Sea Pines seeks verdict reversal

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BY E.J SCHULTZ, The Island Packet
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WALTERBORO — The Sea Pines Co. fought the $7.8 million TidePointe jury verdict on two fronts Tuesday.

At an afternoon court hearing, the company asked Circuit Court Judge Perry Buckner to reduce or overturn the verdict a Beaufort County jury returned this past April in a breach-of-contract lawsuit.

Earlier in the day, attorneys on both sides of the suit met to discuss a possible settlement.

No conclusions were reached on either attempt by the company to soften the blow of the verdict, which recently resulted in the company's taking a second quarter net loss of $7.9 million.

Buckner gave no indication of when he will rule on the post-trial motions, but said a decision may not come until all parties have a chance to review transcripts of the eight-day trial. The court reporter hasn't had a chance to type up the document, which the judge said would be about 1,800 pages.

Neither side provided specifics on the settlement talks.

But Thomas DiVenere, one of two businessmen suing Sea Pines over development work at TidePointe, said after the hearing that a "settlement is always a part of the process."

Commenting on the hearing, he said Sea Pines was "hoping a technicality will give them another trial."

The $7.8 million verdict represents lost development fees and ownership stakes DiVenere and Pete Pomranz say they are owed from helping develop TidePointe, the Hilton Head Island retirement community that opened in 1996, in which Sea Pines was an original partner.

The suit was filed in 1995.

Sea Pines lawyers spent much of the two-hour hearing Tuesday asking Judge Buckner to use the "13th juror doctrine," which the attorneys argued could be used if the judge decides the verdict was "contrary to the weight of the evidence."

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Plaintiffs attorney Richard Rosen countered that the doctrine required a stricter standard — that the verdict resulted in a "miscarriage of justice."

Sea Pines lawyers asked Buckner to give the plaintiffs the option of getting a smaller award — the lawyers gave a range of $4.1 million or less — or accepting a new trial.

The hearing evolved into a highly technical discussion of legal theories and precedents as Buckner, giving little indication of how he would rule, asked lawyers to clarify arguments.

Sea Pines lawyers also argued that the verdict should be overturned because Pete Pomranz was not specifically listed on the contract. DiVenere has said he brought Pomranz in on the project to help with feasibility and market studies.

"Mr. Pomranz is not a proper plaintiff in this case," attorney John Tatum told the judge, adding that if one plaintiff can't recover damages, none can.

Rosen disagreed, saying the contract was between Sea Pines and DiVenere's company and the contract included Pomranz because he was acting as an affiliate of the firm.

Rosen summed up the plaintiffs' position during his arguments Tuesday saying, "This is simply a case in which the jury believes the plaintiff and did not believe the defendant."

The hearing ended with Rosen asking the judge to award DiVenere and Pomranz, who was not at the hearing, an additional $1.58 million they said represented missed interest payments on the money they say they are owed.

Watching the hearing in front-row seats at the Colleton County courthouse were Sea Pines President Mike Lawrence, Chairman Norman Harberger, Chief Financial Officer Steven Birdwell and two other board members.

Lawrence summed up the day's progress saying, "We are where we were when we came here today."

The company, he said, still faces the prospects of paying "zero to $8 million."

If Sea Pines' post-trial motions are denied, the company still can appeal to a higher court, and indications are that they would do so.

Sitting on the Sea Pines side Tuesday but not arguing before the judge was attorney Robert Widener, whom Lawrence said was an experienced appellate lawyer.

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