

EXHIBIT B

FORM 4

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON
IN THE COURT OF COMMON PLEAS

Waverly at Hamlin Plantation Townhome Association, Inc. v.

PLAINTIFF

FILED
2017 FEB -9 PM 1:42
BY JULIE J. ADAMS STRONG
CLERK OF COURT
JUDGMENT IN A CIVIL CASE
CASE NO. 2013-CP-10-03326
John Wieland Homes and
Neighborhoods of the Carolinas, Inc.,
et al,

DEFENDANT

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:

This case was called before the Court for a jury trial on January 23-30, 2017. On January 30, 2017, a judgment was rendered by the jury. The jury reached a verdict in favor of Plaintiff Waverly at Hamlin Plantation Townhome Association, Inc. in the amount of \$ 7,000,000.00 dollars actual damages.

At the end of the trial, post-trial motions were required and heard. The Defendant filed its Post-Trial Motions numbered 1-15. The Defendant's concede that numbers 3, 4, and 6 are moot. Defendants also withdraw number 13. Defendant John Wieland Homes made a Motion for Judgment Notwithstanding the Verdict pursuant to SCRPC, Rule 50. SCRPC Rule 50 states that "[w]henever a motion for a directed verdict made at the close of all the evidence is denied or for any reason is not granted, the court is deemed to have submitted the action to the jury subject to a later determination of the legal questions raised by the motion. A party who has moved for a directed verdict may move to have the verdict and any judgment entered thereon set aside and to

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have judgment entered in accordance with his motion for a directed verdict; or if a verdict was not returned, such party may move for judgment in accordance with his motion for a directed verdict." "Motions for directed verdict or JNOV should be denied if the evidence yields more than one reasonable inference or its inference is in doubt." *Strange v. S.C. Dep't of Highways & Pub. Transp.*, 314 S.C. 427, 429-30, 445 S.E.2d 439, 440 (1994). Further, "[a] motion for JNOV may be granted only if no reasonable jury could have reached the challenged verdict." *Gastineau v. Murphy*, 331 S.C. 565, 568, 503 S.E.2d 712, 713 (1998).

The Defendant additionally made a Motion for both a New Trial and a Remittitur of the Award. "A motion for a new trial nisi remittitur asks the trial court in its discretion to reduce the verdict because it is 'merely excessive,' although not motivated by considerations such as passion, caprice, or prejudice. If the amount of the verdict is grossly excessive so as to be the result of passion, caprice, prejudice, or some other influence outside the evidence, the trial judge must grant a new trial absolute, not a new trials nisi remittitur." *Hunter v. Staples*, 335 S.C. 93, 515 S.E.2d 261, 268 (Ct. App. 1999). A circuit court may grant a new trial absolute on the ground that the verdict is excessive or inadequate. "The jury's determination of damages, however, is entitled to substantial deference." *RRR, Inc. v. Toggas*, 378 S.C. 174, 662 S.E.2d 438, 442-43 (Ct. App. 2008). The circuit court should grant a new trial absolute on the excessiveness of the verdict only if the amount is so grossly inadequate or excessive so as to shock the conscience of the court and clearly indicates the figure reached was the result of passion, caprice, prejudice, partiality, corruption or some other improper motives. . . . Similarly, the circuit court alone has the power to grant a new trial nisi when it finds the amount of the verdict to be merely inadequate or excessive. "Compelling reasons, however, must be given to justify invading the jury's province in this manner." *Id.*

Accordingly, JNOV, a new trial, or a remittitur of the damages award would be improper as a reasonable jury could have reached the challenged verdict. Further, the jury's verdict must be upheld if there is any evidence to sustain the factual findings implicit in the verdict. *Sorin Equipment Co., Inc. v. The Firm, Inc.*, 323 S.C. 359, 474 S.E.2d 819, 823 (Ct. App. 1996). The Court further finds that the verdict is not shockingly disproportionate to the injuries sustained by the Plaintiff as to indicate passion, caprice, prejudice, or some other influence outside the evidence. *Kalchthaler v. Workman*, 316 S.C. 499, 450 S.E.2d 621 (Ct. App. 1994). Pursuant to SCRPC Rule 59, "the motion for a new trial shall be made promptly after the jury is discharged, or in the discretion of the court not later than 10 days thereafter." The Court required motions to be made promptly after the jury was discharged. The Court heard argument on motions numbered 1-2, 5, 7-12, and 14-15. At that time the Court made contemporaneous findings of fact and conclusions of law for the record which are incorporated herein. No other motions were made and are therefore waived. Accordingly, the Defendant's Motions were heard and respectfully denied.

