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APR 08 2019

MARJORIE FAYE RICKENBAKER AND STEVE
L. RICKENBAKER
PLAINTIFF(S)

SCHUMACHER HOMES OF SOUTH
CAROLINA, INC.
DEFENDANT(S)

SC Court of Appeals

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or
	<input type="checkbox"/> Self-Represented Litigant

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. See Page 2 for additional information.
- 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
- 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:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

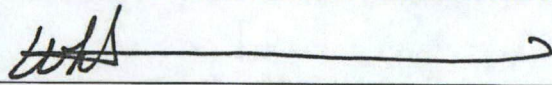
INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
Marjorie Faye Rickenbaker and Steve L. Rickenbaker	Schumacher Homes of South Carolina, Inc.	\$71,249.99
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.


Walter H. Sanders, Jr.
Special Referee

3003
Judge Code

3-6-2019
Date

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)
)
MARJORIE FAYE RICKENBAKER)
AND STEVE L RICKENBAKER,)
Plaintiffs,)
)
v.)
)
SCHUMACHER HOMES OF SOUTH)
CAROLINA INC.,)
Defendant.)

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 2018-CP-18-01194

JUDGMENT
RECEIVED
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SC Court of Appeals

This matter came before me for hearing on November 14, 2018 pursuant to the October 9, 2018 Entry and Order of Default and October 23, 2018 Order of Reference to a Special Referee. At the hearing, the Plaintiffs, Marjorie Faye Rickenbaker and Steve L. Rickenbaker, appeared with their counsel, John E. Parker and William F. Barnes, III. The Defendant, Schumacher Homes of South Carolina, Inc., was represented by K. Michael Barfield at the hearing. The hearing began shortly after 11:00 a.m. at the office of Walter H. Sanders, Jr. in Fairfax, SC. Having heard the testimony and reviewed the pleadings in this matter, I make the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. That on or about August 6, 2013, Plaintiffs Faye and Steve Rickenbaker entered into a Purchase Agreement/Construction Agreement with Schumacher Homes of South Carolina, Inc. In accordance with the agreement Plaintiffs paid the Defendant the purchase price.
2. That Schumacher Homes contracted to construct the residence and improvements subject to generally accepted residential building practices for the Plaintiffs at the property located at 328 Gelzer Lane, Summerville, SC 29483.
3. That Defendant breached the Purchase/Construction agreement by failing to provide a habitable premises upon the completion of the construction of the Plaintiffs' home.
4. The home became uninhabitable in November of 2017 because it was replete with mold

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and required extensive mold treatment and repairs in order to be habitable.

5. The Plaintiffs, as a result of the Defendant's breach of the contract, have incurred loss because of the diminishment in the value of the house, repairs, and loss of use of the home.
6. The Defendant breached the implied warranty of habitation which accompanies the sale of a new home.
7. As a result of the breach of the implied warranty the Plaintiffs have suffered damages for the diminution in the value of the home, repairs, and loss of use of the house. (Ex. 1 – Amd. Compl., filed July 3, 2018).¹
8. The Rickenbakers filed their Amended Summons and Complaint in the Dorchester County Court of Common Pleas on July 3, 2018. (Ex. 1 – Amd. Compl., filed July 3, 2018).
9. Lisa Cullen, Registered Agent with CT Corporation System, accepted service of the Amended Summons and Complaint on behalf of Schumacher Homes of South Carolina, Inc., on July 12, 2018. (Ex. 2 – Acceptance of Service filed August 9, 2018).
10. Pursuant to Judge Murphy's Entry of Order and Default, Schumacher Homes of South Carolina, Inc. was properly served on July 12, 2018, in accordance with Rule 4, SCRPC. (Ex. 3 – Entry of Def. filed October 9, 2018). More than thirty (30) days elapsed from service and Schumacher Homes of South Carolina, Inc., was found to be in default pursuant to Rule 55, SCRPC. (Ex. 3 – Entry of Def. filed October 9, 2018).
11. At the hearing, the Rickenbakers testified that they suffered damages for the diminution in value of the home, loss of use of the home, and cost of repairs. The total amount of damages suffered by the Rickenbakers was \$71,249.99. (Ex. 4 – Damages, Faye and Steve Rickenbaker).

¹ Exhibits 1-3 are previous filings with the Dorchester County Clerk of Court. Exhibits 4 is submitted as a record of the case.

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CONCLUSIONS OF LAW

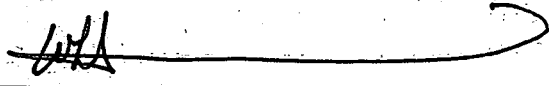
12. Defendant Schumacher Homes of South Carolina, Inc., received proper notice of the November 14, 2018 hearing in accordance with Rule 55, SCRPC and was represented by counsel at the hearing.

13. Defendant Schumacher Homes of South Carolina, Inc., is deemed to have admitted the allegations in the Complaint by its default. *Roche v. Young Bros.*, 332 S.C. 75, 81, 504 S.E.2d 311, 314 (1998) ("It is well settled that by suffering a default, the defaulting party is deemed to have admitted the truth of the plaintiff's allegations and to have conceded liability.")

14. Based on the evidence and testimony presented at the hearing, the Court finds that the Rickenbakers are entitled to actual damages for recovery of incurred repair costs and loss of use of their home.

THEREFORE, I hereby order that Plaintiff is entitled to Judgment against Defendant Schumacher Homes of South Carolina, Inc., in the amount of \$71,249.99.

IT IS SO ORDERED.



Walter H. Sanders, Jr., Esquire
Special Referee

March 6, 2019
Fairfax, South Carolina

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DAMAGES
Faye and Steve Rickenbaker

HVAC Repair	\$3,500.00
Moisture Barrier Replaced	\$9,400.00
Flooring Replaced (Estimated)	\$22,000.00
Furniture Cleaning	\$1,000.00
Wiping/Cleaning House	\$1,500.00
Clean/Repair Drains	\$2,200.00
Washer/Dryer	\$1,000.00
Furniture Replacement (Sofa, Recliner, Mattress Set)	\$5,000.00
C&C Myers Inspection	\$259.99
Car Clean	\$250.00
Rent (1 Year, 2 Months)	\$14,000.00
Clean/Repair Sub-floor & Joist	\$10,000.00
Alpine Air Inspection	\$140.00
Move Items	\$1,000.00
TOTAL	\$71,249.99