

James R Brady
PLAINTIFF(S)

Hilton Head Homes At Allenwood Llc et al
DEFENDANT(S)

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
- STAYED DUE TO BANKRUPTCY**
- 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:

See Additional Order Information.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 02/08/2019 .

Gary L Grossman for Gary L Grossman
Gary L Grossman for Gary L Grossman

RECEIVED
FEB 11 2019
SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

This matter came before the Court on the Plaintiff's motion for summary judgment as to the counterclaim asserted against the Plaintiff by the Defendants. According to SCRCP 56, summary judgment shall be granted when there is no genuine issue as to any material of fact. Once the moving party has come forth with evidence to support its motion, the non-moving party must offer some evidence that a genuine issue of material fact exists as to each element of the claim. It is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine.

In ruling on this summary judgment motion, the court has viewed all of the evidence offered to it and viewed that evidence, and the inferences therefrom, in a light most favorable to the non-moving party. Having reviewed all of the evidence and considering the arguments presented, this Court will grant the Plaintiff's motion for summary judgment as to the counterclaims asserted by the Defendant. Plaintiff's counsel is asked to prepare a formal order granting the motion. The formal Order, once signed and filed with the clerk's office, will be final order of this Court on this motion. This email will be incorporated into a form 4 for filing with the Clerk's office.

The Defendants rely solely upon the deposition testimony of Ginger Griffith. In their memorandum opposing the motion, the Defendants make general references to the Answer and Counterclaim. The Counterclaims seeks damages in an amount "in excess of \$600,000.00" based on assertions that the plaintiff, generally, failed to perform services he should have, invokes equitable theories against the plaintiff, that plaintiff breached a valid a contract for services he failed to provide, and asserts that the plaintiff should not have relied upon a letter from a Mr. Grossman to support his claim. Again, the defendant submitted only the deposition of Ms. Griffith. The Plaintiff also relied upon the deposition of Ms. Griffith but also submitted the affidavit testimony of the plaintiff, Rod Brady.

The Defendants make reference in its memorandum to only pages 7, 37, and 38 to 39, of Ms. Griffith's deposition. The references do not support the assertions made in the counterclaims. Ms. Griffith's testimony was secured as de bene esse deposition for use at trial. After being examined by Plaintiff's attorney, her cross examination simply dealt with issues involving the arrangement of how fees were paid, the difficult housing market in 2007, the housing inventory, the banks threatening foreclosures, actual foreclosures, Mr. Grossman's being a guarantor, the plaintiff not being a guarantor, and the plaintiff's not being an employee of Lancaster Redevelopment. Nowhere in her deposition are the issues raised in the counterclaims mentioned. When viewed in a light most favorable to the defendants, her deposition, at best for the defendants, may explain why the Plaintiff was not paid. No affidavit was submitted to counter Mr. Brady's affidavit.

With respect to an issue upon which the non-moving party has the burden of proof, the moving party may meets its initial responsibility of demonstrating that the absent of a genuine issue of material fact by pointing out to the trial court that there is an absence of evidence to support the non-moving party's case. As referenced in Hedgepath v. AT&T, 348 S.C. 340, 559 S.E.2d 327 (Ct App. 2001), once the moving party carries its initial burden, the opposing party must, under Rule 56, do more than simply show a metaphysical doubt as to the material facts but must come forward with specific facts showing a genuine issue for trial. The party opposing summary judgment cannot simply rest on mere allegations or denials contained in the pleadings.

Based on the documents and arguments presented to this Court and applying the required standard of review, the present motion for summary judgment is granted.

Again, this email will be incorporated into a form 4 for filing with the Clerk's office and this Court requests a formal order be submitted to the Court for signing.



Beaufort Common Pleas

Case Caption: James R Brady VS Hilton Head Homes At Allenwood Llc ,
defendant, et al
Case Number: 2015CP0702047
Type: Order/Electronic Form 4

IT IS SO ORDERED

s/ J. Mark Hayes, II #2132