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## **ALABAMA COURT OF CIVIL APPEALS**

**OCTOBER TERM, 2010-2011**

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**2090591**

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**Dusty Polk and Lezanne Proctor**

**v.**

**Leslie Polk**

**Appeal from Baldwin Circuit Court  
(CV-07-900475)**

MOORE, Judge.

Dusty Polk and Lezanne Proctor sued Leslie Polk and Polk Plumbing, LLC ("the LLC"), asserting, among others, claims of breach of fiduciary duty. Leslie and the LLC counterclaimed against Dusty and Lezanne, asserting, among others, claims of

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conversion. The case was tried before a jury; only Dusty's and Lezanne's breach-of-fiduciary-duty claims against Leslie and the LLC's conversion claim against Dusty were submitted to the jury.<sup>1</sup> The jury found in favor of Dusty and Lezanne on their claims against Leslie and awarded each of them \$1 in compensatory damages; the jury found in favor of Dusty on the LLC's counterclaim. The trial court entered a judgment on the jury's verdict.

Dusty and Lezanne moved for a new trial, asserting, among other things, that the jury's award of compensatory damages to them was inadequate based upon the evidence presented at the trial. The trial court denied that motion without stating its reasons for doing so. Dusty and Lezanne appealed.

The trial court erred in denying Dusty and Lezanne's motion for a new trial without providing a written statement of the reasons for its denial. We, therefore, remand this case for the trial court to enter an order in compliance with Hammond v. City of Gadsden, 493 So. 2d 1374 (Ala. 1986),

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<sup>1</sup>Dusty and Lezanne's remaining claims against the LLC were disposed of by either the entry of a summary judgment or the entry of a judgment as a matter of law in favor of the LLC. Dusty and Lezanne have not appealed the judgments disposing of their claims against the LLC.

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stating its reasons for denying the motion for a new trial. See Southern Pine Elec. Coop. v. Burch, 878 So. 2d 1120 (Ala. 2003) (remanding case to the trial court for the entry of a Hammond order); and Love v. Johnson, 775 So. 2d 127 (Ala. 2000) (accord). The trial court is instructed to file a return to this court within 28 days of the release of this opinion, after which Dusty and Lezanne will have 14 days to file a supplemental brief if they choose to do so. Leslie will then have seven days to respond, and Dusty and Lezanne may file a reply brief within seven days of Leslie's response.

REMANDED WITH INSTRUCTIONS.

Pittman, Bryan, and Thomas, JJ., concur.

Thompson, P.J., concurs in the result, without writing.