KEVIN AND LISA HOLLINGER h/w, Plaintiffs v. JENNIFER DIETRICH, MICHELE MCCARTNEY, COLDWELL BANKER RESIDENTIAL BROKERAGE, LISA TIGER, ADVANCE REALTY, INC. d/b/a CENTURY 21 GOLD and JOHN DOES 1-10, JOHN DOE CORP. 1-10, Defendants.	: : : : : : : : : : : :	IN THE COURT OF COMMON PLEAS BERKS COUNTY, PENNSYLVANIA CIVIL DIVISION Trial Court No. 20-03489 The Honorable Madelyn S. Fudeman

Opinion, **December 8, 2022**

Plaintiffs, purchasers of a residential property from Defendant, appeal from this Court's rulings on motions for summary judgment and motions in limine, which rulings eventually led to the striking of the case from the trial list. Plaintiffs' Concise Statement of Errors Complained of on Appeal is filed in a format which includes seven separate and distinct documents filed individually with the Berks County Prothonotary to the same docket number, but filed as seven consecutively numbered appeals on the Superior Court docket, all except one unnumbered and each entitled "Plaintiffs Kevin and Lisa Hollinger's Rule 1925(b) Concise Statement of Errors Complained of on Appeal", making it difficult to address *ad seriatim.*

This case arises from the sale of real property located at 1413 Old Mill Road, Wyomissing, Pennsylvania ("Property"). Kevin and Lisa Hollinger, husband and wife, ("Plaintiffs") purchased the Property from Defendant Seller, Jennifer Dietrich ("Dietrich"). Dietrich was represented in the sale by Defendants Michele McCartney and Coldwell Banker and Plaintiffs retained Defendants Lisa Tiger and Advance Realty, Inc. d/b/a Century 21 Gold to

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assist them in the purchase of the Property (collectively "Agent Defendants"). The crux of this action is the allegation by Plaintiffs that all Defendants knew of and either fraudulently or negligently concealed water infiltration, defective construction, and moisture damage at the Property, all in violation of the Unfair Trade Practices and Consumer Protection and Pennsylvania Real Estate Seller Disclosure Laws. This Court initially dismissed the claims against the Agent Defendants, then eventually dismissed the claims against Dietrich as well, based largely upon a lack of any evidence that Dietrich knew of the alleged defects at the Property, or even that the defects existed before or at the time of settlement. Plaintiffs' Complaint alleges that when they discovered that the Property was on the market, they went to see it and were impressed by its high-end quality finishes and construction. Plaintiffs reviewed the Seller's Disclosure Statement ("SDS") which was completed and signed by Dietrich, and they researched the Property's builders and architect. It is undisputed that Plaintiffs had the Property professionally inspected and received a report which noted the existence of a sump pump and recommended that a second back up source of electric be installed to run the pump in the event of a power failure. The SDS appears to have several conflicting representations, but they are more indicative of confusion than an intent to mislead or misrepresent. For instance, in the SDS Dietrich disclosed that the Property had a sump pump and sump pit, and that the sump pump had run and was in working order, but also said in the SDS that she was not aware of any water leakage, water accumulation, or dampness in the basement, nor any repairs or other attempts to control any water dampness problem in the basement. In the SDS Dietrich indicates that the Property was purchased in 2006 and underwent a "total renovation" that year which included a new addition. The SDS further clearly disclosed that the entire lower level was re-done with new carpet, tile and some dry wall *to address damage which resulted from a sewage* *backup* [emph. added], yet Dietrich indicated in the SDS that she was not aware of any past or present drainage or flooding problems affecting the Property. She also disclosed that drains had been previously installed to manage storm water. Nonetheless, Plaintiffs contend that in addition to the representations in the SDS, each of the Defendants expressly assured Plaintiffs that no water infiltration or water damage had ever occurred at the Property, and Plaintiffs say they relied on these representations when they decided to purchase the Property. These contentions are inconsistent with undisputed facts, most notably, that Plaintiffs had a professional inspection of the Property conducted prior to settlement. Settlement occurred on July 12, 2017, shortly after which Plaintiffs allege they discovered that the Property was riddled with extensive construction defects which caused the basement to flood, and that based on the extent of water damage, the basement had experienced substantial flooding numerous times prior to their ownership, yet Plaintiffs produced no evidence to support these assertions. In fact, Plaintiffs'counsel stated that Plaintiffs would not introduce the inspection report at trial and objected to Defense counsel's intention to introduce the report. The only expert report produced by Plaintiffs is from surveyor John Hoffert and is attached to Plaintiffs' Pre-Trial Memorandum which was filed on September 23, 2022. Although this is after the July 2022 deadline to file expert reports, the report itself is dated December 13, 2019, which the Court acknowledges is well in advance of the deadline. However, even assuming the two-page report was timely produced to in discovery, the report clearly states that the scope of work contracted did not include analysis of the alleged conditions and stated that no cost estimate could be provided within the scope of work contracted by Plaintiffs. The report, the contents of which limit the scope of an expert's trial testimony, contained no pertinent information as to any history of water infiltration conditions at the Property and has no relevance to the question of whether the alleged water infiltration issues existed at or before the time of settlement, whether Dietrich knew or should have known of such conditions and either negligently or intentionally failed to disclose them. Moreover, the entire report contains two recommendations; 1) that the south side of the property where the new addition is located be re-graded; and 2) remove debris, clean and caulk the opening/area between the masonry foundation and the stone fascia on the main and exterior walls… The report then goes on to list "other potential drainage or stormwater concerns". Each of the four items listed contain the noted qualification that no analysis of the existing features, improvements or structural integrity was conducted to determine condition or adequacy.

