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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

The Honorable Michael G. Nettles
Circuit Court Judge

Appellate Case No. 2021-000325

Evarista Juan Lorenzo, Appellant,

v.

Port City Elevator, Inc.; Alan Topper d/b/a All Construction; 2020 Custom Contractors a/k/a 2020 Custom Contractors, LLC; Citadel Site Management, LLC; DVBT Construction a/k/a DVBT Construction, LLC; DVBT Multiservices, LLC; Beverly Construction Group, LLC; Beverly Homes, LLC; Beverly Homebuilders, LLC; Strand Paint Contractors, LLC; Depaz Painting, LLC; Enhanced Heating & Air Conditioning, LLC; Carlton Pender, and Joan Pender, Defendants,

Of Which, Alan Topper d/b/a All Construction; Citadel Site Management, LLC; Beverly Homes, LLC; Beverly Homebuilders, LLC; Strand Paint Contractors, LLC; Depaz Painting, LLC and Enhanced Heating & Air Conditioning, LLC are the Respondents.

RECORD ON APPEAL
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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF GEORGETOWN)	Docket No.: 2018-CP-22-824
EVARISTA JUAN LORENZO,)	
)	
Plaintiff,)	
)	**ORDER DISMISSING DEFENDANT BEVERLY HOMES, LLC FROM THIS LAWSUIT**
v.)	
)	
PORT CITY ELEVATOR, INC., ALAN TOPPER D/B/A ALL CONSTRUCTION, 2020 CUSTOM CONTRACTORS A/K/A 2020 CUSTOM CONTRACTORS, LLC, CITADEL SITE MANAGEMENT, LLC, DVBT CONSTRUCTION A/K/A DVBT CONSTRUCTION, LLC, DVBT MULTISERVICES, LLC, BEVERLY CONSTRUCTION GROUP, LLC, BEVERLY HOMES, LLC, BEVERLY HOMEBUILDERS, LLC, STRAND PAINT CONTRACTORS, LLC, DEPAZ PAINTING LLC, ENHANCED HEATING & AIR CONDITIONING, LLC, CARLTON PENDER, AND JOAN PENDER)	
)	
Defendants.)	

On December 4, 2020, this Court held a hearing on Defendant Beverly Homes, LLC's Motion to Dismiss. Based upon the review of the record, the submitted memoranda, and the arguments of counsel, this Court grants the motion.[1]

Before filing the lawsuit, Plaintiff filed a claim for her injuries with the South Carolina Worker's Compensation Commission, and she has continued to pursue

[1] The Court notes that all of the exhibits listed in this Order have been filed previously with the Court as part of the motions and memoranda filed, and this Order makes reference to those exhibits as discussed.

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that claim for several years. Plaintiff added Beverly Construction Group, LLC, Beverly Homes, LLC, and Beverly Homebuilders, LLC as defendants to the Second Amended Complaint filed January 15, 2020. Meanwhile, throughout this tort litigation filed with the Court of Common Pleas, Plaintiff has maintained that Beverly Homes, LLC was a general contractor for the construction of the Pender home where she suffered her injuries. Plaintiff has made this assertion against Beverly Homes, LLC in written discovery responses, her architect/contractor expert's deposition testimony, and numerous memoranda and arguments made to the court. Beverly Homes, LLC "denie[d] it had any involvement with the project or construction described in the Complaint. See Defendant Beverly Homes, LLC's Answer to Second Amended Complaint ¶ 4. Beverly Homes, LLC is not a contractor and has never been licensed to perform contracting work.

In this litigation, Plaintiff has made numerous arguments in support of her claim that Beverly Homes, LLC was a general contractor:

A. In response to Beverly Homes, LLC's summary judgment motion, Plaintiff's March 23, 2020 memorandum argued:

- "Plaintiff was working at a construction site at or near 39 Gasparilla Circle, Murrells Inlet, South Carolina where Defendants were also performing work."
- "Plaintiff alleges personal injury against Defendants as a result of her fall down an unmarked and open elevator shaft that was created and/or was under the control of Defendants."
- "The [Second Amended Complaint]" enumerated causes of action against Defendants including negligence in the creation, maintenance, and/or allowance of a dangerous condition on the premises."
- "It is clear that Defendant Beverly Homes LLC had a duty of care to Plaintiff since Beverly Homes LLC had control over the subject premises and control over the hiring of specific subcontractors performing work at the property.

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- "Specifically, there are questions as to the control and ownership of the premises, Defendant Beverly Homes, LLC's role and obligations on the subject construction site, the maintenance and inspections of the subject site, and if subcontractors selected and paid by Defendant Beverly Homes LLC contributed to Plaintiff's fall."

- "... [I]t is clear that the subcontractors believed that Beverly Homes had hired them and was responsible for payment of the services provided at the [Pender] home."

- "The evidence shows that Beverly Homes hired specific subcontractors to work at the subject premises which indicates Beverly Homes LLC had control over the property and work being performed at the property."

- Beverly Homes, LLC requested temporary electrical services from Santee Cooper and included a "Residential Service Extension" listing Beverly Homes as the "Home Builder" on the application.

- Various subcontractors sent invoices to Beverly Homes for work done at the Pender residence.

Plaintiff's Memorandum in Opposition to Defendant Beverly Homes, LLC's Motion for Summary Judgment, pages 1,6 (emphasis added).

B. Plaintiff's June 19, 2020 reply memorandum continued to assert that Beverly Homes, LLC was a general contractor for the Pender house. In that memorandum, Plaintiff claimed:

- "... [I]t is clear that Defendant Beverly Homes LLC hired subcontractors to perform work at the subject property including Aaron Horne of 2020 Custom Contractors and entered into subcontracts for work to be performed at the subject property which demonstrates the control Defendant Beverly Homes LLC had over the subcontractors performing the work at the subject premises which lead to the subject incident. We intend to prove that Defendant Beverly Homes LLC selected and hired incompetent subcontractors to perform the construction work at the subject premises and failed to adequately supervise and ensure the property safety measures and training of the subcontractors it hired."

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...

- "When one general contractor hires a subcontractor to perform work, that general contractor remains responsible for the subcontractor's work and has control over the subcontractor it hired even if another general contractor or homeowner ultimately pays the subcontractor's invoice for the work performed." (emphasis added).

Plaintiff's Memorandum in Opposition to Defendant Beverly Homes, LLC's Motion for Reconsideration filed June 19, 2020), pages 4-5.

C. Plaintiff's expert (Robin Roberts) also echoed Plaintiff's claims that Beverly Homes was a general contractor for the construction of the Pender residence. In his deposition, he stated:

- Beverly Construction Group, LLC and Beverly Homes, LLC were "co-prime contractors" for the construction of the Pender residence.

- "In general, as being co-prime contractors, this whole thing is their creation."

- "So I think those things make[] them a co-prime contractor on the site; whether they intended to or not, that is what happened. Then they would have the same obligations as any other contractor or subcontractor on the site."

Deposition of Robin Roberts (September 16, 2020), page 162, lines 14-5; page 164, lines 3-4; page 182, lines 7-10; page 162, lines 14-18.

Roberts also opined his belief that Beverly Homes, LLC may have liability as an "employer" under the Occupational Safety and Health Administration (OSHA) rules. Id., page 179, line 23-page 184, line 4. Further, Roberts said every one of his opinions about Beverly Homes, LLC in this litigation were based on his belief that Beverly Homes behaved as a contractor on the Pender home and was a "co-prime contractor" with Beverly Construction Group, LLC. Id., page 175, line 12-page 178, line 23.

D. At the December 4, 2020 hearing, Plaintiff conceded that she had claimed Beverly Homes was a general contractor for the Pender house.

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E. Plaintiff's December 9, 2020 supplemental memorandum argued, among other things,:

- "The 'Builder Warrantee' proves that Beverly Homes LLC had some control over the premises because it states '[t]his Limited Warranty Agreement is extended by Beverly Homes, LLC, of Myrtle Beach, SC, the Builder, to Carlton & Joan Pender, the Purchaser, who is the original Buyer of the property at: Lot 4 Belle Vue....The Builder Warantee lists 'Beverly Homes, LLC' in the heading on the first page and at the bottom of each page where it signed and initialed on June 17, 2016, by Beverly Homes LLC as the builder of this property to the buyers."[2]

Plaintiff's Supplemental Memorandum in Opposition to Defendant Beverly Homes, LLC's Rule 12(b)(1) Motion to Dismiss, pages 3-4.

DISCUSSION

On September 11, 2020, the court granted Beverly Construction Group, LLC's Motion to Dismiss and concluded Beverly Construction Group "is a statutory employer of the Plaintiff and, therefore, Plaintiff's recovery against this Defendant is limited to the Workers' Compensation Act." Order filed September 11, 2020.[3] Beverly Homes' current motion stated it was entitled to a dismissal based on the same arguments made by Beverly Construction Group, LLC because of Plaintiff's repeated contentions in written discovery responses, depositions, motions, and memoranda that Beverly Homes, LLC was a general contractor for the construction of the Pender residence.

The existence or absence of an employment relationship is a jurisdictional fact, and, thus, a question of law. Nelson v. Yellow Cab Co., 349 S.C. 589, 564 S.E.2d 110 (2002). South Carolina policy holds to resolve jurisdictional doubts in

[2] The inclusion of Beverly Homes, LLC as the builder on the "Builder Warrantee" was a clerical mistake as testified to by Randy Beverly and was incorrectly included by an office staff member in the Residential Construction Contract between the Penders and Beverly Construction Group, LLC. Deposition of Randy Beverly, page 72, line 6-page 73, line 6; page 113, line 18-page 117, line 5. Further support for the conclusion of the clerical mistake is evidenced by the fact Randy Beverly of Beverly Construction Group, LLC signed the warranty document.

[3] Beverly Homes, LLC's motion to dismiss did not get scheduled for the September 11, 2020 date when the clerk of court scheduled the hearing on Beverly Construction Group, LLC's Motion to Dismiss.

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favor of the inclusion of employers and employees under the Act. Edens, 359 S.C. at 440, 597 S.E.2d at 867.

In Freeman Mech. V. J.W. Bateson Co., 316 S.C. 95, 447 S.E.2d 197 (1994), the South Carolina Supreme Court held that the prime contractor "enjoy[ed] the immunity created by the [South Carolina Workers' Compensation] Act from common law claims because the prime contractor was potentially liable under the South Carolina Workers' Compensation Act for injuries to a subcontractor's employee. In that case, the Court stated:

> Under the Workers' Compensation Act, the prime contractor is liable for workers' compensation where the sub-contractor's employee is injured on the job. S.C. Code Ann. § 42-1-410 (1985). The doctrine of "statutory employee" is well developed in South Carolina. The employee of the sub-contractor may look to the prime contractor for workers' compensation benefits without regard to whether the sub-contractor is covered by a workers' compensation insurance policy. Where the prime contractor pays for the sub-contractor's employee's injuries through the doctrine of "statutory employee," the prime contractor is entitled to indemnification from the sub-contractor. S.C. Code Ann. § 42-1-440 (1985). Thus, under our workers' compensation scheme, the sub-contractor is primarily liable and the primary contractor secondarily liable for workers' compensation benefits to the sub-contractor's employee.
>
> While the prime contractor is secondarily liable for work-related injuries to the employees of the sub-contractor, the sub-contractor has no such secondary liability for employees of the sub-contractor, the sub-contractor has no such secondary liability for employees of the prime contractor or employees of other sub-contractors on the job....The majority rule is that one who has obligations under the Act enjoys the immunities under the Act.

316 S.C. at 97-98, 447 S.E.2d at 198-199 (case citations omitted).

Plaintiff's argument that Beverly Homes, LLC was a general contractor means Beverly Construction Group, LLC and Beverly Homes, LLC would be considered statutory employers of Plaintiff. Accordingly, Plaintiff's recovery against

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them would be according to the South Carolina Workers' Compensation Act because the Act applies to direct employees and to statutory employees. Once a worker is properly classified as a statutory employee, the sole remedy for work-related injuries is to seek relief under the Workers' Compensation Act, and the employee may not maintain a negligence action against the statutory employer. Edens v. Bellini, 359 S.C. 433, 597 S.E.2d 893 (Ct. App. 2004).

In Edens, the court stated: "If a worker is properly classified as a statutory employee, his sole remedy for work-related injuries is to seek relief under the Workers' Compensation Act. He may not maintain a negligence cause of action against his direct employer or his statutory employer. The exclusivity provision of the Act applies both to 'direct' employees and to those termed 'statutory employees' under § 42-1-400." 359 S.C. at 445, 597 S.E.2d 869. See Freeman Mech. V. J.W. Bateson Co., 316 S.C. 95, 447 S.E.2d 197 (1994) (holding a general contractor "enjoy[ed] the immunity created by the [South Carolina Workers' Compensation] Act from common law claims.").

Other case law also supports dismissal of Beverly Homes, LLC based on Plaintiff's allegations. "The term 'employer' as used in the immunity provision of § 72-121 [now 42-1-540], was clearly intended to include others than the immediate employer. This the Supreme Court of South Carolina has held expressly. We think it must include every person whom the Act makes responsible for compensation." Brittingham v. Williams Sign Erectors, 299 S.C. 259, 384 S.E.2d 319 (Ct. App. 1989) (citing Chavis v. DuPont, 283 F.2d 929 (1960)).

South Carolina courts interpret S.C. Code Ann. §§ 42-1-10 et seq. to provide any general contractor who is potentially liable to pay Worker's Compensation benefits to an injured employee with immunity from tort liability. Freeman Mechanical, *supra.* Plaintiff's argument that Beverly Homes, LLC was a general contractor results in Plaintiff being considered the statutory employee of Beverly Homes, LLC at the time of the accident.

The Act bars recovery for a worker who is considered to be a statutory employee if:

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(1) The activity is an important part of the general contractor's business or trade;
(2) The activity is a necessary, essential, and integral part of the general contractor's trade, business, or occupation; or
(3) The activity is identical to activities previously performed by employees of the general contractor.

Olmstead v. Shakespeare, 354 S.C. 421, 581 S.E.2d 483 (2003); Edens, *supra*. If the activity meets one of these criteria, the worker qualifies as a statutory employee of the general contractor.

In this case, Plaintiff was performing interior painting for the painting subcontractor or that subcontractor's subcontractor at the time of her injury. Interior painting is an activity that is an important part of the business or trade when constructing a new home and is a "necessary, essential, and integral part" of any prime contractor's trade or business. Completion of interior painting of a newly constructed home was part of the construction process for the Pender house and for construction of new homes generally. Deposition of Jonathon Martin, page 40, lines 16-19. Gerald Rion (painting subcontractor) testified that interior painting was "an essential part" and a "very important" element of constructing new residential homes. Deposition of Gerald Rion, page 93, lines 6-16.

Further, painting of the interior walls and trim was a specific element of the "Specifications" for the Pender house and essential to the satisfaction of the contract with the general contractor for the construction of the Pender house. Specifications to Contract, page 4. In addition, the Penders' contract required completion of the interior painting of the home as part of the construction process, with the Penders selecting the paint color. Contract/Specifications. Clearly, the Penders would not have accepted the home or thought the contract fully completed until the interior painting was completed to their satisfaction. In addition, the "Builder Warranties" warranted that the construction-related activities substantially confirmed to the Specifications and any change orders. Builder Warrantee, page 1.

Thus, interior painting of the Pender residence was an activity that was "a necessary, essential, and integral part of the general contractor's trade, business, or

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occupation" and required work by the contract documents between the general contractor and the Penders. Therefore, based on Plaintiff's repeated argument that Beverly Homes was a general contractor for the Penders' home, Beverly Homes is entitled to a dismissal under Rule 12(b)(1), SCRCP.

Plaintiff cannot have it both ways. As Judge Ralph King Anderson once said, "a litigant cannot 'blow both hot and cold'." Quinn v. Quinn, 343 S.C. 411, 540 S.E.2d 474 (Ct. App. 2000) (Judge Ralph King Anderson concurring). The doctrine of judicial estoppel prohibits a party that has assumed a particular position in a judicial proceeding from adopting an inconsistent posture in subsequent proceedings. See e.g., Hayne Federal Credit Union v. Bailey, 327 S.C. 242,489 S.E.2d 472 (1997).

AS AN ALTERNATE AND SEPARATE GROUND TO DISMISS BEVERLY HOMES, LLC[4]

At the December 4, 2020 hearing and in the subsequent December 9, 2020 supplemental memorandum, Plaintiff pivoted from the "general contractor" argument and moved away from the opinions of her architect/contractor expert Roberts, who said all of his opinions against Beverly Homes were based on his belief that Beverly Homes was a "co-prime contractor" with the now-dismissed Beverly Construction Group. Plaintiff's second theory is that Beverly Homes, LLC has liability because it "had control over the premises and was negligent." Plaintiff's Supplemental Memorandum in Opposition to Defendant Beverly Homes, LLC's

[4] A basis for this alternative and separate ruling can also be found under Rule 12(c), SCRCP, and with the procedural rulings in the following cases: Stevens Aviation, Inv. V. DynCorp Int'l, LLC, 407 S.C. 407, 756 S.E.2d 148 (2014) (citing Kassbaum v. Steppenwolf Prods., Inc., 236 F.3d 487, 494 (9th Cir. 2000), which stated "It is generally recognized that a court has the power *sua sponte* to grant summary judgment to a non-movant when there has been a motion but no cross-motion. Cool Fuel, Inc. v. Connett, 685 F.2d 309, 311 (9th Cir. 1982) (When one party moves for summary judgment and at a hearing the record reveals no genuine dispute on a material fact, 'the overwhelming weight of authority supports the conclusion that ... the court may *sua sponte* grant summary judgment to the non-moving party."); Reliford v. Mitsubishi Motors Credit of Am., Inc., 2004 S.C. App. Unpub. LEXIS 566 (S.C. Ct. App. 2004) (affirming trial court's *sua sponte* order granting summary judgment to a non-moving party); Horne v. Beason, 285 S.C. 518, 331 S.E.2d 342 (1985) (affirming trial court's *sua sponte* order dismissing the mayor and councilmen from a wrongful death case filed against the City and arresting officers). Here, Plaintiff made the arguments on the matters ruled upon at the December 4, 2020 hearing and the December 9, 2020 supplemental memorandum. To the extent needed, this Order is based on the summary judgment standard, Rule 56, SCRCP.

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Rule 12(b)(1) Motion to Dismiss, page 3. As part of that argument, Plaintiff alleged that Beverly Homes, LLC "owned" the Pender lot where the house was built. Id., page 4. Plaintiff also argued Beverly Homes, LLC exercised "control" over the Pender lot and construction. After review of those arguments and the record made by Plaintiff on this issue, the Court does not accept Plaintiff's arguments and finds no dispute of any material fact about these issues from the numerous memoranda and arguments made by Plaintiff in this litigation.

To assert a negligence claim under South Carolina law, a plaintiff must show that (1) defendant owed her a duty of care; (2) defendant breached this duty by a negligent act or omission; (3) defendant's breach was the proximate cause of her injuries; and (4) she suffered injury or damages. Dorrell v. S.C. DOT, 361 S.C. 312, 605 S.E.2d 12 (2004). An essential element in a cause of action based upon negligence is the existence of a legal duty of care owed by the defendant to the plaintiff. Bishop v. South Carolina Dep't of Mental Health, 331 S.C. 79, 86, 502 S.E.2d 78, 81 (1998). Without a duty, no actionable negligence exists. Id. "The existence of a duty owed is a question of law for the courts." Doe v. Greenville County Sch. Dist., 375 S.C. 63, 72, 651 S.E.2d 305, 309 (2007) (citing Doe v. Batson, 345 S.C. 316, 323, 548 S.E.2d 854, 857 (2001)).

South Carolina law recognizes four general classifications of persons who come onto a property: (1) adult trespassers; (2) invitees (invited business guests, such as shopper at a store); (3) licensees (social guests); and (4) children. Sims v. Gilles, 541 S.E.2d 857, 861 (S.C. 2001). Different standards of care apply to each classification. An invitee "is a person who enters onto the property of another at the express or implied invitation of the property owner." Goode v. St. Stephens United Methodist Church, 329 S.C. 433, 441, 494 S.E.2d 827, 831 (Ct. App. 1997). An invitee is on the owner's property to benefit the owner and not themselves. Sims v. Giles, 541 S.E.2d 857 (S.C. Ct. App. 2001). An "invitee" is different than a "licensee" because an "invitee confers a benefit on the landowner." Sims v. Giles, 343 S.C. 708, 541 S.E.2d 857 (Ct. App. 2001) (holding that a power company's meter reader was an invitee when entering the customer's property).

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The property owner owes an invitee "the duty of exercising reasonable or ordinary care for his safety, and is liable for injuries resulting from the breach of such duty." Israel v. Carolina Bar-B-Que, Inc., 292 S.C. 282, 289, 356 S.E.2d 123, 128 (Ct. App. 1987). An owner of property is not an insurer of the invitee's safety. The owner owes an invitee the duty to use reasonable care to discover unreasonably dangerous conditions on the premises and (1) either put the premises in a reasonably safe condition for the use and manner consistent with the purpose of the invitation to come on the property or (2) warn the invitee of the dangers which the owner knew or should have known about. Crocker v. Barr, 397 S.E.2d 665 (S.C. Ct. App. 1990). "Under a premises liability theory, a contractor generally equates to an invitor and assumes the same duties that the landowner has, including the duty to warn of dangers or defects known to him but unknown to others." Larimore v. Carolina Power & Light, 340 S.C. 438, 531 S.E.2d 535 (Ct. App. 2000).

BACKGROUND

Beverly Construction Group, LLC and Beverly Homes, LLC are separate and distinct corporations. Beverly Construction Group, LLC is a licensed general contractor. Beverly Construction Group, LLC was the general contractor for the construction of the Pender residence where Plaintiff's injury occurred, and as admitted that status since Plaintiff sued it. Defendant Beverly Construction Group, LLC's Notice of Motion and Rule 12(b)(6) Motion to Dismiss in Lieu of Answer, page 2. Carlton Pender also signed an Affidavit confirming that he contracted with Beverly Construction Group, LLC for the construction of the home and Beverly Construction Group, LLC "was responsible of the subject property and coordination of all construction activities...." Affidavit of Carlton Pender, ¶¶ 2-3 (filed March 11, 2020). Interestingly, Plaintiff admitted earlier in this litigation that the Penders "contracted with Beverly Construction Group, LLC to build a residential home on the Penders' property." Plaintiff's Memorandum in Opposition to Defendants' Carlton Pender and Joan Pender's Motion to Dismiss filed March 11, 2020, page 2. Forrest Beverly is the managing member for Beverly Construction Group, LLC.

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Deposition of Forrest Beverly, page 12, lines 6-8 (Exhibit 2). His sister, Rebecca Beverly, is a minority owner of Beverly Construction Group, LLC. Id., page 13, lines 7-14.

Meanwhile, Beverly Homes, LLC is a real estate acquisition company that sells and develops lots. Deposition of Randy Beverly (December 10, 2020), page 25, line 20-page 26, line 1. Beverly Homes, LLC is owned by Forrest Beverly and his father (Randy Beverly). Deposition of Randy Beverly, page 159, lines 16-19. Beverly Homes, LLC does not have a general contractor's license, has never been a general contractor, has never been a contractor, and has never built a residence. Id., page 33, line 24-page 36, line 5. Of note, Beverly Homes, LLC was not involved in the construction of the Pender home and did not perform any work at the Pender house. Deposition of Randy Beverly, page 34, line 20-page 35, line 6; Deposition of Rebecca Beverly (December 10, 2020), page 28, lines 19-25.

DISCUSSION

Plaintiff's arguments to the Court at the recent hearing and the supplemental memorandum demonstrate a failure of proof on the issues.

(1) Plaintiff has offered no proof Beverly Homes, LLC had knowledge of any defect or dangerous condition at the Pender residence.

Randy Beverly (owner of Beverly Homes, LLC) testified Beverly Homes, LLC (1) did not perform any work at the Pender house; (2) did not go inside the house; (3) did not inspect the house; (4) did not hire any subcontractors for the house; and (5) did not supervise any person or company doing work at the house. Deposition of Randy Beverly, page 35, line 3-page 39, line 17. The following exchanges between Plaintiff's attorney and Randy Beverly are revealing:

> Q: Would you agree that Beverly Homes, LLC was not involved with the construction of the Pender Residence?
> A: Yes, ma'am.
> ...

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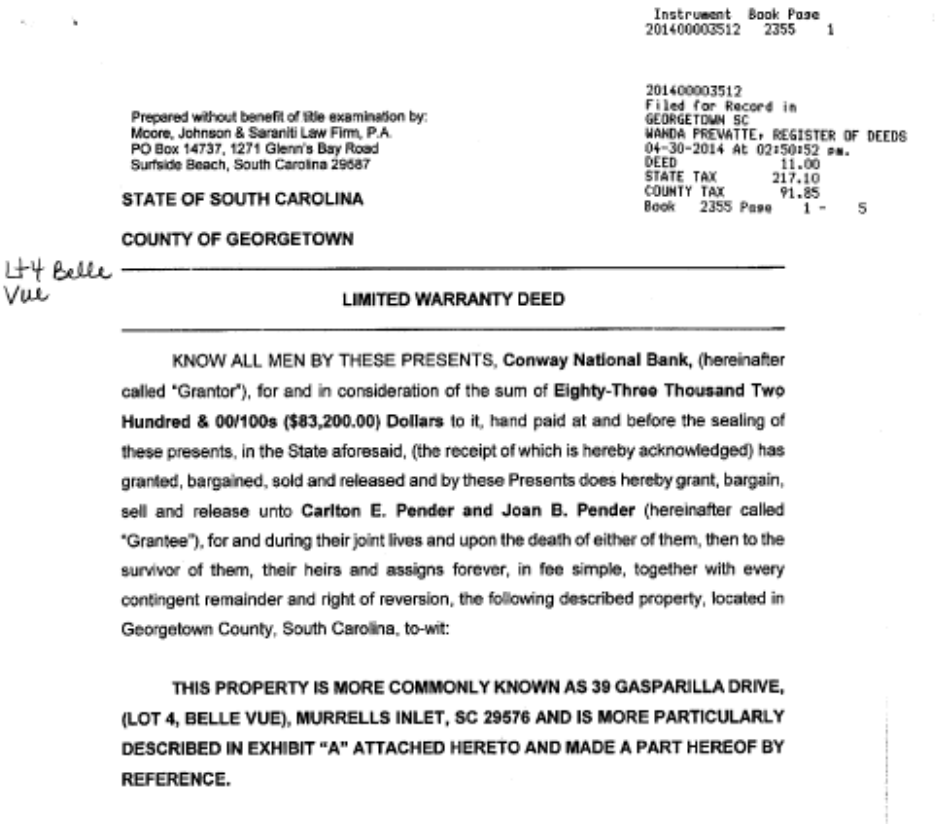
Q: And do you agree with that statement that Defendant [] Beverly Homes, LLC did not perform work at and was not involved with the construction of the Pender Residence?

A: Yes, ma'am.

Id., page 34, line 24-page 35, line 2; page 55, lines 14-18. In sum, Plaintiff did not provide any evidence that Beverly Homes, LLC knew anything about any alleged dangerous condition at the Pender home while it was under construction. Accordingly, Beverly Homes, LLC did not breach any duty. This holding is consistent with the determination in Larimore v. Carolina Power & Light, 340 S.C. 438, 531 S.E.2d 535 (Ct. App. 2000).

(2) Beverly Homes, LLC never owned the Pender lot.

The Penders have owned the lot in question since April 30, 2014 when they purchased it from Conway National Bank for $83,200.00.



Instrument Book Page
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Filed for Record in
GEORGETOWN SC
WANDA PREVATTE, REGISTER OF DEEDS
04-30-2014 At 02:50:52 pm.
DEED 11.00
STATE TAX 217.10
COUNTY TAX 91.85
Book 2355 Page 1 - 5

Prepared without benefit of title examination by:
Moore, Johnson & Saraniti Law Firm, P.A.
PO Box 14737, 1271 Glenn's Bay Road
Surfside Beach, South Carolina 29587

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

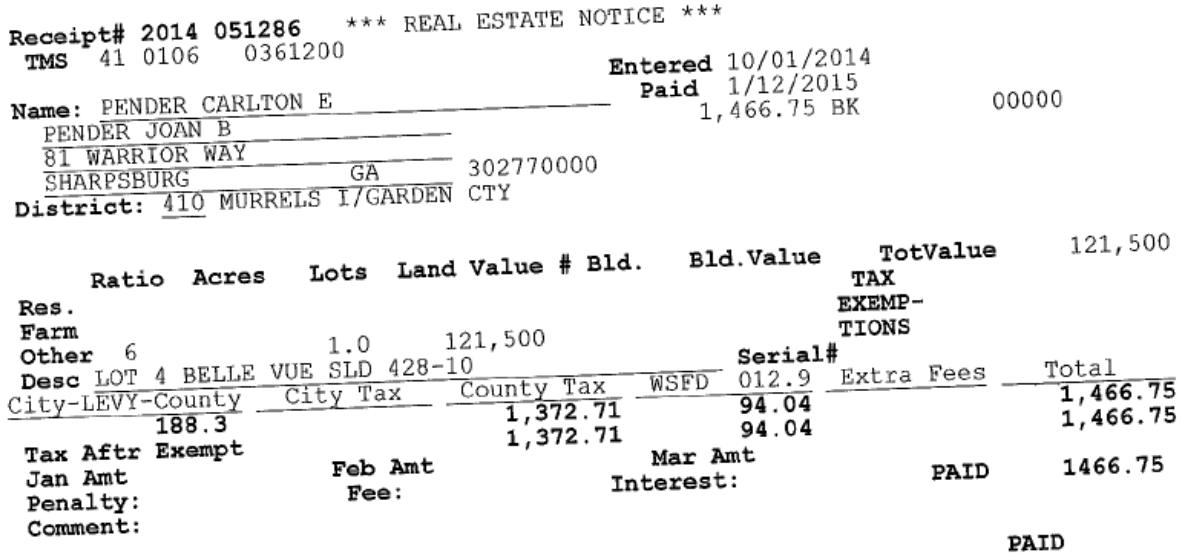
Lt 4 Belle Vue

LIMITED WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, **Conway National Bank,** (hereinafter called "Grantor"), for and in consideration of the sum of **Eighty-Three Thousand Two Hundred & 00/100s ($83,200.00) Dollars** to it, hand paid at and before the sealing of these presents, in the State aforesaid, (the receipt of which is hereby acknowledged) has granted, bargained, sold and released and by these Presents does hereby grant, bargain, sell and release unto **Carlton E. Pender and Joan B. Pender** (hereinafter called "Grantee"), for and during their joint lives and upon the death of either of them, then to the survivor of them, their heirs and assigns forever, in fee simple, together with every contingent remainder and right of reversion, the following described property, located in Georgetown County, South Carolina, to-wit:

THIS PROPERTY IS MORE COMMONLY KNOWN AS 39 GASPARILLA DRIVE, (LOT 4, BELLE VUE), MURRELLS INLET, SC 29576 AND IS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE.

Limited Warranty Deed (Instrument: 201400003512) filed with Georgetown County Register of Deeds. The Penders' purchase occurred approximately three years before construction began on the lot. Further, Georgetown County tax records also show that the Penders have paid the property taxes on the property (and later the property and home) since 2014.



Receipt# 2014 051286 *** REAL ESTATE NOTICE ***
TMS 41 0106 0361200
Entered 10/01/2014
Paid 1/12/2015
1,466.75 BK 00000
Name: PENDER CARLTON E
PENDER JOAN B
81 WARRIOR WAY
SHARPSBURG GA 302770000
District: 410 MURRELS I/GARDEN CTY

Ratio	Acres	Lots	Land Value	# Bld.	Bld.Value	TotValue	121,500
Res.						TAX EXEMP-TIONS	
Farm							
Other 6		1.0	121,500				
Desc LOT 4 BELLE VUE SLD 428-10					Serial#		
City-LEVY-County	City Tax	County Tax	WSFD	012.9	Extra Fees	Total	
188.3		1,372.71		94.04		1,466.75	
		1,372.71		94.04		1,466.75	

Tax Aftr Exempt
Jan Amt
Penalty:
Comment:
Feb Amt
Fee:
Mar Amt
Interest:
PAID 1466.75
PAID

The references to Beverly Homes, LLC as the "owner" of the lot as stated in the various documents raised by Plaintiff were clearly and succinctly explained by Randy Beverly. He indicated each entry was "an honest, clerical mistake." See Deposition of Randy Beverly, page 80, lines 8-18; page 87, lines 19-page 89, line 22; page 92, line 10-page 93, line 6. An objective evaluation of the building permit request shows, for example, numerous handwriting and numerous pen colors, which indicate some form document was incorrectly used to input the information for permitting with Georgetown County.[5] In any event, Beverly Homes, LLC was not the owner of the lot or property as evidenced by the deed between the Penders and Conway National Bank and the receipts showing the Penders paid the property taxes from 2014 to present.

[5] See page 28 of this Order for the Permit Application.

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Of interest, the court notes that Plaintiff also abandoned this argument with one of it more recent filings when she stated "Defendant Beverly Homes LLC was not the owner of the subject property" in response to the current motion. Plaintiff's Memorandum in Opposition to Defendant Beverly Homes, LLC's Rule 12(b)(1) Motion to Dismiss (filed September 4, 2020), page 4 (emphasis added). Plaintiff repeated that statement on page 10 of the December 9, 2020 supplemental memorandum.

(3) Plaintiff has not proven the claim that Beverly Homes "had control" of the Pender property or construction.

Plaintiff has not produced any evidence that any owner or employee of Beverly Homes, LLC ever set foot on the Pender lot before or during construction. Plaintiff has also not produced any evidence that Beverly Homes, LLC directed the construction of the Pender home. To the contrary, before Plaintiff sued any Beverly entity in this case, Forrest Beverly (the owner of the general contractor, Beverly Construction, LLC) was deposed by Plaintiff. He testified:

- Beverly Construction Group, LLC was responsible for hiring all of the subcontractors for the construction of the new home at 39 Gasparilla Circle. Deposition of Forrest Beverly, page 16, lines 21-25.

- Beverly Construction Group, LLC hired all of the subcontractors for the construction of the new home at 39 Gasparilla Circle. Id., page 20, lines 6-8.

- Beverly Construction Group, LLC was responsible for coordinating all of the trades and subcontractors involved with the construction of the new home at 39 Gasparilla Circle. Id., page 17, lines 1-4.

- Beverly Construction Group, LLC was responsible for inspecting all of the work performed by the subcontractors involved with the construction of the new home at 39 Gasparilla Circle. Id., page 17, lines 5-8.

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- Beverly Construction Group, LLC "would have been the contractor onsite handling the vertical construction of the house." Id., page 162, lines 17-24.

- Beverly Construction Group, LLC employed Jonathan Martin as the construction supervisor for the project. Id., page 17, lines 13-21.

- Jonathan Martin's responsibilities for the project at 39 Gasparilla Circle included "coordinat[ing] day-to-day operation of the job, coordinat[ing] subcontractors, and quality control." Id., page 18, lines 6-10.

- Beverly Construction Group, LLC still employed Jonathan Martin as a construction supervisor on the date of Beverly's deposition. Id., page 17, line 22-page 18, line 2.

- All invoices from subcontractors should have been addressed to Beverly Construction Group, LLC. Id., page 34, lines 3-20.

- Beverly Construction Group, LLC paid the invoices submitted from subcontractors for the construction of the new home at 39 Gasparilla Circle. Id., page 34, lines 3-22.

Further, an objective analysis of the documents submitted by Plaintiff do not prove Beverly Homes, LLC had "control" of the property or the construction.

A. Plaintiff's claim that Beverly Homes, LLC contracted with the elevator subcontractor is incorrect.

While true that the proposal submitted from Port City Elevators lists "Elevator for: Beverly Homes, 9007 Highway 544, Myrtle Beach, SC 29588," the plain face of the Contract document shows "Beverly Construction Group" accepted the contract and Port City sent the "Final Invoice" to Beverly Construction Group.

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18. We propose to furnish and erect the elevator installation as outlined in the accompanying proposal for the sum of **$ 19,500.00 (Nineteen Thousand Five Hundred Dollars)**

Respectfully submitted,
Port City Elevator, Inc.
By: Seth Newman

ACCEPTANCE:
Firm: Beverly Cons. Group
By: _____
Title: Cons. Super
Date: 12-6-16

Date:
ACCEPTANCE:
By: _____
Homeowner
By: _____
Homeowner
Date: _____

Contract.

PORT CITY ELEVATOR, INC.

3334 US Hwy 421, Suite B
Wilmington, NC 28401

DATE: March 10, 2017
INVOICE # 858
FOR: *Pender Final*

Bill To:
Beverly Construction Group, LLC
9007 Hwy 544
Myrtle Beach, SC 39588

Job Information:
Pender Residence
39 Gasparilla Circle
Murrells Inlet, SC 29576

DESCRIPTION	AMOUNT
Final Invoice for elevator	19,500.00
Added 3 keyed hall calls $75.00 Ea	225.00
Deposit paid	(9,000.00)

Further, Beverly Construction Group, LLC paid Port City Elevator for the elevator work at the Pender residence, as evidence by the following checks and the deposition testimony from Forrest Beverly:

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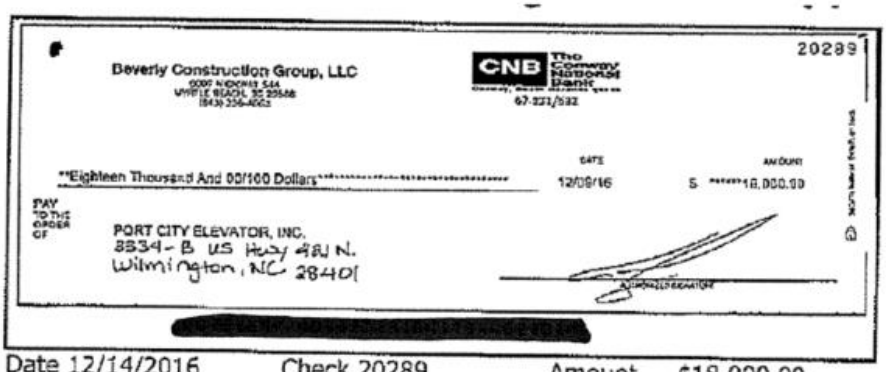

Deposition of Forrest Beverly, page 34, lines 3-22. The other cancelled checks submitted in the supplemental memorandum (and provided to Plaintiff) showed Beverly Construction Group paid every subcontractor cited by Plaintiff.

Randy Beverly recently testified that he had no knowledge of the Port City proposal and that no employee of Beverly Homes, LLC had ever spoken to an employee of Port City Elevator. Deposition of Randy Beverly, page 46, lines 9-16; page 86, line 21-page 87, line 3.

B. Plaintiff's claims that various subcontractors submitted invoices to Beverly Homes, LLC also does not prove Beverly Homes, LLC had "control".

Plaintiff has not offered any subcontract signed by Beverly Homes to support this contention. To the contrary, Beverly Construction Group has produced the cancelled checks showing it paid every subcontractor for the

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work to the Pender house. Further, the affidavits of Rebecca Beverly and Randy Beverly filed in this case detailed the following:

> ... Beverly Homes, LLC did not pay for any permit, work, or material for the Pender residence and did not receive any money from the construction or sale of the Pender house. Affidavit of Rebecca Beverly, ¶ 8. Further, Beverly Construction Group, LLC paid all invoices and bills referenced in Plaintiff's Memorandum in Opposition to Defendant Beverly Homes, LLC's Motion for Summary Judgment that involved the Pender house and that were addressed mistakenly by various subcontractors and vendors to "Beverly Homes." Id., ¶¶ 5, 7. These payments were made by and drawn on accounts in the name of Beverly Construction Group, LLC. Id. Beverly Homes, LLC did not process or have any involvement with the payment of these invoices and bills. Id., ¶6. In addition, the invoice from Carolina Bays Landscaping included in Plaintiff's memorandum did not involve the Pender house. Id., ¶ 9; Affidavit of Randy Beverly, ¶¶ 4-6.

When asked by Plaintiff's attorney why Beverly Homes was listed on a number of invoices from subcontractors, Forrest Beverly replied:

> "That's just how some people perceive it. I mean, we don't correct them when it comes in, but all the invoices were paid on Beverly Construction Group. Beverly Homes is actually not even a general contractor. It has different ownership."

Id., page 159, lines 8-15. Forrest Beverly said the subcontractors erred when they made invoices that said "Beverly Homes" or "Beverly Homes. LLC". Id., page 160, lines 17-20. The invoice should have stated "Beverly Construction Group." Id., page 160, lines 21-22.

> "Obviously, normally our file is not dissected at this kind of level, so we're not worried about getting exact—our people know what they mean and what it needs to be paid from, so they handle it. That's just a situation where a subcontractor, I guess, just assumed it was Beverly Homes for whatever reason.
>
> Beverly Homes—we do market Beverly Homes, you know, and they do development-type stuff, but this is a different scenario than that. They were totally exclusive from each other in this particular case."

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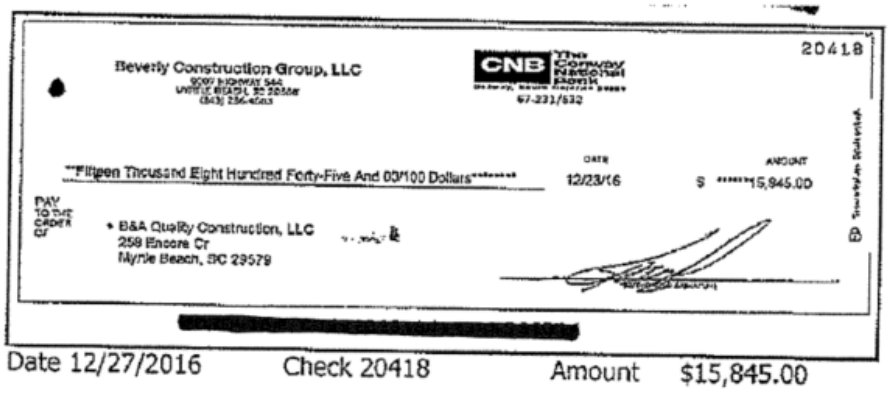
Id., page 160, line 23-page 161, line 9. Beverly Homes, LLC does not have any contractor license and is "a land development company." Id., page 159, lines 20-21. Beverly Construction Group, LLC paid the invoices submitted from subcontractors for the Pender house. Id., page 34, lines 3-22.

As further proof, Randy Beverly testified that he never received the invoice from Chris Langston and did not pay it. Deposition of Randy Beverly, page 93, line 25-page 94, line 18 (but Forrest Beverly received it for Beverly Construction Group, LLC). Randy Beverly also testified he "[did] not know who [subcontractor B&A Quality Construction is." Id., page 98, lines 1-4. He also had no idea why Strand Engineering invoiced for work at the Pender house, but Beverly Homes never received or paid the invoice. Id., page 98, line 22-page 99, line 16. Further, Randy Beverly testified Beverly Homes has never hired Faith Landscaping, Palmetto Concrete, or Gale Contractor Services for work. Id., page 100, lines 4-17; page 101, line 12-page 103, line 5; page 103, line 18-page 104, line 19.

These cancelled checks show Beverly Construction Group paid the invoices in question:



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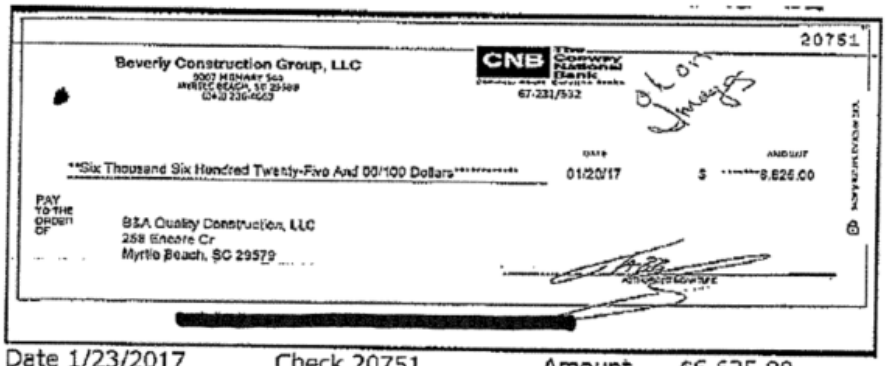

20751

Beverly Construction Group, LLC

CNB The Conway National Bank

67-231/532

Six Thousand Six Hundred Twenty-Five And 00/100 Dollars********

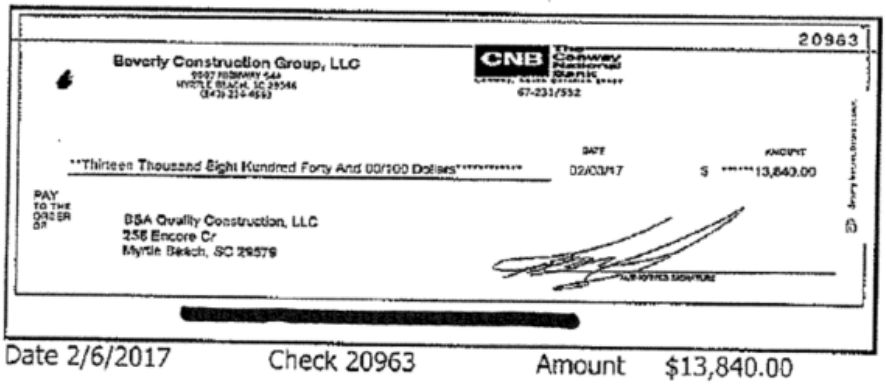
DATE 01/20/17

AMOUNT $ ******6,625.00

PAY TO THE ORDER OF

B&A Quality Construction, LLC
258 Encore Cr
Myrtle Beach, SC 29579

Date 1/23/2017 Check 20751 Amount $6,625.00


20963

Beverly Construction Group, LLC

CNB The Conway National Bank

67-231/532

Thirteen Thousand Eight Hundred Forty And 00/100 Dollars********

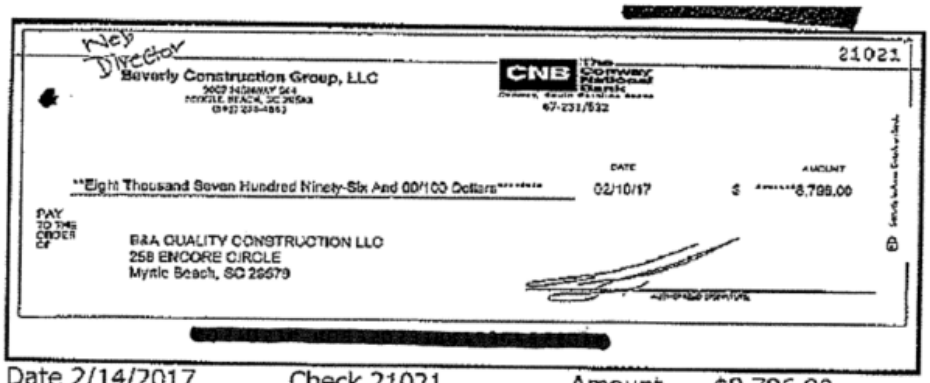
DATE 02/03/17

AMOUNT $ ******13,840.00

PAY TO THE ORDER OF

B&A Quality Construction, LLC
258 Encore Cr
Myrtle Beach, SC 29579

Date 2/6/2017 Check 20963 Amount $13,840.00


21021

Beverly Construction Group, LLC

CNB The Conway National Bank

67-231/532

Eight Thousand Seven Hundred Ninety-Six And 00/100 Dollars********

DATE 02/10/17

AMOUNT $ ******8,796.00

PAY TO THE ORDER OF

B&A QUALITY CONSTRUCTION LLC
258 ENCORE CIRCLE
Myrtle Beach, SC 29579

Date 2/14/2017 Check 21021 Amount $8,796.00

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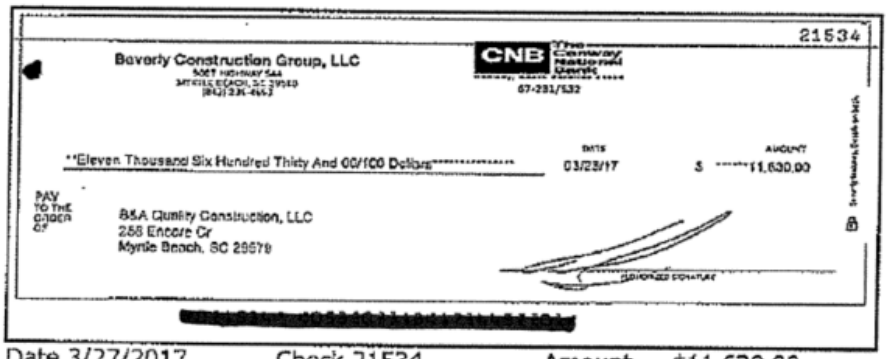
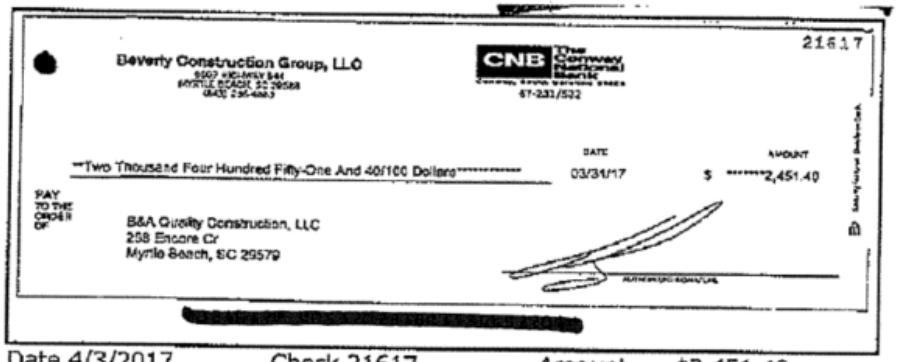
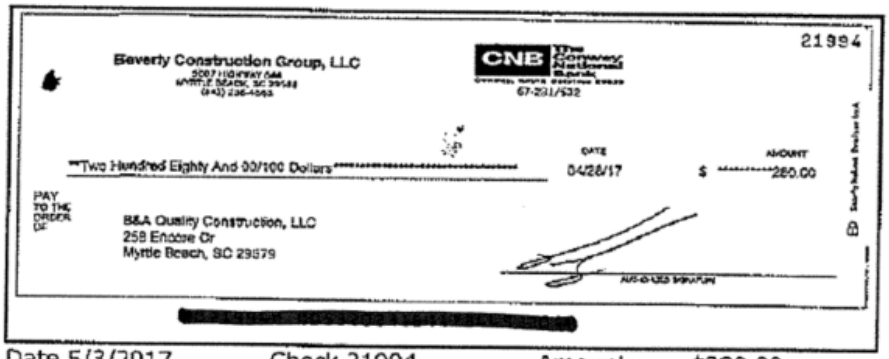


Date 3/27/2017 Check 21534 Amount $11,630.00



Date 4/3/2017 Check 21617 Amount $2,451.40



Date 5/3/2017 Check 21994 Amount $280.00

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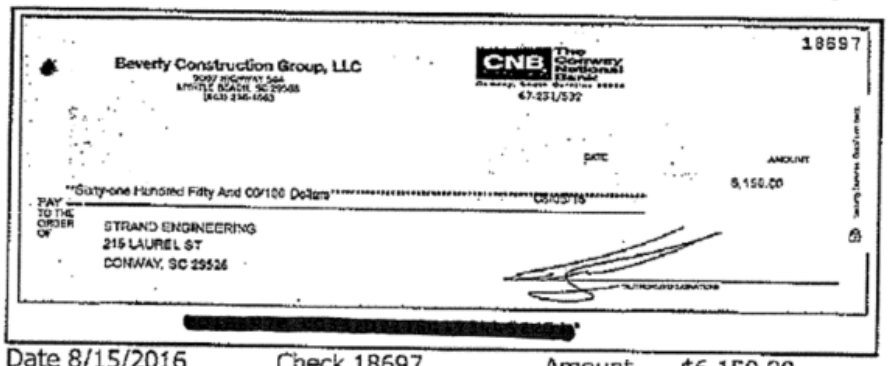
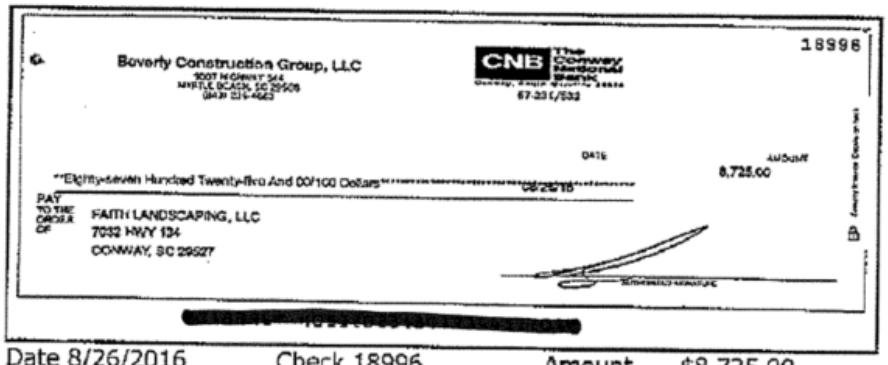
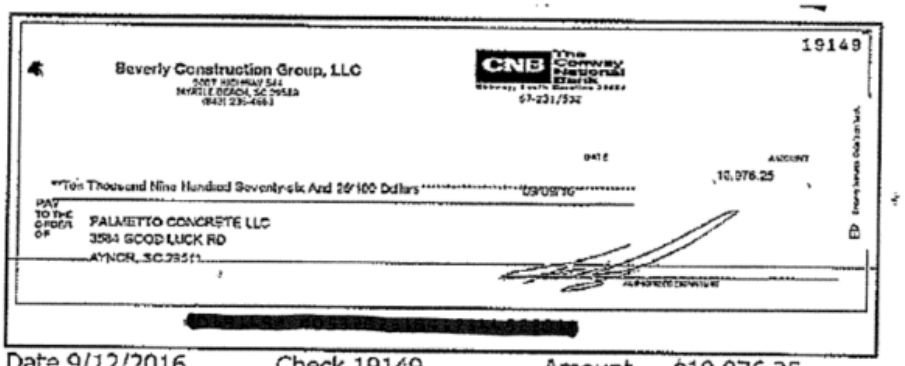


Date 8/15/2016 Check 18697 Amount $6,150.00



Date 8/26/2016 Check 18996 Amount $8,725.00



Date 9/12/2016 Check 19149 Amount $10,976.25

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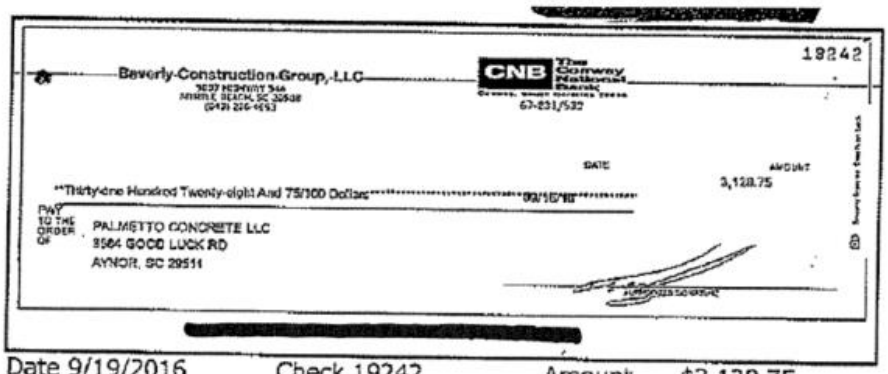
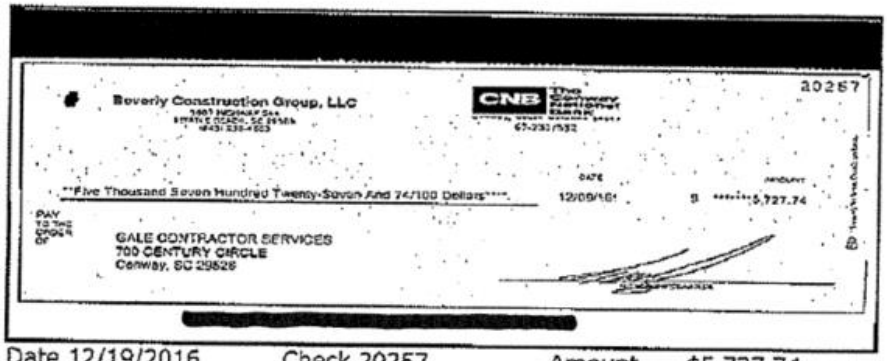

Beverly Construction Group, LLC
19242
CNB The Conway National Bank
67-231/532
DATE
AMOUNT
3,128.75
Thirty-one Hundred Twenty-eight And 75/100 Dollars
PAY TO THE ORDER OF
PALMETTO CONCRETE LLC
9564 GOOD LUCK RD
AYNOR, SC 29511

Date 9/19/2016 Check 19242 Amount $3,128.75


Beverly Construction Group, LLC
20257
CNB The Conway National Bank
67-231/532
DATE
AMOUNT
Five Thousand Seven Hundred Twenty-Seven And 74/100 Dollars
12/09/16
$ **5,727.74
PAY TO THE ORDER OF
GALE CONTRACTOR SERVICES
700 CENTURY CIRCLE
Conway, SC 29526

Date 12/19/2016 Check 20257 Amount $5,727.74

Beverly Construction Group, LLC
21745
CNB The Conway National Bank
67-231/532
DATE
AMOUNT
Four Thousand Three Hundred Fifty And 04/100 Dollars
04/07/17
$ **4,350.04
PAY TO THE ORDER OF
GALE CONTRACTOR SERVICES
700 CENTURY CIRCLE
Conway, SC 29526

Date 4/17/2017 Check 21745 Amount $4,350.04

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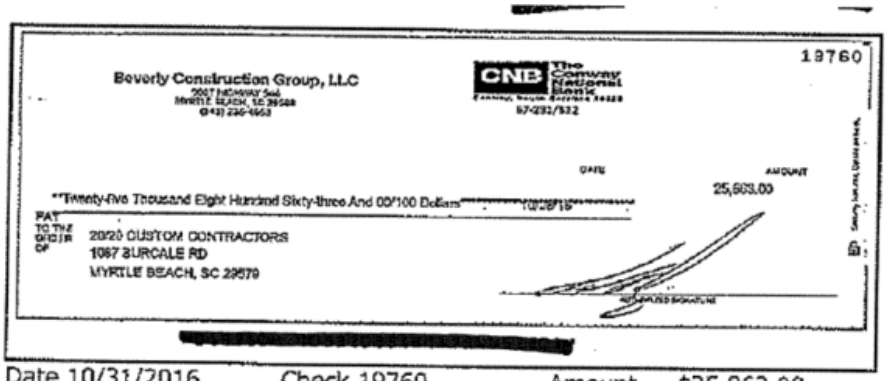
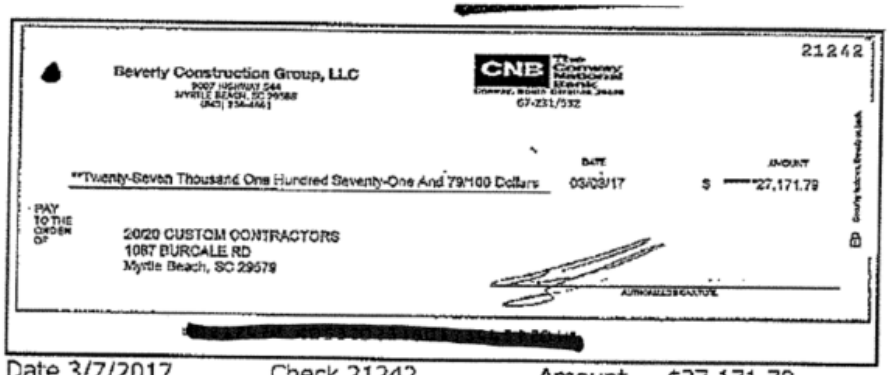


Date 10/31/2016 Check 19760 Amount $25,863.00

Date 12/5/2016 Check 20142 Amount $29,702.00



Date 3/7/2017 Check 21242 Amount $27,171.79

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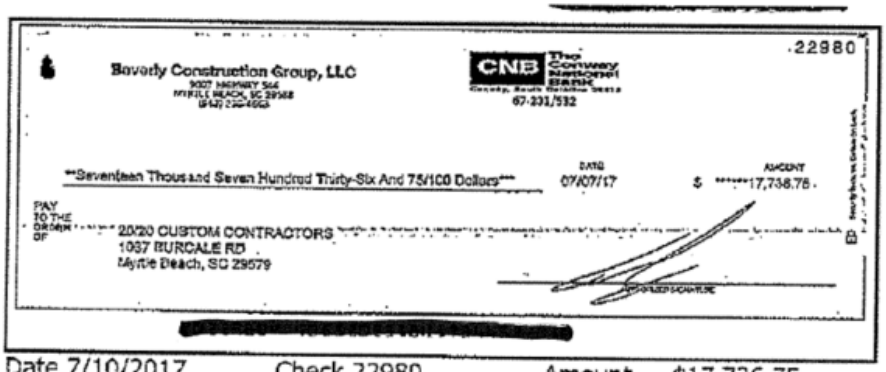
Date 5/22/2017 Check 22318 Amount $7,098.00



Date 7/10/2017 Check 22980 Amount $17,736.75

Date 2/12/2018 Check 25917 Amount $23,613.00

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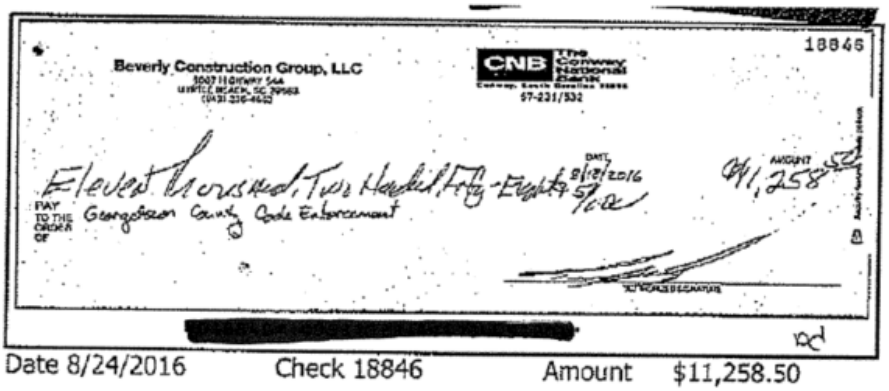
C. Plaintiff argued the computer generated receipt from Georgetown County proved Beverly Homes paid for the building permit; however, the actual evidence in this case proved that allegation incorrect.

