

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS
THE HONORABLE ROBERT E. HOOD
CIRCUIT COURT JUDGE

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MAY 03 2018

SC Court of Appeals

APPELLATE CASE NO. 2017-001939
CIVIL ACTION NO. 2016-CP-40-1536

Raymond J. Malejko and Cristine Malejko, individually and in the interests of a minor child,
Appellants,

APPELLANTS,

versus

Todd Corley, Janet Loper, NextGen Real Estate, LLC, Thomas Humphries, Dr. Roofs, Inc.,
Ray Mooneyham, Mooneyham Solar & Electric, Professional Home Inspections, Inc.,
Corley Enterprises, Inc. of South Carolina, and DBR Franchising, LLC, Defendants,

DEFENDANTS,

Of whom Janet Loper and NextGen Real Estate, LLC are the

RESPONDENTS.

SECOND SUPPLEMENTAL RECORD ON APPEAL

Michelle P. Kelley, Esquire, No. 75198
David A. Anderson, Esquire, No. 11550
RICHARDSON, PLOWDEN & ROBINSON, PA
1900 Barnwell Street (29201)
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ATTORNEYS FOR RESPONDENTS

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Transcript of Deposition of Raymond Malejko, pp. 238-240

Transcript of Deposition of Cristine Malejko, pp. 410

Transcript of Deposition of Janet Loper, p. 259

In the Matter Of:

Malejko, Raymond J. and Cristine Malejk v
Corley, Todd, et al

Raymond J. Malejko
September 01, 2015

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1 conversations or certainly not any specifics of any
2 conversations you had with the inspector about the
3 roof outside of what you just told me?

4 A. I don't remember.

5 Q. Okay. And, again, I understand that
6 after you had this inspection report done, you then
7 had contractors come out and look at the home. Is
8 that correct?

9 A. I don't think so, after closing, but
10 not -- not during the process of the -- of the
11 purchase of the home.

12 Q. Okay. Maybe I misunderstood you, but I
13 thought your testimony earlier on -- and it may
14 have been last Wednesday -- was that at the time
15 you were considering buying the home as-is, you got
16 an inspection report done, you had some contractors
17 come out and look at it, and then ultimately you
18 decided against that contract, but that was my
19 understanding of what you had said earlier.

20 A. I don't remember anybody else coming
21 out.

22 Q. Okay. But, regardless, you don't
23 recall having any roofers come out to look at this
24 home prior to Thomas Humphries and Dr. Roofs coming
25 out when they did in March of 2014?

1 A. No. As I said before, I didn't feel
2 they needed to. The realtor said there was nothing
3 wrong with the roof. Mr. Humphries said there was
4 nothing wrong with the roof.

5 Q. Okay. And we'll get into this, but did
6 Mr. Humphries specifically tell you that?

7 A. He specifically told my wife that.

8 Q. Did he tell you that?

9 A. No.

10 Q. Okay. So, again, to your knowledge,
11 Dr. Roofs was -- or Thomas Humphries -- and again
12 I'm referencing both of them as kind of one and the
13 same -- when he came out to look at your roof, that
14 was the first roofer to come out to look at this
15 property as it relates to the inspection report,
16 correct?

17 A. I think so.

18 Q. Okay. And do you know who contacted
19 Thomas Humphries to come out and look at the roof?

20 A. I believe the previous owner.

21 Q. Okay. And I know you have said this
22 earlier, but just again, to be clear, you were
23 aware that you could have gotten a roofer and you
24 could have contacted a roofer to come out and to
25 look and to address the issues that were listed in

1 this inspection report, correct?

2 A. I could have. The thought never
3 crossed my mind, because, again, we had a lot of
4 confidence in the realtor.

5 Q. But, again, just to be clear, this
6 inspection report was generated in January of 2014.
7 Mr. Humphries came out in March of 2014.

8 But that entire time, you were aware
9 that you could have contacted a roofer to come out
10 and look at this home, correct?

11 A. I guess we could have.

12 Q. And you didn't, correct?

13 A. I don't think so.

14 Q. Okay. And you've read this inspection
15 report, correct?

16 A. I've read it. I have a hard time
17 comprehending it and going through it, but I have
18 gone through it at some point.