Plaintiffs contend the flooding is caused by poor grading near the addition constructed in 2006, and they say they retained professionals to fix the problem and allege they were advised that the cause of the flooding was improper construction of the addition and landscape grading performed after completion of the addition. Inexplicably, none of this was produced in writing by the professionals who completed the repairs or any other expert, and presumably is not mentioned in the home inspection report Plaintiffs obtained prior to purchasing the Property and declined to introduce as evidence. On March 23, 2020, Plaintiffs filed the Complaint. Following this Court's rulings on multiple preliminary objections and the close of pleadings and discovery, argument was held before this Court on Defendant Michele McCartney and Coldwell Banker Residential Brokerage's joint motion for judgment on the Pleadings. The gravamen of Plaintiffs' action against the Agent Defendants, as articulated by their counsel, was that the agents lived in the vicinity of the Property and therefore they had to know that water infiltration issues were common in the area, and thus they should have questioned Dietrich more closely and should have warned Plaintiffs. No proof that any of the agents had such knowledge was offered, and counsel for Plaintiffs reluctantly conceded that neither agents for the Seller or for the Plaintiff buyers had any legal duty to conduct independent inspections of the Property. This Court entered an order dated July 19, 2021, granting the Agent Defendants' motion with respect to Count II – Civil Conspiracy, Count III – Fraud, and Count IV – Negligence.

On January 10, 2022, Defendants, Lisa Tiger and Advanced Realty, Inc. d/b/a Century 21 Gold filed a motion for judgment on the pleadings. On January 13, 2022, Defendants Michele McCartney and Coldwell Banker Residential Brokerage filed a second motion for judgment on the pleadings to dismiss Count I, alleging violation of the Real Estate Seller Disclosure Law (RESDL). Dietrich also filed a motion for judgment on the pleadings on March 7, 2022, followed by a motion for summary judgment filed on March 10, 2022. On March 11, 2022, Defendants Michele McCartney and Coldwell Banker Residential Brokerage filed a joint motion for summary judgment to be considered in tandem with their motion for judgment on the pleadings. On the same date, Defendants Lisa Tiger and Advance Realty d/b/a Century 21 Gold filed a motion for summary judgment. After extensive argument and briefing, this Court entered Orders on April 13, 2022 granting the motions for summary judgment in favor of all the Agent Defendants, effectively releasing them from the action. Dietrich's motion for summary judgment was denied, and her motion for judgment on the pleadings was granted in part, dismissing the count for fraud, based upon Plaintiffs' concession at the time that no specific evidence of fraud, sufficient to meet the legal standard necessary to support a claim for fraud, had been adduced. It is worthy of note that it was proffered by counsel for Dietrich without objection by Plaintiffs' counsel that Dietrich would testify that the Property was purchased by Brian Dietrich alone in 2006 before they were married, and she had no involvement in the renovations or design or construction of the addition that year, and that Brian Dietrich is deceased.

