



1. Plaintiff's motion is **GRANTED in part**;

Judgment is entered in favor of plaintiff and against Allied Properties Orianna Street, LLC in the amount of \$212,678.88; the remainder of plaintiff's Motion is **DENIED**.

2. SBI's Motion is **GRANTED**;

All claims of Creating Real Estate Innovations, Creative Construction Managers, LLC , and Allied Properties Orianna Street, LLC, if any, against Shaffer Builders Inc. are **DISMISSED**; and

Judgment is entered in favor of Shaffer Builders Inc. and against Creating Real Estate Innovations, Creative Construction Managers, LLC, and Allied Properties Orianna Street, LLC, jointly and severally, in the amount of \$75,000.00.

**BY THE COURT:**

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**ARNOLD L. NEW, J.**



2. Breach of Contract against Gagandeep Lahkmna (“Lahkmna”);
3. Breach of Guaranty against Lahkmna and Creating Real Estate Innovations (“CREI”);
4. Unjust Enrichment against SBI, Lahkmna, CREI, and Allied Properties Orianna Street, LLC (“Orianna”);
5. Breach of the Contractor/Subcontractor Payment Act against SBI, Lahkmna, CREI, and Orianna;
6. Piercing the Corporate Veil of CREI, Orianna, and Creative Construction Managers, LLC (“CCM”) against Lahkmna;
7. Fraud against SBI; and
8. Fraud against Lahkmna; and
9. Conspiracy against Lahkmna.

SBI and Lahkmna filed Preliminary Objections to the Fourth Amended Complaint, which were overruled on September 23, 2008. In the Order overruling the Preliminary Objections, the court ordered “defendants [to] file their answer(s) to the Fourth Amended Complaint within twenty (20) days,” *i.e.*, by October 13, 2008. SBI filed an Answer with New Matter and Cross-claims. None of the other defendants ever filed an Answer to the Fourth Amended Complaint.

On December 2, 2008, plaintiff filed its Complaint in the second action.<sup>1</sup> In that Complaint, plaintiff alleged the following claims against the following parties:

1. Piercing the Corporate Veil of Orianna and Allied Preet New Street, LLC (“New Street”) against Harbir Singh (“Singh”);
2. Piercing the Corporate Veil of CCM against Amardeep Grewal (“Grewal”);

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<sup>1</sup> On January 16, 2009, the two cases were consolidated.

3. Fraud against Singh, Grewal, and Robert Shaffer and Mary Shaffer (collectively, the “Shaffers”); and
4. Conspiracy against Singh, Grewal, and the Shaffers.

The Shaffers answered the Complaint and filed Cross-claims for Contribution and Indemnity against Singh and Grewal. Singh and Grewal never answered the Complaint in the Second Action. On March 6, 2009, plaintiff filed a praecipe for default judgment against Singh. On April 17, 2009, plaintiff filed a praecipe for default judgment against Grewal. On August 18, 2009, as a result of a settlement, the claims by and against the Shaffers were dismissed.

In August, 2008, plaintiff filed a Motion for Summary Judgment on his fraud claims against Lahkmna, Singh, and Grewal, and on his unjust enrichment claim against Orianna. After retaining new counsel, Lahkmna, Singh, and Grewal filed a response to the Motion. Orianna did not respond.

Due to the default judgments plaintiff entered against them, Singh and Grewal cannot contest their liability for fraud. They may contest the amount of damages, which they do. Plaintiff’s evidence of damages is his own affidavit. Therefore, under the Nanty-Glo rule, summary judgment on damages must be denied.

Orianna failed to respond to both the Fourth Amended Complaint and the Motion for Summary Judgment.<sup>2</sup> Therefore, Orianna admitted the facts supporting plaintiff’s claim for unjust enrichment, and judgment in the amount of \$212,678.88 shall be entered against Orianna.

Although Lahkmna did not file an Answer to the Fourth Amended Complaint, plaintiff never filed a praecipe or motion for default judgment against him.<sup>3</sup> Lahkmna filed a response to

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<sup>2</sup> In their Response to plaintiff’s Motion, Lahkmna, Singh and Grewal admit they owned interests in Orianna, but they assert it is no longer a going concern and does not conduct any business. *See* Defendants’ Response to Plaintiff’s Motion, ¶ 16.

the Motion for Summary Judgment in which he points to disputed issues of material fact regarding both his liability and damages. Therefore summary judgment against him is denied.

In July, 2008, SBI filed a Motion for Summary Judgment on its claims for contribution and indemnity against Orianna, CREI, CCM, and Lahkmna and on those parties' claims against SBI for contribution and indemnity. Only Lahkmna filed a response to SBI's Motion. Subsequently, SBI and Lahkmna stipulated to the dismissal of Lahkmna's claims against SBI and SBI's claims against Lahkmna.<sup>4</sup>

Orianna, CREI and CCM failed to file: 1) an Answer with Cross-Claims to the Fourth Amended Complaint's; 2) any response to SBI's Cross-claims; and 3) any response to SBI's Motion. Therefore, they have admitted the facts supporting SBI's claims. SBI is entitled to judgment against Orianna, CREI, and CCM on its claims for contribution and indemnity in the amount of \$75,000.<sup>5</sup> In addition, Orianna's, CREI's, and CCM's claims for contribution and indemnity against SBI, if any, must be dismissed.<sup>6</sup>

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<sup>3</sup> Pa. R. Civ. P. 1037(c) ("In all cases, the court, on motion of a party, may enter an appropriate judgment against a party upon default or admission.") Plaintiff's Motion for Summary Judgment makes no mention of Lahkmna's failure to plead and does not request entry of judgment upon default or admission.

<sup>4</sup> The stipulation was filed on November 5, 2009.

<sup>5</sup> This is the amount SBI says it paid plaintiff in settlement of plaintiff's claims against SBI for fraud, breach of contract, etc. See SBI's Motion, ¶ 27.

<sup>6</sup> Orianna, CREI and CCM filed an Answer to the Third Amended Complaint with Cross-claims against SBI, but they did not re-file their Cross-claims after the Fourth Amended Complaint mooted out their Answer to the Third Amended Complaint.

## **CONCLUSION**

For all the foregoing reasons, plaintiff's Motion for Summary Judgment is granted in part and denied in part, and SBI's Motion for Summary Judgment is granted.

**BY THE COURT:**

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**ARNOLD L. NEW, J.**