

STATE OF MAINE
YORK, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-11-91
PAF -YOR-10/26/2011

**MICHAEL C. BECKER AND REBECCA)
LUCERO BECKER,)**

Plaintiffs)

vs.)

L.J. DIPALMA, INC.,)

Defendant)

ORDER

After consideration of Defendant’s Motion to Dismiss pursuant to M.R.Civ.P. 12(b)(6) and any opposition thereto, the motion is Granted.

The plaintiffs’ home was constructed and purchased in 2002, which is when their cause of action accrued. Plaintiffs’ action was commenced in April, 2011, 9 years after the cause of action accrued, and 3 years beyond the applicable 6-year statute of limitations.

Plaintiffs do not have a fiduciary or confidential relationship with the defendant, and the discovery rule does not apply in construction cases like this, even where a latent defect is alleged. Dunelaw Owners’ Association et al v. Gendreau, 2000 ME 94 ¶14, 750 A.2d 591, 596.

The Complaint is dismissed with prejudice as time barred.

This Order shall enter upon the civil docket.

Dated: *October 26, 2011*

Paul A. Fairbanks

Justice, Superior Court

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