This Court then set a 4-day bench trial to begin on October 4, 2022. On August 8, 2022, Dietrich filed motions in limine to: 1) exclude from evidence any agreement(s) predating the Agreement of Sale based upon the parol evidence rule and an integration clause contained in the Agreement; 2) prohibit any expert testimony as no expert report had been produced by Plaintiffs whose counsel said they did not intend to call any experts; and 3) prohibit testimony regarding the Seller Disclosure Statement, based upon a statute of repose limiting such actions to two years after settlement. After hearing extensive argument, and in consideration of briefs submitted by counsel for the Parties, this Court granted Dietrich's motions in limine. Based upon the elimination from admission into evidence of the SDS, upon which Plaintiffs' entire case rested, this Court struck the action from the trial list, as in light of this Court's rulings on the motions in limine, there were no outstanding issues left to be presented to a finder of fact.

DISCUSSION

First, we will address the motions for judgment on the pleadings filed by each of the Agent Defendants, followed by discussion of the respective motions for summary judgment, and finally, Dietrich's motions in limine, the rulings on which resulted in the striking of the case from the trial list.

Defendants Michele McCartney and Coldwell Banker Residential Brokerage's joint motion for judgment on the pleadings was filed on May 21, 2021, which this Court granted as to Counts II, III and V. Count II of Plaintiffs' Complaint for Civil Conspiracy was dismissed because Plaintiffs failed to allege any facts sufficient to support their claims of conspiracy among the Defendants. The elements necessary to support a claim for civil conspiracy are as follows: (1) a combination of two or more persons acting with a common purpose to do an unlawful act or to do a lawful act by unlawful means or for an unlawful purpose; (2) an overt act done in pursuance of the common purpose; and (3) actual legal damage. *Phillips v. Selig, 959 A.2d 420, 437 (Pa. Super. Ct. 2008); Goldstein v. Phillip Morris, Inc., 854 A.2d 585, 590 (Pa. Super. Ct. 2004).* Proof of malice or an intent to injure absent justification is essential to a claim for civil conspiracy. *Miller v. Post Publishing Co., 266 Pa. 533, 110 A. 265, 67 Pitts. Leg. J. 189 (Pa. 1920).* This Court completed a thorough review of the extensive record, the briefs of counsel and considered the parties' respective arguments. Plaintiffs have failed to allege any facts to support a claim of civil conspiracy against the Agent Defendants. Plaintiffs only allegations related to civil conspiracy rely on generalizations and factually unsupported conclusions of law. The record is devoid of any facts to support the claims that the Agent Defendants were aware of any construction and/or grading defects, water infiltration issues, or drainage/flooding problems at the property. There is also no credible evidence that the Agent Defendants worked in concert with Dietrich, or any other person, to conceal or hide any conditions of the property. Plaintiffs failed to identify any overt act by or attributable to the Agent Defendants in furtherance of a common purpose with any other Defendants that could reasonably lead any finder of fact to conclude a civil conspiracy existed. Accordingly, Count II was properly dismissed by this Court.

Likewise, Count III of Plaintiffs' Complaint was dismissed by this Court because the Plaintiffs failed to identify any credible written or oral representation with the specificity required of a fraud claim. The well-established threshold standard required to support a claim for fraud is correctly set forth by counsel for the Agent Defendants in their brief: "to prove fraud, the plaintiffs are required to prove the following elements: (1) a representation; (2) which is material to the transaction at hand; (3) made falsely, with knowledge of its falsity or recklessness as to whether it is true or false; (4) with the intent of misleading another into relying on it; (5) justifiable reliance on the misrepresentation; and (6) the resulting injury was proximately caused by the reliance. The Plaintiffs' burden of proof to prove their fraud claim is clear and convincing evidence." *Weissberger v. Myers, 90 A.3d 730, 731 (2014 Pa. Super.).* The Plaintiffs allege the Agent Defendants made oral and written representations, but Plaintiffs were unable to produce any such writings or identify with any degree of specificity what the representations were, how they were made, or who made them. Rather, Plaintiffs rely upon assertions that Defendants McCartney and Tiger live in the same general neighborhood and knew or should have known that the homes in the area are subject to water infiltration. The Plaintiffs further allege that neighbors experience similar water infiltration issues, but do not identify the identity of any such neighbors or the source of that information sufficient to support a fraud claim. This failure is fatal to Plaintiffs' claims for fraud. Previously, on November 16, 2020, this Court granted Dietrich's preliminary objections seeking dismissal of the fraud claims based upon identical facts and legal theories now advanced by the Agent Defendants. The Plaintiffs did not amend their Complaint following this Court's November 16, 2020 Order allowing them to amend to include allegations sufficient to support their claims, and their allegations of fraud are as flawed with respect to the Agent Defendants as they were with respect to Defendant Seller. These vague and factually unsupported allegations by Plaintiffs simply and clearly do not meet the legal threshold. Plaintiffs' persistent failure to properly plead facts sufficiently specific to support a claim for fraud make it clear that Count III was properly dismissed.