Beverly Homes' April 20, 2020 Supplemental Memorandum included the actual cancelled check from Beverly Construction Group, LLC (see below) made payable to Georgetown County for the building permit. Any subsequent receipt from Georgetown County that incorrectly named the payor of the fees for the Pender house building permit would not create any dispute of material fact.



Date 8/24/2016 Check 18846 Amount $11,258.50

Further, an objective review of the actual permit application showed numerous colored pens and handwriting that unquestionably demonstrate that Beverly Construction Group, LLC used a form document and then made a clerical mistake when it listed Beverly Homes as the "owner." As shown, the deed and tax payments show the Penders owned the lot for approximately three years before construction began. And, the chain of title for the property in question never lists Beverly Homes as the owner of this lot at any point in time. Thus, Beverly Homes, LLC never "owned" the property. Attached is the permit application:

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GEORGETOWN COUNTY
PLANNING & DEVELOPMENT DEPARTMENT
BUILDING DIVISION

129 Screven Street
P.O. Drawer 421270
Georgetown, SC 29442
(843) 545-3116
Fax: (843) 545-3296

BUILDING PERMIT APPLICATION

DATE RECEIVED 8/8/2016 PERMIT # 21400

STREET ADDRESS 39 Gasparilla Dr SUBDIVISON/ SECTION OF COUNTY Belle Vue
LOT 4 BLOCK _____ TAX MAP # 41-01 06-036-12-00
ZONING DISTRICT PD FLOOD ZONE (AE 11) (AE 14)
OWNER'S NAME Beverly Homes
OWNER'S ADDRESS 9007 Hwy 544 TELEPHONE 843-236-4663
APPLICANT'S NAME Beverly Construction Group, LLC TELEPHONE 843-236-4663
CONTRACTOR Forrest Beverly SC LICENSE # M113946
CONTRACTOR'S ADDRESS 9007 Hwy 544 TELEPHONE 843-236-4663
ARCHITECT/ENGINEER Strand Engineer
ARCH./ENG. ADDRESS 223 Laurel St Conway SC 29526 TELEPHONE 843-488-1828
EMAIL ADDRESS FOR CONTACT PERSON Jonathon@beverlyhomesse.com
PROPOSED USE Residential
DESCRIBE WORK TO BE DONE New Construction
VALUE OF CONSTRUCTION 178,250.00 # OF STORIES _____
HEATED SQ. FT. 2646 UNHEATED SQ. FT. 3124 TOTAL SQ. FT. 5770

TYPE OF IMPROVEMENT: NEW CONSTRUCTION (X) ADDITION ( ) REPAIR/REPLACE ( ) DEMOLISH ( )
MOVING ( ) ALTERATION ( ) OTHER ( )_____
CONSTRUCTION TYPE: FRAME ( ) METAL ( ) WOOD (X) OTHER_____
BLDG. EXTERIOR: BRICK ( ) BLOCK ( ) STONE ( ) OTHER ✓
FOR RESIDENTIAL: TOTAL # OF ROOMS 14 # OF BATHS 4 # OF BEDROOMS 3
HEATING TYPE: HEAT PUMP (X) HOT WATER ( ) CENTRAL AIR CONDITIONING ( )
TYPE OF FUEL: OIL ( ) GAS ( ) ELECTRIC (X) WOOD ( ) COAL ( ) # OF FIRE PLACES _____
SEWER DISPOSAL: PUBLIC (X) SEPTIC TANK ( ) WATER SUPPLY: PUBLIC (X) WELL ( )

SIGNATURE OF CONTRACTOR _____ DATE 8/3/16

FOR OFFICE USE ONLY
FRONT SETBACK _____
SIDE SETBACKS: LEFT _____ RIGHT _____
REAR SETBACK _____
OVERALL STRUCTURE HEIGHT: _____
FINISHED FLOOR ELEVATION: _____

D. An objective review of the "Builder Warrantee" provided to the Penders that listed Beverly Homes, LLC as "the builder" shows that the inclusion of Beverly Homes, LLC was a clerical error.

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First, Plaintiff admits that the Penders contracted with Beverly Construction Group for the construction of the home, and the applicable construction contract listed Beverly Construction Group as the builder. Randy Beverly testified that he did not know why Beverly Homes was listed. Deposition of Randy Beverly, page 117, lines 2-5. Randy Beverly never signed this document.

E. The initial payments from the Penders made payable to Beverly Homes, LLC was not deposited by Beverly Homes' account.

Randy Beverly said Joan Pender made an "honest mistake" with how she made the checks payable. Deposition of Randy Beverly, page 74, lines 20-25. Randy Beverly said he never received the checks and neither were deposited into Beverly Homes' bank account. Id., page 75, lines 1-11. Rebecca Beverly testified that the Penders mistook the correct entity to make the payment and "many people confuse the names" of the companies. Deposition of Rebecca Beverly, page 35, lines 6-11. She also confirmed that the checks were not deposited into any Beverly Homes, LLC account. Id., page 35, lines 16-19; page 37, lines 13-31.

F. Beverly Homes, LLC had no employees who worked on construction of the Pender house.

Jonathan Martin (project superintendent) testified that he was employed by Beverly Construction Group. Deposition of Jonathan Martin, page 8, lines 1-8 (Exhibit 3). His job was to "manage the construction of the residential homes that Beverly Construction builds." Id., page 9, lines 19-22. Martin testified he managed the construction by Beverly Construction Group, LLC of the Pender house. Id., page 10, lines 17-20; page 25, line 20-page 26, line 2. Further, payroll records provided by Beverly Construction Group, LLC to Plaintiff showed that Beverly Construction Group, LLC paid Martin at all times during the construction of the Pender residence. In addition,

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Carlton Pender stated Forrest Beverly and Jonathan Martin were their points of contact for Beverly Construction Group, LLC for the construction. Id., ¶ 3.

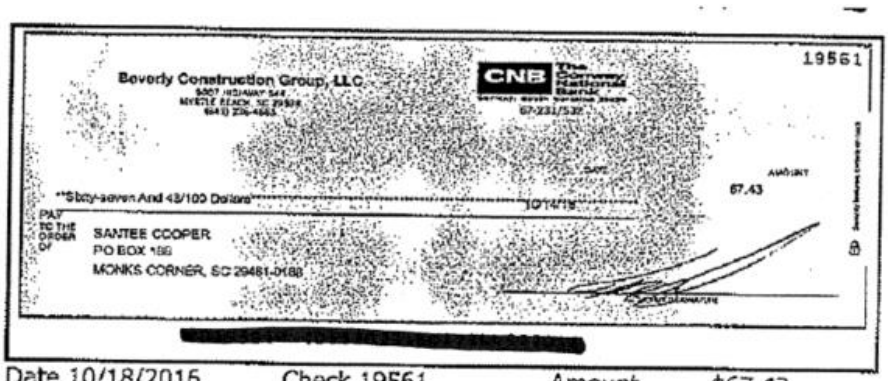
G. Miscellaneous documents involving the electrical service also do not show that Beverly Homes, LLC had "control."

Randy Beverly testified that the few documents submitted for the request for initial electrical service with Beverly Homes was:

> "[j]ust an honest, clerical mistake in our office. I mean because like we said I mean you look back I mean you can say with LLR Beverly Homes has never had a – a contractor's license. Never had any license really, but just – I don't recognize the writing, but somebody just made an honest mistake by putting homebuilders as Beverly Homes."

Deposition of Randy Beverly, page 80, lines 8-18. Randy Beverly confirmed that Beverly Homes did not pay the October 3, 2016 or November 30, 2016 invoices from Santee Cooper for electrical service. Id., page 83, lines 12-14; page 84, line 1-15.

Documents show Beverly Construction Group, LLC paid the invoices from Santee Cooper.



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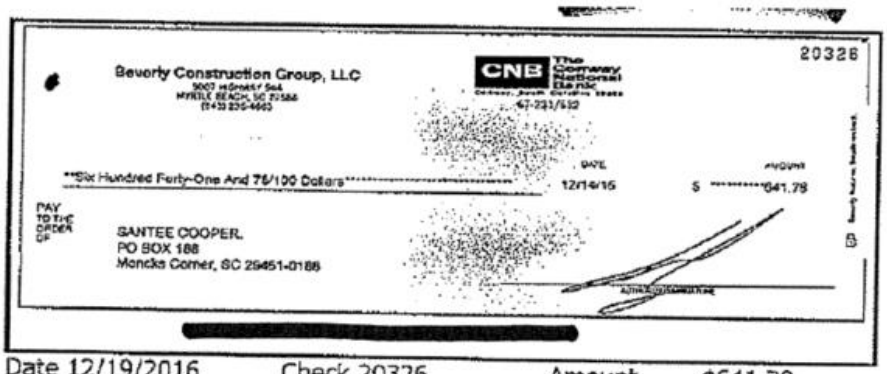
Date 11/16/2016 Check 19940 Amount $313.69



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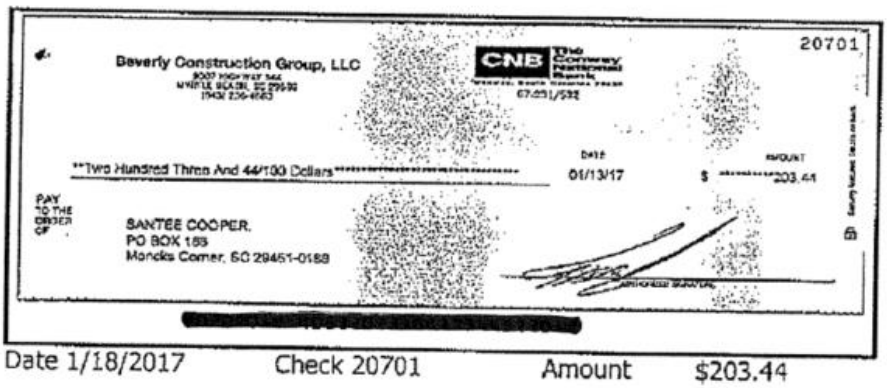

Date 1/18/2017 Check 20701 Amount $203.44

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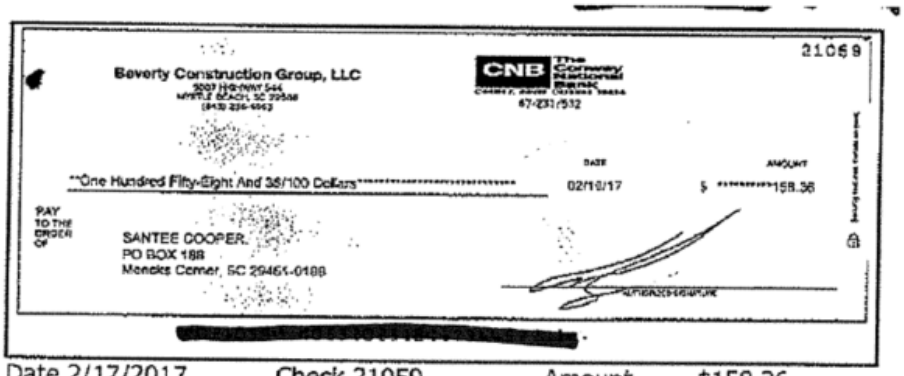
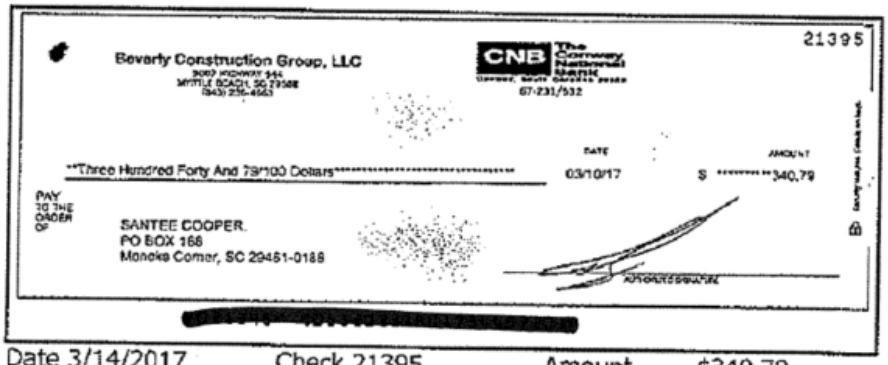
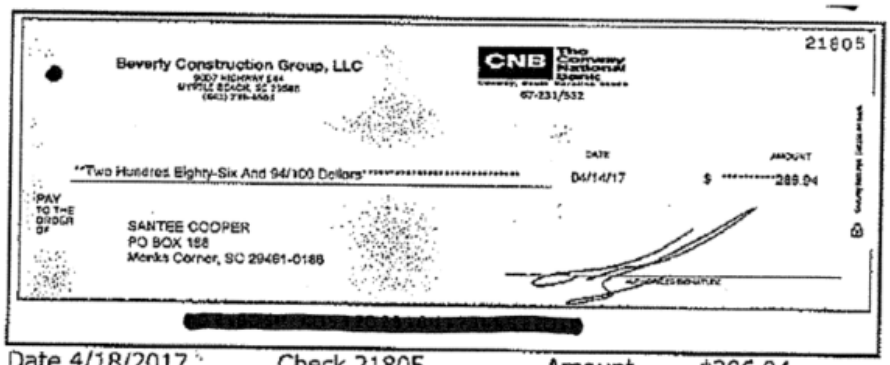


Date 2/17/2017 Check 21059 Amount $158.36



Date 3/14/2017 Check 21395 Amount $340.79



Date 4/18/2017 Check 21805 Amount $286.94

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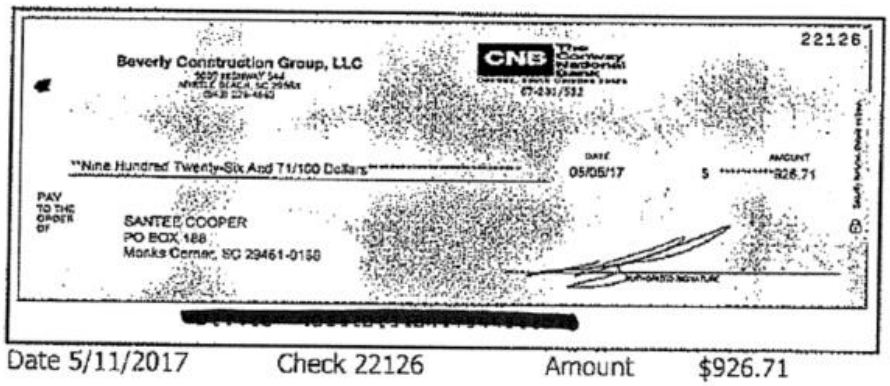

CONCLUSION

Clearly, Beverly Homes never owned the lot or the home. And, Plaintiff has not produced any dispute of material fact to support her contention that Beverly Homes exerted any control or was legally in position to take any actions regarding the safety of the site or the elevator on or around the date of Plaintiff's unfortunate accident. Plaintiff's arguments do not show that Beverly Homes, LLC ever set foot on the property or had any control over the site or the subcontractors. Documents submitted by Beverly Construction Group, LLC support the contention by Beverly Construction Group, LLC and Beverly Homes, LLC that Beverly Homes, LLC did not have any involvement with the construction of the Pender house. Thus, Plaintiff does not establish any legal duty owed by Beverly Homes, LLC or any breach of any duty of care. Clark v. Greenville County, 313 S.C. 205, 437 S.E.2d 117 (1993). Plaintiff's pivot away from the "general contractor" argument to the "ownership and control" issue also fails as a matter of law. Accordingly, this Court dismisses Beverly Homes, LLC from this litigation after review of this separate and distinct basis now argued by Plaintiff.

IT IS SO ORDERED.

December _____, 2020

_____, South Carolina

_____
Judge Michael G. Nettles

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Georgetown Common Pleas

Case Caption: Evarista Juan Lorenzo VS Port City Elevator Inc , defendant, et al

Case Number: 2018CP2200824

Type: Order/Dismissal

So Ordered

s/ The Honorable Michael G. Nettles #2140

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ELECTRONICALLY FILED - 2021 Jan 13 11:57 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

In The Matter Of:

EVARISTA LORENZO v.
PORT CITY ELEVATOR, ET AL

RANDY BEVERLY
December 10, 2020

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Myrtle Beach, S.C. 29578
(843) 424-3431
raylreporting@gmail.com

Original File RANDY BELLAMY.prn
Min-U-Script® with Word Index

STATE OF SOUTH CAROLINA) IN THE COURT OF
COUNTY OF GEORGETOWN) COMMON PLEAS
CASE NO: 18-CP-22-00824

EVARISTA JUAN LORENZO,

PLAINTIFF,

vs.

PORT CITY ELEVATOR, INC.; ALAN TOPPER d/b/a TOPPERS ALL CONSTRUCTION; 20/20 CUSTOM CONTRACTORS, LLC; AND CITADEL SITE MANAGEMENT, LLC, DVBT CONSTRUCTION, a/k/a DVBT CONSTRUCTION, LLC; DVBT MULTISERVICES, LLC; BEVERLY CONSTRUCTION GROUP, LLC; BEVERLY HOMES, LLC; BEVERLY HOMEBUILDERS, LLC; STRAND PAINT CONTRACTORS, LLC; DEPAZ PAINTING, LLC; ENHANCED HEATING & AIR CONDITIONING, LLC; CARLTON PENDER; AND JOAN PENDER,

DEFENDANTS.

VIDEO CONFERENCE DEPOSITION OF:

RANDY BEVERLY
December 10, 2020
10:10 a.m

STIPULATIONS

Pursuant to Notice and/or consent of the parties, the deposition hereon captioned was conducted at the time and place mentioned before Debbie Rayl, Court Reporter and Notary Public in and for the State of South Carolina.

The deposition was taken for use in accordance with the South Carolina Rules of Civil Procedure unless herein stipulated and agreed to by the parties.

It is stipulated by and between counsel for the respective parties that all objections are reserved until the time of trial save as to the form of the question.

The reading and signing of the deposition by the deponent was expressly RESERVED by the deponent.

P R O C E E D I N G S

Whereupon,

(RANDY BEVERLY, having been duly sworn, testified as follows:)

++++++++++++++

EXAMINATION

BY MS. WRIGHT:

Q. Good morning, Mr. Beverly. My name is Brooke Wright and I'm an attorney with Maguire Law Firm. We represent the Plaintiff, Evarista Lorenzo, regarding an incident that occurred on January 17th of 2017. Have you ever had your deposition taken before?

A. Yes, ma'am.

Q. Okay. Well, basically what we're doing here today is my purpose is to find out more information about this incident and anything that you might know on behalf of Beverly Homes, LLC that would be relevant or related to this incident.

Please answer all my questions today with yes or no or some other verbal response rather than just nodding your head or saying uh-huh or huh-uh that way the court reporter can type it all up and we can read it

later and clearly understand your answers.
A. Yes, ma'am.
Q. None of my questions are meant to trick you or to confuse you. So if I ask you a question that does not make sense or if you do not understand my question, please let me know or ask me to repeat or rephrase my question and I can do that for you; okay?
A. Yes, ma'am.
Q. If you do answer my question I will assume that you understood it unless you tell me otherwise; is that fair?
A. Yes, ma'am, that is fair.
Q. Okay. If you need a break at any time just let me know. We can take a break any time you need. And if you have any questions throughout the deposition please direct your questions to me. And if we do take a break I just want to let you know that any conversations that you have with anyone, including your attorney, would not be privileged since the deposition has already has already begun; okay?
A. Yes, ma'am.
Q. And are you under any disability or

on any medications today ---

(Off the record to fix audio issues.)

BY MS. WRIGHT:

Q. Mr. Beverly, I think I was asking are you under any disability or on any medications today that would impair your testimony?

A. No, ma'am.

Q. And finally I just want to remind you that you are under oath so you must answer my questions truthfully. Do you understand that you are under oath?

A. Yes, ma'am.

Q. Thank you. Please state your full name.

A. Randy [redacted] Beverly.

Q. And what is your date of birth?

A. [redacted] 1949.

Q. And do you have any relatives that live in Horry County over the age of eighteen years old?

A. Yes, a lot.

Q. And I'm asking because if this case were to go to trial I don't want those

relatives to be on a jury. So what is the last name of your relatives who reside in Horry County over the age of eighteen years old?

A. Of course, Beverlys and Mishoes M-i-s-h-o-e, Creel C-r-e-e-l, ---

(Off the record, internet interference.)

BY MS. WRIGHT:

Q. Okay. What is your address?

A. My residence address?

Q. Yes, sir.

A. [redacted] Conway.

Q. And what is your current employment, if any?

A. I do go to work every day and I mean I wear a lot of hats. I mean I'm the managing member of a -- of a garbage business, I'm the managing member of Beverly Homes, I'm the managing member of two liquor stores, I'm the managing member of a company that owns a fleet of trucks, tractor trailer trucks, so I kind of wear a bunch of hats.

Q. Okay. Well, let me start with this then. Did you graduate from college?

A. No, I did not.

Q. Okay. And what is the highest level of education that you completed?

A. I went through my -- well, I completed my sophomore year at Coastal Carolina.

Q. And what high school did you graduate from?

A. Conway High School.

Q. What was your major or course of study at Coastal Carolina?

A. Business.

Q. Was there any particular reason that you did not finish your degree?

A. Well, at that time Coastal was only two years and I actually went to Coastal -- me and a guy from Myrtle Beach got the first basketball scholarship to ever go. And so I got a basketball scholarship. We just didn't have the money. We were sharecroppers in a rural area and I just couldn't afford it.

Q. Okay. Are you a member of a church?

A. Yes.

Q. And what is the name of that church?

A. Kingston Presbyterian.
Q. And are you a member of any clubs or organizations in Horry County?
A. No -- no.
Q. I'm going to ask a couple of questions I ask everyone so please don't be offended. Have you ever been arrested?
A. No, ma'am.
Q. And have you ever had a traffic ticket or a citation?
A. Yes.
Q. Okay. Have you lived in any State other than South Carolina?
A. No -- no, I haven't.
Q. Have you ever served in the military?
A. Kinda sorta. I was in National Guard for six years. I was active for four months. You know, when you're in National Guard you go to basic training, but -- but I'm a member of the South Carolina National for six years.
Q. And did you receive an honorable discharge?
A. Yes, I did.

Q. After college and high school, of course, what was your employment?

A. I worked at a tire store in North Conway called B&M Tire Service.

Q. Have you ever worked for a construction company or have a construction background?

A. Yes, I have.

Q. Okay. What construction company have you worked for?

A. In the very beginning I was a shareholder in construction called Kingston Construction Company. Me and a guy named Richard Garris owned that company.

Q. And was that company located in Horry County?

A. Yes.

Q. And with Kingston Construction were you involved in building houses?

A. Yes.

Q. And did Kingston Construction also do commercial construction?

A. No.

Q. And is Kingston Construction still an active company?

A. No.
Q. Okay. Why did that company dissolve?
A. I don't know. I sold my interest to Richard Garris after about three or four years and he -- he stayed there for a while and got out of it.
Q. And approximately what year did you end your involvement with Kingston Construction?
A. I'd say probably 1980 -- somewhere around the mid-1980s.
Q. And for how many years total were you involved with Kingston Construction?
A. Approximately three or four.
Q. And have you been employed with any other construction company?
A. Yes.
Q. Okay. Tell me about that.
A. I'm not sure what year, sometime later after I dissolved my relationship with -- with Kingston Construction. Four, five, six years later I started Beverly Construction Company, Inc.
Q. And was that company Beverly

Construction Company, Inc. started in the 1990s?

A. I would say the early 1990s would be my guess now.

Q. And is Beverly Construction Company, Inc. still an active company?

A. The corporation still exists, yes, but that's no longer a licensed contractor.

Q. Okay. And were you the sole owner of Beverly Construction Company, Inc.

A. Yes, ma'am.

Q. And did Beverly Construction Company, Inc. build residential homes?

A. Yes.

Q. Did Beverly Construction Company, Inc. build any commercial properties?

A. No, ma'am.

Q. And approximately what year did you end Beverly Construction Company, Inc. being a active builder?

A. Probably -- probably about 2009 or maybe 2010, somewhere around there.

Q. Do you have any licenses or certifications yourself as a general contractor or a builder?

A. No, ma'am. That -- that's why referring to -- that's what I relinquished it in 2009 or 2010. The license was in my name for the construction company and those license expired in I think it was about 2009. And I haven't -- haven't -- don't have any license since then.

Q. Okay. So in the past were you a licensed general contractor?

A. No.

Q. Okay. Have you ever had any license or certification in the construction industry?

A. Yes. Yes, I had a residential construction license. That's a big difference between general contractor and residential. I would only license to build residential.

Q. Okay. And your license, the residential construction license was that issued through the State of South Carolina?

A. That's correct, yes.

Q. And was your residential construction license issued to you in your name as a individual or a company?

A. Me individually.

Q. And do you know how many years or during what time period you held a residential construction license?

A. I would say approximately -- I would say approximately, '90 -- about seventeen or eighteen years.

Q. And is a residential construction license something that has to be renewed?

A. Yes.

Q. Okay. How often does it have to be renewed?

A. Well, it's been a while now, but I -- I think every two years. I think -- I think it was every two years.

Q. What did you have to do to obtain a residential construction license?

A. Well, there's a exam you take. You go to Columbia to the LLR and -- and I don't remember now. I mean the questions on this -- and actually there was some pre-requisite you had to take some courses and actually I went out to Tech, Horry Georgetown Tech and took some courses to prepare myself for the exam.

Q. Okay. You mentioned that a residential construction license is different

from a general contractor license. Can you tell me just in generic terms what's the difference?

A. Basically a residential contractor's license you can only build residential houses. A general contractor license is just what you -- you can build residential and commercial. And then ---

Q. Why did you stop working with your residential construction license with Beverly Construction Company, Inc.?

A. Actually I didn't want to compete with my son. He had gotten into the construction business about that same time and I just got out of it. I'd had enough gray hairs over it. Headaches, like I said, but I just turned that over to the younger crowds.

Q. Okay. So did your son take over the business that you'd already established or did he start his own?

A. He started his own. He started Beverly Construction Group, LLC is the company he stated.

Q. Were you involved in helping him start that company?

A. When he first got started yeah, just to -- you know, he was pretty fresh out of college and I kind of helped. You know, he -- he kept some of my subs that I had and I kind of helped him through the training. You know, just like any father would do, yes.

Q. Okay. And this son that you're referring to what is his name?

A. Forrest Brakefield Beverly.

Q. And do you have more than one son?

A. Yes.

Q. Are your other sons involved in construction?

A. No, ma'am.

Q. And what year did Beverly Construction Group, LLC begin, if you know?

A. I don't know. I mean I would guess somewhere around that same time period when I let Beverly Construction Co, Inc.'s license expire. Or actually I let my license expire. But if I did that in say -- I said 2009 or 2010 somewhere like probably about 2009 would be my guess, but that's a guess, I don't know.

Q. Okay. Now when you had the company Beverly Construction Co., Inc. does that actual

entity have to have it's own type of license or is it able to build houses operating under your ---

A. I let it stand under my license.

Q. Okay.

A. Yeah.

Q. Have you ever personally been involved with building a house or are you more of the management?

A. Can you rephrase that? I'm not sure I understand your question.

Q. Sure. So I'm trying to find out like if you have experience actually using a hammer and nails and doing the framework or actually, you know, actively building the house with your hands or is your experience in construction more of a supervisor nature?

A. Yeah. I was a supervisor, yes.

Q. Okay. Before you became a supervisor did you ever work for any trade where you, you know, were actually like the person with hammering the nails?

A. No, ma'am.

Q. Do you understand that your answers today during this deposition are as a

representative on behalf of Beverly Homes, LLC?
A. Yes, ma'am.
Q. Okay. Before I was asking questions just about you and trying to figure out who you are, but now I'm going to start asking questions in your capacity as a representative for Beverly Homes, LLC.
A. So just so I understand basically what you're saying is whatever answer I give would be given on behalf of Beverly Homes, LLC?
Q. Correct. Is that okay?
A. Yes, ma'am.
Q. Okay. This incident involving Ms. Evarista Lorenzo occurred at a home under construction on January 17th of 2017 at 39 Gasparilla Circle in Murrells Inlet, South Carolina, which has also been referred to as Lot 4 Bellevue. Do you agree with that statement? Is that your understanding?
A. That's my understanding, yes. That's what I've been -- that's what I've been told.
Q. Okay. For purposes of this deposition can we agree that when I ask you a question about 39 Gasparilla Circle I am

referring to the home where Ms. Lorenzo fell?
A. Yes, ma'am.
Q. Okay. Just to cut down on all the words.
A. Not a problem with me.
Q. Perfect. When was Beverly Homes, LLC first formed?
A. I'm not sure. I mean I'm not sure.
Q. Okay. Can you give me an approximate year or decade?
A. Oh, I would -- I would -- I would think probably in the early 2011-2012 somewhere around there.
Q. Okay. And were you the person that formed Beverly Homes, LLC?
A. Yes, ma'am.
Q. Is Beverly Homes, LLC registered with the South Carolina Secretary of State?
A. Yes, ma'am.
Q. What is the trade, business or occupation of Beverly Homes, LLC?
A. We primarily -- we're a real estate acquisition company. We -- we -- we buy raw land, put a structure in. You have water, sewer, roads and sell the developed lots. And

we also buy from developed lots. We ---

Q. Does Beverly Homes, LLC sell developed lots to individual home buyers or who are the lots sold to?

A. I'd first say primarily as far as I can remember all of them. Well, no, we do sell -- we don't sell individual lots at all to home buyers. I mean we we'll sell -- we'll contract a house to be built on the lot and then we sell the home/lot package. But we don't -- I can't say we've never sold a lot, but I don't -- I don't ever remember selling just a lot.

Q. Okay. Well, when you say that you will contract a house to be built on a lot, what does that mean?

A. That means we get -- actually Beverly Construction Group that you were just discussing to build a house on some of the lots -- some of the lots that we own and then we'll end up selling the home/lot package to a home buyer or what we call the end user.

Q. Does Beverly Homes, LLC have a written contract with Beverly Construction Group, LLC to build houses on certain lots?

A. Not that I -- I don't know -- I

don't know, not that I'm aware of.

Q. Other than being a real estate acquisition company does Beverly Homes, LLC have any other trade, business or occupation?

A. No, ma'am.

Q. The word real estate acquisition does that mean the same thing as a land development company or is it different?

A. Well, what I really meant by that is we buy land. Acquisition is what I refer to is buying real estate. And not all real estate that we have bought we have developed. We buy it with the intentions of development in the future, but I mean Beverly Homes owns some plats of land presently that we have not started development yet. We will in the future. But what I mean by that we buy real estate, we put in a structure and then we -- we get houses built on those lots and then we sell the lot and house package to an end user.

Q. When you sell a lot and a house package to an end user is the end user the person who's going to be living in the home?

A. Primarily. I mean occasionally yeah, we have sold some of our houses to

investors that you bought it for rental purposes, but by far the majority of our buyers are they occupy the home.

Q. What activities does Beverly Homes, LLC do to develop land?

A. Once we own it, of course, the next step would be hire an engineer to lay out the subdivision, engineer the water and sewer, the storm drainage and so forth, the roads and --- Then from there we'd worked, you know, then you got to wait for a permit from DHEC. You get your permit. Then you put it out for bids with contractors to do the work, do the water and sewer, the storm drainage, the paving.

Then you go to the bank and borrow some money. Then you put that contractor to work ever who you award the contract to for the infrastructure work.

Q. Okay. And when Beverly Homes, LLC puts together a house package what does that mean?

A. I think like I said earlier we -- we contract that with Beverly Construction Group to build a house on the lot that we owned and once it's completed then we in most cases

sell it to someone else to occupy it or own it.

Q. Okay. So does Beverly Construction Group, LLC create the house package or does Beverly Homes, LLC create the house package?

A. Beverly Homes and the Beverly Group in conjunction with each other create the house package.

Q. And when Beverly Homes, LLC contracts with Beverly Construction Group to build a house on a lot that Beverly Homes, LLC, is there a written contract?

A. I don't think so. Not that I'm -- if there is I'm not aware of it right now. There been one from years ago if we ever signed one.

Q. Does Beverly Homes, LLC do any marketing activities?

A. Not Beverly Homes, LLC themselves. That's the marketing entity. That's the face of the -- of who's selling it. The marketing company is called the Beverly Group and that's the real estate marketing group is the Beverly Group, LLC.

Q. Okay. So Beverly Homes, LLC itself does not do any marketing activities; is that

correct?

A. That's correct. Well, we don't market ourselves. Beverly -- the Beverly Group does the marketing and they are marketing Beverly Homes, LLC. Is that making sense? The real estate company is really to people that's -- that's actively doing the marketing itself and they are paying for the marketing. But the company that they are marketing is the Beverly Group. They're marketing Beverly Homes, LLC is who the Beverly Group is marketing.

Q. Okay. And what is the name of the real estate company you're a part of?

A. The Beverly Group.

Q. And is it just the Beverly Group? It's not an Inc or an LLC?

A. LLC.

Q. And who is the owner of the Beverly Group, LLC?

A. Myself and Forrest Beverly.

Q. Okay. So let me see if I understand you correctly. Does the Beverly Group, LLC market properties that are initially developed by Beverly Homes, LLC?

A. That's correct.

Q. Okay. Does Beverly Homes, LLC have any employees?
A. No, ma'am.
Q. Has Beverly Homes, LLC ever had any employees?
A. I don't -- I don't think so.
Q. Okay. Does Beverly Homes, LLC paint houses?
A. Paint houses? No, ma'am.
Q. Okay. Are you the sole owner of Beverly Homes, LLC or are there other owners?
A. There are other owners?
Q. Okay. Who are the other owners of Beverly Homes, LLC in addition to yourself?
A. Myself and Forrest Beverly.
Q. And do you each have a fifty percent ownership interest?
A. That's correct.
Q. Is there an office location for Beverly Homes, LLC?
A. Yes, ma'am.
Q. And what is the address of the office location?
A. It's 1516 East Highway 501, Conway.
Q. And is the mailing address for

Beverly Homes, LLC the same?
A. Yes.
Q. Does Beverly Homes, LLC have any kind of payroll?
A. Payroll?
Q. I'm assuming no if there's no employees.
A. No, ma'am.
Q. Okay. Does Beverly Homes, LLC issue checks or payments of any kind?
A. Yes, ma'am.
Q. Okay. What type of checks or payments are issued by Beverly Homes, LLC?
A. Well, a lot of pays to the bank for interest. Feel like most of them go there. And then, of course, there's checks made to, you know, the contractors that we contracted to do the infrastructure work at the different subdivisions that we -- we have developed or are developing.
Q. Does Beverly Homes, LLC have its own bank accounts?
A. Yes, ma'am.
Q. And what is the name of the Bank?
A. There's one at Conway National Bank

and one at Anderson Brothers Bank.

Q. Does Beverly Homes, LLC have Workers' Compensation insurance?

A. I don't think so. I don't know.

Q. Did Beverly Homes, LLC have Workers' Compensation insurance in January of 2017?

A. I don't think so.

Q. Has Beverly Homes, LLC ever been a party to a lawsuit other than this case?

A. Not that I remember.

Q. Has Beverly Homes, LLC ever had a Workers' Compensation Claim filed against it that you're aware of?

A. Not that I'm aware of.

Q. Would you agree that Beverly Homes, LLC and Beverly Construction Group, LLC are two separate companies?

A. Say that again.

Q. Would you agree that Beverly Homes, LLC and Beverly Construction Group, LLC are two separate companies?

A. Yes.

Q. Is Beverly Homes, LLC a general contractor?

A. No, ma'am.
Q. Does Beverly Homes, LLC have a license as a general contractor?
A. No, ma'am.
Q. Has Beverly Homes, LLC ever been a general contractor?
A. No, ma'am.
Q. What company was the general contractor for the home constructed at 39 Gasparilla Circle?
A. Beverly Construction Group is my understanding.
Q. Do you have any ownership in Beverly Construction Group, LLC?
A. No, ma'am.
Q. And was Beverly Construction Group, LLC the only general contractor for the home constructed at 39 Gasparilla Circle?
A. Far as I know.
Q. Okay. Did Beverly Homes, LLC have any involvement with the construction project at 39 Gasparilla Circle?
A. No, ma'am.
Q. Would you agree that Beverly Homes, LLC was not involved with the construction of

the Pender Residence?
A. Yes, ma'am.
Q. Would you agree that Beverly Homes, LLC did not perform any work at the Pender Residence?
A. Yes, ma'am.
Q. Is Beverly Homes, LLC a prime contractor?
A. Beverly Homes, LLC?
Q. Yes.
A. No, ma'am.
Q. And in your opinion what is a prime contractor?
MR. PEARCE: Object to the form. Mr. Beverly is not here as an opinion witness today. You can ask him a fact question, go ahead.
THE WITNESS: I don't know the answer.
BY MS. WRIGHT:
Q. I'm not sure I know the difference between the two so -- is Beverly Homes, LLC a contractor of any kind?
A. No, ma'am.
Q. Does Beverly Homes, LLC build or

construct houses?
A. No, ma'am.
Q. Has Beverly Homes, LLC ever built or constructed a house in the past?
A. No, ma'am.
Q. Did Beverly Homes, LLC contract with Strand Paint Contractors, LLC to perform any work at 39 Gasparilla Circle?
A. No, ma'am.
Q. Did Beverly Homes, LLC contract with or hire Strand Paint Contractors, LLC for any purpose?
A. Ask that question again.
Q. Did Beverly Homes, LLC contract with or hire Strand Paint Contractors, LLC for any purpose?
A. No, ma'am.
Q. Would you agree that Beverly Construction Group, LLC was the only general contractor that contracted with Strand Paint Contractors, LLC to perform work at 39 Gasparilla Circle?
A. I would think so.
Q. Did Beverly Homes, LLC contract with Depaz Painting, LLC to perform any work at

39 Gasparilla Circle?
A. No, ma'am.
Q. Did Beverly Homes, LLC ever hire the Plaintiff, Evarista Lorenzo, as an employee?
A. No, ma'am.
Q. Did Beverly Homes, LLC ever hire the Plaintiff, Evarista Lorenzo, to do anything?
A. No, ma'am.
Q. Would you agree that Beverly Homes, LLC was not the employer of Strand Paint Contractors, LLC?
MR. PEARCE: Object to the form.
THE WITNESS: Yes, ma'am.
BY MS. WRIGHT:
Q. Did Port City Elevator, Inc. install an elevator for Beverly Homes, LLC?
A. No, ma'am.
Q. Did Port City Elevator, Inc. perform any work for Beverly Homes, LLC?
A. No, ma'am.
Q. Did Beverly Homes, LLC contract

with Port City Elevator, Inc. to perform any work at 39 Gasparilla Circle?

A. Ask me that question again.

Q. Did Beverly Homes, LLC contract with Port City Elevator, Inc. to perform any work at 39 Gasparilla Circle?

A. No, ma'am.

Q. Did Beverly Homes, LLC contract with any person or company to perform work at 39 Gasparilla Circle?

A. No, ma'am.

Q. Do you know what type of work Strand Paint Contractors, LLC was hired to perform at 39 Gasparilla Circle?

A. I assume it's painting.

Q. And do you know what type of work Plaintiff, Evarista Lorenzo, was hired to do at 39 Gasparilla Circle?

A. I've been told she was painting, but I -- I don't know that.

Q. Okay. Did Beverly Homes, LLC ever go inside the home at 39 Gasparilla Circle?

A. No, ma'am.

Q. Did Beverly Homes, LLC install a barricade or a guardrail of any kind across the

elevator shaft on the third floor at 39 Gasparilla Circle?

A. No, ma'am.

Q. Did Beverly Homes, LLC post any warnings at 39 Gasparilla Circle?

A. No, ma'am.

Q. Did Beverly Homes, LLC post any caution or warning signs at 39 Gasparilla Circle?

A. No, ma'am.

Q. Did Beverly Homes, LLC inspect 39 Gasparilla Circle at any time?

A. No, ma'am.

Q. Did Beverly Homes, LLC supervise any person or company doing work at 39 Gasparilla Circle?

A. No, ma'am.

Q. Would you agree that all builders in South Carolina are required to follow OSHA requirements?

MR. PEARCE: I'm going object to the form of the question again. It's an opinion question. He's here as a fact witness. It's not an issue under 30(b)(6) topic areas.

BY MS. WRIGHT:

Q. Okay. You can still answer unless he instructs you ---

A. I said I don't know. Yeah.

Q. Okay. You don't know.

A. I think she got that. I don't.

Q. Is Beverly Homes, LLC required to follow any OSHA regulations in any of the activities that it does?

A. I'm not sure. I don't know.

Q. Did Beverly Homes, LLC have any control over the electricity at 39 Gasparilla Circle?

A. No, ma'am.

Q. Was Beverly Homes, LLC the owner of the house under construction at 39 Gasparilla Circle at any time?

A. No, ma'am.

Q. Was Beverly Homes, LLC the owner of the lot or the land at 39 Gasparilla Circle at any time?

A. No, ma'am.

Q. Do you know who was the owner of 39 Gasparilla Circle on January 17th of 2017?

A. No, ma'am.

Q. Did Beverly Homes, LLC create or was involved with a house package related to 39 Gasparilla Circle?

A. No, ma'am.

Q. Did Beverly Homes, LLC receive any checks or payments related to 39 Gasparilla Circle?

A. No, ma'am.

Q. Do you know who the seller of the home at 39 Gasparilla Circle was?

A. I'm not sure I understand that question.

Q. Okay. Did the Penders buy the home at 39 Gasparilla Circle?

A. Who they bought the lot from. I don't know.

Q. Okay. And the house itself do you know who the Penders bought the house from that was built on the lot?

A. They contracted to have it built I understand by Beverly Construction Group.

Q. Okay. What is the reason for having the separate entities Beverly Homes, LLC versus the Beverly Group, LLC versus Beverly Construction Group, LLC?

A. They all serve different purposes. I mean one of them is a building contractor, which is the Beverly Group, LLC and different owners. And then Beverly Homes is -- is the real estate acquisition and development company and then the Beverly Group is the marketing company. Actually the real estate -- I mean the real estate agents are work for the Beverly Group.

Q. Okay.

A. But they all kind of serve in different purposes.

Q. Okay. The Beverly Group, LLC is that similar to a real estate company like Century 21?

A. That's correct. Well, it's not franchised. Century 21 is franchised now. The Beverly Group is just -- is just one company, the Beverly Group. Century 21 is all over the country. But it'd be something like Garden City Realty. You know, they'd have just one office and it's Garden City Realty. And the Beverly Group would be a real estate entity such as Garden City Realty.

Q. How many acres of land does Beverly

Home, LLC own in Horry County?
A. Today?
Q. Yes.
A. This would be a guess I mean, but I would -- I would guess probably three or four hundred acres.
Q. And does Beverly Homes, LLC also develop land in other counties?
A. Yes -- yes, we've done one or two little small projects in Georgetown County, small.
Q. Okay. Do you know how much land Beverly Homes, LLC currently owns in Georgetown County?
A. Raw land?
Q. Real estate, overall.
A. Well, acreage -- I'm pretty sure this is right, I'm pretty sure I think it's zero acreage, but we probably own in -- you say in Georgetown; is that the question? We probably own maybe twenty-five lots in Georgetown County.
Q. Okay. And how many real estate development projects has Beverly Homes, LLC been involved with in Georgetown County?

A. That we actually developed? We have bought some individual lots in some subdivisions in Georgetown County. But as far as developing -- when I say develop, I mean we bought raw land, put in roads, water and sewer, all that, only one in Georgetown County.

Q. And what is the name of that neighborhood?

A. Hagerty Retreat in Pawleys Island.

Q. And before I asked you if you had any relatives in Horry County over the age of eighteen and I realize I should have asked you about Georgetown County. So do you have any relatives who reside in Georgetown County over the age of eighteen years old?

A. None that I can think of.

Q. Okay. How many neighborhoods or development projects has Beverly Homes been involved with developing in Horry County?

A. And this would be a guess, but probably three or four.

MS. WRIGHT: Okay. I want to take just a five-minute bathroom break real quick.

(A brief recess was taken.)

BY MS. WRIGHT:

Q. Earlier you gave me the address for the office for Beverly Homes, LLC. Who works in that office?

A. You mean every employee?

Q. Yes.

A. Oh, to be honest with you I don't know everybody's last name. But there's a girl named Jennifer, Tabby Via V-i-a, Christina, Charles Byrd, Becky. I told you Christina, didn't I?

Q. Yes.

A. I'm kind of going down the hall. Christina, Becky, Clint Richardson, Forrest, Rebecca -- these are Beverly, Forrest Beverly, Rebecca Beverly, Bonnie Sward, then my office then Leah, Robert and Joseph.

Q. Okay. And do you also work in that office?

A. Yeah, I did say my name; didn't I?

Q. Yes. I just wanted to make sure.

A. I'm walking down the hall. I'm between Bonnie and Leah's offices.

Q. Okay. And now do you personally coordinate the development of properties on

behalf of Beverly Homes, LLC?
A. Yes.
Q. Okay.
A. Yes.
Q. Is there any other person who assists you in doing that?
A. Clint Richardson that I mentioned earlier he helps with that some.
Q. Okay. I'm going to show you some exhibits. I will hand you a copy. This at the top it says, "residential elevator specifications contract Port City Elevator, Inc."
Have you ever seen that document before?
A. No, ma'am, I never have.
Q. Okay.
A. Is this all this same thing?
Q. Those are the pages that go along with it.
A. I honestly have never seen this.
Q. Okay. On the first page where it says, Job, does it list Pender Residence, 39 Gasparilla Circle, Murrells Inlet, South Carolina, 29576?

A. Yes, ma'am.

Q. And where it says, Elevator for, who does ---

MR. PEARCE: What page? The documents you gave me are obvsiouly not in order with what you're presenting to the witness.

MS. WRIGHT: It's in the back part, but I'll hand to you this one here.

MR. PEARCE: Now, is this Exhibit 1? Are you going to mark it?

MS. WRIGHT: Yes.

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(PORT CITY ELEVATOR CONTRACT WAS MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 1)

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BY MS. WRIGHT:

Q. Okay. So on Page 1 of Plaintiff's Exhibit 1, where it says Elevator for who does it list that the elevator is for?

A. It says, Beverly Homes at 9007 Highway 544, Myrtle Beach.

Q. Do you know why it lists that the elevator is for Beverly Homes?

A. No, ma'am, I do not.

Q. Okay. And do you know what is located at the address of 9007 Highway 544, Myrtle Beach, South Carolina 29588?

A. Today? It was our old office, but we just sold it to an attorney and she took over Monday. Regina Ward's there.

Q. Okay. So on December 2nd of 2016, was the office address for Beverly Homes, LLC 9007 Highway 544, Myrtle Beach, South Carolina 29588?

A. That's correct.

Q. And when did 9007 Highway 544, Myrtle Beach, South Carolina 29588 stop being the office address of Beverly Homes, LLC?

A. Somewhere this past August. August of 2020 we left that location and moved to 501.

Q. Okay. And so from the beginning of 2016 through August of 2020 was the office address of Beverly Homes, LLC 9007 Highway 544, Myrtle Beach, South Carolina 29588?

A. That's correct.
Q. Okay. I'm going to ask that you turn to Page 6 there.
A. I only got 5.
MS. WRIGHT: Okay. Here's the 6th page. They're Bates numbered from when they were produced to me. And we'll mark this page as Plaintiff's Exhibit 2.

++++++++++++++

(BATES NUMBER 6
WAS MARKED
FOR IDENTIFICATION
AS DEPOSITION
EXHIBIT NUMBER 2)

++++++++++++++

BY MS. WRIGHT:
Q. At the top for the job does it say Pender Residence?
A. That's correct.
Q. And who is listed as the contractor at the top on the right?
A. It says Beverly Homes.
Q. And do you know why this document lists Beverly Homes as the contractor?
A. I do not. I mean, you know,

somebody with Port City Elevator generated this and they may can answer that, but I guess just error on their part. Because I mean Beverly Homes is -- or never had been a contractor.

Q. Okay.

A. And they just -- they made a -- a mistake.

Q. And have you ever seen that document before today?

A. This?

Q. Yes.

A. No, ma'am.

Q. Do you know whether Port City Elevator, Inc. was ever notified that it was an error listing Beverly Homes as the contractor and that they should correct that?

A. I'm not aware that they were notified. I can tell you that I didn't because I've never seen it before. But -- but I can't say that some representative of Beverly Construction Group or somebody else might have corrected them I don't know.

MR. PEARCE: Can I ask to take a break real quick.

(Off the record to correct internet

issue.)
BY MS. WRIGHT:
Q. On Plaintiff's Exhibit 2 at the top underneath Beverly Homes do you see where it lists a contact as Jonathan Martin?
A. No, ma'am. I do not see that.
Q. Okay. That's a different page so you're correct.
A. This is Page 6 of that elevator you had earlier.
MS. WRIGHT: Right. Okay. Let me hand you this page here and mark it as Plaintiff's Exhibit 3.
++++++++++++++
(DIAGRAM BATES NUMBER 8 WAS MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 3)
++++++++++++++
THE WITNESS: That looks like it.
BY MS. WRIGHT:
Q. Okay. On Plaintiff's Exhibit 3 at the top does it list Beverly Homes as the

contractor?

A. Yes, ma'am.

Q. Do you know whose handwriting is on that document?

A. I do not.

Q. And for the ---

A. I would -- I mean based on the layout of the elevator I feel confident that this -- this was provided by the elevator company because it's a, you know, there's a layout of the elevator itself. But I don't -- I don't know that, but I would certainly think that somebody with Port City Elevator probably did this.

Q. Okay. And then underneath where it says, Beverly Homes as the contractor then it has the address and then it lists a contact. And is Jonathan Martin listed as the contact?

