

Verdicts & Settlements

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Plaintiffs claimed townhomes had defects

This case arose out of the development of a townhome neighborhood in Carriage Park in Henderson County.

The developer, Carriage Park Associates, LLC, created a restricted townhome community and provided plans for construction, the lots, a designated builder (Estate Homes of North Carolina, Inc.) and a base price for construction of the unit.

The plans were not suitable for construction of the units, and the designated builder was a brand-new startup company lacking sufficient resources to complete the townhomes for the six plaintiff families.



W. James Johnson

The plaintiffs had to finish the homes themselves and repair defective construction and later-discovered settlement and soil-compaction issues. All of the plaintiffs recovered in breach of contract and negligent misrepresentation as to the designated builder.

The plaintiffs alleged that the developer knew of problems with the plans, and the builder, and failed to disclose those problems.

The jury found fraud and awarded punitive damages to three of the named plaintiffs as to the developer.

A side issue in the case dealt with the failure of a brokerage entity to disclose the fact that the designated builder was paying referral fees to the brokerage firm in order to act as the builder in the neighborhood. The brokerage entity, CPA Realty Corporation, was affiliated with the developer.

North Carolina brokerage law requires a broker to disclose referral fees paid by any third party who pays for referrals.

The jury found fraud in the failure to disclose these referral fees in favor of all named plaintiffs.

Type of action: Fraud – Contract – Construction – Real estate brokerage

Injuries alleged: Property damage

Case name: *Anderson, et al. v. Estate Homes of North Carolina, Inc., Carriage Park Associates, LLC and CPA Realty Corp.*

Case number: 08 CVS 653

Court: Henderson County Superior Court

Judge: Hon. Mark E. Powell

Verdict or settlement: Verdict (jury)

Date: Nov. 20, 2009

Amount: \$2,406,053

Plaintiff's attorneys: W. James Johnson of The Van Winkle Law Firm (Asheville) and Pope D. Johnson of Johnson and Barnette (Columbia, S.C.)