

SUPREME COURT OF WISCONSIN

CASE No. : 2005AP189

COMPLETE TITLE :

Industrial Roofing Services, Inc. and Keith
Dippel,
Plaintiffs-Appellants-Petitioners,
v.
Randy J. Marquardt, Dale M. Marquardt, Bradley
L. Engnath, Jeffrey P. Sampson and Roofing
Design & Solutions, Inc.,
Defendants-Respondents,
Steven W. Schoen and John G. Dorrer,
Defendants.

MOTION FOR RECONSIDERATION

2007 WI 19

Reported at: ___ Wis. 2d ___, 726 N.W.2d 898

OPINION FILED: May 24, 2007

SUBMITTED ON BRIEFS:

ORAL ARGUMENT:

SOURCE OF APPEAL:

COURT:

COUNTY:

JUDGE:

JUSTICES:

CONCURRED:

DISSENTED:

NOT PARTICIPATING:

ATTORNEYS:

NOTICE

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 2005AP189
(L.C. No. 2003CV1475)

STATE OF WISCONSIN : IN SUPREME COURT

**Industrial Roofing Services, Inc. and Keith
Dippel,**

Plaintiffs-Appellants-Petitioners,

v.

**Randy J. Marquardt, Dale M. Marquardt, Bradley
L. Engnath, Jeffrey P. Sampson and Roofing
Design & Solutions, Inc.,**

Defendants-Respondents,

Steven W. Schoen and John G. Dorrer,

Defendants.

FILED

MAY 24, 2007

David R. Schanker
Clerk of Supreme Court

MOTION for reconsideration. *Reconsideration denied.*

¶1 PER CURIAM. Industrial Roofing Services, Inc. and Keith Dippel (collectively, Industrial Roofing) move the court to reconsider its opinion in Industrial Roofing Services, Inc. v. Marquardt, 2007 WI 19, ___ Wis. 2d ___, 726 N.W.2d 898, on the grounds that the court based its decision on significant factual errors and omissions, and that such errors and omissions

led to an inequitable ruling, not supported by a majority of justices on this court.

¶2 We conclude that the grounds for reconsideration have not been met.

¶3 However, to clarify the Industrial Roofing Services opinion, ¶5, footnote 2 is changed to read as follows:

This review pertains only to the five Marquardt defendants. A different group, the "Clark" defendants, had their complaint dismissed for essentially the same reasons as the Marquardt defendants, but under a separate order. The parties agreed that the January 12, 2005 dismissal order was not a final order as to the Clark defendants because the Clark defendants had counterclaims pending in the circuit court. Industrial filed a petition for leave to appeal from the non-final order, and the court of appeals denied that motion. Thus, the Clark defendants are not party to this review. The complaint raises additional allegations against the Clark defendants, including breach of express employment contracts and breach of fiduciary duty. The complaints against other of the original 12 defendants have also been dismissed, not appealed, and are not before the court for review.

¶4 Additionally, ¶36, footnote 5 is changed for clarification to read as follows:

A similar order was entered with respect to the Clark defendants, for whom Industrial was to pay \$16,077.50 in attorney's fees.

¶5 Accordingly, the motion for reconsideration is denied, without costs.