A. That's correct.

Q. And does Jonathan Martin work for Beverly Homes?

A. No, ma'am.

Q. Has Jonathan Martin ever been employed by Beverly Homes?

A. No, ma'am.

Q. Do you know what Jonathan Martin's job is?

A. He's -- he worked for Beverly Construction Group as like a supervisor or superintendent of all the construction down on the South end of the Grand Strand.

MS. WRIGHT: Okay. I'm going to hand you this next document and have this marked as Plaintiff's Exhibit 4 and it should be in that packet. If not, I can find you another copy.

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(BEVERLY HOMES ANSWERS TO PLAINTIFF'S DISCOVERY REQUESTS WAS MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 4)

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BY MS. WRIGHT:

Q. If you'll turn to Page 2.

A. Page 2?

Q. Yes, please.

A. Yes, ma'am.

Q. Is that Defendant Beverly Homes, LLC's Answers to Plaintiff's Interrogatories?

A. That's what it says right there, yes.

Q. All right.

A. I don't eve understand what interrogatories are. So I mean ---

Q. Okay. Fair enough. If you'll turn to Page 4.

A. Yes, ma'am. I'm there.

Q. Okay. And on Page 4, Number 6 asks, "If Defendant is improperly identified give the proper identification and state whether counsel looks up service of an amended summons and pleading reflecting the correct information." Did I read that correctly?

A. Read the answer?

Q. No, did I read the question correctly?

A. Yeah, I'm not sure I understand it.

Q. Okay. Let me move on to another question then because I want to make sure you understand.

Okay. If you look down at Number 3 on Page 4 it says, "Provide the complete

identity of any person not already named as a party to this litigation to whom you contend either caused and/or contributed to the incident, including any architect, engineer, designing contractor, subcontractor or others." Did I read that question correctly?

A. Yes, ma'am. I understand that one.

Q. Okay. And if you'll turn to the Answer on Page 5 the answer states, "Unknown. Defendant did not perform work at and was not involved with the construction of the Pender Residence." Did I read that correctly?

A. Yes, ma'am.

Q. And do you agree with that statement that Defendant, Beverly Homes, LLC did not perform work at and was not involved with the construction of the Pender Residence?

A. Yes, ma'am.

Q. Okay. And do you agree with the answer provided to this Interrogatory Number 3?

A. Yes, ma'am.

Q. Okay. And if you will turn to Page 9, Number 24 Interrogatory. It states, "Identify any social media account and/or pages maintained by you or on your behalf that would

involve advertising, marketing, promoting and/or notifying consumers and/or the general public of your services."

And the answer lists www.BeverlyHomesSC.com and www.Facebook.com/Beverly HomesSC. Are those two websites maintained by Beverly Homes, LLC?

A. I don't know. I mean I made a comment earlier about all I can do is get an email and send a simple email. I mean I don't know too much -- I've never been on Facebook before ever.

Q. Okay. Do you ---

A. But I think I do think that Beverly Homes does maintain those sites there, but I don't -- I don't -- I can't sit here and swear that they do.

Q. Okay. Do you have any reason to believe that the Answer to Interrogatory Number 24 is incorrect?

A. No, I do not.

Q. Okay. I want to mark the Defendant Beverly Homes, LLC's Responses to Interrogatories as Exhibit I don't remember the number.

A. It's 4.

MS. WRIGHT: Okay. Great. Next we have Defendant Beverly Homes, LLC's Answers to Plaintiff's Request to Admit. And I'll mark this as Plaintiff's Exhibit 5.

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(BEVERLY HOMES
ANSWERS TO
PLAINTIFF'S REQUESTS
TO ADMIT WAS MARKED
FOR IDENTIFICATION
AS DEPOSITION
EXHIBIT NUMBER 5.)

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THE WITNESS: Thank you, ma'am.

BY MS. WRIGHT:

Q. Okay. If you will turn to the second page there.

A. Yes, ma'am.

Q. Actually it's the first page. Go back to the first page if you would. Okay. Is that document marked as Plaintiff's Exhibit 5 at the top does it state, "Defendant Beverly Homes, LLC's Answers to Plaintiff's Request to

Admit?"

A. Yes, it does.

Q. Okay. And for Number 1 it states, "Admit that Strand Paint Contractors, LLC was hired by Beverly Construction Group, LLC as an interior painting subcontractor on the residential project at issue in this case located at 39 Gasparilla Circle, Murrells Inlet, South Carolina." Did I read that correctly?

A. Yes.

Q. And is the answer, "Beverly Homes, LLC was not involved with the construction of the Pender house and did not hire any subcontractors."

A. That's correct.

Q. And do you agree with that answer?

A. Yes, I do.

Q. And do you agree that Strand Paint Contractors, LLC was hired by Beverly Construction Group, LLC as an interior painting subcontractor on the residential project at 39 Gasparilla Circle?

A. Are you reading that from here somewhere?

Q. It's the same. It's the question Number 1.

A. Oh, it is still is Number 1? Now read that again, please.

Q. Yes. And I'm wording it slightly differently. Would you agree that Strand Paint Contractors, LLC was hired by Beverly Construction Group, LLC as an interior painting subcontractor on the residential project at issue in this case located at 39 Gasparilla Circle, Murrells Inlet, South Carolina?

A. You asked me if I agree with this answer? Is that the question?

Q. No, I'm asking if you agree with the statement.

A. My understanding is based on what all y'all said that Strand did do the painting there, but I mean I can't -- I'm confident they did -- I'm confident they did. But ---

Q. Okay. Then I want to turn to the next page where we've got Number 2. And I think that one's pretty clear so I will move on to at the bottom of the page there's Number 6 there. And it states that, "Admit that Evarista Lorenzo is was diagnosed with C5 and

C6 fractures with dislocation in her neck by Joseph Cheatle, MD as a direct result of the subject incident on January 17th of 2017." Did I read that question correctly?

A. Would you read it again, please?

Q. Yes, it's Number 6. "Admit that Evarista Lorenzo was diagnosed with C5 and C6 fractures with dislocation in her neck by Joseph Chestle, MD as a direct result of the subject incident on January 17th of 2017." Did I read that correctly?

A. Yes, ma'am.

Q. Okay. And the answer is, "Without waiving any objections about the admissibility of any medical testimony Defendant admits Plaintiff sustained injury based on facts showing she opened the door and walked without looking into the elevator shaft at the home under construction." And so my question is do you have any evidence showing that the Plaintiff, Ms. Lorenzo, opened the door prior to this incident occurring?

A. No, I do not.

Q. Okay. And do you have any evidence that Ms. Lorenzo walked without looking into

the elevator shaft?

A. No, ma'am.

Q. Okay. Did you provide an Affidavit for this case to anyone?

A. I only remember doing one that I remember now. And there again, I'm seventy-one years old my memory is not what it used to be.

Q. Perfect.

A. But I -- I -- I -- I did -- it seemed that there was an invoice or something that -- that apparently just got stuck in the wrong file. It was for some lawn maintenance work that was done at my personal house at Bellevue and it got stuck in that file. That's the only one I remember.

Q. So do you live in the same neighborhood where ---

A. Yes and no. I understand, yeah. I used to. I don't live there anymore. But I used to live in Bellevue Phase 2. And there's two separate gate entrances to my house at Bellevue and this house is in Phase 1 at Bellevue.

Q. Okay. When you say -- I think you said Bellevue 2?

A. Yes, ma'am.
Q. Is 39 Gasparilla Circle part of Bellevue 2?
A. No, Bellevue 1.
Q. Okay. Are Bellevue 1 and Bellevue 2 two separate neighborhoods?
A. Yes, two separate HOAs. We're developed by the same developer, but two completely separate. I say, yeah, completely separate interests. I mean separate HOAs and just a little creek that really separates them, but you can't walk -- you can't walk -- cannot walk from 1 from Bellevue 1 over to Bellevue 2. Well, you have to walk out on the road -- the main road to get over there.
Q. Who is the developer of Bellevue 1 and Bellevue 2?
A. Well, it was Cooper Wellons and really the legal name might be like Four Southern Brothers or something like that, but it's -- well, there used to be four Wellon brothers.
Q. Okay.
A. But I don't know any of those guys. They'd already -- they were out of Bellevue 2

when I bought the lot I bought so I didn't deal with them.

Q. Okay. Would you agree that a hazard exists inside the home under construction until the elevator is installed completely?

MR. PEARCE: I'm going to object to the form.

THE WITNESS: I would think so -- I would think so.

BY MS. WRIGHT:

Q. Would you agree ---

A. And in my opinion there's still a hazard even when the elevator's installed, in my opinion.

Q. Okay. And why is that?

A. Well, I mean there's still a shaft there that somebody could fall down. I mean it's just -- there are hazards everywhere. I mean, you know, I mean get in your car and drive home it's the biggest hazard you're going to take. But I mean it just there are a lot of hazards out there. I mean you got to be careful about what you do. You got to be personally conscious of when you drive that car

don't run a stop sign and you will -- chances are you won't get in a wreck. But anyway I mean I just say you would -- there's a lot of hazards everywhere not just in a house. There are a lot of hazards out there.

Q. And now is your home in Bellevue 2 is it the same floor plan as this home at 39 Gasparilla Circle?

A. No, ma'am.

Q. Okay. Did your home have an elevator?

A. Yes, ma'am.

Q. Okay. Do you know whether Port City Elevator, Inc. installed the elevator in the home that you owned?

MR. PEARCE: I'll object to the question. Mr. Beverly's personal residence is not an issue in this deposition. He's here as a fact witness for Beverly Homes.

MS. WRIGHT: Okay. Well, I'm just asking ---

MR. PEARCE: You're asking irrelevant questions pursuant to this deposition. You can answer.

THE WITNESS: Okay.

Well, the answer it's not my personal residence. The elevator in my personal residence was not -- no, I don't have an elevator in my personal residence. I just thought about that.

BY MS. WRIGHT:

Q. Okay. And I'm asking about the property that relates to your affidavit in this case, the invoice.

A. In Bellevue?

Q. Correct.

A. That's a second home and the elevator in my personal house was not installed by Port City Elevator.

Q. Okay. And that's the one in Bellevue?

A. That's correct, the one in Bellevue was not installed by Port City Elevator.

Q. Would you agree that before the elevator is installed OSHA requires three guardrails across the elevator shaft?

A. I don't know.

Q. Would you agree that prior to the installation of the elevator in the home at 39 Gasparilla Circle someone should have posted a

warning sign?

MR. PEARCE: Object to the form as a misleading question.

THE WITNESS: I don't know.

MS. WRIGHT: I'm going to hand you Defendant Strand Paint Contractor, LLC's Responses to Defendant's Beverly Homes Requests for Admission and mark that as Plaintiff's Exhibit Number 6.

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(STRAND PAINT CONTRACTOR, LLC RESPONSES TO REQUESTS FOR ADMISSION WAS MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 6)

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BY MS. WRIGHT:

Q. And if you will turn to Request Number 2.

A. Page Number 2?

Q. The Request Number 2. I'm not sure

what page it's on. Yes, if you'll turn to the next page. And then the next page, so it's the third page there. Okay. Do you see Number 2 at the top?

A. Number what, 2?

Q. Number 2.

A. Uh-huh (yes).

Q. Okay. Their response -- well, first can you read for me what is the Request in Number 2?

A. Of course, I'm not going to admit to any, now this is somebody else, of course, but they're admitting that Strand Painting Contractors, LLC was hired by Beverly Construction Group, LLC as an interior painting subcontractor on the residential project at issue in this case located at 39 Gasparilla Circle, Murrells Inlet, South Carolina.

Q. And what was their response to Number 2?

A. Strand Paint Contractors, LLC admits it was hired by Beverly Construction Group, LLC as an interior painting subcontractor for the location at 39 Gasparilla Circle, Murrells Inlet, South Carolina, but

disputes any reference or implication that the employment fell within the terms and conditions of the master agreement referred in Request for Admission Number 1. And I damn sure don't understand that.

Q. Okay. I won't ask you any more questions about that. Have you ever spoken to a person named Gerald Ryan?

A. Gerald Ryan? Like I told you I'm embarrassed to tell you this, but as you noticed earlier I didn't even know some of the people's last names in my office so I'm not sure. I mean I know several people named Gerald. Can you give me a hint of kind of what kind of employment he does? I mean if he's a --

Q. He's a painter.

A. Oh, yeah, I know Gerald. I didn't know what his last -- his last name is Ryan?

Q. Yes.

A. I know Gerald.

Q. Have you spoken to Mr. Ryan about this incident involving Ms. Lorenzo?

A. No, I have not.

Q. Would you agree that Forrest B.

Beverly executed the contractor portion of the master subcontract agreement with Strand Paint Contractors, LLC as the owner of Beverly Construction Group, LLC?

A. I would -- I hadn't seen that contract, but I would think that's probably right.

Q. Okay.

A. He would be the one to do that.

Q. Do you know what the lighting was like inside the home at 39 Gasparilla Circle at the time the incident occurred?

A. No, ma'am.

Q. Do you know on what date Toppers -- let me make sure I get the name right. Do you know on what date Alan Topper d/b/a Toppers All Construction was present at the property at 39 Gasparilla Circle?

A. Oh, no, ma'am. Have no idea.

Q. Does Beverly Homes, LLC have any records that would indicate what date people were at the property at 39 Gasparilla Circle?

A. No, ma'am, we would not.

Q. Does Beverly Homes, LLC have a logo?

A. Yes, ma'am.
Q. And can you describe what the logo of Beverly Homes, LLC looks like?
A. I really don't know. And I mean I probably see it every day, but I really don't know.
Q. Do you have a business card with you?
A. I think I do. I guess our logo is like a little rooftop with a palm tree growing off the side of it.
Q. Okay. Do you have a business card that I can have?
A. Sure.
MR. PEARCE: Are you going to mark it as an exhibit?
MS. WRIGHT: Yes, that's why I was going to ask.Okay. And is the business card we just marked as Plaintiff's Exhibit 7.

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(RANDY BEVERLY
BUSINESS CARD
WAS MARKED
FOR IDENTIFICATION

AS DEPOSITION
EXHIBIT NUMBER 7)
++++++++++++++++

BY MS. WRIGHT:

Q. And is the business card we just marked as -- what is it, Plaintiff's Exhibit Number ---

MR. PEARCE: 7

BY MS. WRIGHT:

Q. --- 7, is that your bushes card with Beverly Homes, LLC?

A. Yes, ma'am.

MS. WRIGHT: Okay. I'm going to hand you the residential construction contract?

THE WITNESS: Do you want to label that as an exhibit, too?

MS. WRIGHT: Yes, please.

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(RESIDENTIAL CONSTRUCTION
CONTRACT WAS MARKED
FOR IDENTIFICATION
AS DEPOSITION
EXHIBIT NUMBER 8)

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BY MS. WRIGHT:

Q. Is there more than one there?

A. Three pages I think -- four pages. I can't count.

Q. On the first page of the residential construction contract does it state, "This residential construction contract is made by and between Beverly Construction Group Contractor and Carlton and Joan Pender owner and is subject to the terms and conditions stated below?"

A. Yeah, that's correct. That's the first sentence in the -- in the contract, yes.

Q. Okay. And Number 3 for construction site does it indicate that this is the contract for Lot 4 Bellevue on Gasparilla Drive in Murrells Inlet, South Carolina?

A. Yes, ma'am.

Q. Okay. And is it your understanding that Beverly Construction Group was the contractor who entered this contract to build the home for the Penders at 39 Gasparilla Circle?

A. Say that again, please.

Q. Yes. Is it your understanding that Beverly Construction Group is the contractor who entered this contract to build a home for the Penders at 39 Gasparilla Circle?

A. Yes, ma'am, that's my understanding.

Q. Okay. I'm getting close to the end here. Thank you for bearing with me. If you need a break just let me know.

A. While you're doing that if you don't mind I'll run to -- I'd like to run to the restroom.

MS. WRIGHT: Okay. Sure.

(A brief recess was taken.)

MS. WRIGHT: I'm going to hand you a check and have it marked as an exhibit.

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(CANCELED CHECK
FROM CARLTON PENDER
CONSTRUCTION ACCOUNT
WAS MARKED
FOR IDENTIFICATION
AS DEPOSITION

EXHIBIT NUMBER 9)

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BY MS. WRIGHT:

Q. And what exhibit number is that?

A. 9, yes, ma'am.

Q. Okay. Plaintiff's Exhibit 9 is that a check dated June 17th of 2016?

A. Yes, it is.

Q. And does the check state, "Pay to the Order of Beverly Homes"?

A. Yes, it does.

Q. And does the check indicate it is for deposit Lot 4 Bellevue?

A. Yes, it does.

Q. And is this check for twenty thousand dollars payable to Beverly Homes is it signed by Joan Pender?

A. Yes, ma'am, that appears to be the name.

Q. Do you know why this check was made Pay to the Order of Beverly Homes?

A. No, ma'am, I do not.

Q. Did you ---

A. Just a I guess honest mistake on -- on Joann Pender's part I guess.

Q. Did you receive this check at any time?

A. Me?

Q. Yes.

A. No, ma'am.

Q. Have you ever seen this check before today?

A. Not that I remember, no, ma'am.

Q. Was this check deposited into the bank account of Beverly Homes, LLC?

A. No, ma'am.

Q. Do you know whether this check was deposited into the bank account for Beverly Construction Group, LLC?

A. I have -- I wouldn't -- I wouldn't know.

MS. WRIGHT: Okay. And then I'm going to hand you this next check.

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(CANCELED CHECK FROM CARLTON PENDER WAS MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 10)

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BY MS. WRIGHT:

Q. And Plaintiff's Exhibit 10, does the document indicate check is for plans and survey of Lot 4 Bellevue Phase 1?

A. Yeah, well, the check doesn't say that now. I think written below on the I guess the copy below that.

Q. Okay. And is this check Pay to the Order of Beverly Homes in the amount of two thousand dollars?

A. Yes, it is.

Q. And is this check from the Penders?

A. Looks so, yes. Yeah, I mean Pender is at the top. I can't read that signature, but I'm sure it's from the Penders.

Q. Okay. Do you know why this check was made payable Pay to the Order of Beverly Homes?

A. No, ma'am.

Q. Do you know whether either the Penders were asked to cancel this check and issue a new check to someone else?

A. I have no idea.

Q. Okay. Do you know who Robert

Turner Michael is?

A. Robert what?

Q. Robert Turner Michael.

A. I do -- I know a boy named Robert Turner. He's a -- he's a Conway boy that works for Southern Asphalt, but I don't know why his name -- unless somebody was just -- somebody just making some notes or something. And I don't recognize that handwriting either.

MS. WRIGHT: Okay. I'm going to hand you this document and have it marked as Plaintiff's Exhibit 11.

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(TEMPORARY SERVICE REQUEST WAS MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 11)

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BY MS. WRIGHT:

Q. And it says, "requesting temporary service for the following." Okay. Is Plaintiff's Exhibit 11 does it say, "Beverly Homes, LLC" at the top of the first page?

A. Yes, ma'am.

Q. And is this a letter from Beverly Homes, LLC requesting temporary service for 39 Gasparilla Drive?

A. Yeah, there are a couple of letters from Beverly. That's Beverly Homes cover letter. I think that was a fax or something I guess. But ---

Q. Okay. And on the first page does it state, "requesting temporary service for the following 39 Gasparilla Drive, Lot 4 Bellevue, Permit Number 21400"?

A. Yes, ma'am.

Q. Okay. And on the next page does it say, "residential service extension application agreement" at the top?

A. Yes, ma'am.

Q. And is that a form with Santee Cooper?

A. Yes, ma'am, it is.

Q. And do you recognize the handwriting on this residential service extension?

A. No, ma'am, I don't. It appears to be two different handwritings. Look like whoever wrote Beverly Homes and the phone

number and Enhanced Heating and Air and their phone number appeared to be different writing than the -- I'm assuming probably what happened there it was just the form that Beverly Homes and Enhanced was already on there -- on the form and they filled in the square footage and the sub's name and that kind of thing. Somebody else filled that in, in my opinion. Looks like they did.

Q. Okay. At the top of the Residential Service Extension where it says homebuilder does it list Beverly Homes?

A. Yes, it does.

Q. And for the address does it list 39 Gasparilla Circle?

A. Yes, it does.

Q. And at the bottom of the page where it says, "print name" does it say Forrest B. Beverly?

A. Yes.

Q. And where it says, "customer signature" is that Forrest B. Beverly's signature?

A. Yes, appears to be to me.

Q. And where is printed the name

Forrest B. Beverly is that Forrest B. Beverly's handwriting?

A. Say that again now. I'm sorry.

Q. Yes, the printed part where it's written in print Forrest B. Beverly do you know whether that is your son's handwriting?

A. That is not his handwriting.

Q. Okay. Do you know why this Residential Service Extension lists the homebuilder as Beverly Homes?

A. Just an honest, clerical mistake in our office. I mean because like we said I mean you look back I mean you can say with LLR Beverly Homes has never had a -- a contractor's license. Never had any license really, but just --- I don't recognize the writing, but somebody just made an honest mistake by putting homebuilders as Beverly Homes.

MS. WRIGHT: Okay. I'm going to hand. This would be Plaintiff's 12, I believe.

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(11-30-16 INVOICE
FROM SANTEE COOPER
WAS MARKED

FOR IDENTIFICATION
AS DEPOSITION
EXHIBIT NUMBER 12)
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BY MS. WRIGHT:

Q. And is that document a bill dated November 30th of 2016 from Santee Cooper?

A. Yes, that's correct. Yes, November 30th of 2016. Yes.

Q. And is the bill issued to Beverly Homes?

A. Yes, it is. Yes.

Q. And is this bill for 39 Gasparilla Circle?

A. Yes, it is.

Q. And do you know why the Santee Cooper bill was issued to Beverly Homes for 39 Gasparilla Circle?

A. Yes, ma'am.

Q. Okay. And why is that?

A. Because that request you just showed me said Beverly Homes and that's all they use. You know, request they've said for service. So since the request had Beverly Homes, they billed it to Beverly Homes.

Q. Okay. Did you ---
A. They just kept on with the same mistake, but anyway it was just an honest mistake that was made in our office way back when.
Q. Did you receive this bill?
A. No, ma'am.
Q. The P.O. Box 512, Conway, South Carolina, 29528, is that the P.O. box of Beverly Homes, LLC?
A. Yes, it is.
Q. Okay. Who checks the mail for the P.O. box for Beverly Homes, LLC?
A. Most of the time I do myself.
Q. Okay. And if it were not you what other person has the ability to check the mail from the P.O. box?
A. At that time had a girl named Lorraine Crow. I think -- I think at that time she was working for us but anyway she -- she lived on the other side of the post office from our office so she had a key and periodically she would stop by on the way through.
Q. And what was Lorraine's job title?
A. She was kind of a plan expediter, I

guess. She hasn't been with us in several years.

Q. Was Lorraine working for Beverly Homes, LLC in January of 2017?

A. Say that question again.

Q. Was Lorraine Crow working for Beverly Homes, LLC in January of 2017?

A. No, ma'am.

Q. Was Lorraine Crow working for Beverly Homes, LLC in November of 2016?

A. No, ma'am.

Q. Did Beverly Homes, LLC pay this bill that has been marked as an exhibit?

A. No, ma'am.

MS. WRIGHT: Okay. I'm going to hand you another bill and have it marked as an exhibit.

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(SANTEE COOPER INVOICE WAS MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 13)

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BY MS. WRIGHT:

Q. Okay. Is the document I just handed you a bill dated October 3rd of 2016 to Beverly Homes?

A. Yes, it is.

Q. And is the bill from Santee Cooper for 39 Gasparilla Circle?

A. Yes, it is.

Q. And did you ever receive this bill?

A. No, ma'am.

Q. Did Beverly Homes, LLC receive this bill?

A. No, ma'am.

Q. Did Beverly Homes, LLC pay the charges associated with this bill?

A. No, ma'am.

Q. Do you know who or what company did pay the charges associated with this bill?

A. I would -- I don't know, but I would suspect Beverly Construction Group did because that's Forrest's signature on there. His initials I mean, which is what he puts on there to okay for bookkeeping to pay the bill.

Q. Okay.

A. If Beverly Homes would have paid it, it would be my an okay and my initials on

there.

Q. Okay. So whose initials are on this bill?

A. That's Forrest's initials. There's a little handwritten to the left where it says paid.

Q. Okay. And whose initials were on the previous bill?

A. That was Forrest's. That was his initials as well. That's why I know I didn't pay it. When you asked me that question I know Beverly Home didn't pay it.

Q. Okay. And does any other company share the P.O. Box 512 with Beverly Homes, LLC?

A. Yes, ma'am.

Q. Okay. What company shares that P.O. box?

A. All of them? All the companies?

Q. Yes.

A. There's Castlewood Development shares that, Beverly Construction Group shares that, I know there's more than that. Kingston Pointe Marina shares that. That may be it, but I'm sure there's more than that, but that's all I can think of right now.

Q. Other than yourself and Lorraine Crow does any other person have access to the P.O. Box 512?

A. Well, Lorraine Crow does not anymore. She hadn't been with us in several years. But Forrest he has a key to the P.O. box and -- and -- and I'm pretty sure would have at that time. I think he would have at that time in 2016-2017.

Q. Okay. And have you ever seen this bill prior to today?

A. No, ma'am.

Q. Has Beverly Homes, LLC ever spoken to any employee of Port City Elevator, Inc.?

A. Ever?

Q. Yes.

A. Yes, ma'am. Well, wait a minute -- wait a minute. Ask that question again. I'm not sure I understood the question. Say that one more time, please.

Q. Has Beverly Homes, LLC ever spoken to any person who works for Port City Elevator, Inc.

A. You mean an employee of Beverly Homes ever spoke to an employee of Port City

or ---

Q. Yes.

A. No.

Q. Okay. Have you ever spoken to any person who works for Port City Elevator, Inc. prior to this incident on January 17th of 2017?

A. No.

MS. WRIGHT: Okay. I'm going to hand you this Certificate of Completion and have it marked as an Exhibit.

THE WITNESS: 14.

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(CERTIFICATE OF COMPLETION WAS MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 14)

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BY MS. WRIGHT:

Q. Okay. Plaintiff's Exhibit Number 14 is that the Georgetown County Certificate of Completion?

A. Yes, it is.

Q. And is the building street address listed 39 Gasparilla Drive, Number Lot 4,

Murrells Inlet, South Carolina 29576?

A. That's correct.

Q. And the owner's name does it list Beverly Homes?

A. Yes, it does.

Q. And at the bottom where it says, "I, Forrest B. Beverly being responsible for the above-referenced structure understand and will abide by the requirements of this Certificate."

Does that appear to be Forrest Beverly's handwriting?

A. No, ma'am.

Q. Do you know whose handwriting that is?

A. No, ma'am, I don't.

Q. Do you know why this Georgetown County Certificate of Completion lists owner's name Beverly Homes?

A. It's probably just what we looked at earlier. When the permit went into Beverly Homes as the owner, which was an erroneous -- I mean we've never owned -- Beverly Homes never owned it. But anyway, it was just yeah, from that point on it was in their computer as

Beverly Homes. So it was never changed. I mean ---

Q. Okay. So is it your understanding that the building permit issued by Georgetown County was issued to Beverly Homes?

A. I think that's what that application said that you had earlier.

Q. Okay. The application ---

A. The request for permit was one you showed me earlier was in Beverly Homes' name, the request for the permit. So at that time apparently they put that into their system and it continued with that right on down the road. I'm assuming that's what happened. I mean I don't know how they operate over there. That wouldn't happen in Horry County I can tell you. They catch it pretty quick over here.

Q. Okay. And then on this Georgetown County Certificate of Completion the signature line for owner/agent/contractor do you know whose signature that is?

A. Yeah, that is Forrest's signature.

Q. Did Beverly Homes, LLC ever notify Georgetown County that it was not the owner of 39 Gasparilla Drive or Circle?

A. No, ma'am.

Q. Do you know whether Forrest Beverly ever notified Georgetown County that the owner was not Beverly Homes, LLC?

A. I have no idea.

MS. WRIGHT:

Okay. I'm going to hand you this document.

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(CERTIFICATE OF TEMPORARY POWER WAS MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 15)

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BY MS. WRIGHT:

Q. That would be Exhibit Number 15. Is Plaintiff's Exhibit Number 15, does that appear to be the Georgetown County Department of Building Inspection Certificate of Temporary Power?

A. Yes, ma'am.

Q. And is the owner's name listed as Beverly Homes?

A. Yes, it is.

Q. And is the location address 39 Gasparilla Drive, Lot 4, Murrells Inlet, South Carolina 29576?

A. Yes, it is.

Q. And do you know why the owner's name is listed as Beverly Homes on this Certificate of Temporary Power?

A. No, ma'am, other than they picked it up, I'm assuming, from that form you showed me earlier when we requested the permit. It had it listed on there as Beverly Homes. So like I said earlier that got into their system in their computer and it just every time something printed out for that job it printed out to Beverly Homes.

Q. Okay.

A. Which was just an honest mistake on some staff in our office.

Q. Do you know whether anyone with Beverly Homes, LLC contacted Georgetown County to have the Certificate of Temporary Power corrected to remove Beverly Homes from the owner's name?

A. No, ma'am.

MS. WRIGHT: Okay.

I'm going to hand you this next document Certificate of Occupancy.

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(CERTIFICATE OF OCCUPANCY WAS MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 16)

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BY MS. WRIGHT:

Q. And on Plaintiff's Exhibit 16 is that a Certificate of Occupancy from Georgetown County Building Department?

A. Yes, it is.

Q. And is that the Certificate of Occupancy for 39 Gasparilla Drive, Number Lot 4, Murrells Inlet, South Carolina 29576?

A. That's correct.

Q. And is the owner listed as Beverly Homes?

A. Yes, it does.

Q. And do you know why Beverly Homes is listed as the owner on this Certificate of Occupancy for 39 Gasparilla?

A. I'm assuming that same reason I

said earlier. You just -- it got it put in their system in the very beginning as Beverly Homes and I'm sure they didn't even pay any attention to it when they printed it out. That's what the computer printed out and they just signed it and shot it on down the road.

Q. Did Beverly Homes, LLC notify Georgetown County that the Certificate of Occupancy needed to be corrected to remove Beverly Homes as being the listed owner?

A. No, ma'am. Didn't know it was on there.

MS. WRIGHT: Okay. The next document I'm going to hand you is an invoice from Chris Langston, LLC.

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(INVOICE FROM CHRIS LANGSTON WAS MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 17)

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BY MS. WRIGHT:

Q. And on that invoice from Chris

Langston, LLC does it state that it is Bellevue Lot 4?

A. Yes, it does.

Q. And is the bill from Chris Langston, LLC for Bellevue Lot 4 to Beverly Homes?

A. That's correct.

Q. And do you know why Chris Langston, LLC issued his invoice to Beverly Homes?

A. I do not.

Q. Did you ever receive this invoice?

A. No, ma'am.

Q. Did Beverly Homes, LLC receive this invoice?

A. No, ma'am.

Q. Did Beverly Homes, LLC pay this invoice?

A. No, ma'am.

Q. Do you know whose initials are on the bottom of the invoice?

A. Yeah, those are Forrest's initials. So he's had been -- I'm confirmation of his initials being there they would have been paid from Beverly Construction Group, LLC.

Q. Since Forrest Beverly is also an

owner of Beverly Homes, LLC how do you know whether his initials are on behalf of Beverly Homes, LLC versus Beverly Construction Group, Inc.?

A. I was not out of town in September of 2016 when this went through. That's the only time he reviews bills on behalf of Beverly Homes. I review all those bills and sign off on them to be paid or not unless I'm out of town and I was not out of town during this period here.

Q. Okay. Were you out of town at any time during 2016?

A. Yes, we -- we took a trip to Bald Head Island in early spring probably April or May of 2016. Took the boat up there and had a long weekend like a Thursday, Friday, Saturday and Sunday. But I don't remember exactly. It was when it first started getting warm like maybe -- maybe early May or late April, early May of 2016.

Q. Okay. And did you leave town or take any vacations in 2017?

A. Actually in I'm pretty sure it was September-October of 2017. It may have been

October of 2018 we went to on an Alaskan cruise for two weeks, but I don't know if that was 2017 or 2018. But it was in October. I believe it was 2017 or 2018 we did -- we did leave town for two weeks.

Q. Do you know what cruise line you were on?

A. Princess Cruise Line. I don't recommend it.

MS. WRIGHT: I'm going to hand you this invoice from B & A Quality Construction.

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(INVOICE FROM
B&A CONSTRUCTION
WAS MARKED
FOR IDENTIFICATION
AS DEPOSITION
EXHIBIT NUMBER 18)

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BY MS. WRIGHT:

Q. And is the invoice from B & A Quality Construction dated January 18th of 2017?

A. Excuse me, I'm sorry what were you

saying now?

Q. Yes, what is the date on that invoice from B & A Quality Construction?

A. January 18th of 2017.

Q. Okay. And under service does it list Bellevue Lot 4?

A. Yes.

Q. And is this invoice from B & A Quality Construction to Beverly Homes?

A. Yes, it is.

Q. And do you know why B & A Quality Construction issued an invoice to Beverly Homes?

A. I do not.

Q. Do you know whose phone number is 843-458-0037?

A. You know, these cell phones has spoiled me, but I don't if that's Forrest, my phone's off. I don't. I don't know whose that is.

Q. Okay. Has Beverly Homes, LLC ever hired B & A Quality Construction for anything?

A. Apparently we -- did Beverly Homes hire them?

Q. Yes.

A. No, ma'am -- no, ma'am. I'm not even -- I don't know who that is.

Q. Okay.

A. I never even heard of them really.

MS. WRIGHT: Did you mark that one?

COURT REPORTER: Yes.

THE WITNESS: Yes, it's Number 18.

MS. WRIGHT: And I'm going to hand you this invoice from Strand Engineering.

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(INVOICE FROM STRAND ENGINEERING WAS MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 19)

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BY MS. WRIGHT:

Q. And is the invoice in front of you from Strand Engineering for Lot 4 Bellevue, Murrells Inlet, South Carolina?

A. Yes, it is.

Q. And does it state bill to Beverly Homes, 9007 Highway 544, Myrtle Beach, South Carolina 29588?

A. Yes, ma'am, it does.

Q. And do you know why Strand Engineering issued an invoice to Beverly Homes for Lot 4 Bellevue?

A. I do not.

Q. Has Beverly Homes, LLC ever hired Strand Engineering?

A. No, ma'am.

Q. Did Beverly Homes pay this invoice?

A. No, ma'am.

Q. Did Beverly Homes receive this invoice?

A. No, ma'am.

MS. WRIGHT: I'm going to hand you this invoice from Faith Landscaping, LLC.

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(INVOICE FROM
FAITH LANDSCAPING, LLC
WAS MARKED
FOR IDENTIFICATION
AS DEPOSITION

EXHIBIT NUMBER 20)

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BY MS. WRIGHT:

Q. And the invoice in front of you from Faith Landscaping, LLC at the bottom does it state Bellevue Lot 4?

A. Yes, it does.

Q. And does this invoice from Faith Landscaping, LLC state bill to Beverly Homes?

A. Yes, it does.

Q. Do you know why Faith Landscaping, LLC billed this invoice to Beverly Homes for Bellevue Lot 4?

A. I do not.

Q. Has Beverly Homes, LLC ever hired Faith Landscaping, LLC to do any work?

A. None at all. No, ma'am. No.

Q. Did Beverly Homes, LLC pay for this invoice?

A. No, ma'am.

Q. Do you know whose initials are on the bottom of this invoice?

A. Yes, I do.

Q. Whose initials are those?

A. Those are Forrest's.

MS. WRIGHT: I'm going to hand you this invoice from Palmetto Concrete, LLC.

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(INVOICE FROM PALMETTO CONCRETE, LLC WAS MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 21)

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BY MS. WRIGHT:

Q. And the invoice from Palmetto Concrete, LLC is it a bill to Beverly Homes? Does it state that bill to Beverly Homes?

A. Yes, ma'am, it does.

Q. And is the project name on this invoice Bellevue Lot 4?

A. Yes, it is.

Q. And for the description of this invoice does it state form and pour elevator pit extra?

A. Yes, it does.

Q. Okay. Do you know why Palmetto Concrete, LLC billed its invoice for forming and pouring the elevator pit for Bellevue Lot 4

to Beverly Homes?

A. I do not, no.

Q. Has Beverly Homes ever hired Palmetto Concrete, LLC to do any work?

A. No, ma'am.

Q. Does Beverly Homes, LLC occasionally as a developer hire concrete companies?

A. No, ma'am. When I say no, we may hire a big concrete company like Benton to put the curbing in for the streets, but I mean that's -- people have a curbing machine or they're a pretty -- pretty big contractor. I mean pretty big concrete guys. It wouldn't be -- I never even heard of Palmetto Concrete, LLC.

Q. Okay. Do you recognize the handwriting on this invoice?

A. Where it says extras?

Q. Yes, sir.

A. I do not.

Q. And what about at the top where it says for BB, do you recognize that handwriting, the top right?

A. Well, that I don't know. That

looks like it could be Rebecca's. But that's for BB is hers. The extra sure isn't.

Q. And did Beverly Homes, LLC pay for this invoice?

A. No, ma'am.

MS. WRIGHT: I'm going to hand you two invoices from Gale Contractor Services and have it marked as an exhibit.

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(INVOICE FROM GALE CONTRACTING SERVICES WAS MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 22)

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BY MS. WRIGHT:

Q. Okay. The first page the invoice from Gale Contractor Services under ship address does it list 39 Gasparilla Drive?

A. Yes.

Q. And on the Gale Contractor Services invoice does it -- is it billed to customer bill to address Beverly Homes, 9007 Highway 544, Myrtle Beach, South Carolina 29588 US?

A. Yes, ma'am.
Q. And for product trade for this invoice does it list insulation at the top right?
A. Yes, ma'am.
Q. Do you know why Gale Contractor Services issued this invoice for 39 Gasparilla to Beverly Homes?
A. No, ma'am, I do not.
Q. Has Beverly Homes, LLC ever hired Gale Contractor Services to do any work?
A. No, ma'am.
Q. Has Beverly Homes, LLC ever hired Gordon Roberts to do any work?
A. Gordon Roberts?
Q. Yes, sir.
A. Never heard of that name. No, ma'am. If I did it was just -- no we haven't. I mean I never even heard that name.
Q. Okay. Whose initials are on this if you recognize it?
A. Oh, that's Forrest's.
Q. Okay. And where it says 4BV do you know whose handwriting that is?
A. No, I don't.

Q. Okay. Does Beverly Homes, LLC have an accountant or a CPA that handles billing for it?

A. Billing? No, ma'am. We do that in-house.

Q. And has it always been done in-house?

A. Yes. We have an accountant, of course, that does our taxes. That's all he does.

Q. And who is the accountant?

A. Clark Parker.

Q. Okay.

A. He's over at 21st Avenue at the Beach, Myrtle Beach.

Q. And on the second page of the invoice from Gale Contractor Services, whose handwriting is the initials?

A. You mean the 4BV? Oh, no, that's Forrest's further down?

Q. Okay.

A. Yeah.

Q. And Rebecca Beverly, you mentioned her. Who was her employer?

A. Beverly Construction Group, LLC.

Q. And has Rebecca ever been employed by Beverly Homes, LLC?

A. No, ma'am.

Q. Okay. And does Beverly Homes, LLC have any officers, other than yourself and Forrest?

A. No, ma'am.

Q. And has Beverly Homes, LLC ever had any officers in the past other than yourself and Forrest Beverly?

A. No, ma'am.

MS. WRIGHT: And I'm going to hand you your Affidavit that we talked about earlier.

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(RANDY BEVERLY AFFIDAVIT
WAS MARKED
FOR IDENTIFICATION
AS DEPOSITION
EXHIBIT NUMBER 23)

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BY MS. WRIGHT:

Q. And before I ask you about that let me ask this. Do you have any idea why all of the subcontractors' invoices that we just went

through why a number of them were billed to Beverly Homes?

A. And this is just my theory. Certainly I can't speak for any of the subcontractors, but I mean Beverly Homes is kind of the face of the -- I mean that's -- that's what we market is Beverly Homes. I mean we have very little or almost no literature that's really marketing Beverly Construction Group, so -- most people in and around Horry County is familiar with Beverly Homes. Most of them aren't familiar with Beverly Construction Group.

So I think over the years, I'm assuming this now, this is just my personal opinion, I assume over the years they, you know, they -- they have gotten accustomed to Beverly Homes and, you know, they put those -- that's what they think about when they doing their bill is Beverly Homes and which and I'm assuming that probably somewhere there's probably some checks that show that Beverly Construction Group all those invoices. Say they were stamped on there that what check numbers they were so I think it's very easy to

it's an honest I said it is an honest mistake that all those subcontractors made. Because they certainly were not working for Beverly -- Beverly Homes because say we certainly didn't pay any of those invoices and we certainly aren't the contractor. We legally can't build anything and we don't build anything.

Q. Would there ever be an occasion when Beverly Homes, LLC would hire a contractor and then Beverly Construction Group, LLC would pay the contractor for that work?

A. No.

Q. Okay. In your Affidavit there in front of you, well, first tell me is this an Affidavit signed by you?

A. Yes, that is my signature.

Q. Okay. And 15 Carson Creek Drive, Murrells Inlet, South Carolina 29576, is that the house that you owned also known as Lot 3 in Bellevue, Phase 2?

A. Yes, it is.

Q. And is that the home we discussed earlier when I had some questions about your house?

A. That's correct. But this is --

this is not my primary residence.

Q. Okay. And Exhibit A, the invoice from Carolina Boys Landscaping, does this description indicate Randy Bellevue?

A. Yes. What they're referring to there is my personal house.

Q. Okay.

A. At Bellevue.

Q. And is the invoice from Carolina Boys Landscaping billed to Beverly Homes?

A. Yes, it is.

Q. And do you know why Carolina Boys Landscaping issued its invoice to Beverly Homes?

A. My assumption is what I just mentioned earlier. That's kind of the face of the business and it is kind of a coincidence. I thought about that. You know, it does say for Randy Beverly, but that four is -- they cut the grass four times. That's not -- you see what I'm talking about under quantities?

Q. Yes, sir.

A. They cut the grass four times at thirty-five dollars a cut for the hundred and forty or whatever. For my Lot number is Lot 3,

of course, they wouldn't know what my lot number is.

Q. Okay. And has Beverly Homes, LLC ever hired a contractor with Carolina Boys Landscaping?

A. Yes, we have. They cut some of the entrances at the subdivisions that we developed. They would be doing that for Beverly Homes.

Q. Okay. And the address under bill to Beverly Homes, 1006-B Church Street, Conway, South Carolina, 29526.

A. Is that on this bill here now? Where are we?

Q. Yes, sir. It's on the invoice from Carolina Boys Landscaping. Do you know whose address that is?

A. That's an old, old address. Yeah, I know exactly where that is. It's right next door to Nye's Drug Store in Conway.

Q. And who was the company or owner of that address?

A. Beverly Investments, LLC.

Q. And is Beverly Investments, LLC related in some way to Beverly Homes, LLC?

A. I own Beverly Investments myself. I own all that. And I own that building. That's where my office used to be.

Q. Okay.

A. And I didn't notice that. Yeah, about everybody emails bills now so even though it shows that building address, you know, they didn't put it in the mail for that address. I'm confident they emailed it to our office. That's why we got it, but and I don't know if he's ever changed the address even yet. You know what I'm talking about. I mean he just -- I didn't even notice that address being on there until you just mentioned it. But that's -- we hadn't been at that address in probably since 2012 or 2013 then we moved it. That's where we were to start with.

Q. Okay.

A. And then we moved to 544 and then we moved to 501.

Q. Did you contact Carolina Boys Landscaping and let them know that this was incorrect and it shouldn't have been billed to Beverly Homes?

A. No, ma'am.

Q. And is there any reason why that was not corrected?

A. Long as I got the bill I didn't care if it was Beverly Homes or Beverly Investments or Randy Beverly. And actually the house -- the house -- this house here, is owned by Beverly Investments, not me. I think I may have said earlier I own it, but in essence I own Beverly Investments, but the house in question here, you know, in Bellevue Phase 2 is owned by Beverly Investments.

Q. Okay. And whose signature or initials are on this invoice from Carolina Boys Landscaping?

A. That's my -- that's mines. Where it said that's okay. You can't hardly read it, but it says okay and RB.

Q. Okay. And was this invoice paid by Beverly Homes, LLC?

A. No, ma'am.

Q. Was this invoice paid by you personally?

A. No, ma'am.

Q. Who paid this invoice from Carolina Boys Landscaping?

A. Beverly Investments would have paid it.

Q. Okay.

A. That's who really owned the house. They should have paid it. I hope they did.

MS. WRIGHT: I'm going to hand you -- I'm going to ask that this be marked as an exhibit. And it says Builder Warrantee at the top.

++++++++++++++

(BUILDER WARRANTEE
WAS MARKED
FOR IDENTIFICATION
AS DEPOSITION
EXHIBIT NUMBER 24)

++++++++++++++

BY MS. WRIGHT:

Q. Okay. And does Plaintiff's Exhibit Number 24 states on the first page, "This limited warranty agreement is extended by Beverly Homes, LLC of Myrtle Beach, South Carolina, the builder, to Carlton and Joan Pender, the purchaser who is the original buyer of the property at Lot 4 Bellevue"?

A. Yes, it does.

Q. And at the top of the page does it say, "Builder Warrantee Beverly Homes, LLC"?
A. Yes, it does.
Q. And do you know did Beverly Homes, LLC provide a warranty for the Lot 4 Bellevue property, at 39 Gasparilla Circle?
A. No, ma'am.
Q. Do you know why this builder warranty states, Beverly Homes, LLC of Myrtle Beach, South Carolina, is the builder?
A. No, ma'am.
Q. Do you know who typed this document?
A. I do not know who did it. I don't know.
Q. Do you know whose handwriting is where it says Carlton and Joan Pender?
A. My guess is that's Rebecca's, but I'm not sure of that.
Q. At the bottom of the document above the initials on Page 1, do you see where it again states, "Beverly Homes, LLC"?
A. Yes.
Q. And underneath Beverly Homes, LLC do you know whose initials are signed on this

page?

A. Whose initials they are?

Q. Yes.

A. I'm assuming, I can't -- the buyers' initials look like maybe the Penders looks like it may be a P at the end, but I don't know that, but I can tell the seller says Forrest's initials. I recognize his.

Q. And on Page 2 of this Builder Warranty for Lot 4 Bellevue does it list builder Beverly Homes, LLC at the bottom of the page?

A. Yes.

Q. And whose signature is on the signature line for builder, Beverly Homes, LLC?

A. Well, the signature right above where it says builder is -- that's Forrest's signature.

Q. And do you know why it lists builder, Beverly Homes, LLC on this page of the warranty?

MR. PEARCE: I object to the form. You're misstating the language of the exhibit for the second time.

THE WITNESS: But I do

not.
BY MS. WRIGHT:
Q. Okay. So he objected because he believes that I'm misstating it. So I'm wondering if you can help me understand. Underneath builder it says, "Beverly Homes, LLC" at the bottom of the page.
A. Yes, ma'am. Left bottom you're talking about; right?
Q. Yes. Okay. Do you know why it says, "Beverly Homes, LLC" underneath builder?
MR. PEARCE: It also says the same thing at the bottom of Page 1. It's a footer, signature block.
BY MS. WRIGHT:
Q. Okay. So is it fair to say you don't know?
A. I have no idea, no, ma'am.
Q. Okay. And now Number 5 where it says, "Builder Acknowledgement" on Page 2 of this warranty, can you read for me what it says under Number 5, Builder Acknowledgement.
A. It says, "Purchaser acknowledges and agrees that the builder, Beverly Homes, LLC shall be responsible for all construction,

warranty and building related items."

Q. And do you know why Beverly Homes, LLC is listed as the builder in that portion of this document?

A. No, ma'am, I do not.

Q. Okay. I'm just about done. I just want to go through my topics to make sure I've covered everything. So before I do that is now a good time for a five-minute break?

A. Great for me.

(A brief recess was taken.)

BY MS. WRIGHT:

Q. Do you know who had control of 39 Gasparilla Circle on January 17th of 2017?

A. When you say control I'm not sure. I mean I ---

Q. Okay.

A. I think the ownership was in the Penders' name. I don't remember the first name, but I think the ownership was in their name.

Q. Okay. Is there any company or contractor that you believe had control over 39 Gasparilla Circle on January 17th of 2017?

A. Well, I guess the company that

would be Beverly Construction Group. I mean they had the contract to build the house and they would be in charge of the construction and I guess -- I guess having control would not be a -- maybe a little bit of a stretch. But there would be -- they would have -- they would be in charge of the construction at the jobsite would be Beverly Construction Group.

Q. Okay. Other than Beverly Construction Group, LLC is there any other contractor or company that you believe had any control at 39 Gasparilla Circle?

A. No.

Q. Is there any agreement between Beverly Homes, LLC and Beverly Construction Group, LLC?

A. No, ma'am.

Q. Is there any agreement or written document outlining your duties and Forrest's duties related to Beverly Homes, LLC?

A. No, ma'am.

Q. Is there an Articles of Incorporation for Beverly Homes, LLC?

A. It's not a corporation. There might be some Articles in existence I think,

but there wouldn't be any Articles of Incorporation because ---

Q. It's been a while since I ---

A. And I'm not sure you get it -- I think there'd almost have to be I think. That's why I say they probably is some kind of Articles. Yeah, we got registered with the Secretary of State so there would be some kind of Articles of the existence, but I mean I probably saw them at one time but I hadn't seen them in years and years.

MR. PEARCE: Can we go off the record for just a second.

(An off-the-record discussion was held.)

BY MS. WRIGHT:

Q. Does the Articles of Incorporation and the other document, I can't remember the name of it.

A. Operating Agreement.

Q. Operating Agreement does it outline anyone's roles or duties or responsibilities?

A. Not that I -- I don't know. I mean that's been -- that's been years since we formed all that. And that's, you know, it's

all family so like we going back in the file and pulling stuff out and said well, you know, you agree to do that. I mean that just doesn't happen. Thank goodness, yet -- yet. But -- but, I don't know.

MR. PEARCE: We'll get you a copy of that Agreement. It's one page and it doesn't include delegation of duties, it's just a standard operating agreement that outlines who the members are and their ---

THE WITNESS: I would think it's probably pretty generic.

BY MS. WRIGHT:

Q. Okay. Do you know anything about the construction project at Jackson Loop?

A. Jackson Loop? No, ma'am. Is that in Murrells Inlet; do you know? Do you know anything about it?

Q. I really don't.

A. I'm not familiar with that address, Jackson Loop.

MR. PEARCE: Well, I asked everything that we have contact with, with Beverly Homes and Beverly Construction

Group and nobody recognizes that name or address. So I don't know if anybody knows what you're referring to with Jackson Loop.

THE WITNESS: Where did that come from?

BY MS. WRIGHT:

Q. It came from text messages between I think people who worked for one of the Beverly entities and Alan Topper.

A. And Alan Topper?

Q. Yes.

A. I don't know, but that little girl sitting out there if she can't tell you they ain't nobody in our crowd knows. I mean she's the one that kind of to keep the -- she keeps up with everything going on. I mean in the office if you're talking about that kind of thing. But that's not even familiar to me.

Q. Okay. Has Toppers Construction or Alan Topper ever done any work for Beverly Homes, LLC?

A. No, ma'am.

Q. Do you have any opinions about the work that they did at 39 Gasparilla Circle?

A. Have no idea. Like I said earlier

I never been in there before. Before that or after that never been in the house period.

Q. Do you know the name of the person that controls the Facebook page for Beverly Homes, LLC?

A. In our office it would be Charles Byrd. But now I think we hired a third party to kind of assist to that I think. Charles would know, but he -- he's the one -- he's the one coordinates all that with the third party.

Q. Okay. And what is Charles' job title?

A. He's sales manager for the Beverly Group.

Q. Does Beverly Homes, LLC have an email address?

A. I don't know. I mean my -- my email address is randy@beverlyhomes,llc if that tells you anything, but ---

Q. Earlier you mentioned that invoices would go to your email. So I was wondering what email do invoices go to that are ---

A. She can tell you. I mean I don't know. I mean I don't even understand how that works to tell you the truth. But Rebecca she

would have a handle from all that. But I don't know.

Q. And any invoices that you received would they be to the is it randy@ ---

A. No, ma'am.

Q. No.

A. They don't send me invoices there. I would get zero invoices at my email address.

Q. Okay.

A. There's a girl in the office that gets all that then she kind of reviews them and then what may go to the Beverly Homes she'll put on my desk and what goes to Beverly Construction Group goes to Forrest's desk. Or maybe if it's Beverly Investments it gets -- she gets it in my desk, but -- but she -- somebody -- there's somebody in our office I think -- I think today it's Leah is the girl that -- but Leah didn't work for us at this time, but Leah gets them all now.

Q. Who was the person in that role ---

A. No, it isn't. It's Robert. I don't know if it matters, but I just want to be sure if I'm on record I don't tell you a fib, it's Robert gets it. He's the one that reviews

the bills and invoices and dispenses them out.
Q. Who was the person in that role in 2016 and 2017?
A. I don't know -- I don't know. Rebecca would have a better recollection of that than I would.
Q. Did Beverly Homes, LLC report this incident to OSHA?
A. Not that I'm aware of.
Q. Does Beverly Homes, LLC have a manual or any written policies or procedures?
A. Not that I'm aware of.
Q. Did Beverly Homes, LLC do anything to investigate this incident that we're here for today?
A. No, ma'am.
Q. Who is the person recordkeeping for Beverly Homes, LLC?
A. Who would that -- Rebecca Beverly at that time anyway.
Q. Okay. Do you believe that Evarista Lorenzo did anything to cause herself to fall down the elevator shaft?
A. I have no idea. I never even been to that jobsite. Never met her.

Q. Okay. Other than your attorneys have you spoken to anyone else about this incident?

A. Ever?

Q. Yes, sir.

A. I feel confident I have. I don't remember the conversations, but -- but I feel confident I have. In fact, I know I have. You know, it was -- it was -- you know better than me it was bad. But, you know, we've had -- I've had some conversations I mean with people about it, yes.

Q. When did you first find out that this incident occurred?

A. Well, I would guess at this. I mean, you know, obviously this was what almost four years ago; is that right? Yeah. Next month will be four years, won't it? But I would -- I would think just a day or two later.

Q. And have you ever spoken to Ms. Lorenzo?

A. No, I have not.

Q. And from whom did you find out about this incident?

A. I don't remember that either. I

mean I'm thinking it was -- I'm thinking it was probably Forrest, but I don't know that. It could have been Jonathan Martin. I see Jonathan periodically and I've mentioned it to Forrest, but I seen him occasionally.

Q. Did you review any documents or materials in preparation for this deposition today?

A. Did I view any documents? Yes, ma'am, I did.

Q. Okay. And what did you review to prepare for this deposition?

A. Yeah, some of that stuff that you gave me earlier. Just what do you call that? Remember I told you I didn't even understand what that was?

Q. Interrogatories?

A. Yeah -- yeah, that -- that attorney for Beverly Homes and, of course, the Affidavit, I read that. I did review that again. I mean obviously I did it way back when, but there again I don't know when that was. But I did review that again and then the -- it was pretty early on. It was Interrogatories, that's what it was.

Q. Okay.
A. Well, I know they were in here. But remember we were talking about those I said I don't even see ---
Q. Yes, I know what you're talking about.
A. Yeah, I did look back over those. It was like questions that our attorney had -- had answered on Beverly Homes' behalf. But anyway I did look over that. But that's really the only -- only documents I have. All this other stuff I've never seen that before.
Q. Okay. The conversations that you've had with people about this incident other than your attorney just to confirm you don't remember the contents of those conversations; is that correct?
A. Well, you know, I don't. Nothing specific, but it was just that, you know, there'd been a terrible accident. I mean a lady was, you know, of course at the time we didn't know how bad and it turned out to be real bad. But -- but that was just the extent of it. I mean I ---
Q. And were those conversations about

this incident with any to Forrest and Jonathan? Was there any other person?

A. Well, yeah, actually -- actually my next door neighbor that lived beside my house at -- at Bellevue. I mean there was people in the community had heard about it and my next door neighbor a guy named Rusty Faulk he and I had a conversation that, you know, and, you know, he was just kind of checking to see how the woman was doing, you know. But that was -- that's about it.