Subsequent to trial, on February 3, 2017 the Defendants filed a motion for set-off. Accordingly, a hearing was held on February 9, 2017 on Defendant's Motion to Enforce Set-Off and Reduce Judgment. Present at the hearing were John Hayes, Esquire and I. Keith McCarty, Esquire, representing the Plaintiff, and Theodore Manos, Esquire and Andrew Haselden, Esquire, representing Defendant John Wieland Homes. "Before entering judgment on a jury verdict, the court must reduce the amount of the verdict to account for any funds previously paid by a settling defendant, so long as the settlement funds were paid to compensate the same plaintiff on a claim for the same injury; when the settlement is for the same injury, the nonsettling defendant's right to a setoff arises by operation of law." *Smith v. Widener*, 397 S.C. 468, 724 S.E.2d 188 (Ct. App. 2012). After hearing from all parties present, the parties stipulate, without objection, that the Defendants are entitled to a set-off in the amount of \$1,919,000.00. Therefore, Judgment is entered

against the Defendants in the amount of \$5,081,000.00. Further, the gravamen of Defendant John Wieland Homes' Motion is their contention that they are entitled to an enhanced set-off in the amount of \$434,000.00. They maintain this is the result of an alleged settlement with Benjamin Mora d/b/a Mora Construction a/k/a Benjamin Mora Construction, LLC. The Court heard argument on the matter and has taken this matter under advisement. The Court will issue a Supplemental Order concerning this matter.

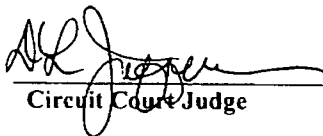
ORDER INFORMATION

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)
Waverly at Hamlin Plantation Townhome Association, Inc.	John Wieland Homes and Neighborhoods of the Carolinas, Inc. As successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc.	\$ 5,081,000.00
If applicable, describe the property, including tax map information and address		

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

2128
Judge Code

2/9/17
Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20__ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20__ to attorneys of record or

to parties (when appearing pro se) as follows:

John C. Hayes, Esq., I. Keith McCarty, Esq.
Mary Margaret Noland, Esq.

PLAINTIFF

Theodore Manos, Esq., Andrew Haselden Esq.,
Justin Novak, Esq.

ATTORNEY FOR DEFENDANT

CLERK OF COURT

Court Reporter: Ruth Weese

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Waverly at Hamlin Plantation)
Townhome Association, Inc.)
)
Plaintiff,)
)
v.)
)
John Wieland Homes and)
Neighborhoods of the Carolinas, Inc.)
As successor by statutory merger to)
John Wieland Homes and)
Neighborhoods of South Carolina,)
Inc., John Wieland Homes of)
Charleston, Inc., John Wieland)
Homes, Inc.,)
)
Defendants,)

IN THE COURT OF COMMON PLEAS
CASE NO.: 2013-CP-10-03326

VERDICT FORM

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AS TO THE NEGLIGENCE CAUSE OF ACTION:

1. We, the jury, unanimously find for the Plaintiff in the amount
\$ 7,000,000 (dollars) actual damages.

OR

2. We, the jury, unanimously find for the Plaintiff in the amount of
\$ _____ (dollars) actual damages.
\$ _____ (dollars) punitive damages.

OR

3. _____ We, the jury, unanimously find for the Defendants.

Please sign and date.

Chris Donnan

Foreperson

Date

1/30/17

Please notify the Bailiff when you have completed your deliberations.