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60368

IN THE TENTH JUDICIAL CIRCUIT
JEFFERSON COUNTY, ALABAMA

MILLER, TRIPLETT & MILLER
ENGINEERS, INC.

Plaintiff,

vs.

M. C. ZANATY, et. al.

Defendants.

Civil Action No.

CV 91-2727-CDH

Filed In Open Court

This 24th day of April, 1992

POLLY CONRADI
CLERK CIRCUIT COURT

By: *David C. Arnold*
DEPUTY CLERK

ORDER ON MOTION FOR SUMMARY JUDGMENT

This matter comes before the Court on Plaintiff's motion for summary judgment supported by affidavit of Joseph A. Miller, Jr., the president of Plaintiff and by Plaintiff's Request for Admissions, to which no responses were made. There being no genuine issues of material fact and Plaintiff having shown its entitlement to judgment as a matter of law, the Court makes the following findings of fact and conclusions of law:

1. Plaintiff, Miller, Triplett & Miller, Engineers, Inc., ("MTM") entered into a contract for surveying and engineering services with the Defendants M. C. Zanaty ("Zanaty") and Boothby/Engel Real Estate ("Boothby/Engel") in September 1990. Under the terms of such contract, MTM was provided certain surveying services and a topographic survey for a flat fee of \$10,380.00 which is a reasonable fee for such services. Payment in full was due on 6 November 1990.

2. All services were completed by MTM in September 1990.

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3. No payment whatsoever was made to MTM until after initiation of suit. Boothby/Engel paid \$5,190.00 on 31 December 1991 in return for a *pro tanto* release.

MTM is entitled to a judgment against Zanaty for the following amounts:

A.	Principle amount	\$10,380.00
B.	Interest on \$10,380.00 from 6 November 1990 through 31 December 1991 Cat 8% under Ala. Code Section 8-8-8	\$ 953.25
C.	Credit due to <i>pro tanto</i> release	\$ 5,000.00
D.	Interest on \$5,190.00 through 24 April 1992	\$ <u>130.00</u>
TOTAL JUDGMENT AMOUNT		\$ 6,274.07

IT IS THEREFORE ADJUDGED, ORDERED and DECREED that Plaintiff is granted a judgment in the amount of \$6,274.07 against Defendant M. C. Zanaty. Costs are taxed against M. C. Zanaty, for which execution may issue.

The Defendant Boothby/Engel Real Estate, Inc. having previously been dismissed with prejudice, this cause is disposed in its entirety.

DONE AT BIRMINGHAM, ALABAMA, THIS THE 24 DAY OF

April

STATE OF ALA. JEFFERSON CO.
I CERTIFY THIS INSTRUMENT
WAS FILED ON

1992 APR 28 A D 34

RECORDED & INDEXED
HTG TAX & C
DEED TAX HAS BEEN PD ON THIS INSTRUMENT

James C. Engel
JUDGE OF PROBATE

Paul H. [Signature]
CIRCUIT JUDGE

100309

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09:56 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
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