Q. Has Beverly Homes, LLC paid for any of Ms. Lorenzo's medical treatment?

A. No, ma'am. Beverly Homes, LLC?

Q. Yes.

A. No, ma'am.

Q. Has Beverly Homes, LLC made any payments to Ms. Lorenzo?

A. No, ma'am. Not that I'm aware of. That wasn't something I was -- had any knowledge of.

Q. Did Strand Paint Contractors, LLC do anything to cause Ms. Lorenzo to fall down the elevator shaft?

A. I have no idea.

Q. Did Port City Elevator, Inc. do anything to cause Ms. Lorenzo to fall down the elevator shaft?

A. I don't have any idea.

Q. Okay. Have you understood all my questions today?

A. Yes, ma'am, I think I have. I mean -- but I think you're doing a good job. Be able to speak so I could understand you. I don't think I misunderstood anything. If I did, I asked you to repeat it and you did and I understood it then.

Q. Do you have any other information about this incident or related to Beverly Homes, LLC that you will testify about at trial that we've not discussed today?

A. Not that I can think of, no, ma'am.

Q. Okay. I don't have any further questions at this time, but please answer any questions that the other attorneys might have for you.

A. Okay.

MR. PEARCE: Does anybody on Zoom have any questions?

MS. WALKER: I don't

have any questions.

MS. THOMPSON: No questions.

MS. PRICE: None for me.

MS. WRIGHT: Okay. Well, thank you so much for being here. I appreciate it.

(Whereupon, the deposition was concluded at 1:30 p.m.)

CERTIFICATE

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

I, Debbie Rayl, Professional Verbatim Reporter and Notary Public for the State of South Carolina, certify that I did have RANDY BEVERLY to appear before me at 10:18 a.m. on the 10th day of December, 2020, in the office of Pearce Law Group, Myrtle Beach, South Carolina; that the witness was duly sworn to tell the truth, the whole truth and nothing but the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I further certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 14th day of December, 2020.

_____

Debbie Rayl, Notary Public

My Commission expires January 24, 2021

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824
ELECTRONICALLY FILED - 2021 Jan 13 11:57 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

Exhibit: 1
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

PORT CITY ELEVATOR, INC.

RESIDENTIAL ELEVATOR SPECIFICATIONS/CONTRACT
For Single Family Dwelling Only

DATE: December 2, 2016

JOB: Pender Residence, 39 Gasparilla Circle, Murrells Inlet, SC 29576

ELEVATOR FOR: Beverly Homes, 9007 Highway 544, Myrtle Beach, SC 29588

TYPE: Garaventa Elvoron MR Counterweighted	**CAPACITY: 1,000 lbs.**	
SPEED: 40 feet per minute	**TRAVEL: Approximately 20 feet**	
CONFIGURATION: In-Line	**LANDINGS: 3**	**OPENINGS: 3**
HOISTWAY DOOR SWINGS: Right Hand		

NOTE: Door hand cannot be changed after the elevator is ordered.
Please sign below confirming door swing stated above.

CAR AND APPOINTMENTS:

- Car Size: Custom to fit shaft, Inside car height is 84"
- **UNFINISHED WOOD VENEER** *OR* **FINISHED MELAMINE WALL PANELS STANDARD**
- **WHITE MELAMINE CEILING PANEL**
- FOUR recessed lights with white bezels and reflectors to match fixtures
- **BRUSHED STAINLESS STEEL** handrail
- **BRUSHED STAINLESS STEEL** Control Fixtures
- **BRUSHED STAINLESS STEEL PHONE BOX**
- Digital floor position indicator

CAR GATE:
Solid Accordion gate with 3 clear vision panels

MECHANICAL EQUIPMENT:

- Modular 8# T-Rail Structure
- Car Frame assembly
- (2) #80 roller chain
- Inverter controlled variable speed in-line geared assembly with counterweighted chain drive and 2HP motor

DRIVE SYSTEM:
In-line Drive: Counterweighted geared drive, heavy duty car sling with roller guides running on 8 lb. per foot steel T-rails. Motor (2 HP) mounted above guide rails. No machine room required. Electronic control box can be located at the top of the hoistway or remotely located.

DRIVE ACCESS:

- A access hatch located at the Upper Landing is REQUIRED for emergency manual lowering

POWER SUPPLY:

- 230 VAC, 15amp, single phase
- 115 VAC, 15amp circuit required for car lighting
- Telephone line

Lorenzo v. Port City Elevator - 000001

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ELECTRONICALLY FILED - 2021 Jan 13 11:57 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

DATE: December 2, 2016
JOB: Pender Residence, 39 Gasparilla Circle, Murrells Inlet, SC 29576
ELEVATOR FOR: Beverly Homes, 9007 Highway 544, Myrtle Beach, SC 29588

CONTROLS:
- Garaventa Design PLC Controller with integrated self-diagnostics
- Fully Automatic push button at car and hall landings
- Automatic car lighting
- Digital position indicator located in car
- Automatic homing

SAFETY FEATURES:
- Slack Chain Safety Device
- Motor controller supply (located in controller)
- Car lighting supply (located in controller)
- Upper and Lower final limit switches
- Pit Stop Switch
- Car Top Stop Switch
- In-car emergency stop switch and alarm
- Safety switch for car gates
- Battery backup emergency car lights and alarm
- Electromechanical hoistway door interlocks

HOISTWAY DOOR INTERLOCKS: Provided to prevent operation of elevator unless doors are closed, and to prevent opening of any door unless cab is at designated landing. Hoistway doors provided by contractor must be solid/sort doors to enable the interlock to function properly.
Please note the following measurements per code:
Measurement from back of hoistway door to the edge of landing sill shall not exceed 3".
Measurement from back of hoistway door to car gate shall not exceed 5".

PREPARATORY WORK BY OTHERS:
The following preparatory work to accommodate the elevator is to be done by others:
- **Hoistway**
  A: Provide an enclosed, plumb and square hoistway with smooth interior surfaces. Include fascias or furring of hoistway interior where applicable.
  B. The purchaser shall do any carpentry work, cutting or patching occasioned by the installation.
  C. Provide adequate support for guide rail fastenings per manufacturer's specifications.
  D. Provide 8" minimum deep, level pit floor to support loads indicated on elevator manufacturer's approval drawings.
  E. All machines must be enclosed per code.
  F. Provide 230 Volt, 15 Amp, Single phase, 60Hertz
  G. Provide 115 Volt, 15 Amp Circuit is required for car lighting
  H. Provide Telephone Jack
  I. Provide proper access for machine per code.

GUARANTEE:
- Unit: Two year limited warranty upon shipment of elevator from manufacturer.
- Labor: Labor warranty will be for 1 year during the normal working hours of the trade except as noted. **Any elevator installed in a residence used as a rental property will be limited to a 90 day warranty on labor during the normal working hours of the trade.**

NOTE: The warranty will be void if the house is used for any other purpose than a single family dwelling.

Port City Elevator, Inc.
3334-B US HWY 421 North
Wilmington, NC 28401
910-790-9300

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ELEVATOR FOR: Beverly Homes, 9007 Highway 544, Myrtle Beach, SC 29588

CONTRACT

1. The price below does NOT include any cost for third party inspection. If the local inspectors require a third party inspection the cost of same will be the responsibility of the purchaser.

2. We include all sales or use taxes in force on the date of this proposal.

3. The purchaser agrees to pay any additional taxes applicable to this contract enacted after the date of this proposal.

4. There will be a $10.00/week storage fee for any elevator that is in our warehouse longer than 46 days. This storage fee will be in addition to the contract price of the elevator and will be included on your final invoice.

5. We assume no liability on account of accidents to persons, except those directly due to the negligent acts or omissions of this company or its employees.

6. The company shall not be held responsible or liable for any loss, damage, detention or delay caused by accidents, strikes, lockouts, or by any other cause which is unavoidable or beyond its reasonable control, or in any event, for consequential damages. Acceptance of the elevator installation by the purchaser shall constitute waiver of all claims for loss or damage due to delay.

7. It is agreed that our workmen shall be given a safe place in which to work. We reserve the right to discontinue our work in the building whenever in our opinion this clause is being violated.

8. Should damage occur to our material or work on the premises by fire, theft or otherwise, if not caused by us, the purchaser is to compensate us therefore.

9. Unless otherwise agreed, it is understood that the work will be performed during our regular working hours of our regular working days. If overtime work is mutually agreed upon and performed, the additional price, at our usual rate for such work, shall be added to the contract price.

10. No elevator will be turned over without a 24 hour prior notice. No Exceptions.

11. This proposal, when signed and accepted by the purchaser, and approved by an authorized official of this company, together with the specifications referred to herein, shall constitute exclusively the contract between the parties, and all prior representations or agreements, whether written or verbal not incorporated herein, are superseded.

12. This contract is not valid unless approved by an authorized official of this company.

13. Any elevator not installed within 120 days of acceptance of contract will be subject to additional charges based on our cost increase only.

14. This contract is subject to escalation or cancellation if not accepted within 30 days from date of submission.

15. If elevator is used before homeowner moves into house <u>all</u> calls will be chargeable, warranty or not.

16. Elevator cannot be turned over until 100% of the contract price has been received by Port City Elevator, Inc.

Port City Elevator, Inc.
3334-B US HWY 421 North
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910-790-9300

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DATE: December 2, 2016
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ELEVATOR FOR: Beverly Homes, 9007 Highway 544, Myrtle Beach, SC 29588

17. Payments shall be made pro-rata per elevator as follows:

Due upon contract signing.....$9,000.00
Due 30 days after elevator ships from Manufacturer.....$7,500.00
Due 30 days upon completion and prior to turnover.....$3,000.00

We reserve the right to discontinue our work at any time until payments shall have been made as agreed, and we have assurance satisfactory to us that subsequent payments will be made as they fall due. Should we be delayed by reason of any default on the part of the purchaser in the terms and conditions of this proposal, the entire contract price, less payment theretofore made, shall become due, and shall bear interest at the full legal rate. Reasonable collection and attorney fees will be assessed to all accounts placed for collection.

18. We propose to furnish and erect the elevator installation as outlined in the accompanying proposal for the sum of **$ 19,500.00 (Nineteen Thousand Five Hundred Dollars)**

Respectfully submitted,
Port City Elevator, Inc.
By: Seth Newman

ACCEPTANCE:
Firm: Beverly Cons. Group
By: _____
Title: Cons. Super
Date: 12-6-16

Date:
ACCEPTANCE:
By: _____
Homeowner
By: _____
Homeowner
Date: _____

Feb 25th 2017
(Elevator will not be ordered until we have a ship date from the contractor)

UNFINISHED WOOD VENEER WALL SELECTION:

OAK____ MAPLE____ BIRCH__X__ MAHOGANY____ Initials_____

FINISHED MELAMINE WALL PANELS SELECTION:

WHITE____ ANTIQUE WHITE____ DARK MAPLE____

LIGHT MAPLE____ GRAY____ OAK____ WALNUT____ Initials_____

ACCORDION GATE W/ 3 CLEAR PANELS COLOR SELECTION:

WHITE__X__ ANTIQUE WHITE_____ BLACK_____ Initials_____

APPROVED:
Port City Elevator, Inc.
By: _____
Title: Cons. Super
Date: 12-6-16

Port City Elevator, Inc.
3334-B US HWY 421 North
Wilmington, NC 28401
910-790-9300

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DATE: December 2, 2016
JOB: Pender Residence, 39 Gasparilla Circle, Murrells Inlet, SC 29576
ELEVATOR FOR: Beverly Homes, 9007 Highway 544, Myrtle Beach, SC 29588

ADDITIONAL OPTIONS TO BE ADDED TO THE TOTAL COST OF THE ELEVATOR:
(Due at Time of Down Deposit)

		APPROVAL
FIXTURE UPGRADES:		
Integrated Phone into COP	$ 425	_____
Oil Rubbed Bronze Fixtures	$ 750	_____
Brushed Stainless Hall Call w/ Floor Indicator, Car Control Panel w/ Integrated Phone	$2,500	_____
GATE UPGRADES:		
All Clear Vision Panels	$ 750	_____
Aluminum Perforated Gate	$ 1,200	_____
Automatic Accordion Gate Operator	$ 1,500	X
Automatic Door Operator	$ 2,200 each	_____
CAB UPGRADES:		
Unfinished Cherry, Makore, Bamboo, Walnut wood veneer	$ 550	_____
Matching ceiling	$ 220	_____
Maple or Oak Inset (Flat) Wall Panels	$ 1,400	_____
Matching ceiling	$ 485	_____
CHERRY Inset (Flat) Wall Panels	$ 1,950	_____
Matching ceiling	$ 605	_____
Maple or Oak Raised Panel Wall Panels	$ 4,485	_____
Matching ceiling	$ 1,000	_____
CHERRY Raised Panel Wall Panels	$ 4,800	_____
Matching ceiling	$ 1,100	_____
Clear Polyurethane Finish	$ 675	_____

Port City Elevator, Inc.
3334-B US HWY 421 North
Wilmington, NC 28401
910-790-9300

Exhibit: 2
Wit: Beverly
Date: 12-10-2
Rep: Debbie Ray

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JOB: Pender Residence	EQUIP TYPE: 3 st Garaventa
39 Gasparilla Circle Murrells Inlet SC 29576	SERIAL: 71642A
PCE Contact: Stan	CONTRACTOR: Beverly Homes
START DATE: 3-6-17 FINISH DATE: 3/7/17	CONTACT: 843-236-4663

** Before starting: Check shaft Size, travel, door swings, door centerlines **

NOTES ABOUT JOB:
Gate code # 2580

	Techs	HRS Worked	NOTES
DAY 1 Date:	2B MP	10.5	
DAY 2 Date:	2B MP	12.5	Doors are hollow! Needs through bolts
DAY 3 Date:			

	Floor 1	Floor 2	Floor 3	Floor 4
3"	3	3	3	
5"	5 1/2	6	6	

LEAD TECH: 2ach Ran on Auto: ✓ Ready to Turn Over: ✓ Work Still Needed:

Contractor to complete Was contractor notified of problems ☐ Yes ☐ No Notified:	PCE to correct ☐ Follow up with contractor Initial	PCE Items at Turnover T/O Tech

Exhibit: 3
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

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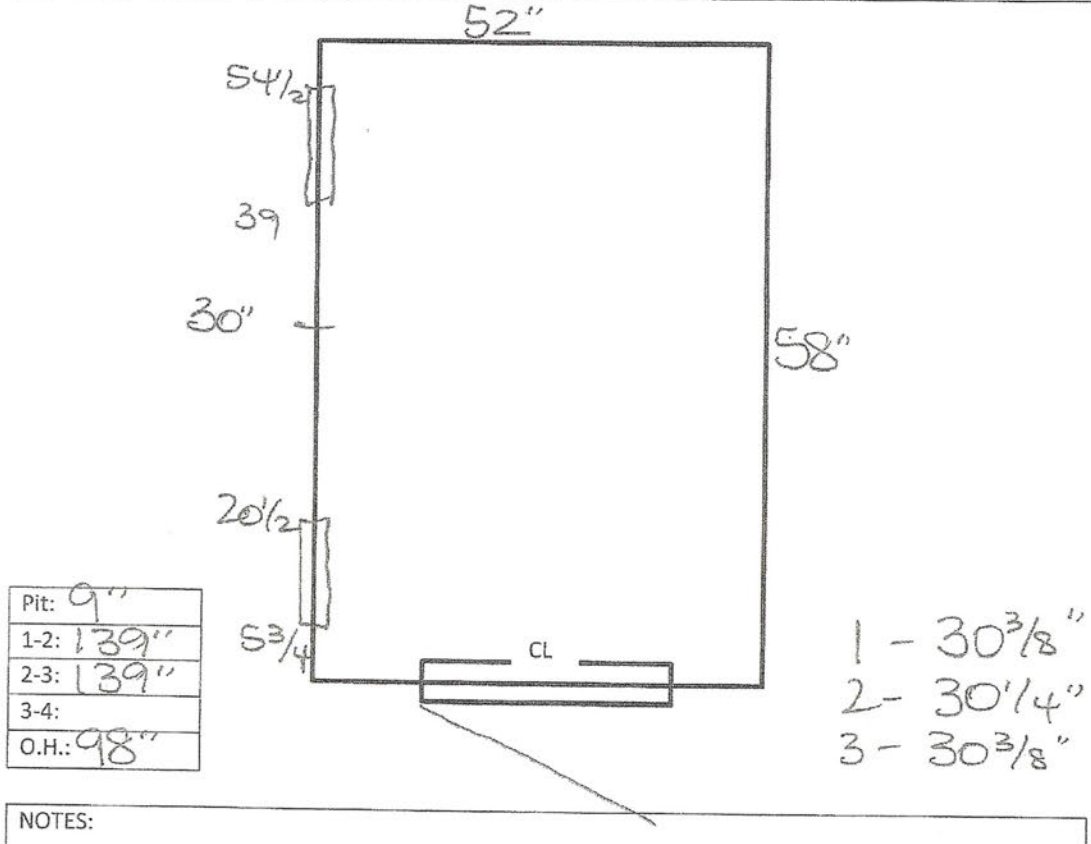
Contractor: BEVERLY HOMES		Owner: PENDER	
Address: 9007 HWY 544, MB, SC 29588		Address: 39 GASPERILLA	
Contact: JONATHAN MARTIN		MURRELLS INLET, SC	
Job Type: New Constr. / Addition 843-458-0037		Permit:	
Stops: 3	Config.: IN-LINE	Type:	Door Swing: RH



Pit:	9"
1-2:	139"
2-3:	139"
3-4:	
O.H.:	98"

1 - 30⅜"
2 - 30¼"
3 - 30⅜"

NOTES:

EXTRA 20' OF TRAVEL CABLE DUE TO CONTROLLER MOUNT IN ATTIC

36 x 48 CAB

GATE CODE #2580

CARLTON PENDER 770-354-1074

carlton.pender@gmail.com

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Turner | Padget

DAVID S. COBB
Direct Dial: (843) 576-2803
Direct Fax: (843) 577-1629
dcobb@turnerpadget.com

September 1, 2020

Ian D. Maguire
1600 North Oak Street, Suite B
Myrtle Beach, South Carolina 29577

Re: **Evarista Juan Lorenzo v. Port City Elevator, Inc. et al.**
Docket No.: 2018-CP-22-824
TPGL file: 12049.141

Dear Ian:

We enclose Beverly Homes, LLC's answers to Plaintiff's discovery requests. If you have any questions or need additional information, please call me at your convenience. With kind regards,

TURNER PADGET

David S. Cobb

DSC/sqb
enclosures
cc: counsel of record (with enclosures)

Exhibit: 4
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

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STATE OF SOUTH CAROLINA COUNTY OF GEORGETOWN	IN THE COURT OF COMMON PLEAS Docket No.: 2018-CP-22-824
EVARISTA JUAN LORENZO, Plaintiff, v. PORT CITY ELEVATOR, INC., ALAN TOPPER D/B/A ALL CONSTRUCTION, 2020 CUSTOM CONTRACTORS A/K/A 2020 CUSTOM CONTRACTORS, LLC, CITADEL SITE MANAGEMENT, LLC, DVBT CONSTRUCTION A/K/A DVBT CONSTRUCTION, LLC, DVBT MULTISERVICES, LLC, BEVERLY CONSTRUCTION GROUP, LLC, BEVERLY HOMES, LLC, BEVERLY HOMEBUILDERS, LLC, STRAND PAINT CONTRACTORS, LLC, DEPAZ PAINTING LLC, ENHANCED HEATING & AIR CONDITIONING, LLC, CARLTON PENDER, AND JOAN PENDER Defendants.	**DEFENDANT BEVERLY HOMES, LLC'S ANSWERS TO PLAINTIFF'S INTERROGATORIES**

TO PLAINTIFF AND ATTORNEYS FOR PLAINTIFF:

Defendant Beverly Homes, LLC answers Plaintiff's Interrogatories as follows:

STANDARD INTERROGATORIES

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

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ANSWER:
Forrest Beverly
Beverly Homes, LLC
Post Office Box 512
Conway, South Carolina 29528

Mr. Beverly is one of the owners of Beverly Homes, LLC and will testify about the construction of the Pender residence.

Defense counsel reserves the right to call additional witnesses, including any witness and expert identified by any party through the course of discovery and Plaintiff's medical providers and records custodians.

2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to the claim or defense in the case.

ANSWER: This Defendant references the documents produced with the motions it has filed in this case, which include the cancelled checks showing Beverly Construction Group, LLC paid the expenses associated with the construction of the Pender residence. This Defendant does not have other documents related to this matter other than its insurance policy and documents produced by other parties.

3. Set forth the names and addresses of all insurance companies which have liability coverage relating to the claim and set forth the number or numbers of the policies involved and the amounts or amounts of liability coverage provided in each policy.

ANSWER:
Starr Indemnity & Liability Co.
Policy No.: [redacted]7171
Policy Period: January 10, 2017-January 10, 2018
Limits: $1,000,000 per occurrence
$2,000,000 aggregate

4. List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case.

ANSWER: Counsel has not retained an expert witness at this time; however, counsel notifies the parties that he reserves the right to

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retain and use an expert witness in preparation for trial and/or at the trial of this case and will promptly notify the parties as required by court rules. Defendant also relies on the testimony from the defense experts.

5. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

ANSWER: See Answer to Interrogatory 1.

6. If Defendant is improperly identified, give the proper identification and state whether counsel will accept service of an amended summons and pleading reflecting the correct information.

ANSWER: Beverly Homes, LLC was not involved with the construction of the Pender residence.

GENERAL INTERROGATORIES

1. Provide the **complete identity** of any **person(s)** that **you** intend to call as a witness at the trial of this case.

ANSWER: See Answer to Standard Interrogatory 1.

2. Provide the **complete identity** of the **person**(s) responding to these interrogatories on behalf of Defendant and the **complete identity** of each **person** who has provided information in connection with these interrogatories.

ANSWER: Counsel for Defendant.

3. Provide the **complete identity** of any **person** not already named as a party to this litigation to whom **you** contend either caused and/or contributed to the **incident**, including any architect, engineer, designer, contractor, subcontractor, or others.

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ANSWER: Unknown. Defendant did not perform work at and was not involved with the construction of the Pender residence.

4. Provide the **complete identity** of each **person** with whom **you** are aware that:

   (a) Witnessed the **incident** or the events occurring immediately before or after the **incident**; and/or who

   (b) Heard any statements made about the **incident** by any individual at the scene.

ANSWER: See answer to interrogatory 3.

5. Describe in detail any conversation(s) that any representative of **yours** has had with Plaintiff either prior to or following the **incident**.

ANSWER: None.

6. Describe any procedure(s) that **you** had in place for the inspection of **subject area** at the time of the **incident**.

ANSWER: None.

7. Describe the specific procedures, if any, that are followed in the course of training **your** employees with regard to injuries on job sites. This would include any and all **writings**, slides, presentations, photographs, films, videotapes, etc. which **you** utilize in training **your** employees.

ANSWER: Not applicable.

8. Describe the specific procedures, if any, that are followed in the course of training **your** employees with regard to the maintenance, inspection, safety marking, and/or cleaning of the **subject area**. This would include any and all **writings**, slides, presentations, photographs, films, videotapes, etc. which **you** utilize in training **your** employees.

ANSWER: Not applicable.

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9. Provide the **complete identity** of each employee and/or representative with personal knowledge of the **incident**. For each such individual, identify his or her job title and job or function which was being performed by that individual at the time of the **incident**.

ANSWER: None.

10. Provide the **complete identity** of each **person** interviewed concerning the **incident**. For each such **person**, state:

(a) The date of the interview; and

(b) The substance of the interview.

Note: If the interview was recorded and/or transcribed, a reproduction of the recording and/or transcript will suffice.

ANSWER: None.

11. Identify each and every **writing** and/or report made by any **person** concerning the **incident**.

ANSWER: Unknown.

12. Please state, in **your** own words, what **you** believed happened to Plaintiff in the **subject area** on or about January 17, 2017. Include in **your** answer the basis upon which **you** have formed that belief.

(a) Provide the **complete identity** of each **person** (excluding **your** attorney) who provided **you** with information which enabled **you** to respond to this Interrogatory.

ANSWER: Unknown.

13. Identify any previous or subsequent incidents of which **you** are aware which occurred in substantially the same manner and/or in the **subject area** as this **incident**.

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ANSWER: None.

14. For each incident and/or claim identified in your answer to Interrogatory No. 13, state:

    (a) The date of the alleged incident/injury;

    (b) The date that the claim was received;

    (c) The **complete identity** of the **person**(s) involved; and

    (d) The **complete identity** of any attorney(s) involved for each such incident/claim.

ANSWER: Not applicable.

15. Provide the date(s) of any renovation, construction, maintenance, and/or improvement(s) to the **subject area** both prior to and subsequent to the **incident**.

ANSWER: See answer to interrogatory 3.

16. If so alleged, please fully describe the basis of **your** opinion or position that Plaintiff was contributory or comparatively negligent in relation to this **incident**.

ANSWER: This Defendant craves reference to the deposition testimonies of Plaintiff and the other witnesses.

17. What efforts, if any, were made by **you** to correct the condition which Plaintiff contends caused the occurrence in question after the **incident**?

ANSWER: See answer to interrogatory 3.

18. Describe the method and timing of any warnings, whether verbal or written (such as by a sign or otherwise) which **you** allege were given specifically to Plaintiff and/or others on the premises with regard to the **subject area**.

ANSWER: See answer to interrogatory 3 and to interrogatory 16.

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19. Do **you** contend that Plaintiff or any family/friends of Plaintiff made any admission or statement against interest to **you, your** agents or employees, and/or anyone else in connection with this **incident**? If **your** answer is anything other than an unequivocal "no," please set forth the following: the substance of each such admission or statement; the person(s) who made each such admission or statement; the persons present when the admission or statement was made; the time, date and place each such admission or statement was made; and if **you** contend the admission or statement was made in writing, identify specifically each document **you** contend contains each such admission or statement.

ANSWER: Not applicable.

20. At the time of the **incident**, do **you** contend that any **person** or entity other than **you** managed or assumed responsibility for the premises on which Plaintiff alleges that she was injured? If so, state each and every fact on which **you** base that contention and identify any **writing** that supports **your** contention.

ANSWER: See answer to interrogatory 3.

21. At the time of the **incident**, do **you** contend that any **person** or entity other than **you** and **your** employees and/or agents were responsible for the maintenance and/or inspection of the **subject area** on which Plaintiff alleges that she was injured? If so, state each and every fact on which **you** base that contention and identify any **writing** that supports **your** contention.

ANSWER: See answer to interrogatory 3.

22. If anyone investigated this matter for **you**, including medical experts, private investigators or insurance adjusters, please state their **complete identity** and state whether such investigation was reduced to writing. If said

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investigator obtained any signed statements or recorded statements, provide the **complete identity** of the **person** who gave the statement and attach to **your** Answers a copy of any such statement.

ANSWER: None.

23. Do **you** or anyone acting on **your** behalf know of any **writings,** photographs, films, or videotapes depicting any place, object or individual concerning the **incident** or Plaintiff's injuries (either prior to, during or at any time following the **incident** to the present date)? If so, state:

(a) the places, objects, or **persons** photographed, filmed, or videotaped;

(b) the date the photographs, films, or videotapes were taken;

(c) the **complete identity** of the individual taking the photographs, films, or videotapes;

(d) the **complete identity** of each person who has the original or a copy.

ANSWER: No.

24. Identify any social media accounts and/or pages maintained by **you** or on **your** behalf that would involve advertising, marketing, promoting, and/or notifying consumers and/or the general public of **your** services

ANSWER:
https://www.beverlyhomessc.com
https://www.facebook.com/BeverlyHomesSC/

TURNER PADGET

David S. Cobb (Bar Number 66569)
Post Office Box 22129
Charleston, South Carolina 29413-2129
Direct: (843) 576-2803
Fax: (843) 577-1629
dcobb@turnerpadget.com

and

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Christopher Pearce
Laurence R. Wells, IV
1314 Professional Drive
Myrtle Beach, South Carolina 29577

September ____, 2020

ATTORNEYS FOR DEFENDANT BEVERLY HOMES, LLC

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STATE OF SOUTH CAROLINA COUNTY OF GEORGETOWN EVARISTA JUAN LORENZO, Plaintiff, v. PORT CITY ELEVATOR, INC., ALAN TOPPER D/B/A ALL CONSTRUCTION, 2020 CUSTOM CONTRACTORS A/K/A 2020 CUSTOM CONTRACTORS, LLC, CITADEL SITE MANAGEMENT, LLC, DVBT CONSTRUCTION A/K/A DVBT CONSTRUCTION, LLC, DVBT MULTISERVICES, LLC, BEVERLY CONSTRUCTION GROUP, LLC, BEVERLY HOMES, LLC, BEVERLY HOMEBUILDERS, LLC, STRAND PAINT CONTRACTORS, LLC, DEPAZ PAINTING LLC, ENHANCED HEATING & AIR CONDITIONING, LLC, CARLTON PENDER, AND JOAN PENDER Defendants.	IN THE COURT OF COMMON PLEAS Docket No.: 2018-CP-22-824 **DEFENDANT BEVERLY HOMES, LLC'S RESPONSES TO PLAINTIFF'S REQUESTS FOR PRODUCTION**

TO PLAINTIFF AND ATTORNEYS FOR PLAINTIFF:

Defendant Beverly Homes, LLC responds to Plaintiff's Requests for Production as follows:

1. *Color* copies of any and all photographs or videotapes relating in any way to the matters referred to in the Complaint or the damages claimed, including but not limited to color photographs of Plaintiff and/or the **subject area**

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(prior to, during, and following the **incident**). If **you** contend that **you** are not in possession of any *color* copies, then produce a copy of the original negative or the electronic file (in a readable format) for each and every picture and/or video in **your** possession as the same relates to the location, injuries, and/or surveillance.

RESPONSE: See answer to interrogatory 2.

2. Copies of any documents that evidence liability insurance policies (to include copies of each policy) covering the premises at the time of the **incident** *and/or* which afforded any coverage to **you** at the time of the **incident**. For purposes of responding to this request, referencing a response to Plaintiff's foregoing interrogatories will not be considered sufficient *unless* complete policy information (named insured, insured address, policy number, and details of the amounts of coverage for bodily injury, medical payments, and/or excess coverage) has been disclosed in the referenced response.

RESPONSE: See attached declarations page.

3. Copies of all insurance policies offering umbrella coverage to **you** at the time of the **incident** or which afforded any coverage to **you** at the time of the **incident**.

RESPONSE: See attached declarations page.

4. Copies of any written reports by expert witnesses retained for use at trial or identified as witnesses at trial in response to Plaintiff's Interrogatories, including but not limited to the following:

   a) All **writings**, documents, including draft notes, preliminary reports, and/or final reports, prepared in whole or in part by the expert on the subject matter and in connection with those matters about which the expert is expected to testify at trial;

   b) All documents sent to the expert by **you** in reference to this litigation;

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c) All documents upon which the expert will rely for the opinion or opinions that the expert will express at trial;

d) All documents utilized, relied upon, consulted and/or reviewed by the expert in connection with this litigation to the best of the expert's recollection;

e) All documents setting forth any compensation agreement between **you** and the expert;

f) Identification by Court, term, number and date, any and all litigation wherein the expert was either a party or testified as a witness;

g) All documents that have been or will be shown to the expert during or in the preparation of the expert's testimony at deposition or trial;

h) All documents, including a Curriculum Vitae, that **you** contend will establish the expert's qualifications for trial purposes.

RESPONSE: **None.**

5. Copies of any **writings,** books, records, reports, photographs, moving pictures, videotapes, drawings, charts, maps, diagrams, models, or other documentary materials or tangible objects which **you** intend to offer into evidence. This request includes any reports by law enforcement agencies, fire departments, EMT crews, private investigators, newspaper reporters, insurance investigators, or other agencies or entities that responded to or investigated the **incident.**

RESPONSE: **Defense counsel objects to this Request because it seeks to invade the mental impressions, legal conclusions, thoughts, and trial strategies of counsel, which are protected by the work product and/or attorney-client privilege. This Defendant craves reference to the discovery produced to date by all parties and the documents it produced with the motions it filed in this lawsuit.**

6. Copies of any statements, to include statements of possible witnesses, whether written, oral, summarized, or otherwise reproduced in any manner, relating to the **incident.** If **you** have in **your** possession any statements

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which **you** object to producing, for any reason whatsoever, please give the following information relative to those particular documents:

a) A general description of the statement in question;

b The name and any relevant title or relationship of the **person** making or giving the statement;

c) The name and any relevant title or relationship of the **person** taking or recording the statement;

d) The date which the statement was made and/or taken;

e) A general description or outline of the topics covered in the statement;

f) The circumstances under which the statement was made and/or taken; and

g) The legal and factual basis upon which **you** make **your** objection.

RESPONSE: None other than the depositions taken in this matter.

7. Copies of any documents received through voluntary production, through a release, pursuant to a Freedom of Information Act (FOIA) request and/or subpoenaed from third parties regardless of the format in which it is maintained (e.g. written, recorded, digital, electronic including e-mail).

RESPONSE: None.

8. Copies of any treatises, standards in the industry, legal authority, rule(s), case(s), statute(s), or code(s) that will be relied upon in the defense of this case.

RESPONSE: Defense counsel objects to this Request because it seeks to invade the mental impressions, legal conclusions, thoughts, and trial strategies of counsel, which are protected by the work product and/or attorney-client privilege. Further answering and without objection, unknown as discovery continues.

9. Copies of any photographs, videos and all other surveillance (including but not limited to reports) performed by or on **your** behalf with regard to the subject premises and/or the parties to this action.

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RESPONSE: **None.**

10. Copies of any **writings**, documents, photographs, and/or video reflecting any accident reconstruction of the **incident** regardless of the format in which they are maintained (e.g. written, recorded, digital, electronic including e-mail).

RESPONSE: **None.**

11. Copies of any **writings** between **you** and any of **your** expert witnesses intended to be called at the trial of this case regardless of the format in which they are maintained (e.g. written, recorded, digital, or electronic including e-mail).

RESPONSE: **Not applicable.**

12. Copies of any and all materials referred to and/or relied upon by **you** in responding to the foregoing Interrogatories.

RESPONSE: **See answer to Request 5.**

13. Copies of any warnings, signage, or any other documentation displayed or maintained on or near the **subject area** for the period of January 1, 2016 to the present date.

RESPONSE: **Not applicable.**

14. Copies of any **writings**, work orders, receipts, invoices, or any other documentation concerning any repair(s), maintenance, painting, cleaning, inspection, or otherwise of **subject area** for the ten (10) year period preceding the **incident** to the present date.

RESPONSE: **Not applicable.**

15. Copies of any handbooks, instructions, manuals, or other materials provided to any of **your** agents, servants, employees, or otherwise pertaining to the procedures for inspecting, maintaining and/or cleaning the **subject area**.

RESPONSE: **Not applicable.**

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16. Copies of any **writings** (to include logs and/or checklists) utilized by **you** and/or **your** employees, servants, or otherwise with regard to the inspection and/or upkeep of the **subject area**.

RESPONSE: **Not applicable.**

17. Copies of any **writing** (to include schedules) provided to **your** employees, servants, or otherwise with regard to the maintenance, upkeep, cleaning, and/or inspection of the **subject area**.

RESPONSE: **Not applicable.**

18. Copies of any **writings** (to include schedules) provided to **your** employees, servants, or otherwise with regard to trash removal and/or upkeep of the **subject area**.

RESPONSE: **Not applicable.**

19. Copies of any **writings** pertaining to any personnel to include, but not limited to, developers, architects, builders, laborers, consultants, superintendents, trade contractors, and/or inspectors that would have been on site at 39 Gasparilla Circle in Murrells Inlet, South Carolina at any time from January 1, 2014 through the present date.

RESPONSE: **Not applicable.**

20. Copies of any **writings**, photographs, and/or videos with regard to **your** risk control policies, to include any and all resource manuals made available to **your** management and/or employees for the five (5) year period preceding the **incident** to the present.

RESPONSE: **Not applicable.**

21. Copies of any architectural designs and/or plans with regard to the **subject area**.

RESPONSE: **Not applicable.**

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22. Copies of any **writings** (to include but not limited to, employee manuals, memoranda, and correspondence pertaining to safety, rules, and/or regulations) to be followed by **your** employees to ensure the safety of the premises and/or the safety of **your** residents. This would include, but is not limited to, any training films, brochures, pamphlets, videotapes, etc. utilized by **you** concerning the safety and/or inspection of the **subject area**.

RESPONSE: Not applicable.

23. Copies of any **writings**, rules, management guidelines, operating guidelines, or other similar document that purports to show the operating procedures for the management, care, maintenance, inspection, repair, service, and/or upkeep of the **subject area**.

RESPONSE: Not applicable.

24. Copies of any information shared on social media accounts and/or copies of the social media pages maintained by **you** or on **your** behalf that would involve advertising, marketing, prompting, and/or notifying **your** services or **your** consumers about the subject property.

RESPONSE: Not applicable.

25. Copies of any violation notices received by **you** with regard to the site located at 39 Gasparilla Circle in Murrells Inlet, South Carolina.

RESPONSE: Not applicable.

26. Copies of any violation notices received by **you** from any government agency or other inspection authority for the period of January 1, 2010 through the present date.

RESPONSE: Not applicable.

27. Copies of any onsite inspections by any government agency or other inspection authority received by **you** with regard to the site located at 39 Gasparilla Circle in Murrells Inlet, South Carolina.

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RESPONSE: **Not applicable.**

28. Copies of any accident reports either received by **you** or prepared by **you** with regard to any incidents on the site located at 39 Gasparilla Circle in Murrells Inlet, South Carolina.

RESPONSE: **Not applicable.**

29. Copies of any accident reports either received by **you** or prepared by **you** with regard to any other incidents during the period of January 1, 2010 through the present date.

RESPONSE: **Not applicable.**

30. Copies of **your** annual financial statements for the period of January 1, 2010 through the present date.

RESPONSE: **Defense counsel objects to this Request because it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of any admissible evidence.**

31. Copies of any work tickets prepared by **you** and/or received by **you** with regard to the site located at 39 Gasparilla Circle in Murrells Inlet, South Carolina.

RESPONSE: **None.**

32. Copies of any purchase orders prepared by **you** and/or received by **you** with regard to the site located at 39 Gasparilla Circle in Murrells Inlet, South Carolina.

RESPONSE: **None.**

33. Copies of any contracts, agreements, arrangements, bonds, commitments, guarantees, or otherwise either prepared by **you** or received by **you** with regard to the site located at 39 Gasparilla Circle in Murrells Inlet, South Carolina.

RESPONSE: **None.**

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TURNER PADGET

David S. Cobb (Bar Number 66569)
Post Office Box 22129
Charleston, South Carolina 29413-2129
Direct: (843) 576-2803
Fax: (843) 577-1629
dcobb@turnerpadget.com

and

Christopher Pearce
Laurence R. Wells, IV
1314 Professional Drive
Myrtle Beach, South Carolina 29577

September ____, 2020

ATTORNEYS FOR DEFENDANT BEVERLY HOMES, LLC

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824
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STATE OF SOUTH CAROLINA COUNTY OF GEORGETOWN	IN THE COURT OF COMMON PLEAS Docket No.: 2018-CP-22-824
EVARISTA JUAN LORENZO, Plaintiff, v. PORT CITY ELEVATOR, INC., ALAN TOPPER D/B/A ALL CONSTRUCTION, 2020 CUSTOM CONTRACTORS A/K/A 2020 CUSTOM CONTRACTORS, LLC, CITADEL SITE MANAGEMENT, LLC, DVBT CONSTRUCTION A/K/A DVBT CONSTRUCTION, LLC, DVBT MULTISERVICES, LLC, BEVERLY CONSTRUCTION GROUP, LLC, BEVERLY HOMES, LLC, BEVERLY HOMEBUILDERS, LLC, STRAND PAINT CONTRACTORS, LLC, DEPAZ PAINTING LLC, ENHANCED HEATING & AIR CONDITIONING, LLC, CARLTON PENDER, AND JOAN PENDER Defendants.	**DEFENDANT BEVERLY HOMES, LLC'S ANSWERS TO PLAINTIFF'S REQUESTS TO ADMIT**

Exhibit: 5
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

TO PLAINTIFF AND ATTORNEYS FOR PLAINTIFF:

Defendant Beverly Homes, LLC answers Plaintiff's Requests to Admit as follows:

1. Admit that Strand Paint Contractors LLC was hired by Beverly Construction Group LLC, as an interior painting subcontractor on the residential project at issue in this case located at 39 Gasparilla Circle, Murrells Inlet, SC.

ANSWER: Beverly Homes, LLC was not involved with the construction of the Pender house and did not hire any

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824
ELECTRONICALLY FILED - 2021 Jan 13 11:57 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

subcontractors.

2. Admit that Strand Paint Contractors LLC was not hired by Beverly Homes LLC as a subcontractor on the residential project at issue in this case located at 39 Gasparilla Circle, Murrells Inlet, SC.

ANSWER: Beverly Homes, LLC was not involved with the construction of the Pender house and did not hire any subcontractors.

3. Admit that Strand Paint Contractors LLC was not hired by Beverly Homes LLC to perform any work services on the residential project at issue in this case located at 39 Gasparilla Circle, Murrells Inlet, SC.

ANSWER: Beverly Homes, LLC was not involved with the construction of the Pender house and did not hire any subcontractors.

4. Admit that Beverly Homes LLC did not contract Stand Paint Contractors LLC to perform any work on the residential project at issue in this case located at 39 Gasparilla Circle, Murrells Inlet, SC.

ANSWER: Beverly Homes, LLC was not involved with the construction of the Pender house and did not hire any subcontractors.

5. Admit that Beverly Homes LLC did not enter a contractual agreement with Strand Paint Contractors LLC to perform any work on the residential project at issue in this case located at 39 Gasparilla Circle, Murrells Inlet, SC.

ANSWER: Beverly Homes, LLC was not involved with the construction of the Pender house and did not hire any subcontractors.

6. Admit that Evarista Lorenzo was diagnosed with C5 and C6 fractures with dislocation in her neck by Dr. Joseph Cheatle, MD, as a direct result of the subject incident on January 17, 2017.

ANSWER: Without waiving any objections about the admissibility of any medical testimony, Defendant admits Plaintiff sustained

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injury based on facts showing she opened the door and walked without looking into the elevator shaft at the home under construction.

7. Admit that Evarista Lorenzo sustained a permanent spinal cord injury as a direct result of the subject incident on January 17, 2017.

ANSWER: Without waiving any objections about the admissibility of any medical testimony, Defendant admits Plaintiff sustained injury based on facts showing she opened the door and walked without looking into the elevator shaft at the home under construction.

8. Admit that the surgeries performed on Evarista Lorenzo by Dr. Joseph Cheatle, MD, at Grand Strand Regional Medical Center on January 17, 2017, and January 24, 2017, were casually related to the subject incident on January 17, 2017. (see operative report, Exhibit 1).

ANSWER: Without waiving any objections about the admissibility of any medical testimony, Defendant admits Plaintiff sustained injury based on facts showing she opened the door and walked without looking into the elevator shaft at the home under construction. No party has deposed any medical provider and HIPPA laws prevent Defendant from contacting the medical provider, so Defendant lacks knowledge about what the provider will say.

9. Admit that the attached Exhibit "A" is a true and accurate copy of the Master Subcontract agreement between Strand Paint Contractors, LLC and Beverly Construction Group, LLC in effect as of January 17, 2017.

ANSWER: Admitted.

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TURNER PADGET

David S. Cobb (Bar Number 66569)
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Direct: (843) 576-2803
Fax: (843) 577-1629
dcobb@turnerpadget.com

and

Christopher Pearce
Laurence R. Wells, IV
1314 Professional Drive
Myrtle Beach, South Carolina 29577

ATTORNEYS FOR DEFENDANT BEVERLY HOMES, LLC

October 12, 2020

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Exhibit: 6
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

BROWN & BREHMER
Attorneys at Law
1720 Main Street, Suite 201 (29201)
Post Office Box 7966
Columbia, South Carolina 29202
Telephone: (803) 771-6600
Facsimile: (803) 252-1620

Robert C. Brown
Karl S. Brehmer
L. Darby Plexico, III
James D. Floyd

Email
rcb@brownandbrehmer.com
ksb@brownandbrehmer.com
ldp@brownandbrehmer.com
jdf@brownandbrehmer.com

June 30, 2020

Ian D. Maguire (via email only)
Brooke Eaves Wright
Maguire Law Firm
1600 N. Oak Street, Suite B
Myrtle Beach, SC 29577

Thomas B. Boger (via email only)
Wall Templeton & Haldrup
145 King Street, Suite 300
Charleston, SC 29401

Lee Cannon Weatherly (via email)
Kristin Kelley Thompson
Kierra N. Brown
40 Calhoun Street, Suite 400
Charleston, SC 29401

David Starr Cobb (via email only)
PO Box 22129
Charleston, SC 29413

Robert M. Ethridge (via email only)
Katherine A. Walker
1100 Queensborough Blvd., Suite 200
Mount Pleasant, SC 29464

Christopher Pearce (via email only)
Laurence R. Wells, IV
1314 Professional Drive
Myrtle Beach, SC 29577

Joshua D. Shaw (via email only)
PO Box 11267
Columbia, SC 29201

RE: Evarista Juan Lorenzo v. Port City Elevator, Inc., et al.
Civil Action Number: 2018-CP-22-00824
Claim Number: 01748817

Dear Counsel:

Enclosed please find Defendant Strand Paint Contractors, LLC's Responses to Defendant Beverly Homes' Requests for Admission in this matter which I hereby serve upon you.

With warmest personal regards, I am

Sincerely yours,

Karl S. Brehmer

KSB/ct
Attachment
cc: Mark Garrison (via email)

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824
ELECTRONICALLY FILED - 2021 Jan 13 11:57 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

STATE OF SOUTH CAROLINA COUNTY OF GEORGETOWN Evarista Juan Lorenzo, Plaintiff, vs. Port City Elevator, Inc., Alan Topper d/b/a All Construction a/k/a Toppers All Construction, 2020 Custom Contractors a/k/a 2020 Custom Contractors, LLC, Citadel Site Management, LLC, DVBT Construction a/k/a DVBT Multiservices, LLC, Beverly Construction Group, LLC, Beverly Homes, LLC, Beverly Homebuilders, LLC, Strand Paint Contractors, LLC, DePaz Painting, LLC, Enhanced Heating & Air Conditioning, LLC, Carlton Pender and Joan Pender, Defendants.	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT Case No. 2018-CP-22-00824 **RESPONSES TO DEFENDANT BEVERLY HOMES, LLC'S REQUESTS FOR ADMISSION TO STRAND PAINT CONTRACTORS, LLC**

TO: CHRISTOPHER PEARCE AND DAVID COBB, ATTORNEYS FOR DEFENDANT BEVERLY HOMES, LLC

Defendant Strand Paint Contractors, LLC ("Defendant Strand") by and through its undersigned attorney, responds to Defendant Beverly Homes, LLC's Requests for Admission pursuant to Rule 36 of the South Carolina Rules of Civil Procedure as follows:

RESPONSES TO REQUESTS FOR ADMISSIONS

1. Admit that the attached Exhibit 'A' is a true and accurate copy of the Master Subcontract agreement between Strand Paint Contractors, LLC and Beverly Construction Group, LLC in effect as of January 17, 2017.

RESPONSE: The Defendant Strand Painting admits that the attached agreement is the Master Subcontract Agreement but disputes the implication and/or inference that the

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Master Subcontract Agreement applies the 39 Gasparilla Circle, Murrells Inlet, SC location.

2. Admit that Strand Paint Contractors, LLC was hired by Beverly Construction Group, LLC as an interior painting subcontractor on the residential project at issue in this case located at 39 Gasparilla Circle, Murrells Inlet, SC.

RESPONSE: Strand Paint Contractors, LLC admits it was hired by Beverly Construction Group, LLC as an interior painting subcontractor for the location at 39 Gasparilla Circle, Murrells Inlet, SC but disputes any inference or implication that the employment fell within the terms and conditions of the Master Agreement referenced in Request for Admission #1.

3. Admit that Strand Paint Contractors, LLC hired DePaz Painting, LLC as an interior painting sub-subcontractor to Beverly Construction Group, LLC on the residential project at issue in this case located at 39 Gasparilla Circle, Murrells Inlet, SC.

RESPONSE: Admitted.

Defendant Strand reserves the right to modify these responses in accordance with factual developments as discovery progresses, including but not limited to, depositions of witnesses and investigators and inquires of experts.

BROWN & BREHMER

By: _____

Karl S. Brehmer (SC Bar # 12849)
1720 Main Street, Suite 201
Post Office Box 7966
Columbia, South Carolina 29202
(803) 771-6600
ksb@brownandbrehmer.com
Attorney for Defendant Strand Paint Contractors, LLC

June 30, 2020

ELECTRONICALLY FILED -
ELECTRONICALLY FILED -

Record on Appeal

193

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RESIDENTIAL CONSTRUCTION CONTRACT

This Residential Construction Contract ("Contract") is made by and between Beverly Construction Group ("Contractor") and Carlton & Joan Pender ("Owner") and is subject to the terms and conditions stated below. The effective date of this Contract shall be the date it is last signed by Owner or Contractor ("Effective Date").

Contractor and Owner agree as follows:

1. **Name, Address and license number of Contractor:** Beverly Construction Group, LLC, 9007 Hwy 544, Myrtle Beach SC 29588. License #G113946
2. **Name, and address of Owner:** Carlton & Joan Pender, [redacted]
3. **Construction site (legal description):** TMS # 41-0106-036-12-00 Lot 4 Belle Vue Subdivision on Gasparilla Dr in Murrells Inlet, SC
4. **Description of House plans and specifications:** 2944 HTD Raised Beach
5. **Compensation to Contractor:** Regardless of the compensation type selected, the compensation to Contractor does not reflect any price changes resulting from any change orders agreed upon in a writing signed by all the parties. All parties signing on behalf of Owner shall be jointly and severally liable for payment in full of all compensation to be paid to Contractor under this Contract.

Fixed-Price Contract: A fixed price of $ 388,820.65 which shall be paid to Contractor according to the following schedule: (disbursements will be made within three (3) business days after substantial completion of the specified items)

(a) $ 2,000.00 initial deposit;
(b) $ 20,000.00 execution of contract;
(c) $ 366,820.65 per bank schedule.

6. **Other Provisions and Conditions:** Addendum 1 and 2 attached .
7. **Contract Documents:** The documents that form the contract between Contractor and Owner are this Residential Construction Contract, the House Plans and Specifications, and all modifications and change orders agreed to by the parties hereafter ("Contract Documents")
8. **Change Orders:** The parties may agree to written change orders in the construction of the House, and the Purchase Price and Time for Completion shall be adjusted as agreed to by both parties.
9. **Inspections; Occupancy:** During the course of construction, Owner or Owner's designated representatives may enter and inspect the House for the purpose of appraisal, inspection and evaluation. Such inspections shall take place at reasonable times and in such a manner as not to interfere with the progress of construction. Until substantial completion of the House, Owner agrees not to occupy or store personal property in the House.
10. **Insurance and Risk of Loss:** Contractor shall purchase and maintain throughout the entire course of construction an "All Risks" builder's risk insurance policy from a company licensed to do business in South Carolina in the amount of the House's "Replacement Cost" without any voluntary deductibles. "Replacement Cost" shall mean the full cost of replacement of the House at the same site with new material of like kind

Owner Owner Contractor

Exhibit: 8
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

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and quality without deduction for depreciation. The policy shall include coverage for theft, vandalism and malicious mischief. Contractor shall assume the obligation and cost of restoring, rebuilding, repairing, and/or replacing the House. Such risk of loss or damage assumed by Contractor shall continue until the delivery to Owner of a valid certificate of occupancy, and until such time Contractor shall also bear the risk of loss for theft, damage or destruction of building materials, tools, equipment, appliances and fixtures, whether incorporated in the House or stored on or off site.

11. **Owner's warranties**: Owner warrants and represents to Contractor that Owner owns the Construction Site in fee simple absolute subject only to Owner's recorded deeds of trust, restrictive covenants, minimum building lines on subdivision plats, and utility easements. Owner will deliver copies of applicable restrictive covenants, minimum building lines on subdivision plats, and utility easements upon request of Contractor. Owner further warrants and represents that, subject to the financing condition referenced above, if any, that Owner has the financial ability to pay the compensation to Contractor as set forth herein as it is due, and Owner will make such payments.
12. **Punch list**: Contractor shall notify Owner when the House is substantially complete. Owner shall thereupon promptly inspect the House and deliver to Contractor a written comprehensive list of all deficiencies that are detectable by visual examination. These deficiencies are referred to in the Contract Documents as "punch list" items. Contractor shall promptly and diligently correct all construction deficiencies so listed. Owner may withhold an amount estimated by Owner to be the reasonable cost of correcting the construction deficiencies noted on Owner's punch list from the payment due Contractor upon substantial completion. Any sum retained will be promptly paid as Contractor corrects such construction deficiency. In the event Contractor fails to complete the punch list in a reasonable time, Owner shall have the option of completing the punch list and paying for the same from the monies retained. Any balance of retainage shall be paid to Contractor. Contractor is liable for any deficiency.
13. **Contractor's Warranties**:
    (a) Contractor warrants that the construction will be performed in conformity (i) with the Contract Documents, (ii) with all laws, regulations, and codes applicable to the construction of the House, (iii) with any applicable restrictive covenants and homeowner' association documents, (iv) in a good and workmanlike manner, and (v) with new (unless otherwise specified) good quality materials.
    (b) Manufacturers' or vendors' warranties or guarantees (referred to as "product warranties" herein), if any, on materials, fixtures, appliances, and components, to the extent assignable, are deemed assigned by Contractor to Owner. Contractor will deliver to Owner all product warranty forms in its possession. Owner is responsible for compliance with any notice and claim procedures set forth therein. Contractor does not adopt and is not bound by any such product warranty. Owner's rights under the product warranties are in addition to Contractor's warranties in 13 (a) above.
14. **Contractor's duty to correct**: In addition to the warranties in paragraph 15, for a period of one (1) year from the date the certificate of occupancy is issued, Contractor will make all repairs and correction to the House that shall become necessary by reason of defects in labor or materials or substantial non-conformity with the Contract Documents which sere not detectable by visual examination at the time of preparation of the punch

Owner Owner Contractor

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list upon written notice of the defect from Owner. Should a repair or correction become defective within one (1) year from the date the repair or correction was made or attempted, Contractor will make all necessary adjustments to the repair or correction that shall become necessary by reason of defects in labor or materials or substantial non-conformity with the Contract Documents upon written notice of the defect from Owner. (Imperfections in non-structural components of the House resulting from normal settling and drying of materials shall not be considered "defects.")

15. **Completion documentation**: Upon substantial completion of the House, Contractor shall deliver to Owner a certificate of occupancy issued by the building inspector's office, all product warranties in the possession of Contractor, and a new construction termite guarantee if the Contract Documents require Contractor to provide treatment against wood destroying insects. Simultaneously with the receipt of the balance of compensation payable by Owner to Contractor upon substantial completion of the House (less any retainage for "punch list items" authorized in paragraph 7 above), Contractor will deliver to Owner an affidavit, in form and content standard in the construction industry and approved by Owner's title insurance company, verifying that all work, labor, services and materials for the construction of the House have been paid in full and indemnifying and holding Owner and Owner's title insurance company harmless from any and all costs, damage, or expense of any kind (including attorney's fees and court costs) arising out of or on account of any claims or liens of any contractor, laborer, or materialman of Contractor.
16. **Miscellaneous**: The parties also agree that
    (a) The Contract Documents may not be assigned or transferred without the written agreement of Contractor and Owner.
    (b) In the event that any court of competent jurisdiction shall declare any provision of the Contract Documents to be invalid, the remaining portions of the Contract Documents to be invalid, the remaining portions of the Contract Documents shall remain in full force and effect except to the extent that said adjudication of invalidity shall defeat the purpose of the contract, in which case it shall terminate.
    (c) This Contract shall be governed by and construed in accordance with the internal substantive laws of South Carolina without giving effect to its conflicts of laws.
    (d) This Contract shall be binding upon and shall inure to the benefit of the parties and their respective successors, assigns, executors and administrators, and their heirs.
    (e) As used herein the words in the singular include the plural and the masculine, feminine and neuter genders are interchangeable as required by context.
    (f) The Contract Documents constitute the entire understanding of the parties and all prior agreements and understandings are merged herein. The Contract Documents may not be modified or amended except in writing, signed by each of the parties hereto.
    (g) In case of conflict among the Contract Documents, the Specifications will take precedence over the House Plans, and the House Plans will take precedence over this Residential Construction Contract.
    (h) If any provisions herein is by its nature and effect required to be observed, dept or performed after substantial completion of the House, it shall survive same and

Owner _____ Owner _____ Contractor

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remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

IN WITNESS WHEREOF, the parties have executed this Residential Construction Contract on the dates as set forth below.