Count V of Plaintiffs' Complaint sounds in negligence. This Court dismissed that count as well because the Plaintiffs fail to identify a duty owed to them by the Agent Defendants and further fail to identify what acts or omissions attributable to the Agent Defendants constitute the alleged breach. "Generally, to prevail in a negligence case, a plaintiff must demonstrate the following elements: (1) the defendant owed a duty to the plaintiff; (2) the defendant breached that duty; (3) a causal relationship between the breach and the resulting injury suffered by the plaintiff; and (4) actual loss suffered by the plaintiff." *Ramalingam v. Keller Williams Realty Group, Inc., 121 A.3d 1034, 1037 (2015 Pa. Super.).* The Plaintiffs have not identified a breach of any duty owed to them by the Agent Defendants. Again, the Plaintiffs make only general averments that all Defendants owed Plaintiffs a duty of care to ensure that all water infiltration problems were properly disclosed. These general averments coupled with failure of the Plaintiffs to allege any credible facts to show knowledge held by the Agent Defendants of water infiltration at the Property which could plausibly support a claim against them leads to the inescapable conclusion that Count V negligence claim cannot survive, thus it was properly dismissed.

Subsequent to the filing of the foregoing motions, Defendants Lisa Tiger and Advance Realty, Inc. d/b/a Century 21 Gold filed a substantially identical motion for judgment on the pleadings as to Count III (fraud), Count V (negligence), and Counts VI and VII (violation of Unfair Trade Practices and Consumer Protection Law) of Plaintiffs' Complaint, and later, but before this Court ruled on the motion for judgement on the pleadings, they filed a motion for summary judgment on the same issues. The Court granted the motion for summary judgment by way of Order on April 13, 2022, thereby rendering their motion for judgment on the pleadings moot. Defendants Michele McCartney and Coldwell Banker's previously filed motion for judgment on the pleadings as to Count III (fraud) and Count V (negligence), was granted and this Court sustained Defendant Jennifer Dietrich's preliminary objections as to Count III (fraud). As there are no distinct factual allegations as to any of the Agent Defendants, and the facts alleged are insufficient to state a claim upon which relief can be granted, therefore, this Court's dismissal of the claims against the Agent Defendants was proper.

Next, we address Plaintiffs' claims of violation of the Unfair Trade Practices and Consumer Protection Law ("UTPCPL"). To support such a claim, a plaintiff must allege facts that would demonstrate: (1) the defendant engaged in unfair methods of competition and unfair or deceptive acts or practices, and (2) the transaction between plaintiff and defendant constituted "trade or commerce" within the meaning of the UTPCPL. *73 P.S. § 201-3*. A plaintiff must also allege that they justifiably relied upon the unfair or deceptive business practice when making the purchasing decision. *Gregg v. Ameriprise Fin., Inc., 245 A. 3d 637, 646 (Pa. 2021).* There are no factual allegations in the Complaint to support the claim that Tiger and Century 21 engaged in any unfair or deceptive acts or practices or that they made any misrepresentations regarding water infiltration at the Property. The alleged misrepresentations at issue were contained in the SDS. The conclusory allegation that Tiger and Century 21 knew or improperly failed to discover that the Property had water issues is unsupported both legally and factually. Plaintiffs rely only upon general allegations regarding water infiltration at other properties in the community, thus deducing that the Agent Defendants knew or should have known that there was such a condition at the Property. Plaintiffs cannot cite to any legal duty of the Agent Defendants to have inspected or discovered any such condition, or that they had any knowledge that such a condition existed at the Property. Furthermore, the Plaintiffs conducted due diligence on the Property to determine whether to purchase it. Plaintiffs had an inspection of the Property completed, and it is undisputed that both the inspection report and the SDS from Dietrich disclosed the existence of a sump pit and sump pump, and that the sump pump had previously run. Plaintiffs were also advised in the inspection report that a back-up power source to the sump pump should be installed, which Plaintiffs did not complete. Plaintiffs' counsel argues correctly that the standard for establishing common law fraud is distinguishable from the lower standard under the UTPCPL where the burden of proving fraud shifts from the buyer to the seller.

