

STATE OF SOUTH CAROLINA )

COUNTY OF YORK )

Juontonio Pinckney, *et al.*, )

Plaintiffs, )

vs. )

Epcn Communities, Inc., )

Epcn Communities Franchising, Inc., )

Brock L. Fankhauser, Fankhauser Property )

Group, Inc. and Stonecrest Villas of Tega )

Cay Home Owners Association, Inc., )

Defendants. )

Fankhauser Prop. Group, Inc., )

Third-Party Plaintiff, )

vs. )

Architectural Alliance, Ltd., Exterior )

Expressions of North Carolina, Inc., )

Al-Mega Construction, Inc., Procar, Inc., )

The Southeastern Group, Inc., Lucas Lawn )

and Landscape, Inc., and Jose Simenez, )

Individually and d/b/a M&L Roofing Co., )

LLC and/or MB Roofing Company, )

Third-Party Defendants. )

Stonecrest Villas of Tega Cay )

Condominium Owners Association, Inc., )

Third-Party Plaintiff, )

vs. )

Stonecrest Villas of Tega Cay, LLC and )

Epcn Communities Franchising, Inc. )

Third-Party Defendants. )

IN THE COURT OF COMMON PLEAS

C.A. No.: 2010-CP-46-2326

**ORDER**  
**AWARDING ~~INTERIM~~**  
**EPCON ATTORNEYS' FEES**  
**AND**  
**COSTS**

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2012 DEC 13 PM 3:48  
DAVID HAMILTON  
C.C.P.#265  
YORK COUNTY, SC


*Je #1*

Exterior Expressions of North Carolina, Inc.	)
	)
Fourth-Party Plaintiff,	)
	)
vs.	)
	)
Marcos Gonzalez,	)
	)
Fourth-Party Defendant.	)
	)
Procar, Inc. and Procar II, Inc.,	)
	)
Fourth-Party Plaintiffs,	)
	)
vs.	)
	)
Marcos Zertuche, David Carbajal,	)
Victorina Cortez, Balancos Construction Co., Balanos Framing, Inc., Ricardo Hernandez, and Silverio Cortez,	)
	)
Fourth-Party Defendants.	)
	)
Al-Mega Construction, Inc.,	)
	)
Fourth-Party Plaintiff,	)
	)
vs.	)
	)
Noe Perez, Juan Abundez Saucedo, and Moises Chavarra Hernandez,	)
	)
Fourth-Party Defendants.	)
	)

This matter came before the Court on the Motion of Epcon Communities, Inc. ("ECI") and Epcon Communities Franchising, Inc. ("ECFI")(collectively, "Epcon") for Summary Judgment on Epcon's cross-claims against Fankhauser Property Group ("FPG") for contractual and equitable indemnification. Epcon filed its Motion on January 10, 2012. This Court

conducted a hearing on Epcon's Motion on July 30, 2012. By its Order dated September 27, 2012 (the "Summary Judgment Order"), this Court granted summary judgment in favor of Epcon on its cross-claim against FPG for contractual indemnification. The Summary Judgment Order directed Epcon to submit to the Court a current accounting of fees and costs Epcon had incurred in its defense of this lawsuit. FPG filed a Motion to Alter or Amend the Court's Summary Judgment Order, which was denied. Epcon timely submitted the Affidavit of Melissa M. Nichols Regarding Attorney's Fees and Costs dated October 16, 2012 ("Affidavit"). The Court has reviewed the Affidavit and finds that the <sup>net</sup>interim attorneys' fees and costs set forth therein are appropriate to this matter and are hereby approved and awarded. As of October 3, 2012, the amount of attorneys' fees and costs were \$185,021.50 and \$25,842.54, respectively, for an aggregate sum due of \$210,864.04. The amount set forth herein, having been ascertained and being due, shall draw interest from the date this Order is filed at the rate of eight and three-fourths percent per annum as set forth in S.C. Code Ann. § 34-31-20(A)(2012). <sup>1 JCH</sup>~~Nothing in this Order shall limit the continued operation of the Summary Judgment Order, including, without limitation, FPG's continued obligation to defend Epcon and to indemnify Epcon for any further litigation fees and costs incurred by Epcon in this lawsuit.~~ <sup>JCH</sup>

IT IS SO ORDERED.

  
\_\_\_\_\_  
John C. Hayes, III  
Presiding Judge #3

12/11, 2012  
York, South Carolina

<sup>JCH</sup> 1. This Code section addresses the rate of interest in pre and post judgement situations. The Code section does not establish the time from which a certain interest rate is to accrue. JCH