

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )  
 )  
THE GREENBRIAR CONDOMINIUM )  
ASSOCIATION, )  
 )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CENTEX HOMES, A NEVADA GENERAL )  
PARTNERSHIP., et al., )  
 )  
Defendants. )

IN THE COURT OF COMMON PLEAS  
FIFTEENTH JUDICIAL DISTRICT  
  
CASE NO. 2014-CP-26-8136  
  
**ORDER DENYING CENTEX  
HOMES, A NEVADA GENERAL  
PARTNERSHIP, CENTEX  
CONSTRUCTION COMPANY,  
INC., CENTEX CONSTRUCTION,  
LLC, CENTEX-ROONEY  
CONSTRUCTION CO., INC.,  
CENTEX-RODGERS, INC.,  
BALFOUR BEATTY  
CONSTRUCTION, LLC F/K/A  
CENTEX CONSTRUCTION,  
LLC'S MOTION TO REDUCE  
JUDGMENT BASED ON  
STATUTE OF REPOSE**

**RECEIVED**  
APR 30 2018  
SC Court of Appeals

THIS MATTER came before the Court on March 6, 2018 pursuant to Motion of Defendants Centex Homes, a Nevada General Partnership, Centex Construction Company, Inc., Centex Construction, LLC, Centex-Rooney Construction Co., Inc., Centex-Rodgers, Inc., and Balfour Beatty Construction, LLC f/k/a Centex Construction, LLC's (hereinafter collectively "Centex") to Reduce Judgment Based on Statute of Repose. The Greenbriar Condominium Association (hereinafter "the Association") was represented by John T. Chakeris, Phillip W. Segui, Jr., Amanda M. Blundy, and M. Abigail Young. Centex was represented by Thomas C. Hildebrand, Jr., F. Elliotte Quinn, IV, and William G. DesChamps, IV.

After hearing arguments of counsel and reviewing memoranda of parties, the Court hereby denies Centex's Motion to Reduce Judgment Based on the Statute of Repose for the following reasons:

Centex presented no evidence during the trial that established when any of the buildings that

are the subject of this action were substantially completed. After the close of evidence Centex sought to require the Court to take judicial notice of the date of substantial completion.

The Plaintiff has a due process right to cross-examine or otherwise challenge evidence presented during the course of a trial. *Vora v. Lexington Med. Ctr.*, 354 S.C. 590, 595, 582 S.E.2d 413, 416 (2003). Due process requires that the Plaintiff have the right to present evidence and rebut adverse evidence.

It is impossible to know precisely how the jury reached its damages award or to know whether the jury intended to allocate damages equally to each building. Had Centex presented evidence establishing its affirmative defense of the Statute of Repose as it pled, the verdict form could have been formulated to allow for such allocation. Centex did not attempt to prove during the trial that the Statute of Repose partially barred the Association's recovery, and it is inappropriate for the Court to substitute its judgment for that of the jury.

Centex's Motion to Reduce Judgment Based on the Statute of Repose is THEREFORE DENIED.  
AND IT IS SO ORDERD.

April 2<sup>nd</sup>, 2018  
Horry County, South Carolina

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Clifton Newman  
Presiding Judge



Horry Common Pleas

**Case Caption:** Greenbriar Condominium Association , plaintiff, et al VS Centex Homes , defendant, et al  
**Case Number:** 2014CP2608136  
**Type:** Order/Damages

So Ordered

s/ Clifton B. Newman, 2127