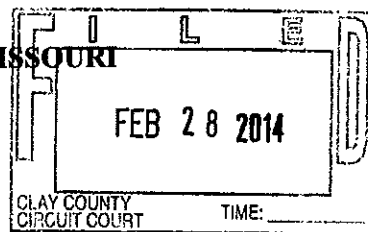


IN THE CIRCUIT COURT OF CLAY COUNTY, MISSOURI
ASSOCIATE DIVISION
AT LIBERTY



TERRY & LINDA WARD,
PLAINTIFFS,

vs.

Case No. 13CY-CV12116
Division: 7

ACME FLOOR CO., INC.
DEFENDANT.

JUDGMENT ENTRY

On the 24th day of February, 2014, this cause came on for hearing. Plaintiffs appeared in person and with attorney, Brian Hall. Defendant appeared by attorney, Wesley Hilton.

Whereupon, all matters contained in the Plaintiffs' Petition and the Defendant's Counterclaim were submitted to the Court for trial. All parties announced ready for trial. After hearing testimony from the witnesses for both parties, statements from the attorneys, reviewing the exhibits, and perusing the post-trial motions filed by each party, and now being fully advised in the premises, the Court finds:

1. On Defendant's counterclaim for breach of contract, the Court finds and concludes that a valid contract came into being between the parties. The Court finds the Plaintiffs paid \$6,352.70 to Defendant at the inception of the contract for sanding and refinishing Plaintiffs' hardwood floors (plus move and reset toilet), leaving a balance of \$6,352.30. By Plaintiff Terry Ward's own admission the Defendant satisfactorily completed the project. Therefore, Defendant is entitled to judgment of \$6,352.30 against Plaintiffs.
2. Plaintiff's home is located at 4307 N. Holly Court, Kansas City, Clay County, Missouri. It is a four level house measuring approximately 5000

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square feet. Plaintiff Terry Ward has an office on the top (4th floor) level. The main entry way and master bedroom are on the 3rd level.

3. The contract between the parties was contemplated to encompass the wood work on the third level of Plaintiff's home, as well as reset the commode in the bathroom in Plaintiff's master bathroom.
4. On Plaintiffs' negligence petition against Defendant, through its employees and/or agents, the Court finds the Defendant's boilerplate contract entered into between the parties contained the following disclaimer clauses: "WORK IS DUSTY-DUSTING NOT INCLUDED, SOME TOUCH UP MAY NEED TO BE NEEDED"...and "ACME FLOOR COMPANY, INC. WILL NOT BE RESPONSIBLE FOR ...CLEANING DUST WHICH MAY RESULT FROM SANDING" ...AND "DEFENDANT AGREES TO USE A DUST REDUCTION SYSTEM".
5. At the time the parties entered into the contract, Defendant's salesman and agent, Mike Moore, instructed Plaintiffs to perform "draping and taping" of the exposed areas on the third level of the house where work was to be performed. This job was typically performed by Kevin Ruggles, the ACME employee. Ruggles testified he was usually the responsible person for prepping the work area prior to performing the sanding, staining and finish of the wood floors.
6. Mike Moore also represented to Plaintiffs that ACME's dust reduction system would remove 99% of the wood particles from the air. Moore also agreed to seal off the door to the master bedroom to avoid dust infiltration.

7. Defendant's employee Layton arrived on Wednesday, July 24, 2013 to put up draping and the taping, and was surprised that Plaintiffs had already done that work themselves, except for the stairway area and the Plaintiffs' master bedroom, which Layton agreed to prep prior to commencement of the work on the wood floors.
8. Plaintiffs left for an out-of-town vacation on Friday, July 26th, returning the evening of August 5, 2013.
9. Upon their return from vacation, Plaintiffs discovered the commode in the garage, the ventilation system floor covers lying on the porch, and the unsealed master bedroom door standing open.
10. With the ventilation system uncovered, fine wood particles entered into the house's air conditioning and ventilation systems, permeating the entire house with a thick layer of wood dust particles.
11. The heavy wood dust accumulated in the work area, and on the floor above the work area and the floor below the work areas. The especially affected areas of the house, included, but were not limited to, the adjoining master bedroom, clothes closet, and upstairs office. The visible haze of wood particles was visible in the open spaces of the house, created a breathing hazard for Plaintiffs.
12. Plaintiffs justifiably contracted with Steamatic of Kansas City, Inc. to clean the wood dust particles from the air conditioning ventilation system, from the air, and from the hard surfaces of the house, which said cleaning project lasted for approximately a week.

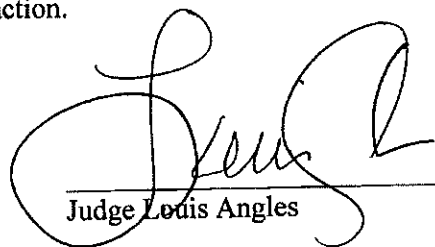
13. Plaintiffs mitigated their damages by doing much of the dust cleanup work themselves and by negotiating 25% off from the Steamatic contract for a total out-of-pocket cost of \$8,017.71.
14. Plaintiffs were damaged in the amount of \$8,017.71, and the damages were proximately caused by the negligence of Defendant's employees in failing to adequately utilize the dust reduction system represented to Plaintiffs; by failing secure the door to the master bedroom; and by allowing large quantities of wood dust particles to escape from the work area into the house's ventilation and air conditioning systems.
15. After set-off of Plaintiff's remaining contractual obligation to Defendant of \$6,352.30, and the economic damages sustained by Plaintiffs in the amount of \$8,017.71, the difference is \$1,665.41.

IT IS WHEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiffs are granted judgment against Defendant in the sum of \$1,665.41.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all parties shall pay their own attorney fees incurred herein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that Defendant is assessed the costs of this action.

SO ORDERED:



Judge Louis Angles

Dated: February 28, 2014

ATTEST: