

IN THE CIRCUIT COURT OF COUNTY, MISSISSIPPI

PLAINTIFFS

VS.

CAUSE NO.

DEFENDANT

COMPLAINT

COMES NOW and husband/wife, Plaintiffs, and file this their Complaint against , and in support hereof, would show unto the Court, the following facts, to-wit:

1.

Plaintiffs and defendant are adult resident citizens of County, Mississippi. Defendant can be served with process at .

2.

In , plaintiffs entered into a verbal contract with defendant wherein the defendant agreed to construct a residence on plaintiff's property located in County, Mississippi, on a "cost plus" basis, whereby plaintiffs would pay to defendant all costs of labor and material, plus a fee in the amount of approximately \$. Said fee was the amount requested by defendant and represented the purchase price of a new computer system for defendant's business.

3.

Beginning in the early days of , defendant prepared plans and specifications for construction of the residence and commence

construction, including but not limited to, site work, the erection of batter boards, the digging of footings and the pouring of concrete in the footings. Defendant supervised all labor, sub-contractors and material men in the construction of the foundation, framing, masonry, roofing, insulation, electrical, plumbing, heating and air conditioning, dry wall, painting, cabinet work, trim carpentry, flooring and wall covering. Defendant, , was and remains responsible to plaintiffs for construction of the entire residence and was "the contractor" on the job.

4.

At some time after the house was substantially complete, except for completion of the final trim work, painting and finish out, Plaintiff, , pointed out defendant that there was a problem with certain "crown mold" that was being installed in the kitchen area of the residence. At this point, Defendant, , advised plaintiff that there was a slight problem with the foundation not being level which resulted in the crown mold not fitting properly. This occasion was the first knowledge that plaintiff had that the foundation was not level.

5.

Plaintiffs have subsequently determined that the foundation is not level and that the degree of error is outside of normally accepted construction practices in the area. The foundation error results in furniture not being level, doors and windows not fitting properly and generally an unsightly appearance in certain areas in the home.

6.

Plaintiffs would show on information and belief that Defendant, _____, knew of the severe nature of the foundation problem early in the framing stage prior to any masonry work being performed. At such time, the problem could have been corrected without substantial expense. However, Defendant, _____, concealed his/her knowledge of the problem from the plaintiffs and failed to advise them of the effects of failing to cure the foundation problem.

7.

Plaintiffs relied to their detriment on _____'s silence as to said foundation problem.

8.

As general contractor, defendant owed plaintiffs a duty to construct the residence in a good and workmanlike manner in accordance with the standards of construction generally accepted in the area. Defendant was negligent in his/her failure to properly oversee and supervise the construction to the extent that the residence has a defect, which is incurable without completely dismantling the residence to the extent that it would have to be completely reconstructed.

9.

Defendant is liable to plaintiffs for breach of implied warranty, negligence, gross negligence, willful concealment of material facts and breach of contract.

WHEREFORE, PREMISES CONSIDERED, plaintiffs seek judgment of and from the defendant in the amount of (\$) actual damages and all costs incurred.

RESPECTFULLY SUBMITTED, this the day of , .

Attorney for

Of counsel:

Telephone:
MSB #
Attorney for