

To: Court of Appeals
1220 Senate Street
Columbia, SC 29201

9-27-21

From: H: Wayne Charpia et al
106 Axtell Drive
Summerville, SC 29485

RECEIVED

SEP 30 2021

SC Court of Appeals

Re: Appellant Case # 2019-001516
McMasters v. Charpia
2009-CP-18-2200

Court ,

Attached are the copies requested by the respondent's
Designation of Matter , that will entail the "Motion to Disburse Homestead
Exemption" appeal.

With regards,

H. Wayne Charpia

cc: Attorney Frank Cisa

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT
CASE NO. 2002-CP-18-932

RENE' MCMASTERS,)
)
Plaintiff,)

vs.)

SUMMONS

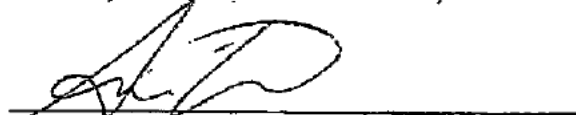
CHARPIA RESIDENTIAL, LLC and)
HOWARD W. CHARPIA, Individually)
)
Defendants.)

2002 JUN 12 PM 1:13
CLERK OF COURT
DORCHESTER COUNTY

TO: THE DEFENDANTS NAMED ABOVE:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is served upon you, and to serve a copy of your written response to the said Complaint on the subscribers at the law office of Smith, Collins & Newton, P.A., 7455 Cross County Road, Suite 1, Post Office Box 40578, Charleston, South Carolina, 29423-0578, within thirty (30) days after the date of service hereof, exclusive of the day of service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint.

SMITH, COLLINS & NEWTON, P.A.



Steven L. Smith
Wm. Mark Koontz
7455 Cross County Road, Suite 1
P.O. Box 40578
Charleston, SC 29423-0578
843-760-0220
843-552-2678 facsimile
Attorney for the Plaintiff

Charleston, South Carolina

6-10, 2002
02-388

9

STATE OF SOUTH CAROLINA)
)
 COUNTY OF DORCHESTER)
)
 RENE' MCMASTERS,)
)
 PLAINTIFF,)
)
 V.S.)
)
 CHARPIA RESIDENTIALS, LLC and)
 HOWARD W. CHARPIA, Individually,)
)
 DEFENDANT.)

IN THE COURT OF COMMON PLEAS
 FOR THE FIRST JUDICIAL CIRCUIT
 CASE NO.:

COMPLAINT
(Jury Trial Demanded)
(Breach of Implied Warranties)
(Negligence)
(Unfair Trade Practices)
(Breach of Implied Warranty of
Fitness For a Particular Purpose)
(Breach of Warranty of Merchantability)
(Breach of Fiduciary Duty)
(Negligence per se)
(Breach of Contract)

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The Plaintiff, complaining of the Defendant named herein, would respectfully allege:

1. That the Plaintiff, Rene' McMasters, is a citizen and resident of Charleston County, State of South Carolina.
2. That the Plaintiff is informed and believes that the Defendant, Charpia Residential, LLC, is a limited liability company organized and existing pursuant to the laws of the State of South Carolina which conducts business in Charleston County, State of Carolina.
3. That the Plaintiff is informed and believes that the Defendant, Howard W. Charpia, is a citizen and resident of Dorchester County, State of South Carolina.

FOR A FIRST CAUSE OF ACTION
(Breach of Contract)

4. That the Plaintiff realleges and reavers the allegations contained in the preceding paragraphs as if fully stated herein.
5. That the Plaintiff entered into a binding contract with the Defendant, Charpia, for the Defendant to build a new home located at 6005 Mansfield Boulevard, North Charleston, South Carolina, 29420.

6. That the Plaintiff has honored all of her obligations under said contract; however, the Defendant has not honored its obligations in that it provided the Plaintiff with a defectively constructed home and failed to complete several items specified in the agreement.

7. That the Defendant is in breach of the parties' contract.

8. That as a direct and proximate result of said breach, the Plaintiff has been damaged and is entitled to recover actual damages from the Defendant, Charpia, in an amount to be determined by the trier of fact.