CONTRACTOR:

BEVERLY CONSTRUCTION GROUP, L.L.C.

By _____

Date: 6-17-16

OWNER:

_____

Date: Jun 17, 2016

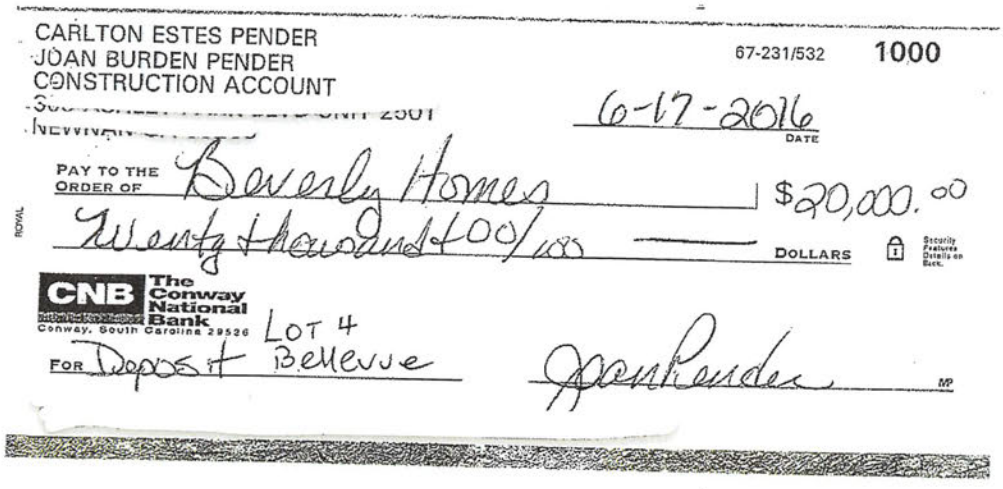
Jun 17, 2016
Witness to Owner

_____

Date: 6/17/2016

_____
Witness to Owner

_____ Owner _____ Owner _____ Contractor



CARLTON ESTES PENDER
JOAN BURDEN PENDER
CONSTRUCTION ACCOUNT
[illegible] 2501
NEWNAN [illegible]

67-231/532 1000

6-17-2016
DATE

PAY TO THE ORDER OF Beverly Homes $20,000.00

Twenty thousand 00/100 DOLLARS

CNB The Conway National Bank
Conway, South Carolina 29526

FOR Deposit LOT 4 Bellevue

Joan Pender

MP

ROYAL

Security Features Details on Back.

Exhibit: 9
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

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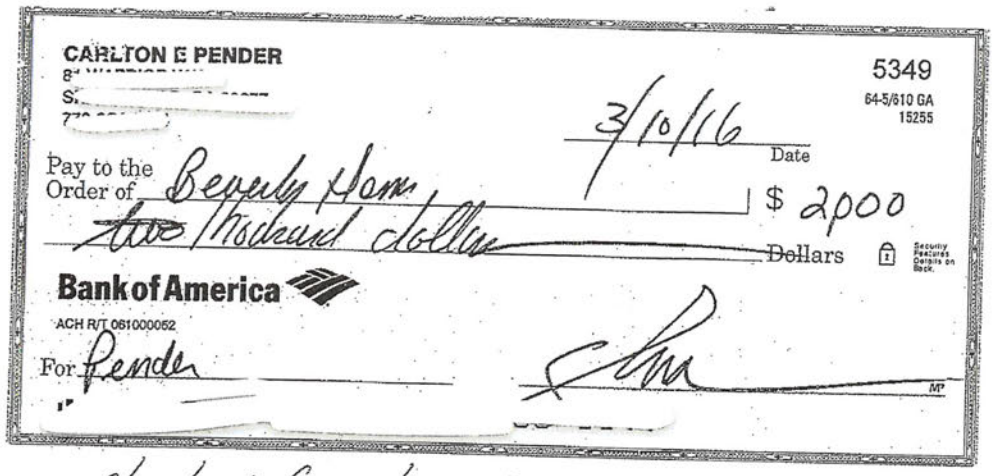

CARLTON E PENDER
[redacted]

5349
64-5/610 GA
15255

3/10/16
Date

Pay to the Order of Beverly Horn $ 2000

Two thousand dollars Dollars

Bank of America
ACH R/T 061000052

For Pender

Check is for plans & survey
lot 4 Belle Vue. Phase I

Exhibit: 10
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

Robert Turner
Michael

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ELECTRONICALLY FILED - 2020 Mar 23 5:34 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

BEVERLY HOMES, LLC
9007 Highway 544, Myrtle Beach, SC 29588
Tel: 843- 236-4663 Fax: 1-866-468-0428

02/23/2017

Requesting Temporary Service for the following:
39 Gasparilla Dr
Lot 4
Belle Vue
Permit #21400

Exhibit: 11
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

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2020 Mar 23 3:34 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

santee cooper

RESIDENTIAL SERVICE EXTENSION
APPLICATION AGREEMENT (RSEAA)

Application Date: 2-13-17

Customer Need By Date: asap
(Please provide 2 to 3 weeks advance notice of when underground service installation is needed.)

Project Site Ready Date:

Structure Type: ☒ Single Family ☐ Multi-Family - # Units:

Square Footage: 5770

Subdivision Name: Belle Vue

Address: 39 Mospaw Place

Lot#: 4

Home Builder: Beverly Homes

Phone: 843-236-4663

E-mail:

Electrician: Enhanced H + A

Phone: 843-448-3222

E-mail:

This RSEAA will set forth the specific requirements, responsibilities, and rights of the Customer and Santee Cooper in response to the Customer's request that Santee Cooper install an electric service.

- Each individual residence will be supplied a single-phase, three-wire service at a nominal voltage of 120/240 Volts, 60 Hertz.
- The Customer is responsible for furnishing and installing the service conductors from the meter socket to the residence.
- The Customer is responsible for his or her contractor's damages to Santee Cooper facilities. Any damage to Santee Cooper's facilities will be repaired or replaced at the customer's expense.
- Revenue Credits for service extensions are available for all-electric space conditioning, all-electric water heating, all-electric clothes dryers, and all-electric cooking. Please select the appliances that are all-electric. These revenue credits are valid for residential services less than 100 feet in length from the power source. The meter must be on the utility source side of the home.
- The Customer is responsible for locating and notifying Santee Cooper of customer-owned underground facilities. Santee Cooper will not be liable for any damage to such facilities or obstructions. However, it is understood that Santee Cooper will install its facilities in a safe and workmanlike manner in accordance with recognized engineering practices for such installations.

Please contact your local Retail Office and request the Engineer/Associate for your area. Be advised that under Santee Cooper's residential electric line extension policy, a charge for the electric service extension will be assessed and shall be due to Santee Cooper in advance of construction.

Applicable Revenue Credits: Issuance of revenue credits for declared appliances may require that the property be available for inspection upon request.

Select your Retail Office:

Select Meter Base type: ☐ 200A - All Electric ☒ 200A - Select Electric Items ☐ 320A - All Electric ☐ 320A - Select Electric Items

Select applicable Electric Items:

- ☒ $118.35 Water Heater: ☐ Tankless ☒ Storage
- ○ $106.80 HVAC
- ○ $ 31.75 Clothes Dryer
- ☒ $ 31.75 Stove

150.10 Total Credits
- 288.65 Fee for typical service (up to 100' from source)
= 138.55 Estimated fee due prior to construction

Service Length: ____ Fee for service > 100': ____
Total fee due prior to construction: ____

☐ Check attached
☒ Apply Charges to existing account - Billing Address:

Account #:

Open Charge? (authorize any payment due to be charged to existing account.) ☐ Yes ☐ No

☐ No Payment due - Alternate Energy Fees paid under the Interim Line Extension Policy

Customer Phone #: 843-236-4663

Print Name: Forrest B Beverly

Customer Signature: [signature]

For Santee Cooper Use Only

Customer payment required? ☐ Yes ☐ No

Date CIAC Processed:

Processed By:

Actual Site Ready Date:

Premise #:

Work Request #:

Meter #:

ACCEPTED BY: Santee Cooper

Print Name:

Title:

This ____ day of ____, 20____

SC0920 (06/01/2016) e

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824
ELECTRONICALLY FILED - 2021 Jan 13 11:57 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824
ELECTRONICALLY FILED - 2020 Mar 23 5:34 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

Bill Date: 11/30/2016

Beverly Homes
PO Box 512
Conway SC 29528

Previous balance	36.40
Payments received	-36.40
Electric Service Residential	23.57
Total Charges	**$ 23.57**

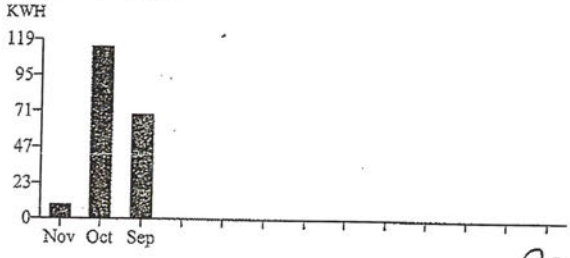
You can now chat live online with a customer service representative during regular business hours. Look for the live chat icon on our homepage at www.santeecooper.com.

39 Gasparilla Cir Lot 4; Murrells Inlet, SC 29576 4 BV

TP-N from 11/1/16 through 11/29/16 for 29 days

Meter Number	Previous Meter Read		Current Meter Read		Usage / Consumption
	Date	Reading	Date	Reading	
IA3E74077	10/31/2016	183	11/29/2016	192	9 KWH

Usage At-A-Glance



Electric Service Residential - 11/01/16 to 11/29/16

Customer Charge	21.00
Energy Charge	1.09
Fuel Adjustment	-0.05
Demand Sales Adjustment	-0.01
Sales Tax	1.54
Total New Charges	$23.57

Paid
12/14/16
V 20326

Important: This bill is due and payable on or before **December 15, 2016**. If payment in full is not received by the due date, a late charge of 2% of the unpaid balance, or 50 cents and applicable taxes - whichever is greater - will be added to the amount due.
*** If your bill has a PAST DUE AMOUNT, your service may be subject to immediate suspension.**

SANTEE COOPER
PO BOX 188
MONCKS CORNER, SC 29461-0188

Power outage? Call (888) 769-7688
Billing questions? Call (843) 651-1598
Your Account Number: [redacted]

*V11-08/04/2016 **Visit our website at www.santeecooper.com**

Exhibit: 12
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824
ELECTRONICALLY FILED - 2021 Jan 13 11:57 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824
ELECTRONICALLY FILED - 2021 Mar 23 5:34 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

Bill Date: 10/03/2016

Beverly Homes
PO Box 512
Conway SC 29528

Previous balance	0.00
Payments received	0.00
Electric Service Residential	32.43
Total Adjustments	35.00
Total Charges	**$ 67.43**

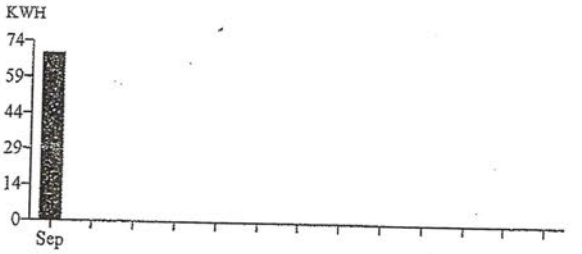
You can now chat live online with a customer service representative during regular business hours. Look for the live chat icon on our homepage at www.santeecooper.com.

39 Gasparilla Cir Lot 4, Murrells Inlet, SC 29576 4 BV

TP-N from 9/1/16 through 9/29/16 for 29 days

Meter Number	Previous Meter Read		Current Meter Read		Usage / Consumption
	Date	Reading	Date	Reading	
IA3E74077	8/31/2016	0	9/29/2016	69	69 KWH

Usage At-A-Glance



Electric Service Residential - 09/01/16 to 09/29/16

Customer Charge	21.00
Energy Charge	9.70
Fuel Adjustment	-0.29
Demand Sales Adjustment	-0.09
Economic Development Adj	-0.01
Sales Tax	2.12
Total New Charges	$32.43

Adjustments

09/07/2016 Temporary Service Connection Fee 35.00

PAID
OCT 14 2016

Important: This bill is due and payable on or before **October 18, 2016.** If payment in full is not received by the due date, a late charge of 2% of the unpaid balance, or 50 cents and applicable taxes - whichever is greater - will be added to the amount due.
*** If your bill has a PAST DUE AMOUNT, your service may be subject to immediate suspension.**

SANTEE COOPER
PO BOX 188
MONCKS CORNER, SC 29461-0188

Power outage? Call (888) 769-7688
Billing questions? Call (843) 651-1598
Your Account Number: [redacted]

*V11-08/04/2016 **Visit our website at www.santeecooper.com**

BEVERLY

To: SANTEE
PO BOX 1
MONKS CO

Memo:

PRODUCT DLM102

Exhibit: 13
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824
ELECTRONICALLY FILED - 2021 Jan 13 11:57 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

Georgetown County
CERTIFICATE OF COMPLETION
ELECTRICAL SYSTEM ONLY

Date Issued: February 27, 2017

Date Expires: May 24, 2017

Building Permit Number: BLDG-8-16-21400

Lot # 4

Building Street Address: 39 GASPARILLA Drive #LOT 4
Murrells Inlet, SC 29576

Owner's Name: BEVERLY HOMES

Contractor: BEVERLY CONSTRUCTION GROUP, LLC

The electrical system for the above referenced building has been completed to the point that connection of electrical power to the building is authorized. Power is authorized until issuance of a Certificate of Occupancy by the Building Department.

This connection of electrical service is subject to the following requirement:

* There can be no occupancy of the structure until a certificate of occupancy is issued.

Failure to comply with the above requirement will result in immediate termination of electrical utilities without additional notice. A final inspection is required. A Certificate of Occupancy will not be issued until the final inspection has been passed. It is the contractor / owner / agent responsibility to call for the inspection.

THIS IS NOT A CERTIFICATE OF OCCUPANCY

I, Forrest B Beverly being responsible for the above referenced structure understand and will abide by the requirements of this certificate.

I ALSO UNDERSTAND AND GIVE MY PERMISSION TO THE BUILDING OFFICIAL OF GEORGETOWN COUNTY TO HAVE THE APPROPRIATE ELECTRIC UTILITY TERMINATE ELECTRICAL POWER WITHOUT FURTHER NOTICE IF OCCUPANCY OF THE BUILDING OCCURS, OR NINETY (90) DAYS PASS WITHOUT SCHEDULING A FINAL INSPECTION.

Dated this day, 02/27/2017

Owner / Agent / Contractor — 02/27/2017 Date

Building Official — 02/27/2017 Date

Exhibit: 14
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824
ELECTRONICALLY FILED - 2021 Jan 13 11:57 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824
ELECTRONICALLY FILED - 2020 Mar 23 5:34 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

Georgetown County
DEPARTMENT OF BUILDING INSPECTION

CERTIFICATE OF TEMPORARY POWER

Permit Number: BLDG-8-16-21400

Date: August 22, 2016

Owner's Name: BEVERLY HOMES

Lot # 4

Owner's Address: 9007 HIGHWAY 544
MYRTLE BEACH, SC 29588

Tax Map # 41-0106-036-12-00

Location Address: 39 GASPARILLA Drive LOT 4
Murrells Inlet, SC 29576

Zoning District: PD

Health Department No:

Type of Structure: New Construction

Contractor: BEVERLY CONSTRUCTION GROUP, LLC

THIS STRUCTURE DESCRIBED ABOVE MAY BE USED FOR A PERIOD OF _____ WITH THE FOLLOWING CONDITION:

A GROUND-FAULT-CIRCUIT-INTERRUPTER IS REQUIRED FOR ALL RECEPTACLE OUTLETS TO BE USED BY CONSTRUCTION PERSONNEL.

Date Expires: COMPLETION OF CONSTRUCTION

APPROVED BY: Sanda Carter

Exhibit: 15
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

ELECTRONICALLY FILED - 2020 Mar 23 5:34 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

Exhibit: 16
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

Certificate of Occupancy

Georgetown County
Building Department

Date Completed: 04/24/2017

THIS BUILDING IS CERTIFIED FOR HUMAN OCCUPANCY AS OF 04/24/2017

Owner	BEVERLY HOMES	Permit No.	BLDG-8-16-21400
Address	9007 HIGHWAY 544 MYRTLE BEACH, SC 29588	Permit Type	Residential Building
Project	Bell Vue Subdivision	Contractor	BEVERLY CONSTRUCTION GROUP, LL
Address	39 GASPARILLA Drive #LOT 4 Murrells Inlet, SC 29576	Fire Zone	Murrells Inlet-Garden City Fire District
Lot #	4	Block #	
Occupancy Type		Construction Type	Wood
Proposed Use	S/F RESIDENCE		

THIS CERTIFICATE IS NOT A REPRESENTATION THAT THE BUILDING REFERRED TO IS IN COMPLIANCE WITH ANY ORDINANCE, CODE, REGULATION, LAW, OR STANDARD. GEORGETOWN COUNTY RESERVES THE RIGHT TO ENFORCE ANY VIOLATION OF ANY CODE, REGULATION, OR LAW EXISTING AS OF THE DATE OF THESE PRESENTS OR CREATED SUBSEQUENTLY THAT APPLIES TO THE BUILDING WHETHER KNOWN OR UNKNOWN TO THE GEORGETOWN COUNTY BUILDING AND ZONING DEPARTMENT.

Zoning Administrator — 4-24-17 Date

Building Official — 4-24-17 Date

VOID UNLESS SIGNED BY THE BUILDING OFFICIAL

Record on Appeal
206

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824
ELECTRONICALLY FILED - 2021 Jan 13 11:57 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824
ELECTRONICALLY FILED - 2021 Jan 13 11:57 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824
ELECTRONICALLY FILED - 2020 Mar 23 5:34 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

Exhibit: 17
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

INVOICE

Chris Langston LLC.
Special Inspections

4235 Highway 319 East
Conway, SC 29526
(843)-446-5055
clangstongs2@sccoast.net

INVOICE NO. 16500-BH
DATE September 9, 2016
CUSTOMER ID Belle Vue Lot 4

TO
Beverly Homes
9007 Hwy 544
Myrtle Beach, SC 29588
(843) 488-3901

SALESPERSON	JOB	PAYMENT TERMS	DUE DATE
C. Langston	Belle Vue Lot 4	Due upon receipt	9/23/16

QUANTITY	DESCRIPTION	UNIT PRICE	LINE TOTAL
1.00	Densities and DCP's with field report	$ 350.00	$ 350.00

SUBTOTAL	$ 350.00
SALES TAX	
TOTAL	$ 350.00

Make all checks payable to Chris Langston
THANK YOU FOR YOUR BUSINESS!

PAID
SEP 23 2016

#19296

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824
ELECTRONICALLY FILED - 2021 Jan 13 11:57 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824
ELECTRONICALLY FILED - 2020 Mar 23 5:34 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

B&A Quality Construction
258 ENCORE CIRCLE
MYRTLE BEACH
29579

INVOICE

Beverly HOMES
PHONE 843 458 0037

Invoice #	0020646
Invoice Date	01/18/2017
Due Date	01/18/2017

Item	Description	Unit Price	Quantity	Amount
~~Service~~	~~Abaco cove lot 21~~ Installation siding 35 sq	~~150.00~~	~~35.00~~	~~5,250.00~~
~~Service~~	~~Abaco cove lot 21 installation ceiling 5 sq~~	~~125.00~~	~~5.00~~	~~625.00~~
~~Service~~	~~Lot 154 Collins creek~~ Installation cúpula	~~1.00~~	~~250.00~~	~~250.00~~
Service	Belle vue lot 4 extra wrap Bins under house	1.00	500.00	500.00

exhibit

Subtotal	6,625.00
Total	6,625.00
Amount Paid	~~0.00~~
Balance Due	$6,625.00

PAID
JAN 20 2017

#20751

Exhibit: 18
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

Strand Engineering

INVOICE

215 Laurel Street
Conway, SC 29526
Phone (843) 488-1828

DATE:
7/30/2016

INVOICE #
16-501

Bill To:
Beverly Homes
9007 Hwy 544
Myrtle Beach, SC 29588

For:
Lot 4
Belle Vue
Murrell's Inlet, SC

DESCRIPTION	AMOUNT
Wind & Seismic Design	$1,600.00
# 8697	
PAID AUG 05 2016	
TOTAL	$1,600.00

THANK YOU FOR YOUR BUSINESS!

Exhibit: 19
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

4 BV

FAITH LANDSCAPING LLC.
Faith Landscaping LLC.
7032 Hwy 134
Conway, SC 29527
(843)397-5752
tab.jan20@yahoo.com

Exhibit: 20
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

BILL TO
Beverly Homes

INVOICE #	DATE	TOTAL DUE	DUE DATE	TERMS	ENCLOSED
1850	08/24/2016	$8,850.00	09/03/2016	Net 10	

ACTIVITY	QUANTITY	RATE	AMOUNT
Material ~~Steve Elvis- fill dirt~~	~~1~~	~~125.00~~	~~125.00~~
Material Pine Needle Lot 93- fill dirt	3	150.00	450.00
Labor Grading	1	300.00	300.00
Barons Bluff Lot 204- fill dirt	5	125.00	625.00
Labor Grading	1	300.00	300.00
New Castle Lot 215- fill dirt	7	125.00	875.00
Labor Grading	1	300.00	300.00
New Castle Lot 192- fill dirt	4	125.00	500.00
Labor Grading	1	300.00	300.00
New Castle Lot 246- fill dirt	5	125.00	625.00
Labor Grading	1	300.00	300.00
TANGLEWOOD Lot 102- fill dirt	7	125.00	875.00
Labor Grading	1	300.00	300.00
Material Porters Bay Lot 4- fill dirt	1	125.00	125.00
Labor Belle Vue Lot 4- cleared graded and removed all debri	1	2,850.00	2,850.00

PAID
AUG 26 2016
#18996

BALANCE DUE $8,850.00

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

SEP 15 2016
8:07 AM

4 BV

Invoice

Palmetto Concrete LLC
3584 Good Luck Rd
Aynor, SC 29511

Date	Invoice No.
09/15/16	15

Bill To
Beverly Homes 9007 Hwy. 544 Myrtle Beach, S.C. 29588

Project Name	Lot #
Belle View	4

Quantity	Units	Description	Rate	Amount
		Form and pour elevator pit extras	100.00	100.00

Thank you for your business

Total $100.00

PAID
SEP 16 2016

#19242

Exhibit: 21
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

INVOICE

Gale Contractor Services,
Division Code :708
LIC#: 55088
700 Century Circle,
Conway, SC 29526-8274,
(843) 347-4559

Customer Number	508674
Invoice Number	00561514605
Invoice Date	30-NOV-16
SalesPerson Name	Roberts, Gordon
Product Trade	INSULATION

Customer Bill To Address
BEVERLY HOMES
9007 HIGHWAY 544,
MYRTLE BEACH,SC,29588,US

Remit To Address:
ATTN: AR, Gale Contractor Services,
P.O. Box 534451,
Atlanta, GA, 30353-4451

4 BV

Line	PO#	SO#	Ship Address	Trip	Amount	Retainage	Tax	Total
1	SWA	403310121	39 Gasparilla Dr/Lot 39/Block Na 39 Gasparilla Dr, Murrells Inlet, SC	Air Infiltration	84.64	0.00	0.00	84.64

Total Contract Amount	3,150.00

Completion to Date	84.64
Previous Billing	0.00
Previous Retainage Billing	0.00
Previous Retainage	0.00
Invoice Amount	84.64
Tax	0.00
Less: Current Retainage	0.00
Less: Payments	0.00
Total Due Upon Receipt	84.64

REMITTANCE COPY
PLEASE RETURN THIS PORTION WITH YOUR PAYMENT TO

PAID
DEC 09 2016

Remit To Address:
ATTN: AR, Gale Contractor Services,
P.O. Box 534451,
Atlanta, GA, 30353-4451

Customer Number : 508674
Invoice Number : 00561514605
Invoice Date : 30-NOV-16
PO Number : SWA
PO Date : NA
Sales Agent : Roberts, Gordon
Division Code : 708

#20257

TruTeam Contract Number : 403310121

Total Due Upon Receipt : 84.64

Exhibit: 22
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

INVOICE

TruTeam

Gale Contractor Services,
Division Code :708
LIC#: 55088
700 Century Circle,
Conway, SC 29526-8274,
(843) 347-4559

Customer Number	508674
Invoice Number	00561559154
Invoice Date	01-DEC-16
SalesPerson Name	Roberts, Gordon
Product Trade	INSULATION

Customer Bill To Address
BEVERLY HOMES
9007 HIGHWAY 544,
MYRTLE BEACH,SC,29588,US

Remit To Address:
ATTN: AR, Gale Contractor Services,
P.O. Box 534451,
Atlanta, GA, 30353-4451

4 BV

Line	PO#	SO#	Ship Address	Trip	Amount	Retainage	Tax	Total
1	SWA	403310121	39 Gasparilla Dr/Lot 39/Block Na 39 Gasparilla Dr, Murrells Inlet, SC	Batt	2,141.62	0.00	0.00	2,141.62

Total Contract Amount	3,150.00

Completion to Date	2,226.26
Previous Billing	84.64
Previous Retainage Billing	0.00
Previous Retainage	0.00
Invoice Amount	2,141.62
Tax	0.00
Less: Current Retainage	0.00
Less: Payments	0.00
Total Due Upon Receipt	2,141.62

113

REMITTANCE COPY
PLEASE RETURN THIS PORTION WITH YOUR PAYMENT TO

Remit To Address:
ATTN: AR, Gale Contractor Services,
P.O. Box 534451,
Atlanta, GA, 30353-4451

PAID
DEC 09 2016
#20257

Customer Number : 508674
Invoice Number : 00561559154
Invoice Date : 01-DEC-16
PO Number : SWA
PO Date : NA
Sales Agent : Roberts, Gordon
Division Code : 708

TruTeam Contract Number : 403310121

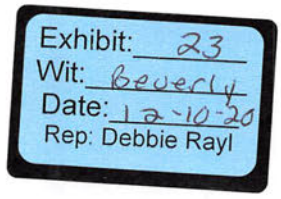
Total Due Upon Receipt : 2,141.62

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220082
ELECTRONICALLY FILED - 2021 Jan 13 11:57 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GEORGETOWN	)	CIVIL ACTION NO. 2018-CP-22-00824
Evarista Juan Lorenzo,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Port City Elevator, Inc., Alan Topper d/b/a All Construction a/k/a/ Toppers All Construction, 2020 Custom Contractors a/k/a 2020 Custom Contractors LLC, Citadel Site Management, LLC, DVBT Construction a/k/a DVBT Construction LLC, DVBT Multiservices LLC, Beverly Construction Group, LLC, Beverly Homes, LLC, Beverly Homebuilders, LLC, Strand Paint Contractors, LLC, DePaz Painting LLC, Enhanced Heating & Air Conditioning, LLC, Carlton Pender, and Joan Pender,	)	**AFFIDAVIT OF RANDY BEVERLY**
	)	
Defendants.	)	

Personally, appeared before me, the undersigned, who being duly sworn, states:

1. My name is Randy Beverly.
2. I am over 18 years of age, and I make the within statements based on my own knowledge except as otherwise stated.
3. I own a house located at 15 Carson Creek Drive, Murrells Inlet, SC 29576 which is also known as Lot 3 in Belle Vue Phase 2.
4. The invoice from Carolina Boys Landscaping attached hereto as **Exhibit "A"** is for landscaping services provided at my above-referenced personal residence.
5. I paid the attached invoice in my individual capacity. Beverly Homes did not have any involvement with the processing and payment of the attached invoice. Upon



information and belief, the attached invoice was erroneously addressed to Beverly Homes and should have be addressed to me individually and was misfiled into the records for the Pender residence (i.e. - 39 Gasparilla Drive (Lot 4, Belle Vue), Murrells Inlet, SC 29576).

6. The attached invoice is not related in any way to the property located at 39 Gasparilla Drive (Lot 4, Belle Vue), Murrells Inlet, SC 29576.

FURTHER DEPONENT SAYETH NOT.

Randy Beverly

SWORN TO AND SUBSCRIBED TO
BEFORE ME this 13th day of
April, 2020.

Tabitha Via (L.S.)
Notary Public for South Carolina
My Commission Expires: 3/3/2030

Tabitha Via
NOTARY PUBLIC
SOUTH CAROLINA

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824
ELECTRONICALLY FILED 2020 Apr 20 10:23 AM GEORGETOWN COMMON PLEAS CASE#2018CP220824

Exhibit "A"

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824
ELECTRONICALLY FILED - 2020 Apr 20 10:29 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824
ELECTRONICALLY FILED - 2020 Mar 23 5:34 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

Carolina Boys Landscaping

6800 Ford Taylor Rd
Conway SC 29527
843-397-8277 Office
843-397-8278 Fax

Invoice

Date	Invoice #
9/29/2016	0593

Bill To
Beverly Homes 1006 B Church Street Conway SC 29526

P.O. No.	Terms	Project
RANDY		

Quantity	Description	Rate	Amount
4	RANDY BELLE VIEW	35.00	140.00

PAID
SEP 30 2016
✓19941

	Total	$140.00

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824
ELECTRONICALLY FILED - 2021 Jan 13 11:57 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

BUILDER WARRANTEE

Beverly Homes, LLC

This Limited Warranty Agreement is extended by Beverly Homes, LLC, of Myrtle Beach, SC, the Builder, to Carlton + Jean Perdue, the Purchaser, who is the original Buyer of the property at: Lot 4 Belle Vue.

1. COVERAGE

The Builder warrants that all construction related to the house substantially conforms to the specifications and the change orders for the job. Within one (1) year from the date of closing, or occupancy by the Purchaser, whichever is first, the Builder will repair or replace, at the Builders option, any latent defects in material or workmanship by the standards of construction relevant to County Building Codes. A latent defect is defined as one which was not apparent or ascertainable at the time of occupancy. The Purchaser agrees to accept a reasonable match in any repair or replacement in the event the original item is no longer available. The Purchaser understands that the sole remedy under this Limited Warranty Agreement is repair as set forth hereto. Any claim for breach of this warranty must be brought within one (1) year from the date of closing or occupancy by the Purchaser, whichever is first.

2. EXCLUSIONS FROM COVERAGE

The Limited Warranty does not cover the following items:

a. Damage resulting from fires, floods, storms, electrical malfunctions, accidents, nor acts of God.
b. Damage from alterations, misuse or abuse of the covered items by any person.
c. Damage resulting from the Purchasers' failure to observe any operating instructions furnished by the Builder at the time of installation.
d. Damage resulting from the malfunction of equipment or lines of the telephone, gas, power or water companies.
e. Any item listed as Non-warrantable Conditions on the list that is incorporated into this Warrantee; the Purchaser acknowledges receipt of the list of Non-warrantable Conditions. Any item furnished or installed by the Builder, including appliances or equipment, that are covered by the manufacturer's warranties. The Builder hereby assigns (to the extent that they are assignable)and conveys to the Purchaser all warranties provided by the manufacturer on manufactured items such as appliances and equipment that have been installed or included in the purchase of the Property. (The Purchaser accepts this assignment and acknowledges that the Builder's only responsibility relating to such items is to lend assistance to the Purchaser in settling any claim resulting from the installation of these products. Following are examples of such: appliances and equipment though not every home includes all of these items and some homes may include appliances and equipment not on this list: refrigerator, range, washing machine, dishwasher, garbage disposal, ventilating fan, HVAC equipment, water heater, microwave and light fixtures.)
f. Conditions resulting from the condensation on, or expansion or contractions of materials.

Beverly Homes, LLC
(____)BUYER (____)BUYER (____)SELLER (____) SELLER HAVE READ THIS PAGE

Exhibit: 24
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824
ELECTRONICALLY FILED - 2021 Jan 13 11:57 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

g. Defects that are the results of characteristics common to the materials used, such as (but not limited to) warping and deflection of wood, fading, caulking and checking of paint due to sunlight; cracks due to drying and curing of concrete, stucco, plaster, bricks and masonry; drying, shrinking and cracking of caulking and weather stripping.

3. LIMITATION OF WARRANTY

This warranty is personal to the original Purchaser and does not run with the property or the items contained in the house. The original Purchaser may not assign, transfer or convey this warranty.

4.OBTAINING SERVICE

It shall be the policy of the Builder to warrant the Purchaser's home according the following guidelines:

A. All requests for warranty shall be in writing. The only exception will be in the case of an emergency such as plumbing leaks, etc.

b. If the service needed is mechanically related (i.e. plumbing, HVAC, electrical appliances) the homeowner should call the subcontractor direct.

d. The Builder will begin performing the obligations under this warranty within a reasonable time of the Builder's receipt of any such request and will diligently pursue these obligations. Repair work will be done during the Builders normal working hours except where delay will cause additional damage. The Purchaser agrees to provide the Builder or the Builder's representative access to the home.

5. BUILDER ACKNOWLEDGEMENT:

Purchaser acknowledges and agrees that the Builder, Beverly Homes, LLC, shall be responsible for all Construction, Warrantee and Building related items.

6. NO OTHER WARRANTIES

I acknowledge having read, understood, and received a copy of this Limited Warranty.

PURCHASER — DATE: June 17, 2016

PURCHASER — DATE: June 17, 2016

BUILDER — DATE: 6-17-16

Beverly Homes, LLC

(___)BUYER (___)BUYER (___)SELLER (_____) SELLER HAVE READ THIS PAGE

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824
ELECTRONICALLY FILED - 2021 Jan 13 11:57 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

In The Matter Of:

EVARISTA LORENZO v.
PORT CITY ELEVATOR, ET AL

REBECCA BEVERLY
December 10, 2020

Rayl Reporting Service
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Original File REBECCA BEVERLY.prn
Min-U-Script® with Word Index

STATE OF SOUTH CAROLINA) IN THE COURT OF
COUNTY OF GEORGETOWN) COMMON PLEAS
CASE NO: 18-CP-22-00824

EVARISTA JUAN LORENZO,

PLAINTIFF,

vs.

PORT CITY ELEVATOR, INC.; ALAN TOPPER d/b/a TOPPERS ALL CONSTRUCTION; 20/20 CUSTOM CONTRACTORS, LLC; AND CITADEL SITE MANAGEMENT, LLC, DVBT CONSTRUCTION, a/k/a DVBT CONSTRUCTION, LLC; DVBT MULTISERVICES, LLC; BEVERLY CONSTRUCTION GROUP, LLC; BEVERLY HOMES, LLC; BEVERLY HOMEBUILDERS, LLC; STRAND PAINT CONTRACTORS, LLC; DEPAZ PAINTING, LLC; ENHANCED HEATING & AIR CONDITIONING, LLC; CARLTON PENDER; AND JOAN PENDER,

DEFENDANTS.

DEPOSITION OF:

REBECCA BEVERLY

December 10, 2020
2:00 p.m. - 3:15 p.m.

P R O C E E D I N G S

Whereupon,

(REBECCA BEVERLY, having been duly sworn, testified as follows:)

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EXAMINATION

BY MS. WRIGHT:

Q. Good afternoon. My name is Brooke Wright. I'm an attorney at Maguire Law Firm and we represent Evarista Lorenzo regarding an incident that occurred on January 17th of 2017. I do appreciate you being here today. Have you ever had your deposition taken before?

A. Yes.

Q. Okay. And what was that for?

A. That was for a car wreck back in 2012, I believe or 2011.

Q. Okay. And were you the person making a claim?

A. No.

Q. Okay. So were you the Defendant in that case?

A. Yes.

Q. Okay. Well, basically today the purpose of this deposition is for me to ask

questions about what you know related to this incident and anything that would be relevant to the incident or related to it involving Ms. Lorenzo.

Please answer all my questions with yes or no or some other verbal response rather than just nodding your head or saying uh-huh or huh-uh that way the court reporter can take it down and we can read it later and clearly understand what your answers were; okay?

A. Okay.

Q. None of my questions are meant to trick you or to confuse you in any way so if I ask you a question that does not make sense please let me know or please ask me to repeat or rephrase my question and I can do that for you. If you do answer my question, I will assume that you understood it; is that fair?

A. Yes.

Q. Okay. Great. If you need a break at any time just let me know. We can take a break whenever you need it. But since we have started the deposition if we do take a break any conversations that you have during the break even with your attorney would not be

privileged anymore.

If you have any questions during the deposition, please ask me. And finally I want to remind you, you are under oath so you must answer my questions truthfully. Do you understand you're under oath?

A. Yes.

Q. Okay. Please state your full name.

A. Rebecca [redacted] Beverly.

Q. And what is your date of birth?

A. [redacted]82.

Q. And what is your current address?

A. [redacted]

Q. And are you currently employed?

A. Yes.

Q. Who is your employer?

A. Beverly Construction Group, LLC.

Q. And when did your employment with Beverly Construction Group, LLC begin?

A. August of 2008, I believe.

Q. And what high school did you graduate from?

A. Conway High School.

Q. And are you married?

A. No.
Q. Have you ever been married?
A. No.
Q. Do you have any children?
A. No.
Q. Do you have any relatives over the age of eighteen years old that live in Georgetown County?
A. Yes, I do.
Q. Okay. What are the last names of those relatives?
A. Beverly.
Q. Is it one person or more than one?
A. Two. Yeah, more than one.
Q. Did you graduate from college?
A. Yes.
Q. What college did you graduate from?
A. Davidson College.
Q. Okay. What year was that?
A. 2004.
Q. And what was your major or course of study?
A. Mathematics.
Q. I'm impressed, Davidson and mathematics major. After graduation where was

your first place of employment?
A. Coastal Federal Bank.
Q. And what was your job title there?
A. My first job title I'm not even sure that I recall. It was in the Human Resources Department. Later on I believe my job title was something in the Lending Department, but it was back office. I honestly don't remember my job titles there.
Q. That's fine. And for how many years were you employed with Coastal Federal?
A. I did not change employment for four years, however, Coastal Federal was purchased by BB&T during that timeframe so I would say for roughly three years I was employed with Coastal Federal and one year with BB&T.
Q. Okay. Have you ever served in the military?
A. No.
Q. Are you a member of a church?
A. Yes.
Q. And what is the name of that church?
A. Kingston Presbyterian Church.

Q. Okay. And do you have a valid driver's license?
A. Yes.
Q. Has your license ever been suspended or revoked?
A. Yes.
Q. Okay. Why was it suspended or revoked?
A. I had a ticket for a DUI.
Q. Okay. And what year was the DUI that you had?
A. It was around 2012, but I'm not sure of the exact year.
Q. Okay. And what was the outcome of the charges with the DUI?
A. It ended up being dismissed.
Q. And was the DUI in Horry County?
A. Yes.
Q. Have you lived in any State other than South Carolina?
A. I went to school for college in North Carolina, but my residence was always South Carolina.
Q. I ask this of everyone so please don't be offended. Have you ever been

arrested?
A. Yes.
Q. Okay. And what were you arrested for?
A. DUI.
Q. And was it the same one that we already discussed?
A. Yes.
Q. And have you ever had a traffic ticket or citation other than the DUI we already talked about?
A. Yes.
Q. Are you under any disability or on any medications today that would impair your testimony?
A. No.
Q. Have you ever been treated for drugs or alcohol addiction?
A. No.
Q. Have you ever been institutionalized like in a mental health facility?
A. No.
Q. What is your Social Security number?

A. XXX-XX-5651.
Q. And it will be redacted. Only the last four digits will be on the record. Are you a member of any clubs or organizations?
A. No.
Q. Have you ever been terminated or fired from any job?
A. No.
Q. Have you ever worked as a painter?
A. No.
Q. Do you have any licenses or certifications related to the construction industry?
A. No.
Q. Have you ever had any?
A. No.
Q. After working at Coastal Federal and BB&T what was your next employer?
A. Beverly Construction Group.
Q. Have you ever been an employee of Beverly Homes, LLC?
A. No.
Q. Have you ever been an officer of Beverly Homes, LLC?
A. No.

Q. Have you ever been an owner of Beverly Homes, LLC?
A. No.
Q. What is your job title at Beverly Construction Group, LLC?
A. Administrative Officer.
Q. What are your job duties as the Administrative Officer?
A. Oversee the employees and the workings of the office.
Q. And has that always been your same job title with Beverly Construction Group, LLC?
A. No.
Q. Okay. What other positions have you had with Beverly Construction Group, LLC?
A. Office Manager.
Q. And when were you the office manager?
A. 2008 to roughly 2016.
Q. Do you know when in 2016 you stopped being the office manager?
A. I'm not even sure it was in 2016. So, no.
Q. Okay. And why did you stop being the office manager?

A. There were enough employees at that point to change my title.
Q. Okay. Is there another office manager?
A. No.
Q. Okay. So after you stopped being the office manager there was -- no one was office manager?
A. Correct.
Q. When did you first become an administrative officer?
A. Whenever I was no longer the office manager.
Q. Okay. So was it sometime around 2016?
A. Yes.
Q. And are you still currently the administrative officer?
A. Yes.
Q. Do you know who was the general contractor for the home constructed at 39 Gasparilla Circle that we're here about today?
A. Yes.
Q. Okay. Who was the general contractor?

A. Beverly Construction Group, LLC.
Q. Okay. And was there any other general contractor?
A. No.
Q. Did Beverly Construction Group, LLC contract with Strand Paint Contractors, LLC to perform work at 39 Gasparilla Circle?
A. Yes.
Q. And what was Strand Paint Contractors, LLC hired to do?
A. I was not directly involved in that. Forrest Beverly or Jonathan Martin would be the knowledgeable party.
Q. Okay. Other than Forrest and Jonathan is there any other person that would have information about the construction of the home at 39 Gasparilla Circle who works with Beverly Construction Group, LLC?
A. I'm sure there are people who have some information, but they would be the most knowledgeable, Forrest Beverly and Jonathan Martin.
Q. Did Joseph Cornelius have anything to do with the home at 39 Gasparilla Circle?
A. No.

Q. Okay. What is his job title?
A. Superintendent supervisor.
Q. And who is the employer of Joseph Cornelius?
A. Beverly Construction Group.
Q. And what is Jonathan Martin's job title?
A. Superintendent supervisor.
Q. Have you ever received any complaints about Jonathan Martin?
A. I'm sure I have at some point. I don't remember any of them specifically.
Q. And are you a supervisor over Jonathan Martin?
A. No.
Q. Have you ever been a supervisor over Jonathan Martin?
A. No.
Q. Who is his supervisor?
A. Forrest Beverly.
Q. Do you know whether there was any issue between Jonathan Martin and Alan Topper regarding 39 Gasparilla Circle?
A. I have no knowledge of it.
Q. Do you know whether Alan Topper or

Toppers All Construction still does work for Beverly Construction Group, LLC?

A. They do.

Q. Have you ever had any complaints or issues that you're aware of with them?

A. Not that I recall.

Q. When did you first learn about the incident that occurred involving Evarista Lorenzo?

A. I would imagine it was the day it occurred, but I don't recall specifically.

Q. Have you ever been inside the home at 39 Gasparilla Circle?

A. No.

Q. Did you do anything to investigate this incident?

A. No.

Q. How did you learn that the incident occurred?

A. I don't recall.

Q. Do you know what caused Ms. Lorenzo to fall down the elevator shaft?

A. I don't have firsthand knowledge of that.

Q. Okay. Do you know whether there

was a door installed yet on January 17th of 2017?

A. I would not have knowledge about the construction site.

Q. Okay. Do you know whether Ms. Lorenzo did anything to cause herself to fall down the elevator shaft?

A. I would not know anything about the construction site or any of the superintendents on that site. Excuse me, the employees or subcontractors on that site.

Q. Okay. Who were the employees or superintendents that you're aware of that were onsite at 39 Gasparilla Circle?

A. I do not know. Are you saying that have ever stepped foot on 39 Gasparilla Circle.

Q. Prior to this incident, yes.

A. I would imagine that Jonathan Martin would have had to have been onsite at some point prior to the incident. He is the only person that I can say with any certainty had been to the jobsite.

Q. Do you know how often Jonathan Martin went to the jobsite?

A. No.

Q. Do you know what the email address is for Beverly Homes, LLC?
A. I do not believe it has one.
Q. Okay. What is the email address for Beverly Construction Group, LLC?
A. It doesn't have its own email address, employees do.
Q. If an invoice is issued to Beverly Homes, LLC what email does it go to?
A. Invoices? Usually to me actually. If it's for Beverly Homes so it would come to Rebecca@beverlyhomesSc.com.
Q. And is that email address is it a gmail or a Yahoo or what type of ---
A. Gmail.
Q. Do you know whether you have any emails related to 39 Gasparilla Circle?
A. I -- if I do they would have had to occur -- have come in after August 24th, 2018. The reason for that is we lost all of our Google affiliated information, emails, documents, et cetera on August 24th, 2018.
Q. Did Google do anything to try to *recur that data?
A. They did. Well, I contacted them.

They said there was nothing they could do.
Q. Do you know what caused the data to be erased?
A. Our account was cancelled.
Q. Okay. Do you know why the account was canceled?
A. It was a mix up in -- we weren't able to get into the account. We didn't have the -- the passwords to access it.
Q. Okay. What email address do invoices go to for Beverly Construction Group, LLC?
A. InvoicesatBeverlyHomesSC.com.
Q. And who controls that email account?
A. Robert Bork.
Q. And what is his job title?
A. Accounts Payable Specialist.
Q. And was he the Accounts Payable Specialist in 2017?
A. No.
Q. Okay. Who received the invoices for Beverly Construction Group, LLC in 2017?
A. I'm not sure, but I believe that would have been me.

Q. Okay. And would that be to the invoices@BeverlyHomesSC.com?
A. No.
Q. Okay. When was invoices@BeverlyHomesSC.com created?
A. I don't know, roughly around three years ago.
Q. Was it created after January 17th of 2017?
A. I don't know.
Q. Do you know if there are any emails related to 39 Gasparilla Circle in the account of invoices@BeverlyHomesSC.com?
A. I would be extremely surprised by that since all of that -- all-- all emails would have been since August 24th, 2018. I cannot say for certain that there aren't any there, but it would shock me that there would be any within the past, you know, two years.
Q. Okay. So the erasing of the emails does that include all BeverlyHomesSC.com emails?
A. Yes.
Q. Okay. Other than yourself and Robert Bork was there any other person handling

the invoices for Beverly Construction Group, LLC in 2016 or 2017?

A. Robert Bork was not handling them in 2016-2017. I believe, but I'm not certain, that Lorraine Crowe was handling invoices. It is also possible Shannon Sherman was handling invoices.

Q. And what was Lorraine Crowe's job title?

A. Her original job title was receptionist. Later her job title was drafts person. I believe those are the only two titles she had.

Q. And what were her job duties as a drafts person?

A. Making alterations to house plans on CADD.

Q. Okay. And what was Shannon Crowe's job title?

A. Shannon Sherman originally was receptionist. Later was accounts payable specialist.

Q. Is Shannon still employed with Beverly?

A. No.

Q. Was she terminated?
A. No.
Q. Do you know where she is currently employed?
A. When she left us she went to work for her husband's company doing title searching. I do not know the name of it. I believe she is still there.
Q. Okay. And is Lorraine Crowe still employed with Beverly?
A. No.
Q. Was she fired or terminated?
A. No.
Q. And do you know where she's currently employed?
A. When she left us she became employed with Horry County Schools. I believe she is still there.
Q. Did Beverly Homes, LLC have any involvement with the construction project at 39 Gasparilla Circle?
A. No.
Q. Did Beverly Homes, LLC perform any work at 39 Gasparilla Circle?
A. No.

Q. Does Beverly Homes, LLC build or construct houses?

A. They contract Beverly Construction Group to build and construct houses. Beverly Homes does not do the work themselves.

Q. Okay. Is there any written contract between Beverly Homes, LLC and Beverly Construction Group, LLC?

A. No.

Q. Did Beverly Homes, LLC have any involvement with the property or the home built at 39 Gasparilla Circle?

A. No.

Q. Did any employee of Beverly Construction Group, LLC post any warning signs at 39 Gasparilla Circle?

A. I would not have knowledge of that.

Q. Okay. Does Beverly Construction Group, LLC have a manual or policies written?

A. I know that we have some office policies and procedures that are written.

Q. Okay. Do those procedures involve safety or what to do at a jobsite?

A. No. The policies that I'm aware of are for the office alone.

Q. Okay. Did you provide an Affidavit for this case?

A. Yes.

MS. WRIGHT: I'm looking for it. I don't have it. I'm going to mark the Affidavit of Rebecca Beverly as an exhibit to this deposition. I think I handed you copy of it in the packet before. If not, I can dig and try to find another one.

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(AFFIDAVIT OF REBECCA BEVERLY WAS MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 25)

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BY MS. WRIGHT:

Q. Okay. Is the document in front of you an Affidavit that you signed for this case?

A. Yes, it is.

Q. And in this Affidavit it states that several invoices were paid by Beverly Construction Group, LLC. Why was it important which company actually paid the invoices that

you're referring to in your Affidavit?

A. Could you clarify the question. What do you mean by important? Beverly Construction Group would have paid any invoices on 39 Gasparilla Circle.

Q. Okay. And on Page 4 of your Affidavit for Number 6 ---

A. Yes.

Q. Did you state, "Beverly Homes did not have any involvement with the processing and payment of any of the above referenced invoices and bills"?

A. Yes.

Q. And when you refer to Beverly Homes are you referring to Beverly Homes, LLC?

A. Yes.

MS. WRIGHT: Okay. I don't have any other questions about that particular exhibit.

I'm going to hand you an exhibit that was previously marked as Plaintiff's Exhibit 1.

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(PORT CITY CONTRACT

WAS PREVIOUSLY MARKED

FOR IDENTIFICATION
AS DEPOSITION
EXHIBIT NUMBER 1)
++++++++++++++

BY MS. WRIGHT:

Q. And does that document state "Port City Elevator, Inc. residential elevator specifications contract"?

A. Yes.

Q. And is the job listed Pender Residence, 39 Gasparilla Circle, Murrells Inlet, South Carolina 29576?

A. Yes.

Q. And who does it state the elevator is for?

A. Beverly Homes, 9007 Highway 544, Myrtle Beach, South Carolina 29588.

Q. And do you know why Beverly Homes is listed?

A. Port City Elevator made out the invoice so I would not know for sure. However, many of our subcontractors list different companies that all have the Beverly name.

Q. Okay. And do you ever correct those subcontractors when they have the

incorrect entity name listed?

A. We have never done that.

Q. Okay. Is there any reason why not?

A. That is extra work that is unneeded.

MS. WRIGHT: Okay. I'm going to hand you what was previously marked as Exhibit 8.

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(RESIDENTIAL CONSTRUCTION CONTRACT WAS PREVIOUSLY MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 8)

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BY MS. WRIGHT:

Q. Okay. Does that appear to be the residential construction contract for 39 Gasparilla Circle?

A. It does.

Q. And was that contract between Beverly Construction Group, LLC and the Penders?

A. Yes.

Q. Did you have any role in drafting

or executing that contract?

A. Not in executing it, however, I do often update the contracts with a particular person's information, the amount of the contract, TMS number, information on the house being built to prepare that contract to then be executed.

MS. WRIGHT: Okay. I'm going to hand you Exhibit 9.

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(CANCELED CHECK FROM PENDER ACCOUNT WAS PREVIOUSLY MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 9)

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BY MS. WRIGHT:

Q. And is that a check from Carlton or Joan Pender?

A. Yes.

Q. And was that check paid To The Order of Beverly Homes in the amount of twenty thousand dollars?

A. The check is written to Beverly

Homes in the amount of two thousand -- twenty thousand dollars.

Q. And does the check state, "for deposit Lot 4 Bellevue"?

A. It does.

Q. Do you know why that check was paid To The Order of Beverly Homes?

A. I do not know why it was written To The Order of Beverly Homes, but as I said earlier many people confuse the names of our various companies.

Q. Do you know whether this check was returned to the Penders for a new check to be issued?

A. It was not.

Q. Okay. Do you know whether this check was deposited?

A. It was not deposited to Beverly Homes.

Q. Okay. What account was this check deposited into?

A. I would imagine that it went into Beverly Construction Group, but I have not researched to see.

Q. Okay. And who is the person that

makes the deposits?

A. The overwhelming majority of the time that is Randy Beverly.

Q. Okay. And is the bank account for Beverly Construction Group, LLC is it at Conway National Bank?

A. Yes.

MS. WRIGHT: Now I'm going to hand you Exhibit 10. This was previously marked.

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(CANCELED CHECK FROM CARLTON PENDER WAS PREVIOUSLY MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 10)

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BY MS. WRIGHT:

Q. And is that a check that is pay To The Order of Beverly Homes in the amount of two thousand dollars from Carlton A. Pender?

A. The check is written to be paid to the order of Beverly Homes for two thousand dollars from Carlton A. Pender.

Q. And do you know whose handwriting is underneath the check on this document?

A. Are you referring to check is for plans and survey Lot 4, Bellevue, Phase 1?

Q. Yes, ma'am.

A. I do know that it's two different handwritings. And I am not sure, however, I believe the first portion check is for plans and survey lot for Bellevue is Forrest Beverly. However, the second part Phase 1, I am not sure. I know it is not mine, not Forrest Beverly, not Randy Beverly.

Q. Okay. Do you know whether this check pay To The Order of Beverly Homes was deposited by Beverly Construction Group, LLC?

A. I don't recall. It was not deposited by Beverly Homes into Beverly Homes' account.

Q. Okay. And how do you know that?

A. I looked back at Beverly Homes' account for this timeframe.

MS. WRIGHT: I'm going to hand you what was previously marked as Exhibit 11.

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(TEMPORARY SERVICE REQUEST
WAS PREVIOUSLY MARKED
FOR IDENTIFICATION
AS DEPOSITION
EXHIBIT NUMBER 11)
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BY MS. WRIGHT:

Q. And is the first page the letterhead of Beverly Homes, LLC?

A. It does say Beverly Homes, LLC and it has our information listed, however, it is not our letterhead.

Q. Okay. Do you know who typed this document?

A. I do not.

Q. On the letter did it say Beverly Homes, LLC at the top of the letter?

A. The sheet does have Beverly Homes, LLC at the top.

Q. And does the document state requesting temporary service for the following 39 Gasparilla Drive, Lot 4, Bellevue, Permit Number 21400?

A. Yes.

Q. And on the following page is that

the residential service extension application agreement from Santee Cooper?

A. Yes.

Q. And who is listed as the homebuilder?

A. Beverly Homes.

Q. And do you know why Beverly Homes is listed as the homebuilder?

A. We photocopy the same sheet over and over again. In 95 or greater percent of the situation Beverly Homes is the owner, not necessarily the homebuilder. But since we use the same one over and over and -- and photocopy that, you know, existing pre-filled out sheet of paper. In fact, you can see where those different handwritings for the recurring information such as Beverly Homes and different handwritings for the square footage, subdivision name, address, which would change each time, simply a clerical error. You know they grab the same one it's the easiest thing to do and fill it out.

