

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2003-008175

04/21/2006

HONORABLE TIMOTHY J. RYAN

CLERK OF THE COURT
K. Ballard
Deputy

FILED: 04/28/2006

TRUDY HACKNEY, et al.

RICHARD C GRAMLICH

v.

COURTLAND HOMES INC

SCOTT MCCLURE

TRIAL MINUTE ENTRY
DAY EIGHT

9:11 a.m. The jury is all present in the jury room and deliberations begin.

LET THE RECORD REFLECT a written Jury Question has been received by the Court and a proposed written response has been approved by counsel. Accordingly, a written response is provided to the jury via the bailiff.

11:46 a.m. Plaintiffs Trudy Hackney, Rod Frye, Dini Frye, Fred Whelan, and Susan Bimba are represented by counsel, Richard C. Gramlich. Plaintiffs Susan Bimba, Dini Frye, and Trudy Hackney are present. Defendant Courtland Homes, Inc. is represented by counsel, Craig Murdy for Scott McClure.

Court Reporter, Rochelle Dobbins, is present.

The jury is all present in the jury box and by its Foreperson returns into court its verdicts, which are read and recorded by the clerk, and are as follows:

“We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find in favor of Plaintiffs Fred Whelan and Susan Bimba on their breach of implied warranty claim against Courtland Homes, Inc. and award damages in the following amounts:

A) Cost to repair: \$ 133,139
Docket Code 012

Form V000A

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B) On Courtland Homes, Inc.'s defense of failure to mitigate damages, we the jury find that:

Plaintiffs 1) did _____ 2) did not Ü unreasonably fail to mitigate their damages."

The verdict is unanimous and signed by the Foreperson, Juror #4.

The jurors reply that this is their true verdict.

"We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find in favor of Plaintiff Trudy Hackney on her breach of implied warranty claim against Courtland Homes, Inc. and award damages in the following amounts:

A) Cost to repair: \$ 89,960

B) On Courtland Homes, Inc.'s defense of failure to mitigate damages, we the jury find that:

Plaintiff 1) did _____ 2) did not Ü unreasonably fail to mitigate their damages."

The verdict is unanimous and signed by the Foreperson, Juror #4.

The jurors reply that this is their true verdict.

"We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find in favor of Plaintiffs Rod Frye and Dini Frye on their breach of implied warranty claim against Courtland Homes, Inc. and award damages in the following amounts:

A) Cost to repair: \$ 103,873

B) On Courtland Homes, Inc.'s defense of failure to mitigate damages, we the jury find that:

Plaintiffs 1) did _____ 2) did not Ü unreasonably fail to mitigate their damages."

The verdict is unanimous and signed by the Foreperson, Juror #4.

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The jurors reply that this is their true verdict.

“We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find in favor of Plaintiffs Fred Whelan and Susan Bimba on their breach of implied warranty claim against Courtland Homes, Inc. and award damages in the following amounts:

A) Residual diminution in value: \$ 25,000

B) On Courtland Homes, Inc.’s defense of failure to mitigate damages, we the jury find that:

Plaintiffs 1) did Ü 2) did not _____ unreasonably fail to mitigate their damages.

1) Plaintiffs acted unreasonably and failed to mitigate damages and we hereby reduce Plaintiffs’ damages by the following amount;

\$ 23,750”

The verdict is unanimous and signed by the Foreperson, Juror #4.

The jurors reply that this is their true verdict.

“We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find in favor of Plaintiffs Rod Frye and Dini Frye on their breach of implied warranty claim against Courtland Homes, Inc. and award damages in the following amounts:

A) Residual diminution in value: \$ 25,000

B) On Courtland Homes, Inc.’s defense of failure to mitigate damages, we the jury find that:

Plaintiffs 1) did Ü 2) did not _____ unreasonably fail to mitigate their damages.

1) Plaintiffs acted unreasonably and failed to mitigate damages and we hereby reduce Plaintiffs’ damages by the following amount;

\$ 23,750”

The verdict is unanimous and signed by the Foreperson, Juror #4.

The jurors reply that this is their true verdict.

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“We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find in favor of Plaintiff Trudy Hackney on her breach of implied warranty claim against Courtland Homes, Inc. and award damages in the following amounts:

A) Residual diminution in value: \$ 25,000

B) On Courtland Homes, Inc.’s defense of failure to mitigate damages, we the jury find that:

Plaintiff 1) did Ü 2) did not _____ unreasonably fail to mitigate their damages.

1) Plaintiff acted unreasonably and failed to mitigate damages and we hereby reduce Plaintiff’s damages by the following amount;

\$ 24,950 ”

The verdict is unanimous and signed by the Foreperson, Juror #4.

The jurors reply that this is their true verdict.

“We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find in favor of Plaintiff Trudy Hackney on her breach of implied warranty claim against Courtland Homes, Inc. and award damages in the following amounts:

A) Loss of use and enjoyment of residence: \$ 40,800

B) On Courtland Homes, Inc.’s defense of failure to mitigate damages, we the jury find that:

Plaintiff 1) did Ü 2) did not _____ unreasonably fail to mitigate their damages.

1) Plaintiff acted unreasonably and failed to mitigate damages and we hereby reduce Plaintiff’s damages by the following amount;

\$ 10,200 ”

The verdict is unanimous and signed by the Foreperson, Juror #4.

The jurors reply that this is their true verdict.

“We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find in favor of Plaintiffs Rod Frye and Dini Frye on their breach of implied warranty claim against Courtland Homes, Inc. and award damages in the following amounts:

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A) Loss of use and enjoyment of residence: \$ 40,800

B) On Courtland Homes, Inc.'s defense of failure to mitigate damages, we the jury find that:

Plaintiffs 1) did Ü 2) did not _____ unreasonably fail to mitigate their damages.

1) Plaintiffs acted unreasonably and failed to mitigate damages and we hereby reduce Plaintiffs' damages by the following amount;

\$ 10,200 ”

The verdict is unanimous and signed by the Foreperson, Juror #4.

The jurors reply that this is their true verdict.

“We, the Jury, duly empanelled and sworn in the above-entitled action, upon our oaths, do find in favor of Plaintiffs Fred Whelan and Susan Bimba on their breach of implied warranty claim against Courtland Homes, Inc. and award damages in the following amounts:

A) Loss of use and enjoyment of residence: \$ 40,800

B) On Courtland Homes, Inc.'s defense of failure to mitigate damages, we the jury find that:

Plaintiffs 1) did Ü 2) did not _____ unreasonably fail to mitigate their damages.

1) Plaintiffs acted unreasonably and failed to mitigate damages and we hereby reduce Plaintiffs' damages by the following amount;

\$ 10,200 ”

The verdict is unanimous and signed by the Foreperson.

The jurors reply that this is their true verdict.

FILED: Verdicts (9)

The jury is thanked by the Court and excused from further consideration of this cause.

FILED: Jury Question and Trial/Hearing Worksheet

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11:57 a.m. Trial concludes.

LATER:

IT IS ORDERED that the jury fees be assessed against the Defendant, Courtland Homes, Inc., in the amount of **\$1,559.52**, all in accordance with the formal written Judgment for Jury Fees signed by the Court on April 21, 2006 and filed (entered) by the clerk on April 21, 2006.

IT IS FURTHER ORDERED sealing the following documents in this matter:

- Two (2) Jury Questions (which were not submitted to the Court during deliberation);
- 1 page of notes written by the jurors
- Contact information for the jurors in this case