**FOR A SECOND CAUSE OF ACTION
(Negligence Per Se)**

9. That the Plaintiff realleges and reavers the allegations of the preceding paragraphs as if fully stated herein.

10. That the Defendant constructed a home that does not comply with Charleston County Building Code.

11. That the Plaintiff has notified the Defendant of the defects and failure to comply to building code; however, the Defendant has failed or refused to correct the defects in the new home in order to satisfy the minimum standard required by Charleston County Building Code.

12. That the Defendant is negligent per se for violating Charleston County Building Code.

**FOR A THIRD CAUSE OF ACTION
(Negligent Construction)**

13. That the Plaintiff realleges and reavers the allegations contained in the preceding paragraphs as if fully stated herein.

14. That the Defendant had a duty to perform their work in a sound, workmanlike,

and professional manner, and the Defendant breached that duty.

15. That the Plaintiff has notified the Defendant on numerous occasions about certain construction defects in the home; however, the Defendant has refused to correct said defects in a satisfactory manner.

16. That this refusal constitutes a breach of the Defendant's duty to the Plaintiff.

17. That the defective condition of the Plaintiff's home is the direct and proximate result of the gross negligence, recklessness, and willfulness of the Defendant, its agents, servants, and employees in one or more of the following particulars:

- a. In constructing a home defectively, when the Defendant knew, or in the exercise of due care should have known, that the construction was defective;
- b. In failing to disclose to the Plaintiff that the home was defective, including, but not limited to:
 - 1) defectively installed girders, joists, and columns, resulting in inadequate support for the porch;
 - 2) insufficient hot water pressure, inadequate installation of water lines, inadequate hot water heater installation;
 - 3) in defectively constructing the stairways, steps, and railings, resulting in cracked stringers, uneven bathroom slab in garage, inadequate window and door sealing and caulking, missing attic insulation, improperly graded attic steps, improper cabinetry installation, defectively installed commodes, showers, tubs and water heater; improperly installed mechanical vents.
- c. In failing to take proper steps to correct the defective conditions existing after they were discovered and after the Defendant was made aware of the existing defective conditions;

d. In failing to exercise that degree of care and prudence which a reasonable person should exercise under the same, or similar, circumstances;

18. That as a direct and proximate result of such negligence, the Plaintiff has suffered damages for which she is entitled to recover actual and punitive damages as may be determined by the trier of fact.

**FOR A FOURTH CAUSE OF ACTION
(Breach of Implied Warranty)**

19. That the Plaintiff realleges and reavers the allegations contained in the preceding paragraphs as if fully stated herein.

20. That the Plaintiff entered into a binding contract with the Defendant, Charpia, for the Defendant to build a new home located at 6005 Mansfield Blvd., North Charleston, South Carolina, 29420.

21. That the Defendant contracted to provide the Plaintiff with a home which was built in a workmanlike manner and which would be habitable by the Plaintiff.

22. That upon information and belief, this home was built by the Defendant, Charpia, and its agents, servants, employees, or persons acting directly on behalf of the Defendant.

23. That after the Plaintiff purchased and the Defendants built her new home, the Plaintiff learned that the home had been constructed improperly.

24. That the Defendant also failed to complete several aspects of the construction which were specified on the contract.

25. That, upon information and belief, the building of the home by the Defendant with these defects has rendered the home substantially defective so as to make the home unfit for its

intended purpose thereby breaching the implied warranty found in South Carolina Law so as to make the home unfit and unsuitable for its intended purpose.

26. That as a direct and proximate result of the breach of implied warranty, the home, in its present condition is unmarketable and is worth substantially less than what the Plaintiff paid for it, and that the Plaintiff has suffered and will continue to suffer substantial monetary damages as a result of the construction defects and the Defendant's failure to complete the construction.

27. That, additionally, the home has lost the possibility of appreciation value that it normally would have gained, and that the Plaintiff will incur substantial costs and expenses related to the defective conditions.