Q. And do you know whose handwriting is written where it says Beverly Homes for homebuilder?

A. I do not.
Q. Do you know whose handwriting is at the bottom where it says print name Forrest B. Beverly?
A. I do not.
MS. WRIGHT: I'm going to mark this as an exhibit to this deposition.
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(TEMPORARY SERVICE REQUEST WAS MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 26)
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BY MS. WRIGHT:
Q. And is the document in front of you a temporary service request for Santee Cooper?
A. Yes.
Q. And is the service address listed on 39 Gasparilla Circle?
A. Yes.
Q. And is the name of the account Beverly Homes?
A. Yes.
Q. And is that your handwriting where

it says Beverly Homes?
A. No.
Q. And at the bottom where it says, "Print name of customer/company representative" does it say Rebecca Beverly?
A. Yes.
Q. And is that your handwriting?
A. No.
Q. Okay. And the signature where it says, "customer representative signature," whose signature is that?
A. That is my signature.
Q. Okay. So did you sign this document Temporary Service Request?
A. I did.
Q. Okay. And why is Beverly Homes listed as the name of the account for 39 Gasparilla Circle?
A. Similar to the other Santee Cooper listing or document it was already filled out already just needed to photocopy it and fill in the address, which is easier for the ladies in the office. As you can see again, there's different handwriting for the recurring information name on the account, billing

address, et cetera and a different handwriting for the particular information to the job, 39 Gasparilla Circle, et cetera.

Q. Did you ever contact Santee Cooper to correct the name of the account?

A. I personally do not recall doing that.

Q. And do you know whether anyone else contacted Santee Cooper to let them know that the name of the account as Beverly Homes was not correct?

A. I do not know.

Q. Why did you sign the temporary service request if the name of the account as Beverly Homes was incorrect?

A. It did not make a difference to us receiving service.

Q. And Lorraine Crowe, what was her job title at the time that this form was filled out?

A. I do not know.

Q. Did Lorraine Crowe have any involvement in electricity requests?

A. Yes.

Q. Where it says, "has inspection been

completed" and the box is checked yes, do you know who performed that inspection?

A. No.

MS. WRIGHT: I'm going to show you Exhibit 12. This is an invoice from Santee Cooper.

++++++++++++++

(SANTEE COOPER INVOICE
WAS PREVIOUSLY MARKED
FOR IDENTIFICATION
AS DEPOSITION
EXHIBIT NUMBER 12)

++++++++++++++

BY MS. WRIGHT:

Q. Do you know why the invoice from Santee Cooper for 39 Gasparilla Circle is billed to Beverly Homes?

A. Probably because that was the name that was on the service request.

Q. So would you agree that Beverly Homes was responsible for paying for the Santee Services at 39 Gasparilla Circle?

A. No, it was always paid by Beverly Construction Group and their responsibility.

Q. Did you receive this bill?

A. I am not sure. It did come to our P.O. Box, however, it is possible that it was opened by the receptionist, given to Forrest Beverly for approval. I do see here his initials approving it. And then given to accounts payable for processing. I cannot say for certain I ever saw it prior to it being paid.

MS. WRIGHT: Okay. I'm going to hand you what was previously marked as Exhibit 14 and it is the Georgetown County Certificate of Completion.

++++++++++++++

(CERTIFICATE OF COMPLETION
WAS PREVIOUSLY MARKED
FOR IDENTIFICATION
AS DEPOSITION
EXHIBIT NUMBER 14)

++++++++++++++

BY MS. WRIGHT:

Q. And is that the Georgetown County Certificate of Completion for 39 Gasparilla Drive, Number Lot 4?

A. I believe so. However, it looks different from the way Georgetown County

typically -- typically drafts its -- its Certificates of Completion. In fact, this may only be what we call an electrical compliance, which is prior to the eventual Certificate of Completion. However, I'm -- I'm not an expert on the inspections and -- and whatnot.

Q. Okay. Do you know why this document lists as the owner's name as Beverly Homes?

A. I do not know for certain, however, I do believe whenever we applied for our permit that Beverly Homes was listed as the owner.

Q. Do you know who completed the application for the permit?

A. No.

Q. Do you know why Beverly Homes was listed as the owner on the application for the permit?

A. I would imagine that similar to our other forms it was already filled out and it was easiest to only update the job.

MS. WRIGHT: Okay. I'm going to hand you this Certificate of Occupancy, which was previously marked Exhibit 16.

++++++++++++++++

(CERTIFICATE OF OCCUPANCY
WAS PREVIOUSLY MARKED
FOR IDENTIFICATION
AS DEPOSITION
EXHIBIT NUMBER 16)

++++++++++++++++

BY MS. WRIGHT:

Q. And does the Certificate of Occupancy from Georgetown County Building Department list the address as 39 Gasparilla Drive, Number Lot 4, Murrells Inlet, South Carolina, 29576?

A. It does.

Q. And is the owner listed as Beverly Homes?

A. Yes.

Q. And do you know why Beverly Homes is listed on a Certificate of Occupancy for 39 Gasparilla?

A. Whatever the reason is it would be the same as it was listed for the electrical service system certificate of complete.

Q. Did you ever contact Georgetown County and let them know that there was an

error and that the owner was incorrect?
A. I do not believe I did.
Q. Do you know whether any other person notified Georgetown County that the owner they have listed as Beverly Homes was not correct?
A. I do not know.
Q. Did you receive a copy of that Certificate of Occupancy?
A. It's very unlikely that I personally received a copy of the Certificate of Occupancy.

MS. WRIGHT: I'm going to hand you this invoice, Exhibit 17 from Chris Langston, LLC.

++++++++++++++++

(CHRIS LANGSTON INVOICE
WAS PREVIOUSLY MARKED
FOR IDENTIFICATION
AS DEPOSITION
EXHIBIT NUMBER 17)

++++++++++++++++

BY MS. WRIGHT:
Q. And do you know why the invoice from Chris Langston, LLC is billed to Beverly

Homes?

A. Similar to Port City Elevators many subcontractors confuse our different companies that start with the name Beverly, but I do not know for certain why he has it listed.

Q. Did you receive this invoice?

A. I do not know. I would have not needed to for it to be paid.

Q. Do you know who paid this invoice?

A. Beverly Construction Group paid this invoice.

MS. WRIGHT: Okay. And I'm going to hand you Exhibit 21, which is an invoice from Palmetto Concrete, LLC.

++++++++++++++

(PALMETTO CONCRETE INVOICE
WAS PREVIOUSLY MARKED
FOR IDENTIFICATION
AS DEPOSITION
EXHIBIT NUMBER 21)

++++++++++++++

BY MS. WRIGHT:

Q. And does that invoice from Palmetto Concrete, LLC indicate project name as Bellevue Lot Number 4?

A. Yes, it does.
Q. And does the invoice indicate bill to Beverly Homes?
A. It does.
Q. And do you know why the Palmetto Concrete, LLC bill was invoiced to Beverly Homes?
A. I do not know for certain, however, similar to the Chris Langston and the Port City Elevator invoice many of our subcontractors do often confuse our companies.
Q. Okay. And did you receive this invoice at any point?
A. I do not know for certain. I would not have needed to for it to be paid.
Q. Do you know who paid this invoice?
A. Beverly Construction Group.
Q. And how do you know that?
A. Because I researched the payment of each of these invoices you have presented to me so far and found the checks which Beverly Construction Group paid them and the information within our bookkeeping system.
Q. Okay. Who hired Palmetto Concrete, LLC to perform work at Bellevue Lot 4?

A. I do not know.
Q. Do you know what company hired Palmetto Concrete, LLC?
A. Beverly Construction Group.
MS. WRIGHT: I'm going to hand you an invoice from B & A Quality Construction marked as Exhibit 18.
++++++++++++++
(B&A QUALITY CONSTRUCTION INVOICE WAS PREVIOUSLY MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 18)
++++++++++++++
BY MS. WRIGHT:
Q. And is that an invoice from B & A Quality Construction to Beverly Homes for service listed as Bellevue Lot 4?
A. Yes.
Q. And do you know whose handwriting is on this invoice?
A. I'm not sure.
Q. Do you know why B & A Quality Construction listed Beverly Homes on the invoice?

A. I don't know for sure, however, many of our subcontractors do confuse our different companies.

MS. WRIGHT: Okay. I'm going to hand you Exhibit 19, which is an invoice from Strand Engineering.

++++++++++++++

(STRAND ENGINEERING INVOICE
WAS PREVIOUSLY MARKED
FOR IDENTIFICATION
AS DEPOSITION
EXHIBIT NUMBER 19)

++++++++++++++

BY MS. WRIGHT:

Q. And is the invoice from Strand Engineering for Lot 4 Bellevue, Murrells Inlet, South Carolina billed to Beverly Homes?

A. Yes.

Q. Do you know why this invoice from Strand Engineering was billed to Beverly Homes?

A. I do not know, however, many of our subcontractors do confuse our companies.

Q. And was Strand Engineering hired to do any work by Beverly Homes for this house?

A. No.

Q. Okay. Did you receive this invoice at some point?

A. I do not know for certain. I would not have needed to receive it for it to be paid.

Q. Okay. Do you know who paid this invoice?

A. Beverly Construction Group.

MS. WRIGHT: Okay. Two more invoices and that's all the invoices. Here's Exhibit 20.

++++++++++++++

(FAITH LANDSCAPING INVOICE WAS PREVIOUSLY MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 20)

++++++++++++++

BY MS. WRIGHT:

Q. And it is an invoice from Gale Contractor Services.

A. This is not an invoice from Gale Contractor Services in front of me.

Q. Okay. Who is the invoice in front of you from?

A. Faith Landscaping, LLC.
Q. Oh, sorry. I'm looking at something different. Okay. So exhibit -- what's the exhibit number in front of you?
A. 20.
Q. Okay. And is Exhibit 20 an invoice from Faith Landscaping, LLC?
A. Yes.
Q. And does that invoice at the bottom indicate labor Bellevue Lot 4?
A. Yes, it does.
Q. And is the invoice from Faith Landscaping, LLC billed to Beverly Homes?
A. Yes.
Q. And do you know why Faith Landscaping, LLC submitted the bill to Beverly Homes?
A. I do not know why they listed Beverly Homes for certain, however, many of our subcontractors do confuse our companies.
Q. And was Faith Landscaping, LLC contacted and informed that this was not correct and it should have been billed to Beverly Construction Group, LLC?
A. No.

Q. And what is the reason for why they were not informed of the error?

A. That would be extra work that is not needed.

MS. WRIGHT: And here's the last invoice I'm going to ask you about, Exhibit 22.

++++++++++++++

(TRUTEAM INVOICE
WAS PREVIOUSLY MARKED
FOR IDENTIFICATION
AS DEPOSITION
EXHIBIT NUMBER 22)

++++++++++++++

BY MS. WRIGHT:

Q. And is the exhibit in front of you an invoice from Gale Contractor Services?

A. Yes.

Q. And is that invoice for 39 Gasparilla Drive/Lot under the ship address?

A. Yes.

Q. And is the invoice from Gale Contractor Services billed to Beverly Homes?

A. Yes.

Q. Do you know why Gale Contractor

Services indicated customer billed address as Beverly Homes for this 39 Gasparilla Drive?

A. I do not know for certain, however, many of our subcontractors do confuse our companies.

Q. Have you had any conversation with any of the subcontractors about why these bills were billed to Beverly Homes?

A. No.

Q. And what is the reason why these subcontractors were not contacted to be asked to correct the entity that they were billing?

A. Extra work that did not change the way we did business and was not needed.

Q. Other than your attorney, have you had any conversations with any other person about the incident involving Ms. Lorenzo?

A. No.

Q. What did you do to prepare for your deposition today?

A. I met with my attorney.

Q. What documents did you review, if any, to prepare for your deposition?

A. The Affidavit, which I signed. I believe that is it.

Q. Does Beverly Construction Group, LLC have any uniform or shirt that it's employees are required to wear?

A. No.

Q. Does Beverly Construction Group, LLC have a shirt that its employees can wear if they want to?

A. No.

MS. WRIGHT: I'm going to hand you Exhibit 24.

++++++++++++++

(BUILDER WARRANTEE WAS PREVIOUSLY MARKED FOR IDENTIFICATION AS DEPOSITION EXHIBIT NUMBER 24)

++++++++++++++

BY MS. WRIGHT:

Q. Is the document in front of you the builder warranty?

A. Yes.

Q. And does the first paragraph state, "This limited warranty agreement is extended by Beverly Homes, LLC of Myrtle Beach, SC, the builder, to Carlson and Joan Pender the

purchaser who is the original buyer of the property at Lot 4 Bellevue?

A. Yes.

Q. And whose handwriting is written where it says Carlton and Joan Pender?

A. I believe that is Forrest Beverly.

Q. And where it says Lot 4 Bellevue whose handwriting is that?

A. I believe that is Forrest Beverly.

Q. And do you see your handwriting anywhere on this document?

A. I do not.

Q. And do you know who typed this warranty agreement?

A. I do not.

Q. Do you know why this document lists Beverly Homes, LLC of Myrtle Beach, SC as the builder?

A. I do not, however, I do know that we often give this out to the buyers of the homes that are owned and sold by Beverly Homes. I would imagine that it was found to be easier to use it as is.

Q. Do you know whose initials are at the bottom of the page for the seller?

A. Yes, Forrest Beverly.
Q. And on the second page of the document do you know whose signature is on behalf of the builder?
A. Yes.
Q. Whose signature is that?
A. Forrest Beverly.
Q. And what is the date that this agreement was signed?
A. 6/17/2016.
Q. And is it your understanding that Lot 4 Bellevue is the same thing as 39 Gasparilla Circle?
A. It is.
Q. Have you ever spoken to Evarista Lorenzo?
A. Have not.
Q. Do you know why Page 2 of this document lists builder as Beverly Homes, LLC?
A. I do not.
Q. Do you know whether this document was ever corrected or amended to change the listed builder to Beverly Construction Group, LLC?
A. I do not know. I'm not aware that

it was.

Q. Do you know any other information about this incident that you've not already told me about today during this deposition?

A. Not that I can think of.

Q. Do you know any other information about the construction project at 39 Gasparilla Circle that you've not already shared during this deposition?

A. Not that I can think of.

Q. Do you have any other information that you would testify about at trial that you've not told us about today in this deposition?

A. Not that I can think of.

Q. Who is your supervisor or are you the boss?

A. I don't have one.

Q. Okay. Have you understood all my questions today?

A. I believe so.

Q. I don't have any further questions at this time. Please answer any questions that the other attorneys may have for you.

A. Thank you.

MR. PEARCE: Anybody on Zoom have questions?

MS. WALKER: This is Katie. I don't have any questions.

MS. McDANIEL No questions.

MS. PRICE: No questions for me.

MR. IPOCK: No questions here.

MR. PEARCE: David, last call.

MR. COBB: Oh, I have no questions. Thank you.

MR. PEARCE That's everybody, I think.

MS. WRIGHT: Okay, we are fiunished. Thank you so much.

(Whereupon, the deposition was concluded at 3:15 p.m.)

CERTIFICATE

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

I, Debbie Rayl, Professional Verbatim Reporter and Notary Public for the State of South Carolina, certify that I did have REBECCA BEVERLY to appear before me at TIME p.m. on the 10th day of December, 2020, in the office of Pearce Law Group, Myrtle Beach, South Carolina; that the witness was duly sworn to tell the truth, the whole truth and nothing but the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I further certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 11th day of December 2020.

_____

Debbie Rayl, Notary Public

My Commission expires January 24, 2021

Duplicate Documents Removed

ELECTRONICALLY FILED - 2020 Dec 21 11:15 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824
ELECTRONICALLY FILED - 2021 Jan 13 11:57 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

Exhibit: 26
Wit: Beverly
Date: 12-10-20
Rep: Debbie Rayl

santee cooper

TEMPORARY SERVICE REQUEST

Please return to Santee Cooper's Retail Office in your area.

Carolina Forest

Mailing Address:
Santee Cooper
3990 River Oaks Drive
Myrtle Beach, SC 29579
Phone: 843.946.5950
Fax: 843.903.1333

Service Time Frame

1. Two (2) working days minimum required if only a meter and overhead service connection is needed. One (1) day if only a meter is needed.
2. Ten (10) working days minimum required if installation of overhead service is needed (ie, wires, pole, transformer).
3. Fourteen (14) working days minimum required if installation of underground service is needed (ie, cable, pad mount transformer).
4. Fourteen (14) working days minimum required for rental lights.

Name of Account: Beverly Homes

Mailing Address:
Street: P.O. Box 512
City: Conway State: SC Zip: 29528
Country: Horry UNITED STATES
E-mail: Lorraine@beverlyhomessc.com

Service Address:
Street: 39 Gasparilla Cr.
City: Murrells Inlet State: SC Zip: 29576
Within City Limits? ☐ Yes ☒ No
Would you like to receive information on programs and services Santee Cooper offers via e-mail/mail? ☐ Yes ☐ No

Customer ID - The entity or individual whose number appears below will be responsible for all payments due on this account.
☒ Federal ID No.
☐ Social Security No.

Contact Name: Lorraine Crowe
Contact Phone: 843-236-4663
☒ Residential ☐ Commercial

Are you a current or previous customer? ☒ Yes ☐ No
Phone Number: 843-236-4663
(between 8:00 a.m. - 5:00 p.m.)

☒ New Construction ($35.00*)
☐ Clean-up, Realtors, etc. ($15.00*)
*Indicates service charge to be included in your first bill.

Date Service Required:

Has inspection been completed? ☒ Yes ☐ No

Exact Service Location (provide directions, street address, lot number, name of apartment, subdivision, etc.):

SERVICE ADDRESS: 39 Gasparilla Cr.

LOT #: 4 POWER PERMIT #: 21400

SUBDIVISION: Belle Vue

I hereby apply to Santee Cooper for electric service in accordance with "Terms and Conditions" and applicable rate schedules which are on file at its offices.

All meter hubs need to be properly marked (e.g., apt. #, lot #, street #, etc.). Santee Cooper is not responsible for marking meter hubs. The Customer/Contractor is responsible for proper identification on meter hubs. Meters will not be set in the meter hubs that are known to be incorrectly marked or not marked at all.

Print Name of Customer/Company Representative: Rebecca Beverly

Customer Representative's Signature: Rebecca Beverly

Date:

SC1080 (10/29/2009) (FS)

ELECTRONICALLY FILED - 2021 Mar 01 12:00 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF GEORGETOWN)	Docket No.: 2018-CP-22-824
EVARISTA JUAN LORENZO,)	
)	
Plaintiff,)	
)	**ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION OF JANUARY 13, 2021 ORDER DISMISSING BEVERLY HOMES, LLC FROM THIS LAWSUIT**
v.)	
)	
PORT CITY ELEVATOR, INC., ALAN TOPPER D/B/A ALL CONSTRUCTION, 2020 CUSTOM CONTRACTORS A/K/A 2020 CUSTOM CONTRACTORS, LLC, CITADEL SITE MANAGEMENT, LLC, DVBT CONSTRUCTION A/K/A DVBT CONSTRUCTION, LLC, DVBT MULTISERVICES, LLC, BEVERLY CONSTRUCTION GROUP, LLC, BEVERLY HOMES, LLC, BEVERLY HOMEBUILDERS, LLC, STRAND PAINT CONTRACTORS, LLC, DEPAZ PAINTING LLC, ENHANCED HEATING & AIR CONDITIONING, LLC, CARLTON PENDER, AND JOAN PENDER)	
)	
Defendants.)	
_____)	

This matter came before the Court for a hearing on February 23, 2021 on Plaintiff's Motion to Reconsider, Alter, or Amend filed January 25, 2021. Plaintiff's motion asked this Court to reconsider the Court's January 13, 2021 Order dismissing Beverly Homes, LLC from this lawsuit.

After review of the memoranda filed by Plaintiff and Beverly Homes, LLC, the arguments of counsel made on February 23, 2021, and the applicable law, this Court respectfully denies Plaintiff's motion.

IT IS SO ORDERED.

February ___, 2021

_____, South Carolina

_____
Judge Michael G. Nettles

ELECTRONICALLY FILED - 2021 Mar 01 12:00 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

ELECTRONICALLY FILED - 2021 Mar 01 12:00 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

Georgetown Common Pleas

Case Caption: Evarista Juan Lorenzo VS Port City Elevator Inc , defendant, et al

Case Number: 2018CP2200824

Type: Order/Other

So Ordered

s/ The Honorable Michael G. Nettles #2140

ELECTRONICALLY FILED - 2020 Aug 31 7:21 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GEORGETOWN	)	Docket No.: 2018-CP-22-824
	)	
EVARISTA JUAN LORENZO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**DEFENDANT BEVERLY HOMES, LLC'S NOTICE OF MOTION AND MOTION TO DISMISS**
	)	
PORT CITY ELEVATOR, INC., ALAN TOPPER D/B/A ALL CONSTRUCTION, 2020 CUSTOM CONTRACTORS A/K/A 2020 CUSTOM CONTRACTORS, LLC, CITADEL SITE MANAGEMENT, LLC, DVBT CONSTRUCTION A/K/A DVBT CONSTRUCTION, LLC, DVBT MULTISERVICES, LLC, BEVERLY CONSTRUCTION GROUP, LLC, BEVERLY HOMES, LLC, BEVERLY HOMEBUILDERS, LLC, STRAND PAINT CONTRACTORS, LLC, DEPAZ PAINTING LLC, ENHANCED HEATING & AIR CONDITIONING, LLC, CARLTON PENDER, AND JOAN PENDER	)	
	)	
Defendants.	)	
_____	)	

TO PLAINTIFF AND ATTORNEY FOR PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE THAT Defendant Beverly Homes, LLC will move, through its undersigned counsel, for an Order granting it dismissal from this matter pursuant to Rule 12(b)(1) of the South Carolina Rules of Civil Procedure. This matter involves a negligence claim made by Plaintiff against the above-named Defendant in which Plaintiff alleges she was injured while working at a residential construction site. After the date of the alleged injury but before filing this lawsuit, Plaintiff filed a claim with the South Carolina Workers' Compensation

Commission against Defendants Strand Paint Contractors, LLC and DePaz Painting, LLC as well as their respective insurance carriers. This claim is currently pending as W.C.C. File No. 1700675.

This Motion is made on the grounds that pursuant to the South Carolina Workers' Compensation Act and the longstanding case law surrounding it, Plaintiff's sole recovery against all or some defendants lies in her currently pending claim with the South Carolina Workers' Compensation Commission. Defendant Beverly Homes, LLC is entitled to relief from tort liability through the theory of statutory indemnity as provided for in the South Carolina Worker's Compensation Act because Plaintiff alleges that Beverly Homes, LLC was the general contractor for the construction of this home (which Beverly Homes, LLC denies).

This Motion will be supported by a memorandum of law, discovery exchanged between the parties, arguments presented by counsel, and any other documents presented to the Court. Pursuant to Rule 11 of the South Carolina Rules of Civil Procedure and South Carolina Code Section 15-36-10, consultation with Plaintiff's counsel has been made to no avail and could serve no useful purpose at this time. Defendant Beverly Homes, LLC reserves the right to pursue the remedies provided for in the aforementioned statute.

TURNER PADGET

s/David S. Cobb
David S. Cobb (Bar Number 66569)
Post Office Box 22129
Charleston, South Carolina 29413-2129
Direct: (843) 576-2803
Fax: (843) 577-1629
dcobb@turnerpadget.com

ATTORNEYS FOR DEFENDANT BEVERLY HOMES, LLC

Charleston, South Carolina

August 31, 2020

ELECTRONICALLY FILED - 2020 Aug 31 7:21 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

ELECTRONICALLY FILED - 2020 Sep 30 6:27 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

Evarista Juan Lorenzo,

Plaintiff,

vs.

Port City Elevator, Inc.; Alan Topper d/b/a Toppers All Construction; 2020 Custom Contractors LLC; Citadel Site Management, LLC; DVBT Construction a/k/a DVBT Construction, LLC; DVBT Multiservices, LLC; Beverly Construction Group, LLC; Beverly Homes, LLC; Beverly Homebuilders, LLC; Strand Paint Contractors, LLC; DePaz Painting, LLC; Enhanced Heating & Air Conditioning, LLC; Carlton Pender; and Joan Pender;

Defendants.

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

Docket No.: 2018CP2200824

PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT BEVERLY HOMES, LLC'S RULE 12(b)(1) MOTION TO DISMISS

BACKGROUND

On January 17, 2017, Plaintiff was working at a construction site at or near 39 Gasparilla Circle in Murrells Inlet, South Carolina where Defendants were also performing work. Beverly Homes Construction Group LLC was the general contractor for the construction of the subject home and Beverly Homes Construction Group LLC contracted Strand Paint Contractors LLC to paint the interior of the home. Ex. 6: 158:25; 159:1-8; Ex. 12. Strand Paint Contractors LLC subsequently contract DePaz Painting LLC to perform some of its painting duties at the home. Plaintiff was working as a painter for either Strand Paint Contractors LLC or DePaz Painting LLC, and there is a dispute as to which was her employer. Plaintiff alleges personal injury against Defendants as a result of her fall down an unmarked and open elevator shaft that was created and/or was under the control of Defendants.

Plaintiff initiated a complaint against Defendants by filing the Second Amended Summons and Complaint with the Georgetown County Clerk of Court on January 15, 2020. The complaint

ELECTRONICALLY FILED - 2020 Sep 30 6:27 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

enumerated causes of action against Defendants including negligence, gross negligence, and recklessness in the creation, maintenance, and/or allowance of a dangerous condition on the premises.

Defendant Beverly Homes LLC filed its answer to Plaintiff's second amended complaint in this case on February 1, 2020. Defendant Beverly Homes LLC has filed several motions in this case. Presently at issue, Defendant Beverly Homes LLC filed a motion to dismiss on August 31, 2020, under Rule 12(b)(1) alleging that this Court lacks subject matter jurisdiction in this case.

Legal Argument

"Subject matter jurisdiction is 'the power to hear and determine cases of the general class to which the proceedings in question belong'." Dove v. Gold Kist, Inc., 314 S.C. 235 (1994). "Subject matter jurisdiction is met if the case is brought in the court which has the authority and power to determine the type of action at issue. Washington v. Whitaker, 317 S.C. 108 (1994).

The type of action at issue in this case is a cause of action for negligence. This Court has the power to hear and determine cases of negligence which is the general class to which the proceedings in this case belong; therefore, this Court has subject matter jurisdiction over this case. See Dove, 314 S.C. 235 (1994).

Essentially, Defendants argue that this Court does not have subject matter jurisdiction because Defendants allege that Plaintiff is a statutory employee of Defendant Beverly Homes LLC (hereinafter Defendant "Beverly Homes") under the SC Workers' Compensation Act. However, Beverly Homes LLC has stated that it had no involvement with the subject construction project and that Strand Paint Contractors LLC, was hired by Defendant Beverly Construction Group LLC which is a completely separate company. With regards to the relationship between Beverly Construction Group LLC and Beverly Homes LLC, Mr. Beverly testified that "[t]hey were totally exclusive from each other." Ex. 6: 160:13-25; 161: 1-9.

ELECTRONICALLY FILED - 2020 Sep 30 6:27 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

In Defendant Beverly Homes LLC's discovery responses Defendant stated "Beverly Homes, LLC was not involved with the construction of the Pender residence" and stated that Defendant Beverly Homes LLC "did not perform work at" the Pender residence. Ex.2, p. 4, Interrogatory No. 6; p. 5, Interrogatory. No. 3.

Defendant Beverly Homes LLC served requests to admit on Strand Paint Contractors LLC requesting Strand Paint Contractors LLC to admit it was hired by Beverly Construction Group LLC as an interior painting subcontractor on the residential project at issue in this case. Ex. 3, RTA No. 2. In response, Strand Paint Contractors LLC admitted it was hired by Beverly Construction Group, LLC as an interior painting subcontractor for the location at 39 Gasparilla Circle, Murrells Inlet, SC. Ex. 3, RTA No. 2. One of the owners of Beverly Homes LLC, Forrest Beverly, testified that "Beverly Homes had nothing to do with this job in any form." Ex. 1, p. 34:7-23. Moreover, he testified that "Beverly Homes is not a contractor. They are just an LLC that owns land and markets." Id. Mr. Beverly further testified that Strand Paint Contractors LLC was paid by Beverly Construction Group LLC. See id. In addition, the contract for the interior painting of this home was entered between Strand Paint Contractors LLC and Beverly Construction Group LLC. Ex. 3, RTA No. 1; Ex. 4 - Exhibit A contract.

The evidence is clear that Beverly Homes LLC was not the upstream employer of Strand Paint Contractors LLC nor Depaz Painting LLC; therefore, Defendant Beverly Homes LLC cannot be the statutory employer of Plaintiff. Moreover, this Court has already determined that Plaintiff is a statutory employee of Beverly Construction Group LLC (*not* Beverly Homes LLC).

Statutory Employer Doctrine – Step 1

"The concept of statutory employment is designed to protect the employee by assuring workers' compensation coverage by either the subcontractor, the general contractor, or the owner if the work is part of the owner's business". Miller v. Lawrence Robinson Trucking, 510 S.E.2d 431, 333 S.C. 576 (S.C. App. 1998)(citingParker v. Williams & Madjanik, Inc., 275 S.C. 65, 267 S.E.2d

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524 (1980)). Here, workers' compensation coverage is not applicable as to Defendant Beverly Homes LLC because (1) Defendant Beverly Homes LLC is not the subcontractor that hired Plaintiff; (2) Defendant Beverly Homes LLC is not the general contractor that hired Plaintiff's employer; and (3) Defendant Beverly Homes LLC was not the owner of the subject property.

S.C. Code Ann. Section 42-1-400 provides: "When any person, in this section and §§ 42-1-420 and 42-1-430 referred to as "owner," undertakes to perform or execute any work which is a part of his trade, business or occupation and contracts with any other person (in this section and §§ 42-1-420 to 42-1-450 referred to as "subcontractor") for the execution or performance by or under such subcontractor of the whole or any part of the work undertaken by such owner, the owner shall be liable to pay to any workman employed in the work any compensation under this Title which he would have been liable to pay if the workman had been immediately employed by him". Moreover, "[t]here is in fact case law precedent for substituting "employer" for "owner" in the statute". Miller v. Lawrence Robinson Trucking, 510 S.E.2d 431, 333 S.C. 576 (S.C. App. 1998)(citing Voss v. Ramco, Inc., 325 S.C. 560, 566, 482 S.E.2d 582, 585 (Ct.App.1997)). Therefore, if Defendant Beverly Homes LLC were the employer of Strand Paint Contractors and contracted Strand Paint Contractors to perform work which was a part of Beverly Homes LLC's trade, then Defendant Beverly Homes LLC would be considered a statutory employer of Plaintiff. See id.

However, Beverly Homes LLC was not the employer of Strand Paint Contractors LLC and did not contract with Strand Paint Contractors LLC to perform any work at the subject property. Instead, Beverly Construction Group LLC was the employer of Strand Paint Contractors LLC and "Forrest B. Beverly executed the contractor portion of the Master Subcontract Agreement as owner of Beverly Construction Group, LLC." Ex. 7, RTA No. 2.

One of the owners of Beverly Homes LLC, Forrest Beverly, testified that himself and his father own Beverly Homes LLC and it is a land development company. Ex. 5, p. 159:16-22. He further testified that Beverly Homes LLC is not even a general contractor. See id., p. 159:13-14.

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Moreover, Mr. Beverly testified that Beverly Homes LLC did not have any ownership in the land or this house; therefore, it is clear that Beverly Homes LLC was not the owner nor upstream employer. See id., p. 160: 9-13.

Instead, Beverly Construction Group LLC was the employer of Strand Paint Contractors LLC and contracted Strand Paint Contractors LLC to perform the work which Plaintiff was engaged in; accordingly, Beverly Construction Group LLC was held by this Court to be the statutory employer of Plaintiff. See Ex. 7, RTA No. 2; Ex. 8, Court Order. To dismiss Beverly Homes LLC from this third-party negligence case, would allow Defendant Beverly Homes LLC to escape liability completely because they are not subject to any liability under the workers' compensation act since they were not the upstream employer of Plaintiff.

Nature of the work performed – Step 2

If the Court determines that the party in question is an upstream employer of the injured worker, then the Court should analyze the nature of the work performed to determine whether the injured worker is a statutory employee. Here, Beverly Homes LLC is not an upstream employer of Plaintiff because Beverly Homes LLC did not contract with nor hire Strand Paint Contractors LLC to perform any work at the subject property; therefore, the nature of the work performed by Strand Paint Contractors LLC and Plaintiff does not need to be analyzed.

Whether an employee is considered a statutory employee of the owner or upstream employer, depends "…on the nature of the work performed by the subcontractor". Voss v. Ramco, Inc., 325 S.C. 560 at 565 (S.C. App. 1997). There are three tests applied to determine "…whether the activity of an employee of a subcontractor is sufficient to make him a statutory employee within the meaning of § 42-1-400: (1) is the activity an important part of the owner's business or trade; (2) is the activity a necessary, essential, and integral part of the owner's trade, business, or occupation; or (3) has the identical activity previously been performed by the owner's employees?" Edens v. Bellini, 359 S.C. 433, 597 S.E.2d 863 (S.C. App. 2004). "If any of these tests is satisfied, the injured worker is

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considered the statutory employee of the owner." Voss v. Ramco, Inc., 325 S.C. 560 (citing Collins v. Charlotte, 412 S.C. 283, 772 S.E.2d 510 (S.C. 2015)).

Here, the Plaintiff was an employee of Strand Paint Contractors LLC or Depaz Painting LLC, neither of which were hired by Defendant Beverly Homes LLC. Instead, Strand Paint Contractors LLC was contracted by Beverly Construction Group LLC (which is a separate entity) and then Strand Paint Contractors LLC contracted Depaz Painting LLC to assist in the performance of the scope of work. See Ex. 8, Rion dep. p. 94:5-20. Accordingly, Strand Paint Contractors LLC and Depaz Painting LLC were never "subcontractors" of Defendant Beverly Homes LLC and Plaintiff cannot be considered a statutory employee of Beverly Homes LLC since it is not an upstream employer.

Moreover, Defendant Beverly Homes LLC has not satisfied any of the three tests analyzing the nature of the work performed; therefore, Plaintiff Lorenzo cannot be considered a statutory employee of Defendant Beverly Homes LLC. In addition, Defendant Beverly Homes LLC did not file any evidence nor affidavits in support of its motion. Order 2015-09-10-01 issued by the South Carolina Supreme Court states that "[a] written motion shall be filed and served with a supporting memorandum of law" and requires "[affidavits and other materials supportive of the motion *shall* be filed and served with the motion" (emphasis added). See Exhibit 15. Plaintiff now objects to any evidence or affidavits submitted by Beverly Homes LLC being considered in this case as they were not filed with the motion as required and were not filed prior to Plaintiff's memorandum in opposition; therefore, Plaintiff was deprived of the ability to adequately prepare a response.

Test 1

The activity of the subcontractor is not an important part of the owner's trade or business. Defendant Beverly Homes LLC is in the business of marketing and land development. Ex. 2, Beverly dep., 13:23-25. Ms. Lorenzo was hired to perform interior painting at the time of this incident as an employee of Strand Paint Contractors LLC or its subcontractor, Depaz Painting LLC.

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Ex. 8, Rion dep., p. 95:9-24. Painting the interior of a home is not an important part of Beverly Homes LLC's trade or business since painting the interior of a home has no role in land development nor is an important part of marketing.

Test 2

The activity performed by the subcontractor – interior painting - is not a necessary, essential, and integral part of Defendant Beverly Homes LLC's business. Painting the interior of a home is not a necessary, essential, and integral part of Defendant's business. Defendant Beverly Homes LLC is able to operate its business without any interior painting because it is a land development company that only owns land and markets. Ex. 1, p. 34:7-23. In fact, Forrest Beverly testified that Beverly Homes LLC is not even a contractor and Beverly Homes LLC does not construct houses. See id; see Ex. 10, p. 58:5-7. Interior painting is not necessary, essential, and integral to Defendant's business because it is not part of Defendant Beverly Homes LLC's business at all in any capacity.

Test 3

The Defendant Beverly Homes LLC cannot pass test 3 because the identical activity performed by the subcontractor – painting - has not been performed by employees of Defendant Beverly Homes LLC. The identical activity performed by the subcontractor, is performing painting of the interior of a residential home. This identical activity has not been performed by employees of Defendant Beverly Homes LLC. Jonathan Martin, employee of Beverly Homes LLC, testified in his deposition that his company does not do any painting and painting is subcontract work. Ex. 11, Martin dep., 27:16-21. Moreover, Beverly Homes LLC is a land development company that markets the land it owns for buyers to build custom houses upon and develops land as a real estate developer for new neighborhoods and then markets them online via facebook; accordingly, there would be no reason for employees of Beverly Homes LLC to paint anything. See Ex. 13 and 14, Beverly Homes LLC facebook page.

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CONCLUSION

In light of the foregoing, dismissal of Beverly Homes LLC is wholly inappropriate in this case. Therefore, Plaintiff respectfully prays for this Court to deny Defendant's Motion for Dismissal and that attorney's fees and costs incurred in defending this motion be awarded to Plaintiff.

s/ P. Brooke Eaves Wright
Ian D. Maguire, Esquire
SC Bar No.: 66587
P. Brooke Eaves Wright, Esquire
SC Bar No.: 102021
MAGUIRE LAW FIRM
1600 N. Oak Street, Suite B
Myrtle Beach, South Carolina 29577
Telephone: (843) 361-7549
Facsimile: (843) 361-7048
ATTORNEY FOR PLAINTIFF

Myrtle Beach, South Carolina
Dated: September 30, 2020

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Do you recognize what is reflected as Exhibit 7?
A. Yes. It's the invoice from Strand Paint to supply, install, and finish Sheetrock at the Bellevue residence. It's dated December 7th, 2016.
Q. Okay. And when Strand Paint sent this invoice to -- it has "Beverly Homes" on it. Is that --
A. A lot of people -- our marketing company is Beverly Homes. Beverly Homes had nothing to do with this job in any form.
Q. Okay. I just noticed that was printed up as --
A. Yeah. That was just an invoice. Beverly Homes is not a contractor. They are just an LLC that owns land and markets.
Q. Okay. So this bill should have gone to -- should have been addressed to Beverly Construction?
A. Yeah. It was paid out of Beverly Construction Group.
Q. And when Beverly Construction received this invoice from Strand Paint dated 12/7/2016, would all of the drywall work that would have been

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performed by Strand Paint have already been done at this point?
A. They would have been substantially complete at this point.
Q. And what do you mean by "substantially competed"? What percentage?
A. Other than any touch-up. All the Sheetrock would have been hung, finished and completed to our satisfactory, minus any pulling-up type stuff, small --
Q. Touch-ups?
A. Correct.
Q. And so when Strand Paint would have been done and sent you this invoice on 12/7/16, arguably they would have been responsible for putting back those barricades at the elevator shafts at this time?
A. Correct.
Q. Okay. And I think you told me earlier that the next trade that would have come in there would have been the trim people?
A. Correct.
Q. And I think that we saw earlier an invoice from the trim people that was dated, I believe, 1/19/17?

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A. Correct.
Q. And what was going on within that month period from when the drywall people substantially completed their work to when the trim people did their work, which I believe only takes a few days, is my understanding?
A. I don't know exactly what happened day-to-day -- we don't have those day-to-day logs, but that would have been the time that the trim would have been completed, in between those two dates.
Q. Okay. Do you know how long it typically takes to complete the trim work or the trim package for this home?
A. On a house like this, I would say anywhere from two to four weeks would be an acceptable timeline.
Q. So two to four weeks, arguably, the trim contractor would have been out doing that work?
A. They would have been onsite inside those timelines.
Q. Can you think of any other trades that would have been also coming or going at this time?
A. I cannot think of anybody on the

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inside. You would have had siding work. Possibly you could have had roofing work. Possibly you could have work more towards the outside of the house. I can't think of anybody on the inside that would have been working on the house.
Q. Okay.
MS. BISSET: This is 8.
(Exhibit 8, Subcontractor List, was marked for identification.)
BY MS. BISSET:
Q. I'm going to show you what we marked as Exhibit 8, which appears to be a list of subcontractors that were used on this project.
A. Correct.
Q. If you would, take a moment and look at this list and tell me if you agree that these are the subcontractors that Beverly Construction used on the project at this time.
A. Correct. To the best of my knowledge, these are the subcontractors that were used to construct the house.
Q. I'm going to go through them really quickly, but what I really want to know is what trades either would have been responsible for removing or installing any type of safeguards for

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Turner Padget

DAVID S. COBB
Direct Dial: (843) 576-2803
Direct Fax: (843) 577-1629
dcobb@turnerpadget.com

September 1, 2020

Ian D. Maguire
1600 North Oak Street, Suite B
Myrtle Beach, South Carolina 29577

Re: **Evarista Juan Lorenzo v. Port City Elevator, Inc. et al.**
Docket No.: 2018-CP-22-824
TPGL file: 12049.141

Dear Ian:

We enclose Beverly Homes, LLC's answers to Plaintiff's discovery requests. If you have any questions or need additional information, please call me at your convenience. With kind regards,

TURNER PADGET

David S. Cobb

DSC/sqb
enclosures
cc: counsel of record (with enclosures)

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GEORGETOWN	)	Docket No.: 2018-CP-22-824
	)	
EVARISTA JUAN LORENZO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**DEFENDANT BEVERLY HOMES, LLC'S ANSWERS TO PLAINTIFF'S INTERROGATORIES**
	)	
PORT CITY ELEVATOR, INC., ALAN TOPPER D/B/A ALL CONSTRUCTION, 2020 CUSTOM CONTRACTORS A/K/A 2020 CUSTOM CONTRACTORS, LLC, CITADEL SITE MANAGEMENT, LLC, DVBT CONSTRUCTION A/K/A DVBT CONSTRUCTION, LLC, DVBT MULTISERVICES, LLC, BEVERLY CONSTRUCTION GROUP, LLC, BEVERLY HOMES, LLC, BEVERLY HOMEBUILDERS, LLC, STRAND PAINT CONTRACTORS, LLC, DEPAZ PAINTING LLC, ENHANCED HEATING & AIR CONDITIONING, LLC, CARLTON PENDER, AND JOAN PENDER	)	
	)	
Defendants.	)	
	)	

TO PLAINTIFF AND ATTORNEYS FOR PLAINTIFF:

Defendant Beverly Homes, LLC answers Plaintiff's Interrogatories as follows:

STANDARD INTERROGATORIES

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

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ANSWER:
Forrest Beverly
Beverly Homes, LLC
Post Office Box 512
Conway, South Carolina 29528

Mr. Beverly is one of the owners of Beverly Homes, LLC and will testify about the construction of the Pender residence.

Defense counsel reserves the right to call additional witnesses, including any witness and expert identified by any party through the course of discovery and Plaintiff's medical providers and records custodians.

2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to the claim or defense in the case.

ANSWER: This Defendant references the documents produced with the motions it has filed in this case, which include the cancelled checks showing Beverly Construction Group, LLC paid the expenses associated with the construction of the Pender residence. This Defendant does not have other documents related to this matter other than its insurance policy and documents produced by other parties.

3. Set forth the names and addresses of all insurance companies which have liability coverage relating to the claim and set forth the number or numbers of the policies involved and the amounts or amounts of liability coverage provided in each policy.

ANSWER:
Starr Indemnity & Liability Co.
Policy No.: [redacted]7171
Policy Period: January 10, 2017-January 10, 2018
Limits: $1,000,000 per occurrence
$2,000,000 aggregate

4. List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case.

ANSWER: Counsel has not retained an expert witness at this time; however, counsel notifies the parties that he reserves the right to

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retain and use an expert witness in preparation for trial and/or at the trial of this case and will promptly notify the parties as required by court rules. Defendant also relies on the testimony from the defense experts.

5. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

ANSWER: See Answer to Interrogatory 1.

6. If Defendant is improperly identified, give the proper identification and state whether counsel will accept service of an amended summons and pleading reflecting the correct information.

ANSWER: Beverly Homes, LLC was not involved with the construction of the Pender residence.

GENERAL INTERROGATORIES

1. Provide the **complete identity** of any **person(s)** that **you** intend to call as a witness at the trial of this case.

ANSWER: See Answer to Standard Interrogatory 1.

2. Provide the **complete identity** of the **person**(s) responding to these interrogatories on behalf of Defendant and the **complete identity** of each **person** who has provided information in connection with these interrogatories.

ANSWER: Counsel for Defendant.

3. Provide the **complete identity** of any **person** not already named as a party to this litigation to whom **you** contend either caused and/or contributed to the **incident**, including any architect, engineer, designer, contractor, subcontractor, or others.

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ANSWER: Unknown. Defendant did not perform work at and was not involved with the construction of the Pender residence.

4. Provide the **complete identity** of each **person** with whom **you** are aware that:

   (a) Witnessed the **incident** or the events occurring immediately before or after the **incident**; and/or who

   (b) Heard any statements made about the **incident** by any individual at the scene.

ANSWER: See answer to interrogatory 3.

5. Describe in detail any conversation(s) that any representative of **yours** has had with Plaintiff either prior to or following the **incident**.

ANSWER: None.

6. Describe any procedure(s) that **you** had in place for the inspection of **subject area** at the time of the **incident**.

ANSWER: None.

7. Describe the specific procedures, if any, that are followed in the course of training **your** employees with regard to injuries on job sites. This would include any and all **writings**, slides, presentations, photographs, films, videotapes, etc. which **you** utilize in training **your** employees.

ANSWER: Not applicable.

8. Describe the specific procedures, if any, that are followed in the course of training **your** employees with regard to the maintenance, inspection, safety marking, and/or cleaning of the **subject area**. This would include any and all **writings**, slides, presentations, photographs, films, videotapes, etc. which **you** utilize in training **your** employees.

ANSWER: Not applicable.

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9. Provide the **complete identity** of each employee and/or representative with personal knowledge of the **incident**. For each such individual, identify his or her job title and job or function which was being performed by that individual at the time of the **incident**.

ANSWER: None.

10. Provide the **complete identity** of each **person** interviewed concerning the **incident**. For each such **person**, state:

(a) The date of the interview; and

(b) The substance of the interview.

Note: If the interview was recorded and/or transcribed, a reproduction of the recording and/or transcript will suffice.

ANSWER: None.

11. Identify each and every **writing** and/or report made by any **person** concerning the **incident**.

ANSWER: Unknown.

12. Please state, in **your** own words, what **you** believed happened to Plaintiff in the **subject area** on or about January 17, 2017. Include in **your** answer the basis upon which **you** have formed that belief.

(a) Provide the **complete identity** of each **person** (excluding **your** attorney) who provided **you** with information which enabled **you** to respond to this Interrogatory.

ANSWER: Unknown.

13. Identify any previous or subsequent incidents of which **you** are aware which occurred in substantially the same manner and/or in the **subject area** as this **incident**.

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ANSWER: None.

14. For each incident and/or claim identified in your answer to Interrogatory No. 13, state:

(a) The date of the alleged incident/injury;

(b) The date that the claim was received;

(c) The **complete identity** of the **person**(s) involved; and

(d) The **complete identity** of any attorney(s) involved for each such incident/claim.

ANSWER: Not applicable.

15. Provide the date(s) of any renovation, construction, maintenance, and/or improvement(s) to the **subject area** both prior to and subsequent to the **incident**.

ANSWER: See answer to interrogatory 3.

16. If so alleged, please fully describe the basis of **your** opinion or position that Plaintiff was contributory or comparatively negligent in relation to this **incident**.

ANSWER: This Defendant craves reference to the deposition testimonies of Plaintiff and the other witnesses.

17. What efforts, if any, were made by **you** to correct the condition which Plaintiff contends caused the occurrence in question after the **incident**?

ANSWER: See answer to interrogatory 3.

18. Describe the method and timing of any warnings, whether verbal or written (such as by a sign or otherwise) which **you** allege were given specifically to Plaintiff and/or others on the premises with regard to the **subject area**.

ANSWER: See answer to interrogatory 3 and to interrogatory 16.

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19. Do **you** contend that Plaintiff or any family/friends of Plaintiff made any admission or statement against interest to **you, your** agents or employees, and/or anyone else in connection with this **incident**? If **your** answer is anything other than an unequivocal "no," please set forth the following: the substance of each such admission or statement; the person(s) who made each such admission or statement; the persons present when the admission or statement was made; the time, date and place each such admission or statement was made; and if **you** contend the admission or statement was made in writing, identify specifically each document **you** contend contains each such admission or statement.

ANSWER: Not applicable.

20. At the time of the **incident**, do **you** contend that any **person** or entity other than **you** managed or assumed responsibility for the premises on which Plaintiff alleges that she was injured? If so, state each and every fact on which **you** base that contention and identify any **writing** that supports **your** contention.

ANSWER: See answer to interrogatory 3.

21. At the time of the **incident**, do **you** contend that any **person** or entity other than **you** and **your** employees and/or agents were responsible for the maintenance and/or inspection of the **subject area** on which Plaintiff alleges that she was injured? If so, state each and every fact on which **you** base that contention and identify any **writing** that supports **your** contention.

ANSWER: See answer to interrogatory 3.

22. If anyone investigated this matter for **you**, including medical experts, private investigators or insurance adjusters, please state their **complete identity** and state whether such investigation was reduced to writing. If said

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investigator obtained any signed statements or recorded statements, provide the **complete identity** of the **person** who gave the statement and attach to **your** Answers a copy of any such statement.

ANSWER: None.

23. Do **you** or anyone acting on **your** behalf know of any **writings,** photographs, films, or videotapes depicting any place, object or individual concerning the **incident** or Plaintiff's injuries (either prior to, during or at any time following the **incident** to the present date)? If so, state:

(a) the places, objects, or **persons** photographed, filmed, or videotaped;

(b) the date the photographs, films, or videotapes were taken;

(c) the **complete identity** of the individual taking the photographs, films, or videotapes;

(d) the **complete identity** of each person who has the original or a copy.

ANSWER: No.

24. Identify any social media accounts and/or pages maintained by **you** or on **your** behalf that would involve advertising, marketing, promoting, and/or notifying consumers and/or the general public of **your** services

ANSWER:
https://www.beverlyhomessc.com
https://www.facebook.com/BeverlyHomesSC/

TURNER PADGET

David S. Cobb (Bar Number 66569)
Post Office Box 22129
Charleston, South Carolina 29413-2129
Direct: (843) 576-2803
Fax: (843) 577-1629
dcobb@turnerpadget.com

and

Christopher Pearce
Laurence R. Wells, IV
1314 Professional Drive
Myrtle Beach, South Carolina 29577

September ____, 2020

ATTORNEYS FOR DEFENDANT BEVERLY HOMES, LLC

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GEORGETOWN	)	Docket No.: 2018-CP-22-824
	)	
EVARISTA JUAN LORENZO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**DEFENDANT BEVERLY HOMES, LLC'S RESPONSES TO PLAINTIFF'S REQUESTS FOR PRODUCTION**
	)	
PORT CITY ELEVATOR, INC., ALAN TOPPER D/B/A ALL CONSTRUCTION, 2020 CUSTOM CONTRACTORS A/K/A 2020 CUSTOM CONTRACTORS, LLC, CITADEL SITE MANAGEMENT, LLC, DVBT CONSTRUCTION A/K/A DVBT CONSTRUCTION, LLC, DVBT MULTISERVICES, LLC, BEVERLY CONSTRUCTION GROUP, LLC, BEVERLY HOMES, LLC, BEVERLY HOMEBUILDERS, LLC, STRAND PAINT CONTRACTORS, LLC, DEPAZ PAINTING LLC, ENHANCED HEATING & AIR CONDITIONING, LLC, CARLTON PENDER, AND JOAN PENDER	)	
	)	
Defendants.	)	
	)	

TO PLAINTIFF AND ATTORNEYS FOR PLAINTIFF:

Defendant Beverly Homes, LLC responds to Plaintiff's Requests for Production as follows:

1. *Color* copies of any and all photographs or videotapes relating in any way to the matters referred to in the Complaint or the damages claimed, including but not limited to color photographs of Plaintiff and/or the **subject area**

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(prior to, during, and following the **incident**). If **you** contend that **you** are not in possession of any *color* copies, then produce a copy of the original negative or the electronic file (in a readable format) for each and every picture and/or video in **your** possession as the same relates to the location, injuries, and/or surveillance.

RESPONSE: See answer to interrogatory 2.

2. Copies of any documents that evidence liability insurance policies (to include copies of each policy) covering the premises at the time of the **incident** *and/or* which afforded any coverage to **you** at the time of the **incident**. For purposes of responding to this request, referencing a response to Plaintiff's foregoing interrogatories will not be considered sufficient *unless* complete policy information (named insured, insured address, policy number, and details of the amounts of coverage for bodily injury, medical payments, and/or excess coverage) has been disclosed in the referenced response.

RESPONSE: See attached declarations page.

3. Copies of all insurance policies offering umbrella coverage to **you** at the time of the **incident** or which afforded any coverage to **you** at the time of the **incident**.

RESPONSE: See attached declarations page.

4. Copies of any written reports by expert witnesses retained for use at trial or identified as witnesses at trial in response to Plaintiff's Interrogatories, including but not limited to the following:

   a) All **writings**, documents, including draft notes, preliminary reports, and/or final reports, prepared in whole or in part by the expert on the subject matter and in connection with those matters about which the expert is expected to testify at trial;

   b) All documents sent to the expert by **you** in reference to this litigation;

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c) All documents upon which the expert will rely for the opinion or opinions that the expert will express at trial;

d) All documents utilized, relied upon, consulted and/or reviewed by the expert in connection with this litigation to the best of the expert's recollection;

e) All documents setting forth any compensation agreement between **you** and the expert;

f) Identification by Court, term, number and date, any and all litigation wherein the expert was either a party or testified as a witness;

g) All documents that have been or will be shown to the expert during or in the preparation of the expert's testimony at deposition or trial;

h) All documents, including a Curriculum Vitae, that **you** contend will establish the expert's qualifications for trial purposes.

RESPONSE: None.

5. Copies of any **writings,** books, records, reports, photographs, moving pictures, videotapes, drawings, charts, maps, diagrams, models, or other documentary materials or tangible objects which **you** intend to offer into evidence. This request includes any reports by law enforcement agencies, fire departments, EMT crews, private investigators, newspaper reporters, insurance investigators, or other agencies or entities that responded to or investigated the **incident**.

RESPONSE: Defense counsel objects to this Request because it seeks to invade the mental impressions, legal conclusions, thoughts, and trial strategies of counsel, which are protected by the work product and/or attorney-client privilege. This Defendant craves reference to the discovery produced to date by all parties and the documents it produced with the motions it filed in this lawsuit.

6. Copies of any statements, to include statements of possible witnesses, whether written, oral, summarized, or otherwise reproduced in any manner, relating to the **incident**. If **you** have in **your** possession any statements

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which **you** object to producing, for any reason whatsoever, please give the following information relative to those particular documents:

a) A general description of the statement in question;

b The name and any relevant title or relationship of the **person** making or giving the statement;

c) The name and any relevant title or relationship of the **person** taking or recording the statement;

d) The date which the statement was made and/or taken;

e) A general description or outline of the topics covered in the statement;

f) The circumstances under which the statement was made and/or taken; and

g) The legal and factual basis upon which **you** make **your** objection.

RESPONSE: None other than the depositions taken in this matter.

7. Copies of any documents received through voluntary production, through a release, pursuant to a Freedom of Information Act (FOIA) request and/or subpoenaed from third parties regardless of the format in which it is maintained (e.g. written, recorded, digital, electronic including e-mail).

RESPONSE: None.

8. Copies of any treatises, standards in the industry, legal authority, rule(s), case(s), statute(s), or code(s) that will be relied upon in the defense of this case.

RESPONSE: Defense counsel objects to this Request because it seeks to invade the mental impressions, legal conclusions, thoughts, and trial strategies of counsel, which are protected by the work product and/or attorney-client privilege. Further answering and without objection, unknown as discovery continues.

9. Copies of any photographs, videos and all other surveillance (including but not limited to reports) performed by or on **your** behalf with regard to the subject premises and/or the parties to this action.

RESPONSE: **None.**

10. Copies of any **writings**, documents, photographs, and/or video reflecting any accident reconstruction of the **incident** regardless of the format in which they are maintained (e.g. written, recorded, digital, electronic including e-mail).

RESPONSE: **None.**

11. Copies of any **writings** between **you** and any of **your** expert witnesses intended to be called at the trial of this case regardless of the format in which they are maintained (e.g. written, recorded, digital, or electronic including e-mail).

RESPONSE: **Not applicable.**

12. Copies of any and all materials referred to and/or relied upon by **you** in responding to the foregoing Interrogatories.

