

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
 Karolee Russell, Individually, and as Personal)
 Representative of the Estate of Kevin Brian)
 Russell,)
)
 Plaintiffs,)
)
 v.)
)
 B & R Contracting, LLC, Brian K. Bass, and)
 Richard A. Robertson)
)
 Defendants.)
)

IN THE COURT OF COMMON PLEAS
 CASE NO. 2018-CP-42-1540

RECEIVED
 MAY 13 2019
 SC Court of Appeals
 ORDER

This matter is before the court by Order of Reference dated June 21, 2018. A hearing was held on September 27, 2018; Present were Plaintiff, Karolee Russell, and her attorney Paul A. McKee, III. Defendants Brian K. Bass and Richard A. Robertson appeared *pro se*. After reviewing the record, the testimony of the parties, evidence presented, and the arguments of Defendants and Plaintiff's counsel, the Court makes the following findings of law and fact:

1. Plaintiff filed a Summons and Complaint on May 9, 2018 alleging multiple causes of action to include Breach of Contract, Fraud, Breach of Contract Accompanied by a Fraudulent Act, Conversion, and Violation of the South Carolina Unfair Trade Practices Act.
2. Defendants B&R Contracting, LLC, Brian K. Bass, and Richard A. Robertson were personally served on May 19, 2018.
3. No Defendants responded or otherwise pled and on June 20, 2018 Plaintiff filed an Affidavit of Default against all Defendants.
4. All Defendants were provided notice of the time, place, and date of the hearing.
5. This court has jurisdiction over the parties and the subject matter. Venue is proper in Spartanburg County.
6. Plaintiff and Defendants entered into a residential construction agreement on October 10, 2016 for the construction of a log-cabin style home.

7. Defendants represented to Plaintiff that they were licensed contractors in the State of South Carolina and were experienced in constructing log-cabin style homes.
8. Plaintiff tendered to Defendants a deposit in the amount of \$29,928.46.
9. Defendants failed to do any work pursuant to the construction agreement.
10. Defendants failed to apply for a building permit.
11. Plaintiff requested Defendants return the deposit and Defendants failed to do so.
12. Defendants failed to respond to a letter sent to Defendants by Plaintiff's Counsel requesting a return of the deposit.
13. Plaintiffs had to obtain a new loan in order to pay for a different builder to undertake construction of the residence and paid \$11,053.00 in closing costs and \$2,716.94 in private mortgage insurance for the period of May 1, 2017 through September 1, 2018.
14. No Defendants demanded enforcement an arbitration clause in the construction agreement.
15. Defendants materially breached or unjustifiably failed to perform pursuant to the terms of said contract.
16. As a direct and proximate result of Defendants' material breach of the contract, Plaintiff had to obtain a new loan resulting in Plaintiff paying closing costs private mortgage insurance.
17. Defendants' conduct is an unfair or deceptive act or practice in the conduct of trade or commerce in the State of South Carolina and is unlawful pursuant to S.C. Code Ann. § 39-5-20 (1976).
18. Defendants' use or employment of said unfair or deceptive practice was willful, malicious, knowing, and without justification. Further Defendants' use or employment of said unfair or deceptive practice touches and concerns trade and commerce in South Carolina and is capable of repetition.
19. Accordingly, Plaintiff should be entitled to judgment against Defendants, jointly and severally, for all causes of action set forth in the Complaint, to recover actual damages, special damages, treble damages, attorney's fees and costs.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff Karolee Russell, Individually, and as Personal Representative of the Estate of Kevin Brian Russell should have judgment against Defendants B & R Contracting, LLC, Brian K. Bass, and Richard A. Robertson for Breach of Contract, Fraud, Breach of Contract Accompanied by a Fraudulent Act, Conversion, and violation of the South Carolina Unfair Trade Practices Act.

Plaintiff is entitled to actual damages in the amount of \$29,928.46 against Defendants, jointly and severally. Further, Plaintiff is entitled to treble damages for Defendants' willful violations of the South Carolina Unfair Trade Practices Act, for a total of \$89,785.38.

Plaintiff is entitled to recover special damages in the amount of \$11,053.00 for the new loan closing costs and \$2,716.94 in private mortgage insurance for the period of May 1, 2017 through September 1, 2018, for a total of \$13,769.94, against Defendants, jointly and severally.

Plaintiff entitled to recover attorney's fees in the amount of \$2,500.00 and costs in the amount of \$704.12, for a total of \$3,204.12.

Therefore, Plaintiff Karolee Russell, Individually, and as Personal Representative of the Estate of Kevin Brian Russell is awarded a total judgment against Defendants B & R Contracting, LLC, Brian K. Bass, and Richard A. Robertson, jointly and severally, in the amount of \$106,759.44.

IT IS FURTHER THEREFORE ORDERED, ADJUDGED AND DECREED that the Clerk of Court shall mail a copy of this Order to the South Carolina Attorney General pursuant to S.C. Code Ann. § 39-5-140(b) (1976).

Judge's Electronic Signature Page to Follow

Personal Representative Estate of Kevin Brian Russell		
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.**

Circuit Court Judge	Judge Code	Date
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For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 2018 and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 2018 to attorneys of record or to parties (when appearing pro se) as follows:

PAUL A. MCKEE, III
409 MAGNOLIA ST.
SPARTANBURG SC 29303

B & R Contracting, LLC, Brian Keith Bass, Pro se
5923 Edmond Hwy.
Lexington, SC 29073

Brian Keith Bass, *Pro se*
 5923 Edmond Hwy.
 Lexington, SC 29073

Richard A. Robertson
 84 West Circle Dr.
 Lexington, SC 29072

 ATTORNEY(S) FOR THE PLAINTIFF(S)

 ATTORNEY(S) FOR THE DEFENDANT(S)

 CLERK OF COURT

Court Reporter:

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Judge's Electronic Signature Page to Follow this Page.



Spartanburg Common Pleas

Case Caption: Karolee Russell vs B & R Contracting LLC etal
Case Number: 2018CP4201540
Type: Master/Order/Other

It is So Ordered

s/Judge Gordon G Cooper-3065

Electronically signed on 2018-10-08 14:54:49 page 7 of 7