

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
Civil Action No. 2016-CP-40-00642

Quality Lawn Care and Landscaping, Inc.,)
d/b/a Design South Landscape Co.,)
)
Plaintiff,)
)
vs.)
)
Coogler Construction Company, Inc.,)
)
Defendant.)

RECEIVED
JUN 20 2018
SC Court of Appeals
ORDER DENYING
RECONSIDERATION

Following the trial of the case and an order in favor of the defendant, Plaintiff timely moved the Court for reconsideration. The matter came before me on June 5, 2018. Plaintiff was represented by T. Jeff Goodwyn Jr., and Defendant was represented by Brian P. Robinson, both of the Richland County Bar.

Plaintiff argued that:

1. There were no tolerances set forth in the contract documents, so that Plaintiff should not have been required to remove the wall;
2. Having the wall 2, 3, or 4 feet out of place was not sufficient to mandate removal;
3. The surveyor had a hub set at 3.5 feet instead of 5 feet, causing the offset in the wall at that point;
4. There was no clause in the contract regarding what would happen if the wall were mislocated;
5. It was a long wall and only 10% of it was in the wrong place;
6. The general contractor had an ulterior motive in requiring the wall to be removed and located in the correct place;
7. Just because part of the wall was in the wrong place did not justify removing the entire wall;
8. The defendant did not bring the CAD file to trial; and
9. It is inequitable to not pay the plaintiff when the plaintiff built the wall.

Items 1 through 8 above were raised at trial. Most of them were addressed in the subsequent Order of Judgment. Those issues not specifically addressed in the Order of Judgment are hereby found to be unavailing. This Court finds that the issues raised at the hearing were

correctly decided and are properly reflected in the Order of Judgment, and declines to make any changes to that Order. Because this was a case founded on breach of contract only, equitable considerations are outside the pleadings and the Court is not swayed by those considerations.

FOR THE FOREGOING REASONS, THE MOTION IS DENIED.

AND IT IS SO ORDERED.

Joseph M. Strickland
Special Circuit Court Judge
Fifth Judicial Circuit

Columbia, South Carolina

_____, 2018.



Richland Common Pleas

Case Caption: Quality Lawn Care and Landscaping Inc , plaintiff, et al vs Coogler
Construction Company Inc
Case Number: 2016CP4000642
Type: Order/Other

It is so Ordered

s/Joseph M. Strickland, 3055

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