

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT

James R. Brady,

C.A. No. 2015-CP-07-02047

*Plaintiff,*

v.

Hilton Head Homes at Allenwood, LLC;  
Village Square Development Company,  
LLC; Lancaster Redevelopment Corp.;  
and Gary L. Grossman,

*Defendants.*

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SC Court of Appeals

**ORDER GRANTING SUMMARY  
JUDGMENT AS TO  
COUNTERCLAIMS**

This matter came before the Court on the Plaintiff's motion for summary judgment as to the counterclaims 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.

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 the amount of "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 issue involving the arrangement of how fees were paid, the difficult housing market in 2007, the housing inventory, the banks threatening foreclosures or actual foreclosures, that Mr. Grossman's being a guarantor, the plaintiff not being a guarantor, and that the plaintiff might not have been 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 meet 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.

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The Honorable Mark Hayes

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Beaufort Common Pleas

**Case Caption:** James R Brady VS Hilton Head Homes At Allenwood Llc ,  
defendant, et al

**Case Number:** 2015CP0702047

**Type:** Order/Summary Judgment

IT IS SO ORDERED

s/ J. Mark Hayes, II #2132

April 1, 2019

G. HAMLIN O'KELLEY, III  
ATTORNEY AT LAW  
Hamlin.okelley@buistbyars.com

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
1220 Senate Street  
P.O. Box 11629  
Columbia, SC 29211

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SC Court of Appeals

Re: *James R. Brady v. Hilton Head Homes at Allenwood, LLC, et al.*  
Case No. 2015-CP-07-2047  
File No.: 1115.0001

Dear Ms. Kitchings:

Enclosed please find a filed copy of the Order Granting Summary Judgment as to Counterclaims in the above-referenced matter. By copy of this letter, I am serving same upon opposing counsel, Charles W. Thomson, Esquire, and Glynn L. Capell, Esquire.

Should you have any questions, please feel free to contact me. With kindest regards, I remain

Sincerely,

  
G. Hamlin O'Kelley III

cc: (w/Encl.)

Charles W. Thomson, Esq.  
Glynn L. Capell, Esq.

**BUIST  
BYARS &  
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Mount Pleasant, SC 29464



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