RESPONSE: **See answer to Request 5.**

13. Copies of any warnings, signage, or any other documentation displayed or maintained on or near the **subject area** for the period of January 1, 2016 to the present date.

RESPONSE: **Not applicable.**

14. Copies of any **writings**, work orders, receipts, invoices, or any other documentation concerning any repair(s), maintenance, painting, cleaning, inspection, or otherwise of **subject area** for the ten (10) year period preceding the **incident** to the present date.

RESPONSE: **Not applicable.**

15. Copies of any handbooks, instructions, manuals, or other materials provided to any of **your** agents, servants, employees, or otherwise pertaining to the procedures for inspecting, maintaining and/or cleaning the **subject area**.

RESPONSE: **Not applicable.**

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16. Copies of any **writings** (to include logs and/or checklists) utilized by **you** and/or **your** employees, servants, or otherwise with regard to the inspection and/or upkeep of the **subject area**.

RESPONSE: **Not applicable.**

17. Copies of any **writing** (to include schedules) provided to **your** employees, servants, or otherwise with regard to the maintenance, upkeep, cleaning, and/or inspection of the **subject area**.

RESPONSE: **Not applicable.**

18. Copies of any **writings** (to include schedules) provided to **your** employees, servants, or otherwise with regard to trash removal and/or upkeep of the **subject area**.

RESPONSE: **Not applicable.**

19. Copies of any **writings** pertaining to any personnel to include, but not limited to, developers, architects, builders, laborers, consultants, superintendents, trade contractors, and/or inspectors that would have been on site at 39 Gasparilla Circle in Murrells Inlet, South Carolina at any time from January 1, 2014 through the present date.

RESPONSE: **Not applicable.**

20. Copies of any **writings**, photographs, and/or videos with regard to **your** risk control policies, to include any and all resource manuals made available to **your** management and/or employees for the five (5) year period preceding the **incident** to the present.

RESPONSE: **Not applicable.**

21. Copies of any architectural designs and/or plans with regard to the **subject area**.

RESPONSE: **Not applicable.**

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22. Copies of any **writings** (to include but not limited to, employee manuals, memoranda, and correspondence pertaining to safety, rules, and/or regulations) to be followed by **your** employees to ensure the safety of the premises and/or the safety of **your** residents. This would include, but is not limited to, any training films, brochures, pamphlets, videotapes, etc. utilized by **you** concerning the safety and/or inspection of the **subject area**.

RESPONSE: Not applicable.

23. Copies of any **writings**, rules, management guidelines, operating guidelines, or other similar document that purports to show the operating procedures for the management, care, maintenance, inspection, repair, service, and/or upkeep of the **subject area**.

RESPONSE: Not applicable.

24. Copies of any information shared on social media accounts and/or copies of the social media pages maintained by **you** or on **your** behalf that would involve advertising, marketing, prompting, and/or notifying **your** services or **your** consumers about the subject property.

RESPONSE: Not applicable.

25. Copies of any violation notices received by **you** with regard to the site located at 39 Gasparilla Circle in Murrells Inlet, South Carolina.

RESPONSE: Not applicable.

26. Copies of any violation notices received by **you** from any government agency or other inspection authority for the period of January 1, 2010 through the present date.

RESPONSE: Not applicable.

27. Copies of any onsite inspections by any government agency or other inspection authority received by **you** with regard to the site located at 39 Gasparilla Circle in Murrells Inlet, South Carolina.

RESPONSE: **Not applicable.**

28. Copies of any accident reports either received by **you** or prepared by **you** with regard to any incidents on the site located at 39 Gasparilla Circle in Murrells Inlet, South Carolina.

RESPONSE: **Not applicable.**

29. Copies of any accident reports either received by **you** or prepared by **you** with regard to any other incidents during the period of January 1, 2010 through the present date.

RESPONSE: **Not applicable.**

30. Copies of **your** annual financial statements for the period of January 1, 2010 through the present date.

RESPONSE: **Defense counsel objects to this Request because it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of any admissible evidence.**

31. Copies of any work tickets prepared by **you** and/or received by **you** with regard to the site located at 39 Gasparilla Circle in Murrells Inlet, South Carolina.

RESPONSE: **None.**

32. Copies of any purchase orders prepared by **you** and/or received by **you** with regard to the site located at 39 Gasparilla Circle in Murrells Inlet, South Carolina.

RESPONSE: **None.**

33. Copies of any contracts, agreements, arrangements, bonds, commitments, guarantees, or otherwise either prepared by **you** or received by **you** with regard to the site located at 39 Gasparilla Circle in Murrells Inlet, South Carolina.

RESPONSE: **None.**

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and

Christopher Pearce
Laurence R. Wells, IV
1314 Professional Drive
Myrtle Beach, South Carolina 29577

ATTORNEYS FOR DEFENDANT BEVERLY HOMES, LLC

September ____, 2020

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GEORGETOWN	)	Docket No.: 2018-CP-22-824
	)	
EVARISTA JUAN LORENZO,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**CERTIFICATE OF SERVICE**
	)	
PORT CITY ELEVATOR, INC., ALAN TOPPER D/B/A ALL CONSTRUCTION, 2020 CUSTOM CONTRACTORS A/K/A 2020 CUSTOM CONTRACTORS, LLC, CITADEL SITE MANAGEMENT, LLC, DVBT CONSTRUCTION A/K/A DVBT CONSTRUCTION, LLC, DVBT MULTISERVICES, LLC, BEVERLY CONSTRUCTION GROUP, LLC, BEVERLY HOMES, LLC, BEVERLY HOMEBUILDERS, LLC, STRAND PAINT CONTRACTORS, LLC, DEPAZ PAINTING LLC, ENHANCED HEATING & AIR CONDITIONING, LLC, CARLTON PENDER, AND JOAN PENDER	)	
	)	
Defendants.	)	

On September 4, 2020, I mailed to Plaintiff's counsel and emailed counsel of record a copy of **Beverly Homes, LLC's answers to Plaintiff's discovery requests** to:

Ian D. Maguire
P. Brooke Eaves Wright
1600 North Oak Street, Suite B
Myrtle Beach, South Carolina 29577
Attorneys for Plaintiff

Katherine Ann Walker
Robert Michael Ethridge
1100 Queensborough Blvd, Suite 200
Mount Pleasant, South Carolina 29464
Attorneys for Alan Topper and Toppers All Construction

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John Joseph Dodds, IV
Morgan S. Templeton
William Wharton Watkins, Jr.
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Attorneys for 2020 Custom Contractors

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Kierra N. Brown
Kristen Kelley Thompson
40 Calhoun Street, Suite 400
Charleston, South Carolina 29401
Attorneys for Beverly Construction Group, LLC

Karl S. Brehmer
James Donald Floyd
Post Office Box 7966
Columbia, South Carolina 29202
Attorneys for Strand Paint Contractors, LLC

Joshua D. Shaw
1230 Main Street, Suite 325
Columbia, South Carolina 29201
Attorneys for Port City Elevator, Inc.

Heather Hagen

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Starr Indemnity & Liability Company

BUSINESSOWNERS
SIBP DS 01 (0713)

STARR BUSINESSOWNERS DECLARATIONS

Dallas, TX
Administrative Office: 399 Park Avenue, 8th Floor, New York, NY 10022

THIS POLICY CONTAINS A SEPARATE DEDUCTIBLE FOR NAMED STORM OR WIND/HAIL LOSSES WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU. THE ENCLOSED EXAMPLES ILLUSTRATE HOW THE DEDUCTIBLE MIGHT AFFECT YOU. THE EXAMPLES ARE A PART OF ENDORSEMENT BP 03 16.

Policy Number:	[redacted]7171	**Producer Name:**	Johnson and Johnson, Inc.
Named Insured:	Beverly Homes, LLC		
Mailing Address:	PO Box 512 Conway, SC 29528-0512		
Policy Period:	FROM 01-10-2017	TO	01-10-2018
	At 12:01 AM* Standard Time at your mailing address shown above.		

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

Description Of Business			
Form Of Business:			
☐ Individual	☐ Partnership	☐ Joint Venture	☐ Limited Liability Company
☒ Organization, including a corporation (but not including a partnership, joint venture or limited liability company			
Business Description:	Lessors Risk - Contractor Office		

The Total Annual Premium is	[redacted]	**at inception**
Advance Premium		
Policies Subject To Premium Audit:		
Audit Period: ☐ Annually	☐ Semi-Annually	☐ Quarterly ☐ Monthly

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Endorsements Attached To This Policy		
Refer to SIBP DS 02 (0713) Schedule of Forms and Endorsements		
Premises Information		
Premises #	**Building #**	**Premises Address:**
1	1	9007 Highway 544 , Conway, SC 29528-0512

Mortgageholder		
Premises #	**Building #**	**Mortgageholder Name and Address:**

SECTION I – PROPERTY

Property Coverage Limits of Insurance					
Premises #	**Building #**	**Type Of Property (Building Or Business Personal Property)**	**Actual Cash Value Bldg. Option (Yes Or No)**	**Automatic Increase Bldg Limit (%)**	**Limit Of Insurance***
1	1	Building	No	4	$393,702
1	1	Business Personal Property			$25,000

*Includes Automatic Increase Building Limit Percentage

Deductibles (Apply Per Location, Per Occurrence)			
Premises #	**Property Deductible**	**Optional Coverage Deductible (Other Than Equipment Breakdown Coverage)**	**Windstorm Or Hail Percentage Deductible**
1	$500	$500	%

Additional Coverages – Optional Higher Limits / Extended Number of Days (Per Policy)		
Coverage	**Additional Premium**	**Limit Of Insurance/ Extended Number Of Days**
Business Income From Dependent Properties	$0	$10,000
Business Income – Extended Number Of Days For Ordinary Payroll Expenses		
Extended Business Income – Extended Number Of Days		
Electronic Data – Increased Limit	$0	$15,000
Forgery Or Alteration	$0	$2,500

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Interruption Of Computer Operations – Increased Limit	$4	$15,000

Additional Coverage – Business Income – Ordinary Payroll Additional Exemptions		
Coverage	**Exempt Job Classifications**	**Exempt Employees**
Business Income		

Coverage Extensions – Optional Higher Limits		
Coverage	**Additional Premium**	**Limit Of Insurance**
Accounts Receivable	$	$10,000
Outdoor Property	$	$2,500
Valuable Papers and Records	$	$10,000
Business Personal Property Temporarily In Portable Storage Units		

Optional Coverages Per Policy (Applicable only if an "X" is shown in the box below)		
Coverage	**Limit of Insurance**	
[X] Employee Dishonesty	$25,000	Per Occurrence

Additional Coverage – Optional Higher Limits (Per Premises)			
Coverage	**Premises #**	**Additional Premium**	**Limit Of Insurance**
Fire Department Service Charge	1	$0	$25,000

Optional Coverages Per Premises (Applicable only if an "X" is shown in the boxes below)				
Coverage	**Premises #**	**Building #**	**Limit Of Insurance**	
[X] Outdoor Signs	1	1	$15,000	Per Occurrence
[X] Money & Securities	1	1	$5,000	Inside the Premises
			$2,000	Outside the Premises

Optional Coverage – Equipment Breakdown Protection Coverage				
Premises #	**Building #**	**Limit of Insurance**	**Optional Deductible**	**Optional Revised Time Deductible**

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Earthquake / Volcanic Action – Coverage is only applicable if BP 10 03 is attached to this Policy		
Premises #	**Building #**	**Earthquake/Volcanic Action Percentage Deductible**

SECTION II – LIABILITY AND MEDICAL EXPENSES

Each paid claim for the following coverages reduces the amount of insurance we provide during the applicable annual period. Please refer to **Section II – Liability** in the Businessowners Coverage Form and any attached endorsements.

Coverage	Limit Of Insurance	
Liability & Medical Expenses	$1,000,000	Per Occurrence
Medical Expenses	$10,000	Per Person
Damage To Premises Rented To You	$50,000	Any One Premises
Other Than Products/Completed Operations Aggregate	$2,000,000	
Products/Completed Operations Aggregate	$2,000,000	

Deductible		
Optional Property Damage Liability Deductible:	$0	
☐ Per Claim (Refer to **BP 07 03**); or	☐ Per Occurrence (Refer to **BP 07 04**)	

Optional Coverages (Applicable only if an "X" is shown in the box below)	
Coverage	**Limit of Insurance**
☐ Broadened Coverage For Damage To Premises Rented to You (BP 04 55)	

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Telephone: (803) 771-6600
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Robert C. Brown
Karl S. Brehmer
L. Darby Plexico, III
James D. Floyd

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June 30, 2020

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Myrtle Beach, SC 29577

Joshua D. Shaw (via email only)
PO Box 11267
Columbia, SC 29201

RE: Evarista Juan Lorenzo v. Port City Elevator, Inc., et al.
Civil Action Number: 2018-CP-22-00824
Claim Number: 01748817

Dear Counsel:

Enclosed please find Defendant Strand Paint Contractors, LLC's Responses to Defendant Beverly Homes' Requests for Admission in this matter which I hereby serve upon you.

With warmest personal regards, I am

Sincerely yours,

Karl S. Brehmer

KSB/ct
Attachment
cc: Mark Garrison (via email)

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STATE OF SOUTH CAROLINA COUNTY OF GEORGETOWN Evarista Juan Lorenzo, Plaintiff, vs. Port City Elevator, Inc., Alan Topper d/b/a All Construction a/k/a Toppers All Construction, 2020 Custom Contractors a/k/a 2020 Custom Contractors, LLC, Citadel Site Management, LLC, DVBT Construction a/k/a DVBT Multiservices, LLC, Beverly Construction Group, LLC, Beverly Homes, LLC, Beverly Homebuilders, LLC, Strand Paint Contractors, LLC, DePaz Painting, LLC, Enhanced Heating & Air Conditioning, LLC, Carlton Pender and Joan Pender, Defendants.	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT Case No. 2018-CP-22-00824 **RESPONSES TO DEFENDANT BEVERLY HOMES, LLC'S REQUESTS FOR ADMISSION TO STRAND PAINT CONTRACTORS, LLC**

TO: CHRISTOPHER PEARCE AND DAVID COBB, ATTORNEYS FOR DEFENDANT BEVERLY HOMES, LLC

Defendant Strand Paint Contractors, LLC ("Defendant Strand") by and through its undersigned attorney, responds to Defendant Beverly Homes, LLC's Requests for Admission pursuant to Rule 36 of the South Carolina Rules of Civil Procedure as follows:

RESPONSES TO REQUESTS FOR ADMISSIONS

1. Admit that the attached Exhibit 'A' is a true and accurate copy of the Master Subcontract agreement between Strand Paint Contractors, LLC and Beverly Construction Group, LLC in effect as of January 17, 2017.

RESPONSE: The Defendant Strand Painting admits that the attached agreement is the Master Subcontract Agreement but disputes the implication and/or inference that the

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Master Subcontract Agreement applies the 39 Gasparilla Circle, Murrells Inlet, SC location.

2. Admit that Strand Paint Contractors, LLC was hired by Beverly Construction Group, LLC as an interior painting subcontractor on the residential project at issue in this case located at 39 Gasparilla Circle, Murrells Inlet, SC.

RESPONSE: Strand Paint Contractors, LLC admits it was hired by Beverly Construction Group, LLC as an interior painting subcontractor for the location at 39 Gasparilla Circle, Murrells Inlet, SC but disputes any inference or implication that the employment fell within the terms and conditions of the Master Agreement referenced in Request for Admission #1.

3. Admit that Strand Paint Contractors, LLC hired DePaz Painting, LLC as an interior painting sub-subcontractor to Beverly Construction Group, LLC on the residential project at issue in this case located at 39 Gasparilla Circle, Murrells Inlet, SC.

RESPONSE: Admitted.

Defendant Strand reserves the right to modify these responses in accordance with factual developments as discovery progresses, including but not limited to, depositions of witnesses and investigators and inquires of experts.

BROWN & BREHMER

By: _____

Karl S. Brehmer (SC Bar # 12849)
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ksb@brownandbrehmer.com
Attorney for Defendant Strand Paint Contractors, LLC

June 30, 2020

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STATE OF SOUTH CAROLINA COUNTY OF GEORGETOWN Evarista Juan Lorenzo, Plaintiff, vs. Port City Elevator, Inc., Alan Topper d/b/a All Construction a/k/a Toppers All Construction, 2020 Custom Contractors a/k/a 2020 Custom Contractors, LLC, Citadel Site Management, LLC, DVBT Construction a/k/a DVBT Multiservices, LLC, Beverly Construction Group, LLC, Beverly Homes, LLC, Beverly Homebuilders, LLC, Strand Paint Contractors, LLC, DePaz Painting, LLC, Enhanced Heating & Air Conditioning, LLC, Carlton Pender and Joan Pender, Defendants.	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT Case No. 2018-CP-22-00824 **CERTIFICATE OF SERVICE**

I, the undersigned employee of Brown and Brehmer, do hereby certify that I have caused the below referenced to be served via E-mail to all parties of record at the address(es) shown below.

DOCUMENT(S) SERVED:

1. **Responses to Defendant Beverly Homes, LLC's Requests for Admission to Strand Paint Contractors, LLC**

PARTIES SERVED:

Ian D. Maguire (via email only)
Brooke Eaves Wright
Maguire Law Firm
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Myrtle Beach, SC 29577
ian@maguirelawfirm.com
Attorneys for Plaintiff

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Tommy.boger@walltempleton.com
Attorney for 2020 Custom Contractors

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PO Box 11267
Columbia, SC 29201
Attorney for Port City Elevator, Inc.

Christle Turner

June 30, 2020

Turner Padget

MAGUIRE LAW FIRM
DATE REC'D: 6-8-20
MLF FILE #: 18-IM-011-L
DOCKET #: 2018 CP 22 00824
INITIALS: KLS

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DAVID S. COBB
Direct Dial: (843) 576-2803
Direct Fax: (843) 577-1629
dcobb@turnerpadget.com

June 5, 2020

Karl S. Brehmer
Post Office Box 7966
Columbia, South Carolina 29202

Re: **Evarista Juan Lorenzo v. Beverly Homes, LLC et al.**
Docket No.: 2018-CP-22-824
TP File No.: 12049.141

Dear Karl:

We enclose Defendant Beverly Homes, LLC's Requests to Admit to Defendant Strand Paint Contractors, LLC in this case. If you have any questions or need additional information, please call me at your convenience. With kind regards,

TURNER PADGET

David S. Cobb

DSC/hah
enclosures
cc: counsel of record (with enclosures)

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STATE OF SOUTH CAROLINA COUNTY OF GEORGETOWN	IN THE COURT OF COMMON PLEAS Docket No.: 2018-CP-22-824
EVARISTA JUAN LORENZO, Plaintiff, v. PORT CITY ELEVATOR, INC., ALAN TOPPER D/B/A ALL CONSTRUCTION, 2020 CUSTOM CONTRACTORS A/K/A 2020 CUSTOM CONTRACTORS, LLC, CITADEL SITE MANAGEMENT, LLC, DVBT CONSTRUCTION A/K/A DVBT CONSTRUCTION, LLC, DVBT MULTISERVICES, LLC, BEVERLY CONSTRUCTION GROUP, LLC, BEVERLY HOMES, LLC, BEVERLY HOMEBUILDERS, LLC, STRAND PAINT CONTRACTORS, LLC, DEPAZ PAINTING LLC, ENHANCED HEATING & AIR CONDITIONING, LLC, CARLTON PENDER, AND JOAN PENDER Defendants.	**BEVERLY HOMES, LLC'S FIRST REQUESTS FOR ADMISSION TO STRAND PAINT CONTRACTORS, LLC**

TO: STRAND PAINT CONTRACTORS, LLC BY AND THROUGH ITS COUNSEL OF RECORD KARL S. BREHMER, ESQUIRE

Defendant Beverly Homes, LLC by and through its undersigned counsel and in accordance with Rule 36 of the *South Carolina Rules of Civil Procedure*, submits the following Requests for Admissions to Strand Paint Contractors, LLC in this action as follows:

1. Admit that the attached Exhibit 'A' is a true and accurate copy of the

Master Subcontract agreement between Strand Paint Contractors, LLC and Beverly Construction Group, LLC in effect as of January 17, 2017.

2. Admit that Strand Paint Contractors, LLC was hired by Beverly Construction Group, LLC as an interior painting subcontractor to on the residential project at issue in this case located at 39 Gasparilla Circle, Murrells Inlet, SC.

3. Admit that Strand Paint Contractors, LLC hired DePaz Painting, LLC as an interior painting sub-subcontractor to Beverly Construction Group, LLC on the residential project at issue in this case located at 39 Gasparilla Circle, Murrells Inlet, SC.

June 5, 2020

THE PEARCE LAW GROUP, P.C.

By: _____
FOR Christopher H. Pearce
SC Bar No.: 71083
Email: cpearce@pearcelawgroup.com
L. Raymond Wells
SC Bar No.: 102622
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Attorneys for Beverly Homes, LLC

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EXHIBIT A

ELECTRONICALLY FILED - 2020 Sep 30 6:27 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

MASTER SUBCONTRACT AGREEMENT (Short Form)

This Master Subcontract Agreement ("Subcontract"), made this day of , 20 by and between (hereinafter "Contractor"), with an office and principal place of business at and (hereinafter "Subcontractor") with an office and principal place of business at (hereinafter collectively "Parties").

WITNESSETH:

WHEREAS, Contractor contemplates that from time to time it will enter into prime construction contracts with various clients ("Owner") for the performance of certain construction services with respect to certain projects (each 'Project"); and

WHEREAS, Contractor desires to enter into a master subcontract agreement with Subcontractor whereby Contractor at its discretion may from time to time contract with Subcontractor, and Subcontractor desires to perform said work at the prices and upon the terms and conditions hereinafter expressed;

NOW, THEREFORE, in consideration of the mutual agreements herein expressed, the Parties contract, covenant and agree as follows:

1. Scope of the Subcontract

The Contractor and Subcontractor agree that this Subcontract is a non-exclusive master agreement and that the Contractor may from time to time authorize the Subcontractor to perform certain construction services ("Work") for the Contractor pursuant to this Agreement but only upon the execution by Contractor and Subcontractor of a work order ("Work Order") in a form attached hereto as **Exhibit A**. This Subcontract does not require either the Contractor or Subcontractor to issue, or accept any particular Work Order; however, if fully executed, each Work Order shall be governed by the terms and conditions of the Subcontract, as it may be amended by mutual agreement, and whether or nor the Work Order specifically refers to it.

2. Subcontractor's Work

Subcontractor shall perform all work and shall furnish all supervision, labor, materials, plant, hoisting, scaffolding, tools, equipment, supplies and all other things necessary for the construction and completion of the work described in each individual Work Order, including work incidental thereto and reasonably inferable therefrom, in strict accordance and full compliance with the terms of this Subcontract, and to the satisfaction of Contractor and the Owner (hereinafter "Work").

With respect to the Work covered by this Subcontract and any individual Work Order, and except as expressly modified herein, Subcontractor shall have all rights which Contractor has under the Contract Documents, and Subcontractor shall assume all obligations, risks and responsibilities which Contractor has assumed towards the Owner, and third parties as applicable, in the Contract Documents, and Subcontractor shall be bound to Contractor in the same manner and to the same extent that Contractor is bound to the Owner or said third parties. In case of a conflict between this Subcontract Agreement and the Contract Documents as incorporated herein, pursuant to each Work Order, the terms of the Work Order shall prevail.

3. Payment

Contractor shall pay Subcontractor for performance of the Work, subject to additions and deductions by written change order, a liquidated sum which shall be calculated and agreed by the Parties in each individual Work Order.

4. Indemnification and Subcontractor's Liability

Subcontractor hereby assumes the entire responsibility and liability for all Work, supervision, labor and materials provided under any Work Order issued pursuant to this Subcontract, whether or not erected in place, and for all plant, scaffolding, tools, equipment, supplies and other things provided by Subcontractor until final acceptance of the entirety of the Work by Owner. In the event of any loss, damage or destruction thereof from any cause, Subcontractor shall be liable therefor, and shall repair, rebuild and make good said loss, damage or destruction at Subcontractor's cost, subject only to the extent that any net proceeds are payable under any builder's risk property insurance that may be maintained by Owner or Contractor, if any.

Subcontractor shall be liable to Contractor for all costs Contractor incurs as a result of any failure of Subcontractor, or any of its suppliers or subcontractors of any tier, to perform.

To the fullest extent permitted by law, the Subcontractor shall indemnify, defend, and hold harmless the Contractor, Owner and their respective officers, directors, employees and agents ("Indemnified Parties") from and against all claims, damages, demands, losses, expenses, fines, causes of action, suits or other liabilities, (including all costs reasonable attorneys' fees, consequential damages, and punitive damages), arising out of or resulting from, or alleged to arise out of or arise from, the performance of Subcontractor's Work under the Subcontract, and any Work Order whether such claim, damage, demand, loss or expense is attributable to bodily injury, personal injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom; but only to the extent attributable to the negligence of the Subcontractor or any entity for which it is legally responsible or vicariously liable and; regardless whether the claim is presented by an employee of Subcontractor. Such indemnity obligation shall not be in derogation or limitation of any other obligation or liability of the Subcontractor or the rights of the Contractor contained in this Subcontract or otherwise. This indemnification shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor under any workers' compensation acts, disability benefits acts or other employee benefits acts and includes any loss or injury suffered by an employee of the subcontractor. This indemnification shall be in addition to any indemnity liability imposed by the Contract Documents, and shall survive the completion of the Work or the termination of the Subcontract.

Subcontractor's assumption of liability is independent from, and not limited in any manner by, the Subcontractor's insurance coverage obtained pursuant to Article 5 or otherwise.

5. Subcontractor's Insurance

Prior to commencing the Work, Subcontractor shall procure, and thereafter maintain, at its own expense, until final acceptance of the Work or later as required by the terms of the Subcontract or any individual Work Order, insurance coverage required by the Contract Documents and this Subcontract. At a minimum, and subject to modification in individual Work Orders, the types of insurance and minimum policy limits specified shall be maintained in a form and from insurers acceptable to Contractor as set forth below. All insurers shall have at least an A- (excellent) rating by A.M. Best and be qualified to do business in the state where the project is located.

This insurance will provide a defense and indemnify the Contractor, but only with respect to liability for bodily injury, property damage and personal and advertising injury caused in whole or in part by the Subcontractor's acts or omissions or the acts or omissions of those acting on the Subcontractor's behalf.

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Strand Paint Contractors

Proof of this insurance shall be provided to the Contractor before the Work commences, as set forth below. To the extent that the Subcontractor subcontracts with any other entity or individual to perform all or part of the Subcontractor's Work, the Subcontractor shall require the other Sub-Subcontractors to furnish evidence of equivalent insurance coverage, in all respects, terms and conditions as set forth herein, prior to the commencement of work by the Sub-Subcontractor. In no event shall the failure to provide this proof, prior to the commencement of the Work, be deemed a waiver by the Contractor of Subcontractor's or the Sub-Subcontractor's insurance obligations set forth herein.

In the event that the insurance company(ies) issuing the policy(ies) required by this exhibit deny coverage to the Contractor, the Subcontractor or the Sub-Subcontractor will, upon demand by the Contractor, defend and indemnify the Contractor at the Subcontractor's or Sub-Subcontractor's expense.

Commercial General Liability Insurance
$1,000,000 Each Occurrence Limit (Bodily Injury and Property Damage)
$2,000,000 General Aggregate per Project
$2,000,000 Products & Completed Operations Aggregate
$1,000,000 Personal and Advertising Injury Limit

Business or Commercial Automobile Liability Insurance
$1,000,000 combined single limit per accident

Workers' Compensation and Employers' Liability Insurance
$100,000 Each Accident
$100,000 Each Employee for Injury by Disease
$500,000 Aggregate for Injury by Disease

Excess or Umbrella Liability
$1,000,000 occurrence/aggregate

The Contractor and Owner, along with their respective officers, agents and employees, shall be named as additional insureds for Ongoing Operations and Products/Completed Operations on the Subcontractor's and any Sub-Subcontractor's Commercial General Liability Policy, which must be primary and noncontributory with respect to the additional insureds. The Subcontractor shall continue to carry Completed Operations Liability Insurance for at least three (3) years after either ninety (90) days following Substantial Completion of the Work or final payment to the Contractor on any individual Project, whichever is later.

It is expressly understood by the parties to this Subcontract that it is the intent of the Parties that any insurance obtained by the Contractor is deemed excess, non-contributory and not co-primary in relation to the coverage(s) procured by the Subcontractor, the Sub-Subcontractor or any of their respective consultants, officers, agents, subcontractors, employees or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of the aforementioned may be liable by operation of statute, government regulation or applicable case law.

To the fullest extent permitted by applicable state law, a Waiver of Subrogation Clause shall be added to the General Liability, Automobile and Workers Compensation policies in favor of Contractor and Owner, and this clause shall apply to the Contractor's and Owner's officers, agents and employees, with respect to all Projects during the policy term.

Prior to commencement of Work on any individual Project, Subcontractor shall submit a Certificate of Insurance in favor of Contractor and an Additional Insured Endorsement (in a form acceptable to the Contractor) as required hereunder. The Certificate shall provide for thirty (30) days' notice to Contractor for cancellation or any change in coverage. Copies of insurance policies shall promptly be made available to the Contractor upon request.

6. Time of Performance

Subcontractor will commence Work when directed by Contractor and will proceed with the Work in a prompt and diligent manner in accordance with the Project Schedule attached to the individual Work Order, as such Schedule may be amended from time to time by Contractor. TIME IS OF THE ESSENCE. Subcontractor shall be entitled to additional compensation for compliance with Schedule amendments only to the extent, if any, that Contractor receives reimbursement from the Owner.

7. Safety

The Contractor makes no representation with respect to the physical conditions or safety of any Project Site. The Subcontractor shall, at its own expense, preserve and protect from injury its employees engaged in the performance of the Work and all property and persons which may be affected by its operations in performing the Work. The prevention of accidents to workers engaged in the Work and others affected by the Work is the responsibility of the Subcontractor and Subcontractor shall comply with all federal, state, labor and local laws, regulations and codes concerning safety as shall be applicable to the Work and to the safety standards established by Contractor during the progress of the Work. Subcontractor shall indemnify, defend and hold harmless Contractor, Owner and their respective officers, directors, agents and employees from any costs, expenses or liability (including attorneys' fees, fines or penalties) arising out of the Subcontractor's failure to comply with the aforesaid laws, regulations and codes.

8. Clean-up

Subcontractor shall clean up the areas used by Subcontractor for its Work on a daily basis and remove from each Project site, or to a specified location on the Project site as directed by Contractor, and in a manner that will not impede either the progress of the Project or of other trades, all rubbish, waste material, excess material and debris resulting from the Work.

IN WITNESS WHEREOF, the Parties, by their duly authorized representatives, have hereunto executed this Subcontract, on the day and year first above written.

SUBCONTRACTOR: STRAND PAINT CONTRACTORS

By:

Name: MARK CHANDLER

Title: MANAGING MEMBER

Date: 4/5/16

CONTRACTOR:

By:

Name: Forrest B Beverly

Title: Owner

Date: 3/31/16

Release 10/2008

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ELECTRONICALLY FILED - 2020 Sep 30 6:27 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN	)	Docket No.: 2018-CP-22-824
EVARISTA JUAN LORENZO, Plaintiff, v. PORT CITY ELEVATOR, INC., ALAN TOPPER D/B/A ALL CONSTRUCTION, 2020 CUSTOM CONTRACTORS A/K/A 2020 CUSTOM CONTRACTORS, LLC, CITADEL SITE MANAGEMENT, LLC, DVBT CONSTRUCTION A/K/A DVBT CONSTRUCTION, LLC, DVBT MULTISERVICES, LLC, BEVERLY CONSTRUCTION GROUP, LLC, BEVERLY HOMES, LLC, BEVERLY HOMEBUILDERS, LLC, STRAND PAINT CONTRACTORS, LLC, DEPAZ PAINTING LLC, ENHANCED HEATING & AIR CONDITIONING, LLC, CARLTON PENDER, AND JOAN PENDER Defendants.	)	**CERTIFICATE OF SERVICE**

On June 5, 2020, I mailed a copy of **Defendant Beverly Homes, LLC's Requests to Admit to Defendant Strand Paint Contractors, LLC** to:

Ian D. Maguire
P. Brooke Eaves Wright
1600 North Oak Street, Suite B
Myrtle Beach, South Carolina 29577
Attorneys for Plaintiff

Karl S. Brehmer
Post Office Box 7966
Columbia, South Carolina 29202
Attorneys for Strand Paint Contractors, LLC

Thomas B. Boger
145 King Street, Suite 300
Charleston, South Carolina 29401

Kierra Brown
Kristen Kelley Thompson
Lee Cannon Weatherly

Attorneys for 2020 Custom Contractors

Christopher H. Pearce
Laurence Raymond Wells, IV
1314 Professional Drive
Myrtle Beach, South Carolina 29577
Attorneys for Beverly Construction Group, LLC and Beverly Homes, LLC

Joshua Daniel Shaw
Post Office Box 11267
Columbia, South Carolina 29201
Attorneys for Port City Elevator, Inc.

40 Calhoun Street, Suite 400
Charleston, South Carolina 29401
Attorneys for Beverly Construction Group, LLC

Robert Michael Ethridge
Katherine Ann Walker
1100 Queensborough Blvd, Suite 200
Mount Pleasant, South Carolina 29464
Attorneys for Alan Topper and Toppers All Construction

Heather Hagen

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[indicating].
Q. So would there be two barricades total?
A. Yeah, I would think that -- yeah, I guess you could -- I would think that system of two of them would equal one barricade, but it would be two different 2x4s.
Q. Okay. And is it your opinion that someone from Port City Elevators, Inc., could have reached over these two barricades and taken the measurements?
A. Absolutely.
Q. Okay. Do you know whether anyone inspected after Port City Elevators, Inc., had completed the measurements to confirm whether or not the barricades had been removed or replaced?
A. No. I have no firsthand knowledge of that.
MS. WRIGHT: I want to mark both of those as an exhibit.
(Discussion off the record.)
BY MS. WRIGHT:
Q. Was there any type of a safety meeting -- first I want to make sure I get the right entity name.
So is Beverly Construction Group the

Page 159

name of the general contractor for this home?
A. Correct.
Q. And is that the company that you own?
A. Correct.
Q. And was Beverly Homes, LLC, involved in this property?
A. No.
Q. Okay. Can you explain why Beverly Homes is listed on a number of the invoices?
A. That's just how some people perceive it. I mean, we don't correct them when it comes in, but all the invoices were paid on Beverly Construction Group. Beverly Homes is actually not even a general contractor. It has different ownership.
Q. Do you know who owns Beverly Homes?
A. Uh-huh.
Q. And who is that?
A. Me and my dad.
Q. And what does that company do?
A. They are a land development company.
Q. And I think earlier you said there was some Beverly company that does marketing; is that right?
A. They market, you know, themselves, but

Page 160

mostly what they're -- they do the land development. They own land.
In this particular case, we built on Mr. Pender's land. In other cases Beverly Construction Group might build on Beverly Homes's land, but that's not the case this particular time. Beverly Construction Group dealt straight with Carlton Pender to construct the house.
Q. Did Beverly Homes, LLC, have any ownership in the land or this house or anything at all?
A. Absolutely not.
Q. Okay. And did Beverly Homes, LLC, have any role in any marketing or land development involving this property?
A. No.
Q. So is it your opinion that the invoices that say "Beverly Homes" or "Beverly Homes, LLC," is just an error?
A. Correct.
Q. And it should have said "Beverly Construction Group"?
A. Correct. Obviously, normally our file is not dissected at this kind of level, so we're not worried about getting exact -- our people know

Page 161

what they mean and what it needs to be paid from, so they handle it. That's just a situation where a subcontractor, I guess, just assumed it was Beverly Homes for whatever reason.
Beverly Homes -- we do market Beverly Homes, you know, and they do development-type stuff, but this is a different scenario than that. They were totally exclusive from each other in this particular case.
Q. And are the two businesses, Beverly Homes and Beverly Construction Group, run out of the same office?
A. Correct.
Q. And what is that office address?
A. 9007 Highway 544.
Q. Okay. And does your father also own a separate construction company?
A. They were a former construction company. At this point, they are not. They are just a Co./Inc. that he owns different entities in.
Q. Okay. Other than Beverly Construction Group, is there any other Beverly company that was involved in this property?
A. No.
Q. Is there any other general contractor

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Page 158

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Q. Is there any other general contractor

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REPLY TO SC OFFICE

September 1, 2020

VIA E-MAIL AND U.S. MAIL
Karl S. Brehmer, Esq.
James D. Floyd, Esq.
BROWN & BREHMER
1720 Main Street, Suite 201
Post Office Box 7966
Columbia, SC 29202
ksb@brownandbrehmer.com
jdf@brownandbrehmer.com

Re: Evarista Juan Lorenzo v Beverly Construction Group, LLC, et al.
Case No: 2018-CP-22-0824
CSKL File No.: 3848-60217

Dear Counsel:

Enclosed please find Defendant Beverly Construction Group, LLC's responses to Strand Paint Contractors, LLC's First Set of Requests for Admissions.

Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely yours,

s/Kierra N. Brown

KIERRA N. BROWN

KNB:mrf
Enclosures
cc: All counsel of record (*via e-mail*)

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF GEORGETOWN	)	CIVIL ACTION NO.: 2018-CP-22-00824
	)	
Evarista Juan Lorenzo,	)	
	)	
Plaintiff,	)	**DEFENDANT BEVERYLY CONSTRUCTION GROUP, LLC'S RESPONSES TO DEFENDANT STRAND PAINT CONTRACTORS, LLC'S FIRST SET OF REQUESTS FOR ADMISSION**
vs.	)	
	)	
Port City Elevator, Inc.; Alan Topper d/b/a Toppers All Construction; 2020 Custom Contractors LLC; Citadel Site Management, LLC; DVBT Construction a/k/a DVBT Construction, LLC; DVBT Multiservices, LLC; Beverly Construction Group, LLC; Beverly Homes, LLC; Beverly Homebuilders, LLC; Strand Paint Contractors, LLC; DePaz Painting, LLC; Enhanced Heating & Air Conditioning, LLC; Carlton Pender; and Joan Pender,	)	
	)	
Defendants.	)	
_____	)	

TO: KARL S. BREHMER, ESQUIRE AND JAMES D. FLOYD, ESQUIRE, ATTORNEYS FOR STRAND PAINT CONTRACTORS, LLC:

Pursuant to Rule 36 of the South Carolina Rules of Civil Procedure, Defendant Beverly Construction Group, LLC (hereinafter "Defendant") hereby responds to and answers Defendant Strand Paint Contractors, LLC's Requests for Admission as follows:

1. Admit or deny that the attached Exhibit "A" is a true and accurate copy of the Master Subcontract Agreement that is the basis for Beverly Construction Group, LLC's cross- claim for contractual indemnity against Strand Paint Contractors, LLC.

RESPONSE: Admitted.

2. Admit or deny that Beverly Construction Group, LLC is not named as the "Contractor" in the Master Subcontract Agreement attached hereto as Exhibit "A".

RESPONSE: Denied. Forrest B. Beverly executed the contractor portion of the Master Subcontract Agreement as owner of Beverly Construction Group, LLC.

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3. Admit or deny there are no references to Beverly Construction Group, LLC in the Master Subcontract Agreement attached hereto as Exhibit "A".

RESPONSE: Denied. Forrest Beverly references Beverly Construction Group when he cites his title as "owner."

4. Admit or deny that the terms and conditions, including the indemnification provision, of the Master Subcontract Agreement attached hereto as Exhibit "A" only apply upon the execution of a work order by the subcontractor and contractor.

RESPONSE: Denied. The Master Subcontract Agreement states, the "[s]ubcontract does not require either the Contractor or Subcontractor to issue or accept any particular [w]ork [o]rder."

5. Admit or deny that no such work order was executed by the subcontractor and/or contractor referenced in the Master Subcontract Agreement attached hereto as Exhibit "A" for the work done by Strand Paint Contractors, LLC at 39 Gasparilla Circle, Murrells Inlet, SC.

RESPONSE: Admitted.

6. Admit or deny that Beverly Construction Group, LLC has no evidence that a fully executed work order exists for the work done by Strand Paint Contractors, LLC at 39 Gasparilla Circle, Murrells Inlet, SC.

RESPONSE: Admitted.

7. Admit or deny that Beverly Construction Group, LLC has no evidence that the Master Subcontract Agreement attached hereto as Exhibit "A" applies to the work done by Strand Paint Contractors, LLC at 39 Gasparilla Circle, Murrells Inlet, SC.

RESPONSE: Denied.

8. Admit or deny that no written agreement between Beverly Construction Group, LLC and Strand Paint Contractors, LLC exists for the work done by Strand Paint Contractors, LLC at 39 Gasparilla Circle, Murrells Inlet, SC.

RESPONSE: Denied.

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9. Admit or deny that Beverly Construction Group, LLC is not entitled to contractual indemnity from Strand Paint Contractors, LLC for any alleged incidents arising out of the work done by Strand Paint Contractors, LLC at 39 Gasparilla Circle, Murrells Inlet, SC.

RESPONSE: Denied.

10. Admit or deny that Beverly Construction Group, LLC has no evidence that Strand Paint Contractors, LLC was negligent in any way related to the work done by it at 39 Gasparilla Circle, Murrells Inlet, SC.

RESPONSE: Denied.

This 1st day of September, 2020.

Respectfully submitted,

COPELAND, STAIR, KINGMA & LOVELL, LLP

By: *s/Kierra N. Brown*
LEE C. WEATHERLY
State Bar No.: 71109
KIERRA N. BROWN
State Bar No.: 103143
KRISTEN K. THOMPSON
State Bar No.: 100659

And

CHRISTOPHER H. PEARCE
State Bar No.: 71083
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State Bar No.: 102622
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Q. So they ---
A. --- they had an arrangement ---
Q. --- went with someone else?
A. Well, they had an arrangement with another painter.
Q. Is it safe to say that when constructing a new residence, like interior painting is always going to be completed prior to delivering that residence to an owner?
A. Yes. I mean, it's -- that's -- that's what happens.
Q. Is it safe to say that painting is an essential part of constructed homes -- residential homes -- new residential homes?
A. I'm biased but I think it's very important.
MS. WRIGHT: Object to form.
BY MS. BROWN:
Q. Okay. I'll move on. I want to direct your attention -- and I'm sorry, I do not know how to screen share. But I want to direct your attention to the Strand Paint master subcontractor agreement. I think you have access to it.
Can you kind of tell me what the

document is applicable to?
A. I really don't have knowledge of that document. I didn't -- Mr. Chandler handled any of those. That just wasn't part of what I did.
Q. But as far as you know, though, Strand Paint was operating at the site as a subcontractor for Beverly Construction Group?
A. Correct. Yes.
Q. Okay. And in operating as a subcontract on that site, Strand Paint had authority to subcontract to other companies; is that correct?
A. I -- like I said, I do not handle that side of it. That would be something I would probably defer to Mr. Chandler on.
Q. Well, Strand Paint did subcontract on that job, correct?
A. Oh, yes. Yeah. Are you asking did we? I'd say yes.
Q. Yes. So you had to have the authority to do it, correct?
MS. WRIGHT: Object to form.
MR. BREHMER: Object to the form.

MS. BROWN: Withdrawn.
BY MS. BROWN:
Q. Okay. Let me see if I have anything else.
So did you arrange on behalf of Strand Paint for Plaintiff to conduct interior painting at the jobsite -- the subject jobsite?
A. Sorry. What are you asking again? I apologize.
Q. Did you arrange for Plaintiff to complete interior painting at the jobsite on January 17th, 2017?
A. Talking about Eva?
Q. Yes.
A. Oh. I think we discussed it. I mean, we were there to -- I was there to introduce her to Depaz Painting in hopes that -- that they could, you know, reach an agreement to work together. She had worked with us previously.
She's a -- she was an excellent worker and I -- I -- I kind of -- based on my conversation with Roberto, it -- we would all kind of -- I felt like, agreed to where, okay, we'll have her show up at the jobsite and he'll kind of get her going to start this house.
Q. So you consented to have Plaintiff

come and complete interior painting at the jobsite?
A. Well, I consented to meet her -- have her meet at the jobsite so she can meet Roberto.
Q. And do what?
A. Hopefully, you know, the process was to -- that they would -- that he was going -- he was going to hire her to help with that particular project.
Q. Okay. And at the time of the incident, was Plaintiff physically engaged in her painting duties?
A. I'd say yes.
Q. You gave Plaintiff the information related to the address, the date and the time she was to arrive at the jobsite; is that correct?
A. That is correct.
Q. Okay. Does Strand Paint -- do you guys provide your subcontractors with the paint?
A. We do. Yeah, we provide most all the materials with the exception of certain reusable things like roller frames and spray -- we don't provide spray equipment or ladders or -- but we do provide the materials for the job.
Q. Okay. Is there a specific brand

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homes.
Q. Do you ever do any remodeling or repairs, or is it all new construction?
A. We do a small amount of remodeling.
Q. What percentage of Beverly Construction Group's work is new construction?
A. 95 percent.
Q. 95? What type of licenses does Beverly Construction Group hold?
A. General contractor.
Q. Who is the licensee for that?
A. I am.
Q. Are there any other licenses that Beverly Construction Group holds?
A. We have a water and sewer license and a plumbing license.
Q. Who was the licensee for the water and sewer?
A. I am. I'm the qualifier for all those.
Q. And the plumbing too?
A. Uh-huh.
Q. Is that a yes, sir?
A. Yes.
Q. Has Beverly Construction Group ever lost its license?

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A. No.
Q. Has anyone ever made a claim against any of the licenses of --
A. Yes.
Q. And can you tell me a little bit about that?
A. We had a claim for an addition that was not -- that was not permitted, and we had to go back and pay the licensing fee on that addition. It was settled with Georgetown County.
Q. Do you know what year that was?
A. I have no idea.
Q. Currently, how many employees does Beverly Construction Group have?
A. We have approximately 30.
Q. And back in 2017, how many employees did Beverly Construction Group have?
A. Approximately 20.
Q. Okay. And we're here today regarding construction that took place at an address, 39 Gasparilla Circle, Murrells Inlet, South Carolina, also referred as Bellevue, Lot 4. Are you familiar with that home?
A. I am familiar with the home.
(Exhibit 2, Residential Construction

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Contract, was marked for identification.)
BY MS. BISSET:
Q. Sir, I'd like to show you what is marked as Exhibit 2. Do you recognize what Exhibit 2 consists of?
A. Yes.
Q. And what is Exhibit 2?
A. It's the residential construction contract.
Q. And is this the contract for the work to be performed by Beverly Construction Group on 39 Gasparilla Circle?
A. That is correct.
Q. And do you know who signed this contract?
A. I did, Forrest Beverly.
Q. What was Beverly Construction Group's role for this project?
A. Construct a new residential home for the owner of the property.
Q. Was Beverly Homes --
A. Beverly Construction.
Q. Was Beverly Construction responsible for hiring all the subcontractors?
A. Correct.

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Q. Was Beverly Construction responsible for coordination of all the trades and subcontractors?
A. Correct.
Q. And was Beverly Construction responsible for inspecting all the work performed by the subcontractors?
A. Correct.
Q. Did Beverly Construction self-perform any work on this project?
A. No. Just supervision and light cleanup.
Q. Did Beverly Construction have any employees on this project?
A. We did.
Q. Who were those employees?
A. Jonathan Martin.
Q. And what was Mr. Martin's title or position at this time?
A. That would be the construction supervisor.
Q. And is Mr. Martin still currently employed with you?
A. He is.
Q. And is his job title today still

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records of a specific date when safety training was performed?
A. No, the company would not keep those records.
Q. Is it common for Beverly Homes [sic] to construct a house with an elevator shaft?
A. Beverly Homes doesn't construct houses.
Q. I'm just going to apologize. My outline was written with the name Beverly Homes, so thank you for --
A. Beverly Homes doesn't have anything to do with the job.
Q. Yeah. I apologize. Beverly Construction?
A. Right.
Q. Is it common for Beverly Construction to construct a home with an elevator shaft?
A. Correct. We do construct several homes with an elevator shaft.
Q. Is that -- if you were estimating the percentage of the total homes that you constructed, what percentage of them would have elevator shafts?
A. Probably better to go by a number. I would estimate we do five to ten a year that have elevator shafts in them.

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Q. Okay. When there's an elevator shaft in a house, what is your understanding of the typical protocol for securing the door?
A. It should be secured by every trade that touches it. Once it's framed, the framer would put a barricade up, and once the Sheetrock company removes it, they would put a barricade back up. Once the trim guy, you know, installs the doors, they would -- might do a similar barricade or a way to secure that door.
Q. Do you have personal knowledge of whether Beverly Homes [sic] has instructed its subcontractors to put up a barricade?
A. Beverly Construction Group.
Q. I'm so sorry. Beverly Construction.
A. What now? Repeat the question.
Q. Do you have personal knowledge of whether Beverly Construction Group has instructed its subcontractors to put a barricade over -- across the doors on an elevator shaft?
A. Absolutely. That would be something that we'd talk about with all of our trades.
Q. So you do have personal knowledge of doing that? Have you personally had that conversation?

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A. Specific to this job? I was not the supervisor, but specific to jobs that would be something that would be the requirement of the supervisor to make sure all the trades, you know, installed their barricades, or if they were touching that barricade, to reinstall it.
Q. Understood. But have you -- and I understand that your position is such that you're not on the job site.
A. Correct.
Q. Do you have personal knowledge, you personally -- have you ever -- and I don't mean just for this job, but have you personally ever had a conversation with a subcontractor about that?
A. I've had personal conversations with several of our subcontractors, and we use a lot of the same subcontractors on different jobs, and they understood the protocol when they are on a Beverly Construction job.
Q. Okay. So of the subcontractors that you personally have spoken to about barricades, do you recall the names of those subcontractors?
A. No. We have a lot of subcontractors. I couldn't -- I could guess at which ones I talked to, but -- are you talking about pertaining to this

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job with these subcontractors?
Q. Yes, I guess so. Of the subcontractors that are on the list that you reviewed for this job, do you personally recall having a conversation with any of those subcontractors?
A. I talked to the supervisor of Strand Paint on different jobs, you know, prior to this, and they understand what barriers need to be installed or inspected or checked. I do not think I ever -- I never worked directly with this framing contractor, so I didn't have that contact, so that would have been -- and I definitely talked with All Construction in the past about installing barriers.
Q. And when you say "barriers" -- I'll represent to you what Alan Topper said that he did or his company did.
A. Uh-huh.
Q. He said that he installed the door on the third floor, and instead of putting a wooden board across the door -- which he said as a general rule he does not ever do -- he put a nail through the hole to secure the door so that it could not be opened, and then what he said is that the painting contractors would then remove the nail to perform their work.

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A. Yes. I don't know that I would have any right to keep them off the property.
Q. And I guess I'm saying, is there anybody other than the subcontractors and the Penders that you're aware of that would have been on the property?
A. I don't know.
Q. Okay. I assume, at this point, the house has been closed on and the Penders are living in the home, to the best of your knowledge, now?
A. Yes, they are.
Q. And so what paperworks or documentation would have been presented by your company to them, like -- you know, when you build a home, as builders do you turn over a booklet or pamphlets or a binder with all the information of the home with the subcontractors? Does that get turned over?
A. When the home is finished, we set up a walk-through, and at the time of the walk-through I would present them with a folder that would include a utilities list to have their utilities converted over, maintenance instructions for cabinets and flooring, and I would have produced -- there would have been a list of subcontractors that worked on the home, and there would have been the termite

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bond and a walk-through checklist.
Q. So before the trim work is even started, what subcontractors would have been working on the home?
A. Can you repeat the question?
Q. So before we got to the trim work, before we get to that stage, obviously there's -- well, I'll just ask you -- framers. What subcontractors have done work?
A. Prior to the installation of the interior trim would have been Sheetrock, then it would have been insulation, then it would have been electrical, it would have been plumbing, it would have been HVAC. Then it would be framing and concrete.
Q. Does your company actually do any of the painting, or do you subcontract it out all the time?
A. We do not do the painting. It is subcontract work.
Q. What do painters do on the door casings?
A. They paint it.
Q. Do they put putty or do they do anything around the --

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A. They could putty and caulk it before they paint it, if it's needed.
Q. Is it fair to say, usually the painting is done after the trim work is completed?
A. Yes.
Q. Were you ever present when Ms. Lorenzo was on the property?
A. No.
Q. If you can recall when -- the first time that you arrived on the property, what work had been done?
A. I don't quite understand that.
Q. I think she's trying to -- after Ms. Lorenzo was injured, did you come to the property?
A. I did, yes. I don't recall if it was the day of the accident or the following day.
Q. Okay.
A. I don't recall exactly which day.
Q. How did you get contacted regarding that matter?
A. I don't know exactly how I received, you know, information about what happened. I do recall only having a conversation with Gerald Ryan with Strand Paint, and I don't know if I had called

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him or he called me. I'm not sure which way that went, but I was notified through him.
Q. When you arrived on the property, was it -- were the doors already installed, the interior doors?
A. Yes.
Q. On all the floors?
A. Best I can recall, yes.
Q. Was the door casing already completed on the elevator doors at the elevator shaft?
A. To the best of my recollection, it would have been installed with the door, yes.
Q. What contractors or people worked on the interior doors besides Alan Topper?
A. I don't know of anybody else that would have been in the home during the time of the trim. Usually the subcontractors, we give them space and the time to do their work, and then someone else would come in.
Q. Now, once this incident happened, what investigation did y'all do to try to figure out what happened?
A. We really had little information about what happened, and -- really had no information, and we, you know, didn't have any -- we didn't do

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RESIDENTIAL CONSTRUCTION CONTRACT

This Residential Construction Contract ("Contract") is made by and between Beverly Construction Group ("Contractor") and Carlton & Joan Pender ("Owner") and is subject to the terms and conditions stated below. The effective date of this Contract shall be the date it is last signed by Owner or Contractor ("Effective Date").

Contractor and Owner agree as follows:

1. **Name, Address and license number of Contractor:** Beverly Construction Group, LLC, 9007 Hwy 544, Myrtle Beach SC 29588. License #G113946
2. **Name, and address of Owner:** Carlton & Joan Pender, [redacted]
3. **Construction site (legal description):** TMS # 41-0106-036-12-00 Lot 4 Belle Vue Subdivision on Gasparilla Dr in Murrells Inlet, SC
4. **Description of House plans and specifications:** 2944 HTD Raised Beach
5. **Compensation to Contractor:** Regardless of the compensation type selected, the compensation to Contractor does not reflect any price changes resulting from any change orders agreed upon in a writing signed by all the parties. All parties signing on behalf of Owner shall be jointly and severally liable for payment in full of all compensation to be paid to Contractor under this Contract.

Fixed-Price Contract: A fixed price of $ 388,820.65 which shall be paid to Contractor according to the following schedule: (disbursements will be made within three (3) business days after substantial completion of the specified items)

(a) $ 2,000.00 initial deposit;
(b) $ 20,000.00 execution of contract;
(c) $ 366,820.65 per bank schedule.

6. **Other Provisions and Conditions:** Addendum 1 and 2 attached .
7. **Contract Documents:** The documents that form the contract between Contractor and Owner are this Residential Construction Contract, the House Plans and Specifications, and all modifications and change orders agreed to by the parties hereafter ("Contract Documents")
8. **Change Orders:** The parties may agree to written change orders in the construction of the House, and the Purchase Price and Time for Completion shall be adjusted as agreed to by both parties.
9. **Inspections; Occupancy:** During the course of construction, Owner or Owner's designated representatives may enter and inspect the House for the purpose of appraisal, inspection and evaluation. Such inspections shall take place at reasonable times and in such a manner as not to interfere with the progress of construction. Until substantial completion of the House, Owner agrees not to occupy or store personal property in the House.
10. **Insurance and Risk of Loss:** Contractor shall purchase and maintain throughout the entire course of construction an "All Risks" builder's risk insurance policy from a company licensed to do business in South Carolina in the amount of the House's "Replacement Cost" without any voluntary deductibles. "Replacement Cost" shall mean the full cost of replacement of the House at the same site with new material of like kind

Owner Owner Contractor

EXHIBIT 1 tabbies

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and quality without deduction for depreciation. The policy shall include coverage for theft, vandalism and malicious mischief. Contractor shall assume the obligation and cost of restoring, rebuilding, repairing, and/or replacing the House. Such risk of loss or damage assumed by Contractor shall continue until the delivery to Owner of a valid certificate of occupancy, and until such time Contractor shall also bear the risk of loss for theft, damage or destruction of building materials, tools, equipment, appliances and fixtures, whether incorporated in the House or stored on or off site.