19 Q. And it is included in what I have down
20 as Exhibit 8. Let me get that for you. But just
21 so we can be clear.

22 For the record, I'm handing over
23 Exhibit 8 and what's been Bates stamped as NextGen
24 134.

25 And you have been asked questions on

1 STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
2 COUNTY OF RICHLAND
3
4 RAYMOND J. MALEJKO, ET AL.,
5 Plaintiff,
6 vs. CASE NO. 2016-CP-40-01536
7 TODD CORLEY; JANET LOPER; NEXTGEN REAL
8 ESTATE, LLC; THOMAS HUMPHRIES; DR. ROOFS, INC.;
9 RAY MOONEYHAM; MOONEYHAM SOLAR & ELECTRIC;
10 PROFESSIONAL HOME INSPECTIONS, INC.; CORLEY
11 ENTERPRISES, INC. OF SOUTH CAROLINA & DBR
12 FRANCHISING, LLC,
13 Defendants.

11 DEPOSITION OF: CRISTINE T. MALEJKO - VOLUME II
12 (PAGES 253 THROUGH 433)
13 DATE: June 2, 2016
14 TIME: 9:52 a.m.
15 LOCATION: Richardson Plowden & Robinson
16 1900 Barnwell Street
Columbia, SC
17 TAKEN BY: Counsel for the Defendants
18 REPORTED BY: Susan M. Valsecchi, RPR, CRR
19 Certified Realtime Reporter

20
21 A. WILLIAM ROBERTS, JR., & ASSOCIATES
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1 Q. Is that correct?

2 A. That's correct.

3 Q. All right. And so he didn't just say
4 there is a duct down. He said, there are problems
5 with the ducts, but I can fix that for you for
6 \$150. Is that right?

7 A. That's what he said; that's correct.

8 Q. And your husband declined to hire him,
9 because, as your husband said at the deposition, he
10 took the position that that was something that the
11 seller should pay for?

12 A. That is correct.

13 Q. Okay. So he went under the house,
14 Mr. Mooneyham did, along with Mr. Boyle. Remember
15 that?

16 A. No, I do not, because I wasn't with
17 each inspector, as I testified earlier.

18 Q. Oh, well, do you remember your husband
19 saying that?

20 A. No, sir.

21 Q. You don't remember that?

22 A. No, sir.

23 Q. So you don't know whether he was or was
24 not with Mr. Mooneyham under the house?

25 A. My husband?

State of South Carolina)
)
County of Richland)

Raymond J. Malejko and) 2015-CP-40-00480
Cristine Malejko,)
individually and on behalf)
of their minor child,)
Stephanie Malejko,) Deposition
)
Plaintiffs,) of
)
v.) Janet Loper
)
Todd Corley, Janet Loper,)
NextGen Real Estate, LLC,)
Thomas Humphries, Dr.)
Roofs, Inc., Ray Mooneyham,)
Mooneyham Solar & Electric,)
Professional Home)
Inspections, Inc., Corley)
Enterprises, Inc. of South)
Carolina, and DBR)
Franchising, LLC,)
)
Defendants.)

Date: December 7, 2016

Time: 10:19 a.m.

Location: Richardson Plowden & Robinson, PA, 1900

Barnwell Street, Columbia, South Carolina

Reported by
Kathleen R. Tackett, CVR-M

1 A I did not.

2 Q And the misrepresentation that the Malejkos are --
3 are raising, as far as the property being on -- not
4 on public sewer, that was shown to them and they
5 had an opportunity to correct the contract prior to
6 closing --

7 A Yes.

8 Q -- or -- or walk away prior to closing?

9 A Yes.

10 Q Did you ever advise the Malejkos to proceed with
11 the purchase of the property?

12 A No.

13 Q Did you ever know that repairs that had been
14 performed on the property -- did you -- let me
15 rephrase that.

16 Did you have any knowledge that any repairs
17 made to the property was performed defectively?

18 A No.

19 Q Were your -- were your representations to both the
20 Malejkos and to Todd Corley done in good faith and
21 in fair dealings with both of their interests being
22 concerned with?

23 A Yes.

24 Q And in Paragraph 19 of the complaint where they
25 indicate that you failed to inform the plaintiffs

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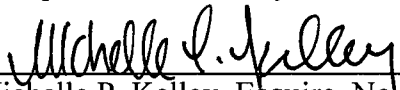
DEFENDANTS,

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RESPONDENTS.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Supplemental Record on Appeal contains
all material proposed to be included by any of the parties and not any other material.


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May 2, 2018