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NO. COA05-1029

NORTH CAROLINA COURT OF APPEALS

Filed: 18 July 2006

MARVEN L. POINDEXTER, INC.,

Plaintiff,

v.

Iredell County
No. 02 CVS 1563

BOARDWALK, LLC; MILLER
BUILDING CORPORATION; DEBORAH
C. LEE; SHANNON W. MYERS;
JOHN C. CZERWINSKI and Wife,
JEANETTE M. CZERWINSKI;
MANISH G. PATEL; ALLEN H.
VAN DYKE and Wife, PERRY G.
VAN DYKE; GEORGE CORNELSON and
Wife, KIMBERLYE F. CORNELSON;
AFSHIN GHAZI; and CHARLES H.
HUNTLEY,

Defendants.

Appeal by plaintiff from order entered 14 April 2005 by Judge
Larry Ford in Iredell County Superior Court. Heard in the Court of
Appeals 22 February 2006.

*Erwin and Eleazer, P.A., by L. Holmes Eleazer, Jr., Fenton T.
Erwin, Jr., and Peter F. Morgan, for plaintiff-appellant.*

*Johnston, Allison & Hord, P.A., by Greg C. Ahlum and Martin L.
White, for defendant-appellee Boardwalk.*

*Horack, Talley, Pharr & Lowndes, by D. Christopher Osborn, for
individual defendant-appellee home owners.*

ELMORE, Judge.

This appeal was consolidated for review with *Carolina Building Servs. Windows & Doors, Inc. v. Boardwalk, LLC.*, ___ N.C. App. ___, ___ S.E.2d ___ (18 July 2006) (No. COA05-1030). The issues presented are identical. Marven Poindexter, Inc. (Poindexter) was a subcontractor hired by Miller Building Corporation (Miller) to supply materials and perform labor on one of Miller's construction projects. Miller defaulted and left Poindexter unpaid for its services. Poindexter pursued lien actions against the landowner, Boardwalk LLC (Boardwalk). During that action Boardwalk filed a crossclaim against Miller for breach of contract. Boardwalk achieved an entry of default and sought default judgment. Poindexter objected. The trial court consolidated Poindexter's motion objecting to the default judgment against Miller with the parties' summary judgment motions in the lien action. The trial court granted summary judgment in favor of the defendants appearing and Poindexter appeals.

All issues regarding Poindexter's claims against Boardwalk are completely resolved by our decision in *Carolina Building*. As such, we apply the reasoning of *Carolina Building* here to affirm the trial court's entry of summary judgment in favor of defendants.

Affirmed.

Judges STEELMAN and JACKSON concur.

Report per Rule 30(e).