

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER**

MINUTE ORDER

DATE: 03/27/2017

TIME: 09:00:00 AM

DEPT: C20

JUDICIAL OFFICER PRESIDING: David Chaffee

CLERK: Cora Bolisay

REPORTER/ERM: Khoung Kelvin Do

BAILIFF/COURT ATTENDANT: Shanon Taylor

CASE NO: 30-2015-00805807-CU-CO-CJC CASE INIT.DATE: 08/21/2015

CASE TITLE: THE SPARTAN ASSOCIATES, INC. vs. HUMPHREYS

CASE CATEGORY: Civil - Unlimited CASE TYPE: Contract - Other

EVENT ID/DOCUMENT ID: 72514442

EVENT TYPE: Jury Trial

APPEARANCES

J. Scott Russo, from Russo & Duckworth LLP, present for Cross - Defendant, Plaintiff(s).

William G. Bissell, from Law Offices of William G. Bissell, present for Defendant, Cross - Complainant(s).

GARY HUMPHREYS, Defendant is present.

KAREN HUMPHREYS, Defendant is present.

Adam Bereki, self represented Cross - Defendant, present.

All counsel answer ready for trial.

1st day of trial

At 9:21 a.m. This being the date set for Court Trial in the above-entitled cause, having been assigned to this department, all parties and counsel appear as noted above and trial commences.

All parties waived jury trial.

The Court and counsels discuss exhibits and pleadings as set forth on the record.

At 9:33 a.m. The Court declared a recess to read the trial briefs.

At 10:19 a.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above.

Pursuant to Court's ruling on 3/24/2017, the Court to commence a severed Cross Complaint 1st cause of action as against Cross-Defendant, Adam Bereki.

At 10:14 a.m. Mr. William G. Bissell presents an opening statement on behalf of Cross Complainants Karen & Gary Humphreys for the severed Cross complaint 1st cause of action against Mr. Adam Bereki.

At 10:29 a.m. Mr. J. Scott Russo presents an opening statement on behalf of Plaintiffs/Cross-Defendants The Spartan Associates, Inc..

At 10:32 a.m Mr. Adam Bereki presents an opening statement on behalf of himself as the Cross-Defendant.

121 document(s) are ordered pre-marked for identification as Plaintiffs/Cross-Defendants exhibits 1 through 137, a description of each document is contained in the Exhibit List, a copy of which is attached hereto and incorporated herein by reference.

62 document(s) are ordered pre-marked for identification as Cross-Complainants/Cross-Defendants exhibits 301 through 362, a description of each document is contained in the Exhibit List, a copy of which is attached hereto and incorporated herein by reference.

MS. KAREN HUMPHREYS is sworn and testifies.

At 11:14 p.m. Court declares a recess.

At 11:25 a.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above.

At 11:26 a.m. Ms. Karen Humphreys, previously sworn, resumes the stand for further testimony .

Ms. Karen Humphreys steps down.

MR. GARY HUMPHREYS is sworn and testifies.

At 11:58 a.m. Court declares a recess.

At 1:40 p.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above.

At 1:42 p.m. Mr. Gary Humphreys, previously sworn, resumes the stand for further testimony .

Exhibit(s) **32, 302, 303, 304, 305, 306**, having been previously marked for identification are admitted into evidence.

At 2:20 p.m. Mr. Gary Humphreys steps down.

MR. ADAM BEREKI is sworn and testifies.

Portions of Mr. Adam Bereki's deposition transcripts of 8/2/2016 read on the record (page 98 lines 10 to 13; page 61 lines 5 to 9)

At 2:34 p.m. Court declares a recess.

2:42 p.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above.

At 2:45 p.m. Mr. Adam Bereki, previously sworn, resumes the stand for further testimony .

Exhibit(s) **34, 35, 33, 351 and 355**, having been previously marked for identification are admitted into

evidence.

At 3:22 p.m. Court declares a recess.

At 3:41 p.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above.

At 3:42 p.m. Mr. Adam Bereki, previously sworn, resumes the stand for further testimony .

Exhibit(s) 30-1; 348, having been previously marked for identification are admitted into evidence.

Mr. Adam Bereki steps down.

At 3:55 p.m. Mr. Gary Humphreys, previously sworn, recalls to the stand for further testimony by his counsel.

Mr. Gary Humphreys steps down.

At 4:10 p.m. Court declares a recess.

Court is adjourned until 03/28/2017 at 09:30AM in C-20.