The UTPCPL is a statute primarily intended to apply to sellers of goods and services, and it contemplates vendors who have developed special knowledge, training, education and experience in the goods or services they regularly sell, thus justifying the shifted burden. This very argument places a laser focus on the problems arising from application of the UTPCPL to claims against sellers in residential real estate transactions who might have engaged in just one or two such sales over the course of their lives and have no special knowledge or expertise. It highlights why application of the UTPCPL to these transactions must be carefully considered on a case-by-case basis. The Pennsylvania Superior Court's decision in the case of *Bennett v. A.T. Masterpiece Homes, 2012 Pa. Super 60 (2012)*, is the seminal case often cited to support application of the UTPCPL in real estate transactions. *Bennett*, however, involves facts critically distinguishable from those in the instant case. In *Bennett*, the Appellant, an individual, was the managing member of the developer LLC from whom Plaintiffs contracted to purchase new homes and also acted as the primary contact in the transaction. During construction, Plaintiffs noticed building deficiencies and brought them to the attention of Appellant. In the Superior Court's opinion, it is noted that "Appellant's assurances were specific, direct and often in the form of personal guarantees". *Id* at 147. The Plaintiff buyers alleged that when complete the newly constructed homes had multiple deficiencies, including structural failure. Most distinct from the instant case, the *Bennett* Plaintiffs produced an engineering expert who inspected the homes and concluded that they had several items in violation of the housing code and other issues that, although code compliant, were poorly designed or constructed. *Id* at 148. In the instant case Plaintiffs' counsel represented that they had no expert report or testimony or any other evidence to offer to establish the existence of water infiltration or water damage at the Property prior to or at the time of settlement. The central question remained the same: the sufficiency of the facts alleged by Plaintiffs to support their claims when they had no specific credible evidence of a history of water infiltration at the Property, or that any of the defendants knew or should have known of such conditions. In their motion for summary judgment with respect to alleged violation of the UTPCPL, Agent Defendants again argue persuasively that the Plaintiffs do not identify with any degree of specificity whatsoever any representations attributable to the Agent Defendants about the condition of the Property, specifically the presence or extent of water infiltration at or before the time of settlement. Plaintiffs allege that the Agent Defendants had actual knowledge of construction defects but remained unable to identify individuals who had that knowledge and specifically what that knowledge was. Accordingly, the allegations in Plaintiff's Complaint are insufficient to state a cause of action against Agent Defendants for negligence, fraud, or violations of the UTPCPL, and summary judgment was properly granted in favor of the Agent Defendants.

Next, Defendants McCartney and Coldwell Banker filed a second motion for judgment on the pleadings with respect to Count I (Violation of Real Estate Seller Disclosure Law), then, a few days later, prior to this Court ruling on the outstanding motion, they filed a motion for summary judgment, essentially raising the same issue. This Court granted the motion for summary judgment by way of Order dated April 13, 2022, thereby rendering their motion for judgment on the pleadings moot. The statute provides that claims brought under the Real Estate Seller Disclosure Law ("RESDL") must be brought within two years from the date of settlement. Although the statute is titled as one of limitation, it does not run from a subjective event, rather from a firm, objective date and contains no tolling provision. Therefore, it operates as a statute of repose which extinguishes all causes of action at the end of a time certain. The Real Estate Seller Disclosure Law ("RESDL") states: "an action for damages as a result of a violation of this chapter must be commenced within two years after the date of final settlement." *68 Pa. C.S.A. § 7311(b).* Although labeled as a statute of limitations, its interpretation and application as a statute of repose by a Pennsylvania federal court is instructive here: "…a title has minimal probative value regarding the actual character of this provision given that other Pennsylvania statutory provisions that indisputably impose statutes of repose are nonetheless sometimes identified by the General Assembly as statutes of limitations." *Star v. Rosenthal, 884 F. Supp. 2d 319, 325 (E.D. Pa. 2012).* The difference between statutes of repose and statutes of limitations is that statutes of limitations are procedural devices which bar recovery on a viable cause of action and preclude its revival. *Id.* Statutes of repose run for a statutorily determined period of time after a definitely established event independent of an injurious occurrence or discovery of the same. For statutes of repose, "at the end of the time period specified in the statute, the cause of action ceases to exist, unless the claimant can bring himself within any tolling provision enunciated in that statute." *Commw., Dept. of Transp., Bureau of Driver Licensing v. Grubb, 618 A.2d 1152, 1155 n.1 (Pa. Commw. Ct. 1992).* There is no such tolling provision provided in RESDL. The settlement date in this transaction occurred on July 14, 2017, and Plaintiffs commenced this litigation on March 23, 2020, two years and eight months after the final settlement date.

