

IN THE COURT OF APPEALS OF TENNESSEE
WESTERN SECTION AT NASHVILLE

NASHVILLE PAINTING CORP.,)
)
Plaintiff/Appellee,)
)
v.) NO. 01A01-9510-CH-00491
) (Williamson Chancery No. 21816)
RAY BELL CONSTRUCTION CO.,)
INC., and INSURANCE COMPANY OF)
NORTH AMERICA,)
)
Defendants/Appellants.)

ORDER

FILED

December 6, 1996

**Cecil W. Crowson
Appellate Court Clerk**

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On August 21, 1996, the Court entered its opinion in this matter. The opinion affirmed the trial court's judgment. Appellants timely filed a petition for rehearing on September 3, 1996. In their petition, Appellants assert, *inter alia*, that the Court misstated or overlooked two material facts in this case. Specifically, Appellants point out that the statement in the opinion finding that "[b]etween June and September, NPC remained on the site painting punch-list items" is inconsistent with the later statement in the opinion that "...the work performed between June and September was ... extra-contractual work." Furthermore, Appellants assert that the Court materially misstated a fact when it stated, "NPC submitted a claim for the extra work it allegedly performed, but Bell refused to pay."

Upon consideration of the foregoing, it appears to the Court that the inconsistency and error asserted by Appellants are not outcome determinative and do not warrant any alteration of this Court's judgment. Accordingly,

IT IS ORDERED that Appellants' petition for rehearing be denied.

Entered, this the ____ day of December, 1996.

HIGHERS, J.

CRAWFORD, P.J., W.S.

FARMER, J.