28. That as a direct and proximate result of Defendant's breach of the implied warranty, the Plaintiff has suffered an ascertainable loss for which she is entitled to recover from the Defendant in an amount to be determined by the trier of fact.

**FOR A FIFTH CAUSE OF ACTION
(Breach of Warranty of Habitability)**

29. The Plaintiff realleges and reavers the allegations of the preceding paragraphs as if fully restated herein.

30. That the acts and omissions of the Defendant, Charpia, constitutes a breach of warranty of habitability in that the house, as sold, is not fit for its purpose as a personal residence.

31. That as a result of this breach the Plaintiff is entitled to damages in an amount to be determined by the trier of fact.

**FOR A SIXTH CAUSE OF ACTION
(Breach of Warranty of Merchantability)**

32. The Plaintiff realleges and reavers the allegations of the preceding paragraphs as if fully restated herein.

33. That as a result of the aforesaid actions of the Defendant, Charpia, the Defendant has breached the warranty of merchantability regarding the home sold to the Plaintiff.

34. That as a direct and proximate result of the Defendant's breach of the warranty of merchantability, the Plaintiff is entitled to recover actual damages from these Defendant in an amount to be determined by the trier of fact.

**FOR A SEVENTH CAUSE OF ACTION
(Breach of Fiduciary Duty)**

35. The Plaintiff reallege and re-aver the allegations of the preceding paragraphs as if fully restated herein.

36. That the Defendant, Charpia, as developer of the house, had superior knowledge of the defects contained in the house and therefore owed a fiduciary duty of good faith and fair dealing to the Plaintiff.

37. That by failing to disclose known defects the Defendants, Charpia, breached its legal disclosure obligations to the Plaintiff.

38. That as a result of this breach the Plaintiff is entitled to damages in an amount to be determined by the trier of fact.

**FOR AN EIGHTH CAUSE OF ACTION
(Unfair Trade Practices)**

39. That the Plaintiff realleges and reavers the allegations contained in the preceding paragraphs as if fully stated herein.

40. That the Plaintiff is informed and believes that the Defendant, Charpia, has

willfully engaged in unfair and deceptive acts or practices in the conduct of trade or commerce in the State of South Carolina.

41. That the Plaintiff further alleges that such deceptive acts or practices will continue in the future and may already have adversely affected the public interest and that such acts may accrue to other persons similarly situated.

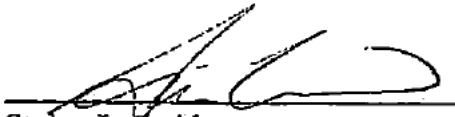
42. That the deceptive acts and practices of the Defendant are capable of repetition.

43. That as a direct and proximate result of such unfair or deceptive acts or practices, the Plaintiff have suffered an ascertainable loss of money and property for which she is entitled to recover actual damages as may be determined by the trier of fact.

44. That the Plaintiff is informed and believe that by virtue of the willful, unfair, or deceptive acts or practices of the Defendant, he is entitled to have her actual damages trebled; to a reasonable attorney's fee and costs, all as provided for by §39-5-140, Code of Laws of South Carolina (1976), as amended.

WHEREFORE, the Plaintiff, Rene' McMasters, demands judgment against the Defendant and an award of damages in an amount sufficient to correct all construction defects in the home; an award of punitive damages in an amount sufficient to deter the Defendant from repeating the willful, reckless, and bad faith actions being inflicted upon the Plaintiff; an award for treble damages as provided by the laws of this State; an award for any reasonable attorneys' fees and costs incurred in this action; and an award for any other legal or equitable relief as allowed by law and as this Court deems just and proper.

SMITH COLLINS & NEWTON, P.A.