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER**

MINUTE ORDER

DATE: 03/28/2017

TIME: 09:30:00 AM

DEPT: C20

JUDICIAL OFFICER PRESIDING: David Chaffee

CLERK: Cora Bolisay

REPORTER/ERM: Khoung Kelvin Do

BAILIFF/COURT ATTENDANT: Michelle Gallegos

CASE NO: **30-2015-00805807-CU-CO-CJC** CASE INIT.DATE: 08/21/2015

CASE TITLE: **THE SPARTAN ASSOCIATES, INC. vs. HUMPHREYS**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Contract - Other

EVENT ID/DOCUMENT ID: 72559889

EVENT TYPE: Jury Trial

APPEARANCES

J. Scott Russo, from Russo & Duckworth LLP, present for Cross - Defendant,Plaintiff(s).

William G. Bissell, from Law Offices of William G. Bissell, present for Defendant,Cross - Complainant(s).

KAREN HUMPHREYS, Defendant is present.

GARY HUMPHREYS, Defendant is present.

Adam Bereki, self represented Cross - Defendant, present.

2nd day of trial

At 9:55 a.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above.

At 9:57 a.m. Mr. William G. Bissell presents closing argument on behalf of Cross-Complainants/Defendants, Karen & Gary Humphreys.

At 10:12 a.m. Mr. J. Scott Russo presents closing argument on behalf of Cross-Defendant, The Spartan Associates, Inc..

Mr. Adam Bereki waived closing argument.

At 10:19 a.m. Court declares a recess.

At 10:52 a.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above.

Having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, the Court finds and determines that Mr. Adam Bereki is the contractor and he does not possess contractor's license.

The Court finds judgment for the Cross Complainants, Gary & Karen Humphreys (First Cause of Action,

for Disgorgement of Funds Paid) and against cross-defendant, Adam Bereki.

The Court invites counsels to meet and discuss the plan for the remaining cause of actions and the complaint.

At 11:19 a.m. Court declares a recess.

At 11:37 a.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above.

Legal discussions held with regards to remaining cross-complaint cause of actions and the complaint as set forth on the record.

Counsels are to resume discussions during lunch hour and report to the Court at 1:45 p.m.

At 11:47 p.m. Court declares a recess.

At 1:48 p.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above.

Counsels reached an agreement as set forth on the record.

Mr. J. Scott Russo presents an offer of proof on plaintiff's complaint that if called Mr. Adam Bereki would be the witness and the testimony would be that Plaintiff, Spartan Associates had rendered goods and services to the defendants. The fair market value for the services and goods of \$82,821.53 to be backed up by invoices and testimony about the reasonable value of those services that would be the first cause of action Quantum Merit. For the 2nd cause of action, go and in hand that it was an open book accounting was rendered to the defendants that they were given the accountings and the sum was \$82,821.53 that was still due.

Based on Mr. Russo's offer of proof, the Court understand that those claims are based upon the view of plaintiff Spartan Associates, Inc. was the general contractor on the project. The Court finds that Spartan Associates does not have standing as determined earlier today that Mr. Bereki was the purported general contractor on the contract. Spartan Associates, Inc. may have been apparently substituted but it is certainly not with the permission or agreement of the defendants. Based on that, the **Court finds judgment for the defendants on the complaint.**

The parties have discussed, agreed and stipulates on the record as follows: The entirety of remaining causes of action on the First Amended Cross-Complaint will be dismissed without prejudice. If judgment on the first cause of action becomes final, the dismissal without prejudice will be converted to dismissal with prejudice. Pending judgment on the first cause of action becoming final, the statute of limitations on the re-filing of an action of the dismissed causes of action is waived. If a new action is filed on the dismissed causes of action, discovery deemed completed and will not be re-opened and the newly filed case will be consolidated with the remanded case for trial.

Pursuant to Mr. Bissell's Motion, the Court orders the remaining causes of action, negligence, fraud, alter ego, penalty, attorney's fees and recovery against the Contractor's license bond be dismissed without prejudice. The judgment on the First Amended Cross Complaint is on the 1st cause of action for discouragement only.

The Court directs Mr. William G. Bissell to prepare the judgment.

At 2:03 p.m. Pursuant to oral stipulation set forth on the record, exhibits are released and returned to the submitting parties/counsels for maintenance, custody and safekeeping pending any post-verdict or appeal proceedings. All identification tags and other identifying markings are to remain in place pending this period.

At 2:05 p.m. The Court is adjourned in this matter.