Furthermore, even if Plaintiffs were to have a timely claim under RESDL, Section 7314 states, "A buyer shall not have a cause of action under this chapter against the seller or the agent for either or both the seller or the buyer for: (1) material defects to the property disclosed to the buyer prior to the signing of an agreement of transfer by the seller and buyer; (2) material defects that develop after the signing of the agreement of transfer by the seller and buyer; or (3) material defects that occur after final settlement." It is clear to this Court that Plaintiffs have failed to produce any credible evidence that any of the Agent Defendants knew at the time of conveyance of the alleged defects in the home. Accordingly, this Court has granted the Agent Defendants' motion for summary judgment as to Count I of Plaintiffs' Complaint alleging violation of RESDL.

Finally, this Court ruled on Defendant Jennifer Dietrich's motions in limine which ultimately led to the striking of this case from the trial list. Those motions were filed August 8, 2022, and included motions in limine to: 1) exclude from evidence any agreement(s) predating the Agreement of Sale based upon the parol evidence rule and an integration clause contained in the Agreement; 2) prohibit any expert testimony as no expert report had been produced for introduction at trial by Plaintiffs, whose counsel said they did not intend to call any experts; and 3) prohibit testimony regarding the SDS, based upon a statute of repose limiting such actions to two years after settlement. Defendant Jennifer Dietrich's motions in limine to exclude testimony regarding the SDS due to expiration of the statute of repose and to exclude any agreement other than the agreement of sale due to the parole evidence rule are based upon the premise that the SDS completed by Dietrich was not incorporated into the Agreement of Sale between Dietrich and the Hollingers. As previously discussed, an action for damages for a violation of RESDL must be commenced within two years after the date of final settlement. The Hollingers commenced this litigation two years and eight months after final settlement. This Court has discussed its analysis of its interpretation of the statute as one of repose above, and accordingly granted Dietrich's motion in limine to exclude testimony regarding the SDS due to the expiration of the statute of repose. This Court additionally granted Dietrich's motion to exclude any agreement other than the Agreement of Sale ("AOS") due to the parol evidence rule. It is worthy of note that there was no indication that Plaintiffs wished to enter into evidence any agreements other than the AOS and the SDS. The AOS is an all-inclusive document with an integration clause. This Court agrees that any additional agreements the Plaintiffs would attempt to enter would be violative of this rule and granted the Motion accordingly.

Last, the allegation in Plaintiffs' Concise Statement of Errors Complained of on Appeal that this Court erred by granting Dietrich's motion in limine prohibiting introduction of Plaintiffs' expert report and testimony is inconsistent with this Court's recollection. In this extensively litigated action, this Court set a deadline of July 1, 2022, for the Plaintiffs to submit their expert reports. A report from surveyor John Hoffert was filed with Plaintiffs' Pre-Trial Memorandum on September 23, 2022, however, when queried by the Court at the time of argument on motions in limine, counsel for Plaintiffs conceded that they did not intend to call any expert witnesses. Furthermore, this Court's review of the report of John Hoffert, the only expert report produced by Plaintiffs, led to the conclusion that the report did not contain any information relevant to the existence of water damage to the Property at or before the time of settlement, or any other matter at issue before this Court. Accordingly, this Court granted this motion and removed the case from the trial list as the Plaintiffs did not have a viable cause of action against any defendant in this matter. For purposes of a clear record, it should be noted that Dietrich's outstanding Motion in Limine to Limit Testimony Regarding Alleged Water

Infiltration that Occurred on or Around June 19, 2019, is rendered moot by this Court's rulings on the other motions.

BY THE COURT:

Madelyn S. Fudeman

The Honorable Madelyn S. Fudeman