Steven L. Smith
Wm. Mark Koontz
7455 Cross County Road, Suite 1
P.O. Box 40578
Charleston, SC 29423-0578
(843) 760-0220
Attorneys for the Plaintiff

6-10, 2002
Charleston, South Carolina

FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF DORCHESTER
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2009CP1802200

Rene McMasters		H Wayne Charpia Jody E (indexed 8-20-09) Charpia	Howard W Charpia Maite D Murphy
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PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <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 40(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: _____

2009 MAY 15 AM 10:13
 CHERYL GIVAN
 CLERK OF COURT
 DORCHESTER COUNTY
 EN - RECORD

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:

Defendant Jody E. Charpia withdrew on the record, her Motion to Assert Homestead Exemption. *THE WITHDRAWAL IS WITH PREJUDICE.*

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)

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.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

William P. Keesley
 William P. Keesley, Circuit Court Judge

2059
 Judge Code

4/27/2018
 Date

#7

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

RECORDED
2017 AUG -3 AM 8: 58

COMMON PLEAS
FIRST JUDICIAL CIRCUIT
CASE # 2009-CP-18-2200

RENE McMASTERS
Plaintiff,

CLERK OF COURT
DORCHESTER COUNTY

vs.

HOWARD W. CHARPIA and
JODY E. CHARPIA
Defendants,

PETITION TO DISBURSE
HOMESTEAD EXEMPTION
FUNDS, 15-41-20

I, Howard W. Charpia , hereby Petition the Court and Judge Doyet Early to disburse said Homestead Exemption funds of \$ 59,100 .00 to Howard W. Charpia pursuant to S.C. Code 14-41-20 , et al and Judge Carmen Mullen's Order of March 30 , 2017 .

I, ~~Howard W. Charpia~~ certify that I do not need a personal hearing with the Court nor Judge Early for this disbursement.

S.C. Code 15-41-20 .

Any exempted amounts collected by the Sheriff or other officer pursuant to Section 15-41-30 must be deposited with the Clerk of court in the county where the amounts are collected . Any person requesting disbursement of these funds shall petition the Court of Common Pleas .

Howard W. Charpia prays that Judge Doyet Early grant his request for said Disbursement of \$ 59,100.00 without a personal or Court hearing . Clerk of Court Cheryl Graham has all the pertinent information on the above request .

Howard W. Charpia
Howard W. Charpia

#13

8-3-17
HWC

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT
CASE # 2009-CP-18-2200

RENE McMASTERS
Plaintiff,

vs.

HOWARD W. CHARPIA and

JODY E. CHARPIA
Defendants,

MOTION FOR A RULE TO SHOW CAUSE
AS TO PETITION THE COURT TO
RELEASE HOMESTEAD EXEMPTION

TO: FIRST JUDICIAL CIRCUIT / DORCHESTER COUNTY and TO WHOM IT
MAY CONCERN:

Defendants alleges as follows:

1. Howard W. Charpia is entitled to a "Homestead Exemption" pursuant to SC Code 15-41-30 , et al. (\$59,100.00)
2. Jody E. Charpia is entitled to a "Homestead Exemption" pursuant to SC Code 15-41-30 (1) (a) , i.e. being a "multiple owner". (\$59,100.00)
3. Jody E. Charpia was conveyed a 1/2 interest in said property before any Lis Pendens was filed with Court.
4. Howard W. Charpia is entitled to a "Homestead Exemption" pursuant to Judge Carmen Mullen's Order signed on March 30, 2017.
5. Howard W. Charpia is entitled to a "Homestead Exemption" pursuant to SC Code 15-41-20.

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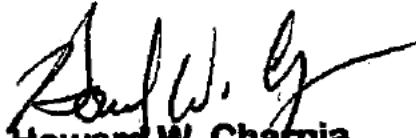
COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT
DORCHESTER COUNTY

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FILED
RECORDED

WHEREFORE , the Defendants pray as follows :

- 1. For an Order from Judge William Keesley for the Defendants to be given notice and opportunity to be heard on the above issues and any issues that pertain to this motion.**


Howard W. Chappia
106 Axtell Drive
Summerville, SC 29485

cc: Attorney Frank M. Cisa
Attorney Demetri K. Koutrakos

Chapin
106 Artell Dr.
Spartanburg, SC
29485



RECEIVED

SEP 30 2021

SC Court of Appeals

Attn:
2019-001516
MS. SHALBY

SC Court of Appeals
1220 SENATE STREET
COLUMBIA, SC
29201

