the Plaintiff on the cause of action for breach of fiduciary duty as to Defendants IMK Development Co., LLC, Integrys Keowee Development, LLC, Rick Thoennes, William C. Cox and Larry D. Lollis in the amount of \$1,000,000.00. At trial these verdicts were ruled to be cumulative and are reflected as such herein (See Attached Verdict Form and Apportionment Form for more specific details). Plaintiff Stoneledge at Lake Keowee Owners' Association is responsible for disbursements of monies collected to its respective owners on a pro rata basis. This order hereby amends the prior Form 4C order filed on November 8, 2013. Additionally, this judgment shall be backdated to the filing date of the original Form 4C order, November 8, 2013.

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

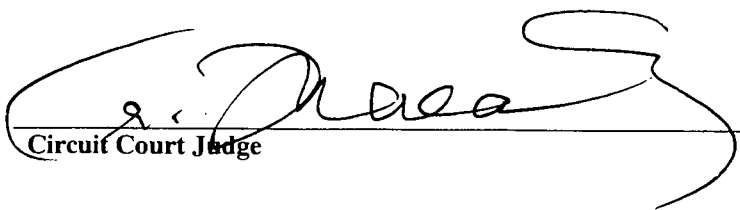
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
Stoneledge at Lake Keowee Owners' Assoc., Inc.	Negligence: Bostic Brothers Construction, Inc.	\$2,144,088.23

Stoneledge at Lake Keowee Owners' Assoc., Inc.	Marick Home Builders, LLC and IMK Development Co.	\$857,635.29
Stoneledge at Lake Keowee Owners' Assoc., Inc.	Breach of Warranty: Bostic Brothers Construction, Inc.	\$643,226.47
Stoneledge at Lake Keowee Owners' Assoc., Inc.	Marick Homebuilders, LLC	\$2,144,088.23
Stoneledge at Lake Keowee Owners' Assoc., Inc.	Breach of Fiduciary Duty: IMK Development Co.	\$2,144,088.23
Stoneledge at Lake Keowee Owners' Assoc., Inc.	Integrays Keowee Development, LLC	\$2,144,088.23
Stoneledge at Lake Keowee Owners' Assoc., Inc.	Rick Thoennes	\$2,144,088.23
Stoneledge at Lake Keowee Owners' Assoc., Inc.	William C. Cox	\$2,144,088.23
Stoneledge at Lake Keowee Owners' Assoc., Inc.	Larry D. Lollis	\$2,144,088.23
If applicable, describe the property, including tax map information and address, referenced in the order:		

FILED O'CONNOR, SC
 BEVERLY H. WHITFIELD
 CLERK OF COURT
 2015 JAN 30 PM 3 29

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 order for judgment details.**


 Circuit Court Judge

2063
 Judge Code

1/21/15

A TRUE COPY
 JAN 30 2015
 Page 2
 CLERK OF COURT - O'CONNOR COUNTY