11. **Owner's warranties**: Owner warrants and represents to Contractor that Owner owns the Construction Site in fee simple absolute subject only to Owner's recorded deeds of trust, restrictive covenants, minimum building lines on subdivision plats, and utility easements. Owner will deliver copies of applicable restrictive covenants, minimum building lines on subdivision plats, and utility easements upon request of Contractor. Owner further warrants and represents that, subject to the financing condition referenced above, if any, that Owner has the financial ability to pay the compensation to Contractor as set forth herein as it is due, and Owner will make such payments.
12. **Punch list**: Contractor shall notify Owner when the House is substantially complete. Owner shall thereupon promptly inspect the House and deliver to Contractor a written comprehensive list of all deficiencies that are detectable by visual examination. These deficiencies are referred to in the Contract Documents as "punch list" items. Contractor shall promptly and diligently correct all construction deficiencies so listed. Owner may withhold an amount estimated by Owner to be the reasonable cost of correcting the construction deficiencies noted on Owner's punch list from the payment due Contractor upon substantial completion. Any sum retained will be promptly paid as Contractor corrects such construction deficiency. In the event Contractor fails to complete the punch list in a reasonable time, Owner shall have the option of completing the punch list and paying for the same from the monies retained. Any balance of retainage shall be paid to Contractor. Contractor is liable for any deficiency.
13. **Contractor's Warranties**:
    (a) Contractor warrants that the construction will be performed in conformity (i) with the Contract Documents, (ii) with all laws, regulations, and codes applicable to the construction of the House, (iii) with any applicable restrictive covenants and homeowner' association documents, (iv) in a good and workmanlike manner, and (v) with new (unless otherwise specified) good quality materials.
    (b) Manufacturers' or vendors' warranties or guarantees (referred to as "product warranties" herein), if any, on materials, fixtures, appliances, and components, to the extent assignable, are deemed assigned by Contractor to Owner. Contractor will deliver to Owner all product warranty forms in its possession. Owner is responsible for compliance with any notice and claim procedures set forth therein. Contractor does not adopt and is not bound by any such product warranty. Owner's rights under the product warranties are in addition to Contractor's warranties in 13 (a) above.
14. **Contractor's duty to correct**: In addition to the warranties in paragraph 15, for a period of one (1) year from the date the certificate of occupancy is issued, Contractor will make all repairs and correction to the House that shall become necessary by reason of defects in labor or materials or substantial non-conformity with the Contract Documents which sere not detectable by visual examination at the time of preparation of the punch

Owner Owner Contractor

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list upon written notice of the defect from Owner. Should a repair or correction become defective within one (1) year from the date the repair or correction was made or attempted, Contractor will make all necessary adjustments to the repair or correction that shall become necessary by reason of defects in labor or materials or substantial non-conformity with the Contract Documents upon written notice of the defect from Owner. (Imperfections in non-structural components of the House resulting from normal settling and drying of materials shall not be considered "defects.")

15. **Completion documentation**: Upon substantial completion of the House, Contractor shall deliver to Owner a certificate of occupancy issued by the building inspector's office, all product warranties in the possession of Contractor, and a new construction termite guarantee if the Contract Documents require Contractor to provide treatment against wood destroying insects. Simultaneously with the receipt of the balance of compensation payable by Owner to Contractor upon substantial completion of the House (less any retainage for "punch list items" authorized in paragraph 7 above), Contractor will deliver to Owner an affidavit, in form and content standard in the construction industry and approved by Owner's title insurance company, verifying that all work, labor, services and materials for the construction of the House have been paid in full and indemnifying and holding Owner and Owner's title insurance company harmless from any and all costs, damage, or expense of any kind (including attorney's fees and court costs) arising out of or on account of any claims or liens of any contractor, laborer, or materialman of Contractor.
16. **Miscellaneous**: The parties also agree that
    (a) The Contract Documents may not be assigned or transferred without the written agreement of Contractor and Owner.
    (b) In the event that any court of competent jurisdiction shall declare any provision of the Contract Documents to be invalid, the remaining portions of the Contract Documents to be invalid, the remaining portions of the Contract Documents shall remain in full force and effect except to the extent that said adjudication of invalidity shall defeat the purpose of the contract, in which case it shall terminate.
    (c) This Contract shall be governed by and construed in accordance with the internal substantive laws of South Carolina without giving effect to its conflicts of laws.
    (d) This Contract shall be binding upon and shall inure to the benefit of the parties and their respective successors, assigns, executors and administrators, and their heirs.
    (e) As used herein the words in the singular include the plural and the masculine, feminine and neuter genders are interchangeable as required by context.
    (f) The Contract Documents constitute the entire understanding of the parties and all prior agreements and understandings are merged herein. The Contract Documents may not be modified or amended except in writing, signed by each of the parties hereto.
    (g) In case of conflict among the Contract Documents, the Specifications will take precedence over the House Plans, and the House Plans will take precedence over this Residential Construction Contract.
    (h) If any provisions herein is by its nature and effect required to be observed, dept or performed after substantial completion of the House, it shall survive same and

Owner Owner Contractor

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remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

IN WITNESS WHEREOF, the parties have executed this Residential Construction Contract on the dates as set forth below.

CONTRACTOR:

BEVERLY CONSTRUCTION GROUP, L.L.C.

By _____

Date: 6-17-16

OWNER:

_____

Date: Jun 17, 2016

Jun 17, 2016
Witness to Owner

_____

Date: 6/17/2016

_____
Witness to Owner

_____ Owner _____ Owner _____ Contractor

Posts

Beverly Homes is feeling excited.
September 14 at 10:52 AM ·

8 Sales in the past 45 days and the Pawleys Island market is RED HOT! Pictures below are of 2 homes in the Litchfield/Pawleys area closed out last week. We still have inventory of Lots and Inventory homes available in the Pawleys/Litchfield areas. For more information or to view available homes contact Adam Wilson 843-222-9728

	Address	Beds/ Baths	Options	Price
Hagley Estates	725 Kings River Road	4,3	Best Selling Floor Plan, No HOA, .46 Acres, Bonus Room	$409,990
Hagley Estates	699 Kings River Rd	4,3	No HOA, Large Home Site, Bonus Room, Upg Appliances	$409,990
The Enclave	105 Enclave Place	3,3.5	OPen Concept Floor Plan, Large Bedrooms, Elev. Shaft	$414,990
The Enclave	111 Enclave Place	4,3.5	Gated Community, Oversized Garage, Elevator Shaft	$409,990
Woodlawn Plantation	447 Eagle Pass	4,3.5	Private Rear Yard, Lake View from Front Porch	$484,990
Marsh Grass East	Lot 1 Marsh Grass Way	4,3	Marsh Front Lot wih incredable views, Open Concept FP	$649,990
Marsh Grass East	24 Marsh Grass Way	4,3	Large Garage, OPen Concept, Bonus Area, Elevator Shaft	$409,990

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Beverly Homes
April 29 ·

🌞🌻 Beautiful Spring afternoon in South Carolina! The real estate market is warming back up. Just a few photos at our Jessica Lakes East community in Conway! Pool and Cabana construction is underway and will be finished this summer. New homes from the $170's! 🏠🌴😎 #beverlyhomes #jessicalakeseast #homesinconway

42 7 Comments 8 Shares

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The Supreme Court of South Carolina

Re: Civil Motions Pilot Program

ORDER

Pursuant to the provisions of S.C. Const. Art. V, §4, I find that the expeditious resolution of motions in the Court of Common Pleas would contribute greatly to the timely disposition of pending cases. I also find that due to time and personnel constraints faced by the Judicial Department, administrative action is necessary to ensure that motions are determined as efficiently as possible.

I further find that the Common Pleas Docket Management Task Force has requested that the Supreme Court of South Carolina create a pilot program requiring that parties file and serve supporting authority together with written motions and authorizing the resolution of motions in civil actions without a hearing. Accordingly, a pilot program in the Third and Fifteenth Judicial Circuits is established and the procedures outlined herein are adopted and applicable to all motions filed on or after October 1, 2015.

1. A written motion shall be filed and served with a supporting memorandum of law. A supporting memorandum of law is not required if a full explanation of the motion is contained within the motion and a memorandum would serve no useful purpose. Affidavits and other materials supportive of the motion shall be filed and served with the motion. In the case of motions to compel discovery, the relevant discovery requests and responses, if any, shall be filed and served as supporting documentation. These requirements shall not apply to motions made during the course of a trial unless required by the court.
2. Except as provided in Rule 59(c), an opposing memorandum of law shall be filed and served not later than 30 days after service of the initial motion. Affidavits and other supporting materials shall be attached.
3. The moving party may file and serve a reply memorandum of law not later than 10 days after service of the opposing memorandum, materials, or affidavits. Affidavits and other supporting material shall be attached to the reply. Reply briefs and affidavits are discretionary, but encouraged.
4. The court may extend or expedite the briefing schedule in its discretion. The time periods contained in this order may be extended by agreement of the parties if the total time for briefing does not exceed 75 days from the date the initial motion is served. If a party seeks to extend the total briefing period beyond 75 days, the party shall request an extension in writing from the court, and may do so with or without consent of the opposing party. Extensions shall be granted only for good cause shown.
5. Unless an exception is granted by the court, no initial or opposing memorandum shall exceed 35 double-spaced pages or 15 double-spaced pages in the case of any reply. This page limitation is exclusive of affidavits and other supporting documentation. Parties shall refer to specific page numbers in citing to affidavits, exhibits, or other written materials provided in support of legal or factual positions. A party may not file a deposition or other transcript without specific reference in writing to the line and page numbers supportive of the particular points at issue in the motion or memoranda.
6. After the submission of all timely filed briefs, the trial court may grant oral argument in its discretion or may rule without further notice on the written filings without scheduling oral argument. Oral argument shall be held on all dispositive motions unless the parties agree that no such argument is necessary. Motions pursuant to Rule 59(e) may be decided on briefs without a hearing.

a year. The reason for this delay, in most instances, is that it has become the practice in the civil courts of this State to conduct a hearing before a motion is determined. Limited terms of court are available for disposition of motions and such hearings are often time-consuming, expensive, and unnecessary. This burdens the civil court system and delays justice to litigants.

IT IS HEREBY ORDERED that all Circuit Court Judges and Masters in Equity in the pilot circuits reduce the number of motions pending on the civil dockets. Within 15 days of the date of this Order, the Clerks of Court in the Third and Fifteenth Judicial circuits shall provide the designated Chief Administrative Judges a list of motions that are currently pending. The list shall contain the title of the motion, the type of case, the date the motion was filed, and the names of the attorneys or self-represented litigants of record. The Chief Administrative Judge and the Judges assigned to the civil terms of court in the pilot circuits shall work with the Clerks of Court to dispose of pending motions and to thereafter resolve newly-filed motions, with memoranda and supporting materials if desired within 90 days of this order, unless the trial court has already scheduled a hearing on the motion. This rule is not intended to delay the disposition of any motions already scheduled for a hearing.

IT IS FURTHER ORDERED that as jury and nonjury cases settle during any term of court, and during chambers weeks, the Clerks of Court in the Third and Fifteenth Judicial Circuits shall provide judges assigned to the circuit with motions and any accompanying memoranda or other support for resolution without a hearing subject to the provisions of Paragraph 6 above. Special emphasis may be placed on the oldest pending motions, emergency or injunctive motions, or on motions affecting upcoming trials.

IT IS FURTHER ORDERED that all motions filed on or after October 1, 2015, be disposed of within 90 days of the date of filing, absent extraordinary circumstances. The Clerks of Court in the pilot counties shall submit reports to the Supreme Court every three months, beginning three months after the date of this Order. The report shall contain the status of all pending motions, including the number pending, the date filed, and if requested by the Chief Justice or Court Administration, the reason any motion pending over 90 days has not been decided.

This order is effective immediately and shall remain in effect until amended or revoked by subsequent Order of the Chief Justice or the Supreme Court.

IT IS SO ORDERED.

s/Jean H. Toal
Jean H. Toal
Chief Justice of South Carolina

Columbia, South Carolina
September 10, 2015

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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF GEORGETOWN)	Docket No.: 2018-CP-22-824
EVARISTA JUAN LORENZO,)	
)	
Plaintiff,)	
)	
v.)	**DEFENDANT BEVERLY HOMES, LLC'S MEMORANDUM IN SUPPORT OF ITS MOTION TO DISMISS**
)	
PORT CITY ELEVATOR, INC., ALAN TOPPER D/B/A ALL CONSTRUCTION, 2020 CUSTOM CONTRACTORS A/K/A 2020 CUSTOM CONTRACTORS, LLC, CITADEL SITE MANAGEMENT, LLC, DVBT CONSTRUCTION A/K/A DVBT CONSTRUCTION, LLC, DVBT MULTISERVICES, LLC, BEVERLY CONSTRUCTION GROUP, LLC, BEVERLY HOMES, LLC, BEVERLY HOMEBUILDERS, LLC, STRAND PAINT CONTRACTORS, LLC, DEPAZ PAINTING LLC, ENHANCED HEATING & AIR CONDITIONING, LLC, CARLTON PENDER, AND JOAN PENDER)	
)	
Defendants.)	

Defendant Beverly Homes, LLC moves for an Order dismissing it from this lawsuit pursuant to Rule 12(b)(1), SCRCP, based on the exclusive remedy doctrine of the South Carolina Workers' Compensation Act, as codified at S.C. Code Ann. §§ 42-1-540 et seq. Plaintiff alleges she was injured while working at a construction site during the building of a home for Carlton and Joan Pender. After the date of the injury but before filing this lawsuit, Plaintiff filed a claim with the South Carolina Workers' Compensation Commission, and that claim is currently pending as W.C.C. File No. 1700675.

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In this current litigation, Plaintiff asserts that Defendants Beverly Construction Group, LLC and Beverly Homes, LLC were the "general contractors" for the construction of the Pender residence. Plaintiff's expert (Robin Roberts) recently testified that Beverly Construction Group, LLC and Beverly Homes, LLC were "co-prime contractors" for the construction of the Pender residence. Deposition of Robin Roberts, page 162, lines 14-5; page 164, lines 3-4 (Exhibit 1). In addition, Roberts commented: "In general, as being co-prime contractors, this whole thing is their creation." Id., page 182, lines 7-10. He further opined that Beverly Homes, LLC "behaved as a contractor on this home." Id., page 177, lines 2-3. Roberts' opinions of liability against Beverly Homes, LLC were based solely on his belief that Beverly Homes, LLC was a "prime contractor" for the construction of the Pender residence. Id., page 178, lines 17-23.

In Freeman Mech. V. J.W. Bateson Co., 316 S.C. 95, 447 S.E.2d 197 (1994), the South Carolina Supreme Court held that the prime contractor "enjoy[ed] the immunity created by the [South Carolina Workers' Compensation] Act from common law claims because the prime contractor was potentially liable under the South Carolina Workers' Compensation Act for injuries to a subcontractor's employee. In that case, the Court stated:

> Under the Workers' Compensation Act, the prime contractor is liable for workers' compensation where the sub-contractor's employee is injured on the job. S.C. Code Ann. § 42-1-410 (1985). The doctrine of "statutory employee" is well developed in South Carolina. The employee of the sub-contractor may look to the prime contractor for workers' compensation benefits without regard to whether the sub-contractor is covered by a workers' compensation insurance policy. Where the prime contractor pays for the sub-contractor's employee's injuries through the doctrine of "statutory employee," the prime contractor is entitled to indemnification from the sub-contractor. S.C. Code Ann. § 42-1-440 (1985). Thus, under our workers' compensation scheme, the sub-contractor is primarily liable and the primary contractor secondarily liable for workers' compensation benefits to the sub-contractor's employee.

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> While the prime contractor is secondarily liable for work-related injuries to the employees of the sub-contractor, the sub-contractor has no such secondary liability for employees of the sub-contractor, the sub-contractor has no such secondary liability for employees of the prime contractor or employees of other sub-contractors on the job....The majority rule is that one who has obligations under the Act enjoys the immunities under the Act.

316 S.C. at 97-98, 447 S.E.2d at 198-199 (case citations omitted).

On September 11, 2020, this Court granted Beverly Construction Group, LLC's Motion to Dismiss and concluded Beverly Construction Group "is a statutory employer of the Plaintiff and, therefore, Plaintiff's recovery against this Defendant is limited to the Workers' Compensation Act." Order filed September 11, 2020. Beverly Homes, LLC's' motion raising the same arguments was filed on August 31, 2020, but has not been set for a hearing. Beverly Homes, LLC respectfully submits that it is entitled to a dismissal based on the same arguments made by Beverly Construction Group, LLC.

BACKGROUND

On December 5, 2019 (one month before filing the Second Amended Complaint that added Beverly Construction Group, LLC and Beverly Homes, LLC as defendants in this litigation), the parties in the lawsuit at that time deposed Forrest Beverly as the Rule 30(b)(6), SCRCP, representative of Beverly Construction Group, LLC. In the deposition, Forrest Beverly testified:

- He was the managing member for Beverly Construction Group, LLC. Deposition of Forrest Beverly, page 12, lines 6-8 (Exhibit 2).
- His sister, Rebecca Beverly, is a minority owner of Beverly Construction Group, LLC. Id., page 13, lines 7-14.
- Beverly Construction Group, LLC's primary work is the construction of new residential homes. Id., page 13, line 23-page 14, line 1.
- He is the licensee for Beverly Construction Group, LLC's general contractor license. Id., page 14, lines 8-12.
- He signed the "Residential Construction contract" on behalf of Beverly Construction Group, LLC with the Penders on June 17, 2016 for the construction of the new home at 39 Gasparilla Circle. Id., page 16, lines 16.

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- The Penders owned the land where the house was built on the date of Plaintiff's fall. Id., page 162, lines 3-8.
- Beverly Construction Group, LLC's role for the project was to "[c]onstruct a new residential home for the owner of the property." Id., page 16, lines 17-20.
- Beverly Construction Group, LLC was the general contractor for the construction of the new home at 39 Gasparilla Circle. Id., page 158, line 25-page 159, line 2.
- Beverly Construction Group, LLC was the general contractor for the construction of the new home at 39 Gasparilla Circle. Id., page 161, line 25-page 162, line 2.
- Beverly Construction Group, LLC "dealt straight with Carlton Pender to construct the house." Id., page 160, lines 7-8.
- Beverly Construction Group, LLC "built on Mr. Pender's land." Id., page 160, lines 3-4.
- Beverly Construction Group, LLC was responsible for hiring all of the subcontractors for the construction of the new home at 39 Gasparilla Circle. Id., page 16, lines 21-25.
- Beverly Construction Group, LLC hired all of the subcontractors for the construction of the new home at 39 Gasparilla Circle. Id., page 20, lines 6-8.
- Beverly Construction Group, LLC was responsible for coordinating all of the trades and subcontractors involved with the construction of the new home at 39 Gasparilla Circle. Id., page 17, lines 1-4.
- Beverly Construction Group, LLC was responsible for inspecting all of the work performed by the subcontractors involved with the construction of the new home at 39 Gasparilla Circle. Id., page 17, lines 5-8.
- Beverly Construction Group, LLC "would have been the contractor onsite handling the vertical construction of the house." Id., page 162, lines 17-24.
- Beverly Construction Group, LLC employed Jonathan Martin as the construction supervisor for the project. Id., page 17, lines 13-21.
- Jonathan Martin's responsibilities for the project at 39 Gasparilla Circle included "coordinat[ing] day-to-day operation of the job, coordinat[ing] subcontractors, and quality control." Id., page 18, lines 6-10.
- Beverly Construction Group, LLC still employed Jonathan Martin as a construction supervisor on the date of Beverly's deposition. Id., page 17, line 22-page 18, line 2.
- All invoices from subcontractors should have been addressed to Beverly Construction Group, LLC. Id., page 34, lines 3-20.

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- Beverly Construction Group, LLC paid the invoices submitted from subcontractors for the construction of the new home at 39 Gasparilla Circle. Id., page 34, lines 3-22.

When asked about Beverly Homes, LLC and any relationship with the construction of the Pender house, Forrest Beverly responded:

- Beverly Homes, LLC is not a contractor. Id., page 34, lines 16-17. "They are just an LLC that owns land and markets." Id.
- Beverly Homes, LLC does not construct houses. Id., page 58, line 7.
- Beverly Homes, LLC did not "have anything to do with the [Pender] job." Id., page 58, lines 11-12.
- Beverly Homes, LLC was not involved with the construction of the Pender home. Id., page 159, lines 5-7.
- Beverly Homes, LLC did not have any ownership in the land, the Pender house, "or anything at all." Id., page 160, lines 9-12.
- Beverly Homes, LLC did not have any role with marketing or land development involving the Pender property. Id., page 160, lines 13-16.

When asked by Plaintiff's attorney why Beverly Homes was listed on a number of invoices from subcontractors, Forrest Beverly replied:

> "That's just how some people perceive it. I mean, we don't correct them when it comes in, but all the invoices were paid on Beverly Construction Group. Beverly Homes is actually not even a general contractor. It has different ownership."

Id., page 159, lines 8-15. Forrest Beverly said the subcontractors erred when they made invoices that said "Beverly Homes" or "Beverly Homes. LLC". Id., page 160, lines 17-20. The invoice should have stated "Beverly Construction Group." Id., page 160, lines 21-22.

> "Obviously, normally our file is not dissected at this kind of level, so we're not worried about getting exact—our people know what they mean and what it needs to be paid from, so they handle it. That's just a situation where a subcontractor, I guess, just assumed it was Beverly Homes for whatever reason.
>
> Beverly Homes—we do market Beverly Homes, you know, and they do development-type stuff, but this is a different scenario than that. They were totally exclusive from each other in this particular case."

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Id., page 160, line 23-page 161, line 9. Beverly Homes, LLC is owned by Forrest Beverly and his father (Randy Beverly). Id., page 159, lines 16-19. Beverly Homes, LLC does not have any contractor license and is "a land development company." Id., page 159, lines 20-21. Beverly Construction Group, LLC paid the invoices submitted from subcontractors for the construction of the new home at 39 Gasparilla Circle. Id., page 34, lines 3-22. As such, Beverly Homes, LLC is not a proper party to the lawsuit.

On January 10, 2020 (five days before filing the Second Amended Complaint), the parties in the case at that point deposed Jonathan Martin. Martin testified that he was employed by Beverly Construction Group. Deposition of Jonathan Martin, page 8, lines 1-8 (Exhibit 3). His job was to "manage the construction of the residential homes that Beverly Construction builds." Id., page 9, lines 19-22. Martin testified he managed the construction by Beverly Construction Group, LLC of the Pender house. Id., page 10, lines 17-20; page 25, line 20-page 26, line 2. Further, payroll records provided by Beverly Construction Group, LLC to Plaintiff showed that Beverly Construction Group, LLC paid Martin at all times during the construction of the Pender residence.

The Second Amended Complaint

Plaintiff filed the Second Amended Complaint on January 15, 2020 against Port City Elevator, Inc.; Alan Topper d/b/a Toppers All Construction; 2020 Custom Contractors; Citadel Site Management, LLC DVBT Construction a/k/a DVBT Construction LLC; DVBT Multiservices LLC; Beverly Construction Group, LLC; Beverly Homes, LLC; Beverly Homebuilders, LLC; Strand Paint Contractors, LLC; DePaz Painting LLC; Enhanced Heating & Air Conditioning, LLC; Carlton Pender, and Joan Pender. Plaintiff labeled all of these parties as "Defendants." Second Amended Complaint.

The Second Amended Complaint alleged "Defendants controlled, managed, owned, assumed responsibility for, and operated a property located at or near 39 Gasparilla Circle." Second Amended Complaint ¶ 17. The Second Amended Complaint also alleged "Plaintiff was working at the construction site at or near 39

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Gasparilla Circle, Murrells Inlet, South Carolina where Defendants[] were also doing work and where Defendants[] had been doing work." Id. ¶ 20. Plaintiff alleged she "fell into an unmarked and open elevator shaft which was created by and/or was in the control of the Defendants." Id. ¶ 21.

Most Defendants filed answers to the Second Amended Complaint. In its answer, Beverly Homes, LLC "denie[d] it had any involvement with the project or construction described in the Complaint. Defendant Beverly Homes, LLC's Answer to Second Amended Complaint ¶ 4.

On February 18, 2020, Beverly Construction Group, LLC filed a Motion to Dismiss that admitted Beverly Construction Group, LLC was the general contractor for the construction of the Pender residence. Defendant Beverly Construction Group, LLC's Notice of Motion and Rule 12(b)(6) Motion to Dismiss in Lieu of Answer, page 2. Carlton Pender also signed an Affidavit confirming that he contracted with Beverly Construction Group, LLC for the construction of the home and Beverly Construction Group, LLC "was responsible of the subject property and coordination of all construction activities...." Affidavit of Carlton Pender, ¶¶ 2-3 (filed March 11, 2020). Pender stated Forrest Beverly and Jonathan Martin were their points of contact for Beverly Construction Group, LLC. Id., ¶ 3.

On February 21, 2020, Beverly Homes, LLC filed a summary judgment motion citing Forrest Beverly's deposition testimony that Beverly Homes, LLC did "not have anything to do with the job" and was not involved with the property or construction. Deposition of Forrest Beverly, page 58, lines 11-12; page 159, lines 5-7. Beverly Homes, LLC also moved pursuant to the exclusive remedy of the South Carolina's Workers' Compensation law. Defendant Beverly Homes, LLC 's Notice of Motion and Motion for Summary Judgment.

On March 11, 2020, Forrest Beverly filed an Affidavit that stated, in relevant part:

> 3. Beverly Homes, LLC is a Limited Liability Corporation organized in 2012. This entity engages solely in business activities relating to the purchase, holding, and/or development of land. Beverly Homes, LLC holds no construction related

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licenses and has no capacity whatsoever to perform actual construction related activities.

4. Based on the above, Beverly Homes, LLC had no involvement whatsoever with the general contracting and/or construction activities at the subject residence of Carlton and Joan Pender as noted in the above-referenced Second Amended Complaint. Beverly Construction Group, LLC was the entity that held the construction agreement with the Penders for their custom home.

Affidavit of Forrest Beverly (March 11, 2020) ¶¶ 3-4.

Thereafter, Plaintiff filed a responsive memorandum on March 23, 2020 that argued, among other things, Beverly Homes, LLC was a general contractor for the construction of the Pender house. Plaintiff argued

(a) "Plaintiff was working at a construction site at or near 39 Gasparilla Circle, Murrells Inlet, South Carolina where Defendants were also performing work." Plaintiff's Memorandum in Opposition to Defendant Beverly Homes, LLC's Motion for Summary Judgment, page 1.

(b) "Plaintiff alleges personal injury against Defendants as a result of her fall down an unmarked and open elevator shaft that was created and/or was under the control of Defendants." Id.

(c) "The [Second Amended Complaint]" enumerated causes of action against Defendants including negligence in the creation, maintenance, and/or allowance of a dangerous condition on the premises." Id.

(d) "It is clear that Defendant Beverly Homes LLC had a duty of care to Plaintiff since Beverly Homes LLC had control over the subject premises and control over the hiring of specific subcontractors performing work at the property. Id., page 6.

Plaintiff also argued summary judgment was premature and she needed time to complete discovery. Id., page 3. Plaintiff argued: "Specifically, there are questions as to the control and ownership of the premises, Defendant Beverly Homes, LLC's role and obligations on the subject construction site, the maintenance and inspections of the subject site, and if subcontractors selected and paid by Defendant Beverly Homes LLC contributed to Plaintiff's fall." Id.

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Plaintiff also argued that "documents produced in response to a subpoena to Beverly Homes LLC indicate that Beverly Homes was the owner of the subject property." Id. Plaintiff pointed to the "Certificate of Completion" issued by Georgetown County on February 27, 2017 and the "Certificate of Temporary Power" issued by the Georgetown County Department of Building Inspection that listed the "owner" as Beverly Homes. Id.

However, Plaintiff's argument fails on that point as a matter of law because Beverly Homes, LLC never owned the lot or the Pender house. In fact, the Georgetown County Register of Deeds records show that Carlton and Joan Pender purchased the lot at 39 Gasparilla Drive, Murrells Inlet, South Carolina from Conway National Bank for $83,200.00 on April 30, 2014, approximately three years before Beverly Construction Group. LLC began construction of the Pender home. Limited Warranty Deed (Instrument: 201400003512) (Exhibit 4). Further, Georgetown County tax records also show that the Penders have paid the property taxes on the property (and later the property and home) since 2014. Exhibit 5. Those records support the earlier testimony from Forrest Beverly and Carlton Pender that the Penders owned the property. See Deposition of Forrest Beverly (dated December 5, 2019), page 162, lines 3-8 and Affidavit of Carlton Pender filed March 11, 2020.

Various memoranda filed by Plaintiff in this lawsuit asserted that documents showed that Beverly Homes, LLC was a general contractor for the construction.[1]

[1] From Plaintiff's Memorandum in Opposition to Defendant Beverly Homes, LLC's Motion for Summary Judgment filed March 23, 2020, Plaintiff argued:

> "... [I]t is clear that the subcontractors believed that Beverly Homes had hired them and was responsible for payment of the services provided at the [Pender] home." (Page 5).
>
> "The evidence shows that Beverly Homes hired specific subcontractors to work at the subject premises which indicates Beverly Homes LLC had control over the property and work being performed at the property." (Page 5).

In that memorandum, Plaintiff also argued that certain other actions showed Beverly Homes, LLC was a general contractor for the Pender construction:

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On April 20, 2020, Beverly Homes, LLC filed a Supplemental Memorandum in Support of its Summary Judgment Motion with the following additional arguments and affidavits of Rebecca Beverly and Randy Beverly:

> ... Beverly Homes, LLC did not pay for any permit, work, or material for the Pender residence and did not receive any money from the construction or sale of the Pender house. Affidavit of Rebecca Beverly, ¶ 8. Further, Beverly Construction Group, LLC paid all invoices and bills referenced in Plaintiff's Memorandum in Opposition to Defendant Beverly Homes, LLC's Motion for Summary Judgment that involved the Pender house and that were addressed mistakenly by various subcontractors and vendors to "Beverly Homes." Id., ¶¶ 5, 7. These payments were made by and drawn on accounts in the name of Beverly Construction Group, LLC. Id. Beverly Homes, LLC did not process or have any involvement with the payment of these invoices and bills. Id., ¶6. In addition, the invoice from Carolina Bays Landscaping

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Beverly Homes, LLC requested temporary electrical services from Santee Cooper and included a "Residential Service Extension" listing Beverly Homes as the "Home Builder" on the application. (Page 4).

Beverly Homes, LLC "was responsible for paying the monthly electrical bills on a regular basis." (Page 4).

Santee Cooper issued power permit #21400 to Beverly Homes for the Pender residence. (Pages 4-5).

Georgetown County Building Department "Certificate of Occupancy" for the Pender home lists "Beverly Homes" as the owner of the subject property. (Page 5).

Beverly Homes, LLC hired the subcontractor Port City Elevator to provide and install the elevator at the Pender residence. (Page 5).

Gale Contractor Services' invoice "shows that it was hired by Beverly Homes to provide insulation services" at the Pender residence. (Page 5).

B&A Quality Construction invoice sent to Beverly Homes. (Page 5).

Chris Langston LLC (densities and field report) invoice sent to Beverly Homes. (Page 5).

Strand Engineering invoice sent to Beverly Homes. (Page 5).

Faith Landscaping, Carolina Boys Landscaping, Palmetto Concrete invoices sent to Beverly Homes. (Page 5).

Beverly Homes paid for the building permit (Page 5).

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included in Plaintiff's memorandum did not involve the Pender house. Id., ¶ 9; Affidavit of Randy Beverly, ¶¶ 4-6.

Defendant Beverly Homes, LLC's Supplemental Memorandum in Support of its Summary Judgment Motion (filed April 20, 2020). In response, Plaintiff filed a reply memorandum that continued to assert that Beverly Homes, LLC was a general contractor for the Pender house.[2] Beverly Homes, LLC filed a response disputing that claim.[3]

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[2] Aaron Horne (owner of Defendant 2020 Custom Contractors) "testified that Beverly Homes provides his materials and that Beverly Homes hired him to perform work at the premises where the subject incident occurred .... See Exhibit A, Aaron Horne Dep. P. 41: 21-25; p. 16: 1-2. In addition, Mr. Horne testified that he had a subcontract with Beverly Homes for the work he performed at the subject property. Id., p. 120: 4-19." (Pages 3-4).

"... [I]t is clear that Defendant Beverly Homes LLC hired subcontractors to perform work at the subject property including Aaron Horne of 2020 Custom Contractors and entered into subcontracts for work to be performed at the subject property which demonstrates the control Defendant Beverly Homes LLC had over the subcontractors performing the work at the subject premises which lead to the subject incident. We intend to prove that Defendant Beverly Homes LLC selected and hired incompetent subcontractors to perform the construction work at the subject premises and failed to adequately supervise and ensure the property safety measures and training of the subcontractors it hired." (Page 4).

Beverly Homes obtained the permit and opened the account for the subject property with Santee Cooper. (Page 4).

"When one general contractor hires a subcontractor to perform work, that general contractor remains responsible for the subcontractor's work and has control over the subcontractor it hired even if another general contractor or homeowner ultimately pays the subcontractor's invoice for the work performed." (Page 5).

Plaintiff's Memorandum in Opposition to Defendant Beverly Homes, LLC's Motion for Reconsideration filed June 19, 2020).

[3] (1) The following documents further demonstrate that Beverly Construction Group, Inc. was the general contractor for the Pender house, where the accident alleged in the Complaint occurred:

(A) The "Residential Construction Contract" dated June 17, 2016 between Beverly Construction Group, LLC as "contractor" and Carlton and Joan Pender as "owner;" (Exhibit 1) and

(B) "Georgetown County South Carolina Residential Roster Card" listing Beverly Construction as "residential contractor." (Exhibit 2.)

...

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(2) (B) Plaintiff's memorandum also intentionally ignored the actual testimony of Aaron Horne (2020 Custom Contractors) about who he worked for at the Pender home. Under questioning from Beverly Construction Group's attorney, Horne clarified that he worked for Beverly Construction Group and not Beverly Homes, LLC.

> Q: My name is Lee Weatherly. I represent Beverly Construction Group....
>
> ....
>
> Q: Very good. First I want to start off, I think you mentioned – I heard you say Beverly Homes at some point in your testimony.
>
> But I wanted to clarify that all your work on this home that's the subject of this lawsuit was for Beverly Construction Group; you were a subcontractor for them, correct?
>
> A: Yes.

Deposition of Aaron Horne, page 119, lines 13-25 (emphasis added) (Exhibit 3).

(C) Plaintiff's memorandum and argument also ignored that Beverly Construction, as demonstrated by the numerous cancelled checks presented in the April 20, 2020 Supplemental Memorandum, paid for the building permit for the Pender house and for the invoices from the various subcontractors. Rather than the administrative nightmare and burden of making subcontractors re-issue invoices, Beverly Construction Group simply paid the invoices.

(D) Plaintiff's memorandum made conclusory statements such as "Beverly Homes, LLC had control over the subject premises" or "Beverly Homes, LLC hired specific contractors", but Plaintiff never actually proved those assertions or presented any evidence that created any dispute of material fact. For example, Plaintiff argued the computer generated receipt from Georgetown County proved Beverly Homes paid for the building permit; however, the actual evidence in this case proved that allegation false. The April 20, 2020 Supplemental Memorandum included the actual cancelled check made payable to Georgetown County for the building permit issued by Beverly Construction Group, LLC. Any subsequent receipt from Georgetown County that incorrectly named the payor of the fees for the Pender house building permit would not create any dispute of material fact.

Similarly, other documents from Georgetown County incorrectly listed Beverly Homes, LLC as "owner" of the property. By the time those documents were issued, Beverly Construction Group, LLC had

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ARGUMENT

Plaintiff argues that Beverly Homes, LLC and Beverly Construction Group, LLC were "co-prime contractors" for the construction of the Pender residence and "this whole thing is their creation." Thus, Beverly Construction Group, LLC and Beverly Homes, LLC are statutory employers of Plaintiff, and her recovery against them would be according to the South Carolina Workers' Compensation Act because the Act applies to direct employees and to statutory employees. Once a worker is properly classified as a statutory employee, the sole remedy for work-related injuries is to seek relief under the Workers' Compensation Act, and the employee may not maintain a negligence action against the statutory employer. Edens v. Bellini, 359 S.C. 433, 597 S.E.2d 893 (Ct. App. 2004).

In Edens, the court stated: "If a worker is properly classified as a statutory employee, his sole remedy for work-related injuries is to seek relief under the Workers' Compensation Act. He may not maintain a negligence cause of action against his direct employer or his statutory employer. The exclusivity provision of the Act applies both to 'direct' employees and to those termed 'statutory employees'

> contracted with Carlton and Joan Pender for the construction of the home. As the June 17, 2016 "Residential Construction Contract" (Exhibit 1) between Beverly Construction Group, LLC and Carlton and Joan Pender detailed, the Penders were the "owner" of the project as of that date. The certificates issued by governmental authorities cited by Plaintiff came in 2017, well after the execution of that construction agreement.
>
> Moreover, as the Affidavit of Rebecca Beverly clearly indicated, Beverly Construction Group paid the October 3, 2016 and November 30, 2016 invoices from Santee Cooper. Finally, exhibit F of the Rebecca Beverly affidavit is the cancelled check from Beverly Construction, Group to Port City Elevators, Inc. for $18,000. The other cancelled checks submitted in the supplemental memorandum showed Beverly Construction Group paid every subcontractor cited by Plaintiff.
>
> (E) The recent discovery response from Strand Painting confirmed Beverly Construction Group, LLC was the general contractor for the Pender home. (Exhibit 4).

Defendant Beverly Homes, LLC Second Supplemental Memorandum in Support of Its Summary Judgment Motion (and Response to Plaintiff's June 19, 2020 Memorandum) (filed June 25, 2020).

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under § 42-1-400." 359 S.C. at 445, 597 S.E.2d 869. See Freeman Mech. V. J.W. Bateson Co., 316 S.C. 95, 447 S.E.2d 197 (1994) (holding a general contractor "enjoy[ed] the immunity created by the [South Carolina Workers' Compensation] Act from common law claims.").

Other case law also supports dismissal of Beverly Homes, LLC based on Plaintiff's allegations. "The term 'employer' as used in the immunity provision of § 72-121 [now 42-1-540], was clearly intended to include others than the immediate employer. This the Supreme Court of South Carolina has held expressly. We think it must include every person whom the Act makes responsible for compensation." Brittingham v. Williams Sign Erectors, 299 S.C. 259, 384 S.E.2d 319 (Ct. App. 1989) (citing Chavis v. DuPont, 283 F.2d 929 (1960)).

The existence or absence of an employment relationship is a jurisdictional fact, and, thus, a question of law. Nelson v. Yellow Cab Co., 349 S.C. 589, 564 S.E.2d 110 (2002). South Carolina policy holds to resolve jurisdictional doubts in favor of the inclusion of employers and employees under the Act. Edens, 359 S.C. at 440, 597 S.E.2d at 867.

South Carolina courts interpret S.C. Code Ann. §§ 42-1-10 et seq. to provide any general contractor who is potentially liable to pay Workers' Compensation benefits to an injured employee with immunity from tort liability. Freeman Mechanical, *supra.* Because Plaintiff argued Beverly Homes, LLC was a general contractor, Plaintiff would be considered the statutory employee of Beverly Homes, LLC at the time of the accident.

The Act bars recovery against a general contractor for a worker who is considered to be a statutory employee if:

(1) The activity is an important part of the general contractor's business or trade;
(2) The activity is a necessary, essential, and integral part of the general contractor's trade, business, or occupation; **or**
(3) The activity is identical to activities previously performed by employees of the general contractor.

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Olmstead v. Shakespeare, 354 S.C. 421, 581 S.E.2d 483 (2003); Edens, *supra*. If the activity meets one of these criteria, the worker qualifies as a statutory employee of the general contractor.

In this case, Plaintiff was performing interior painting at the time of her injury. Interior painting is an activity that is an important part of the business or trade when constructing a new home and is a "necessary, essential, and integral part" of any prime contractor's trade or business. Plaintiff had started her interior painting duties at the Pender residence within the scope of her employment for the painting subcontractor or that subcontractor's subcontractor.

Completion of interior painting of a newly constructed home was part of the construction process for the Pender house and for construction of new homes generally. Deposition of Jonathon Martin, page 40, lines 16-19. Gerald Rion (painting subcontractor) testified that interior painting was "an essential part" and a "very important" element of constructing new residential homes. Deposition of Gerald Rion, page 93, lines 6-16 (Exhibit 6).

Moreover, painting of the interior walls and trim was a specific element of the "Specifications" for the Pender house and essential to the satisfaction of the contractual duties for the construction of the Pender house.[4] These Specifications were "contract documents" for the construction of the Pender home. Specifications to Contract, page 4 (Exhibit 7). Further, the Penders' construction contract required completion of the interior painting of the home as part of the construction process, with the Penders selecting the paint color. (Exhibit 8). Clearly, the Penders would not have accepted the home or thought the contract fully completed until the interior painting was completed to their satisfaction. In addition, the Builder Warranties from Beverly Homes, LLC warranted that the construction-related activities substantially confirmed to the Specifications and any change orders. See Builder Warrantee, page 1 (Exhibit 9).[5]

[4] Plaintiff contended the Specifications published on Beverly Homes, LLC letterhead evidenced Beverly Homes, LLC role as a general contractor for the Pender home.

[5] Plaintiff contended the Warranty referencing Beverly Homes, LLC evidenced Beverly Homes, LLC as a general contractor for the Pender home.

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CONCLUSION

Plaintiff's claims against Beverly Homes, LLC trace back to the contract for the construction of the Pender residence. Plaintiff claim Beverly Homes, LLC is a "co-prime contractor" for the house with Beverly Construction Group, LLC. As such, Beverly Homes, LLC is entitled to relief from tort liability through the exclusive remedy and statutory immunity provided for in the South Carolina Workers' Compensation Act. Accordingly, Beverly Homes, LLC respectfully asks this court to grant its motion to dismiss.

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October 20, 2020

ATTORNEYS FOR DEFENDANT BEVERLY HOMES, LLC

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IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
GEORGETOWN COUNTY
CASE NO: 2018-CP-22-00824

DEPOSITION OF ROBIN W. ROBERTS
September 16, 2020

EVARISTA JUAN LORENZO,
PLAINTIFF,

vs.

PORT CITY ELEVATOR, INC.; ALAN TOPPER, d/b/a ALL CONSTRUCTION, a/k/a TOPPERS ALL CONSTRUCTION; 2020 CUSTOM CONTRACTORS, a/k/a 2020 CUSTOM CONTRACTORS, LLC; CITADEL SITE MANAGEMENT, LLC; DVBT CONSTRUCTION, a/k/a DVBT CONSTRUCTION, LLC, DVBT MULTISERVICES, LLC; BEVERLY CONSTRUCTION GROUP, LLC; BEVERLY HOMES, LLC; BEVERLY HOMEBUILDERS, LLC; STRAND PAINT CONTRACTORS, LLC; DEPAZ PAINTING, LLC; ENHANCED HEATING & AIR CONDITIONING, LLC; CARLTON PENDER and JOAN PENDER,
DEFENDANTS.

TIME: 1:05 p.m.

LOCATION: VIA REMOTE VIDEOCONFERENCE

REPORTED BY:
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EXAMINATION

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oftentimes you find that it is a couple of people with no real construction experience, no license, no training; they just go around and clean up job sites. Not saying they shouldn't be aware of it because they are on a construction site doing an activity, it is just not as likely. So that would really depend on the sophistication of the company and where they were working.

Q. Okay. Robin, do you have a copy of Gerald Rion's deposition?

A. I have it as a .pdf.

Q. I am going to take a break right now, I don't want to waste time. I am going to turn it over to whoever is next and then we will come back to that. Thank you very much.

MS. WRIGHT: David, you are the attorney for Beverly Homes, LLC?

(Off-the-record.)

EXAMINATION

BY MR. COBB:

Q. I am David Cobb. I'm here on behalf of Beverly Homes. Can you tell me every opinion you have about Beverly Homes in this litigation?

A. Can I give you every opinion I have about Beverly Homes in this litigation?

Okay. Beverly Homes, from what I could tell from the documents provided and what I could find through Google, hold themselves out to be a general contractor licensed in South Carolina, and they claim to have Jonathan Martin as one of their employees according to their website. Their website also says they are a general contractor licensed in South Carolina.

Some of the subcontractors seemed to believe they were working for Beverly Homes and I know Beverly Homes took responsibility, at least in name, for some of the utilities, I believe.

So I think those things makes them a co-prime contractor on the site; whether they intended to or not, that is what happened. Then they would have the same obligations as any other contractor or subcontractor on the site.

Q. -- your opinion that Beverly Homes was a co-prime contractor for the construction of the Pender residence?

MS. WRIGHT: I missed the first part of your question.

BY MR. COBB:

Q. Do you have any other factual basis to

support your conclusions that Beverly Homes was a co-prime contractor for the construction of the Pender residence?

MS. WRIGHT: Object to the form.

THE WITNESS: Just what I mentioned. It is on some of the subcontracts. It is on the warranty with the homeowners, that they were the builders. It is on a list of specifications that they gave to the homeowners, that they were the builders. And Jonathan Martin was mentioned more than once as kind of the superintendent. And according to the Beverly Homes website, he is one of their employees. And he can be seen in a photo on the website wearing a Beverly Homes shirt.

BY MR. COBB:

Q. You agree with me -- you looked at the website last week?

A. I believe it was last night.

Q. Did you know who paid for Jonathan Martin back when Ms. Lorenzo had her fall?

A. No, sir.

Q. So your opinions about Beverly Homes was that Beverly Homes was a co-prime contractor on the construction of the Pender residence; is that correct?

A. I believe that is how they behaved and that is how people perceived.

Q. Who were the other co-prime contractors?

A. Beverly Construction. I also saw documents that have them performing duties as a general contractor.

Q. Do you have any other opinions about Beverly Homes other than what you have just said?

A. No. Once it was clear that it was that they commingled themselves, whether intentional or not, as a co-prime contractor, then they have the same obligations as all of the other people who were in and around the unprotected edge.

Q. Do you have any specific knowledge that any employee of Beverly Homes ever set foot on the property while the Pender house was being constructed?

A. I have knowledge that Jonathan Martin, based on testimony, was on the site. And Beverly Homes represents that he is their employee. I don't know if any of the Beverlys stepped foot on the site. But I would presume they're employees of both companies, or at least involved in both

understand what you are trying to say.

My opinion about Beverly Homes was they behaved as a contractor on this home and that is evidenced by all of the things we have already discussed, and therefore, their behavior gave them this same responsibility as all of the other subcontractors on the site.

They can't -- the owners -- Mr. Jonathan Martin, if he represented as being an employee of Beverly Homes but was actually paid by Beverly Construction, it doesn't bifurcate his knowledge in his brain when he sees an unsafe conditions. It is either there or it isn't.

If he is represented as representing both companies, then they both have the same obligation. It is not they are co-prime -- that they are dual prime contractors even on a small residential project. Somebody is going to be responsible for getting it to one part and somebody else is responsible for the other, but they both have the duty to keep the job site safe.

I have seen often where one contractor will do the sheetrock and the other will do all of the trim and all of the painting. And oftentimes interior decorators try to get into that.

They will carry the same obligation.
BY MR. COBB:
Q. When you say the same obligation, you believe that Beverly Homes and Beverly Construction Group had the same obligation with regards to the construction of the Pender residence?
MS. WRIGHT: Object to the form.
THE WITNESS: The same obligation with regard to site safety, not -- clearly some of the subs believed they were working for Beverly Construction, some of them believed they were working for Beverly Homes. But when you talk about an unprotected edge and site safety, then it doesn't matter at that point. Anybody who had knowledge of that condition should have corrected it.
BY MR. COBB:
Q. Your opinion is that Beverly Homes' obligation is based off of your perception that Beverly Homes was a prime contractor for the construction of the Pender residence?
MS. WRIGHT: Object to the form.
THE WITNESS: Yes. They behaved as a prime contractor, they did.
BY MR. COBB:
Q. Now tell me --

A. And they hold themselves out to be a contractor.

Q. Tell me specifically which subcontractors you claim believed that Beverly Homes was the general contractor for the Pender residence.

A. I think -- again, I don't have -- there is a lot of depositions, there is a lot of pages. I don't have it all memorized.

But I believe Mr. Horne, who we've been talking about, said early in his deposition that Beverly Homes hired him. I believe that Topper said Beverly Homes hired them or they worked for Beverly Homes. I think he even said he had multiple crews working for Beverly Homes on multiple sites.

Q. Anyone else?

A. Well, no. I didn't have any depositions from, you know, electricians and plumbers and all of the other trades; landscapers, roofers. I don't think they were named parties so we don't have any depositions so I don't know what they believed.

Q. Okay. The four employer categories you told us about earlier, OSHA, which of the four categories do you put Beverly Homes in?

A. They would be in the correcting and maybe creating.

Q. Do you have any evidence that Beverly Homes caused or added to this condition?

A. Creating is anybody who worked to build or worked around that edge. I don't know that, other than Jonathan Martin, that they had anybody onsite.

But correcting is the obligation if you see an unsafe condition and you are in the area, you need to make sure that it is corrected.

Q. All right. Give me your definition again of a creating employer according to the OSHA standards?

A. It is -- common work, give you an example. You are building like the edge of a deck. You are -- then somebody else is maybe putting in the guardrails. These are people working around the condition, whatever the dangerous condition is, and they are all engaged in a similar activity with a similar goal which is to get this house built.

The correcting employee might be the painter who already has gotten there after all this stuff is supposed to be done and sees that there is

a hazard, they need to correct it. Or the electrician doesn't have anything to do with putting the deck together or rails up, but is installing the light on the balcony. They see an unsafe condition, then they need to correct it or have it corrected.

The exposing employee is the first one who actually employed the person who got injured.

The fourth one is if you hire in companies specifically for site safety.

Q. Let's go back to my question. Without looking at the actual OSHA standards, you've defined a creating employer as the employer that caused a hazardous condition that violates an OSHA standard, okay?

A. Yeah, creates the hazard.

Q. Where it says they caused a hazard condition, what evidence do you have that Beverly Homes or Beverly Construction Group created a hazard condition at the Pender house?

A. They weren't one of the subcontractors swinging a hammer, but as I said, they were definitely correcting; maybe creating, if the person who is swinging the hammer on that condition says this is who employed me, then you create a direct link.

Q. All right. Well, you would agree with me that you do not have any evidence that either Beverly Homes or Beverly Construction Group created any hazardous condition at the Pender residence, correct?

MS. WRIGHT: Object to the form.

THE WITNESS: As far as actually personally swinging the hammer, no. In general, as being co-prime contractors, the whole thing is their creation.

BY MR. COBB:

Q. All right. And with regards to the correcting employer definition --

A. Yep.

Q. -- do you have any evidence that Beverly Homes or Beverly Construction Group had any knowledge that the alleged hazard condition existed?

A. I am pretty sure they knew there was an elevator in the house, both of them did. In fact, there is a document that Beverly Homes had the Penders sign so they were definitely aware that there was an elevator shaft. And they had a superintendent, Jonathan Martin, who was on the site. And they had in their contract

with their subcontractor that they will follow OSHA guidelines which tells you how to protect that edge. So I think pretty solidly both of them, both entities, have planted themselves in that category.

Q. Did OSHA investigate this accident?

A. Doubtful.

Q. Have any of the construction parties been cited by OSHA?

A. Also doubtful, in South Carolina. I think we have four inspectors for all of construction, so they mostly focus on the big, big projects.

Q. Have you had any conversations with anyone with South Carolina OSHA about whether or not your belief referring to the various categories and how they apply to the general contractors and subcontractors is correct with regards to Ms. Lorenzo's fall during the construction of the Pender residence?

A. No, I was not hired to do that, but I am a certified OSHA trainer.

Q. All right. You are a certified OSHA trainer. That should give you access to the people with OSHA. Have you contacted them?

A. No, I was not hired to contact OSHA and cause an investigation by OSHA and have all of the subcontractors given citations. That wasn't my scope of work.

Q. Now, do you have any opinions regarding Beverly Homes that we have not discussed so far?

MS. WRIGHT: Object to the form.

THE WITNESS: No, sir. Your opening question was what were my opinions and I stand by those opinions.

BY MR. COBB:

Q. Have you given me every opinion that you have regarding what you perceive to be Beverly Homes' liability in this matter and the factual basis to support those opinions?

MS. WRIGHT: Object to the form.

THE WITNESS: Yeah, sitting here today, unless something else is given to me or viewed, then that is my opinion.

BY MR. COBB:

Q. Is there any other factual basis that you have that you used to make your opinions regarding Beverly Homes in this litigation that we have not discussed?

A. No, sir, not yet.

the hazard at that time?

MS. WALKER: Object to the form.

THE WITNESS: Yes, that is what he testified to. And like I said, I believe his testimony.

BY MS. WRIGHT:

Q. Were the opinions that you have given in this deposition to a reasonable degree of certainty in your field?

A. Absolutely.

Q. Okay. I don't have any further questions at this time.

(The deposition concluded at 7:45 p.m.)

CORRECTION PAGE

DEPOSITION OF: ROBIN W. ROBERTS

TAKEN ON: SEPTEMBER 16, 2019

PAGE/LINE	CORRECTION
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ROBIN W. ROBERTS

WANDA S. BUCKNER, RPR, CRR

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

I, Wanda S. Buckner, Registered Professional Reporter, Certified Realtime Reporter and Notary Public for the State of South Carolina, at Large, do hereby certify that the witness in the foregoing deposition was by me duly sworn or affirmed to testify to the truth, the whole truth, and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and location therein stated; that the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed by computer-aided transcription; that the foregoing is a full, complete and true record of the testimony of the witness and of all objections made at the time of examination; and that the witness was given an opportunity to read and correct said deposition and to subscribe to the same.

Should the signature of the witness not be affixed to the deposition, the witness shall not have availed himself/herself of the opportunity to sign or the signature has been waived.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal, this 30th day of September, 2020, at Charleston, Charleston County, South Carolina.

Wanda S. Buckner
NCRA Registered Professional Reporter
NCRA Certified Realtime Reporter
My Commission Expires:
October 3, 2023

ELECTRONICALLY FILED - 2020 Oct 19 9:25 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN
EVARISTA JUAN LORENZO,
Plaintiff,

vs. Civil Action No.: 2018CP2200824

PORT CITY ELEVATOR, INC.;
ALAN TOPPER, D/B/A
TOPPERS ALL CONSTRUCTION;
2020 CUSTOM CONTRACTORS;
AND CITADEL SITE MANAGEMENT, LLC

Defendants.

DEPOSITION OF: 30(b)(6)
BEVERLY CONSTRUCTION GROUP, LLC
FORREST BEVERLY
DATE: December 5, 2019
TIME: 9:31 a.m.
LOCATION: McAngus, Goudelock and Courie
2411 North Oak Street, Suite 401
Myrtle Beach, South Carolina 29577
TAKEN BY: Counsel for the Defendant
REPORTED BY: Michele L. Owens

A. WILLIAM ROBERTS, JR., & ASSOCIATES

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Columbia, SC (803) 731-5224
Greenville, SC (864) 234-7030
Charlotte, NC (704) 573-3919
Asheville, SC (828) 123-9876

A. '06.
Q. Did you get any sort of degree or --
A. Yes, I did.
Q. What was the degree?
A. Business.
Q. What is your current position with Beverly Construction Group?
A. I'm the managing member.
Q. And how long has Beverly Construction Group been in business?
A. We've been in business since 2009.
Q. And prior to being the managing member for Beverly Construction Group, what were you doing before that?
A. I was employed for a company that my dad owned, Beverly Construction.
Q. So there are two Beverly Construction companies, or are they one and the same?
A. Beverly Construction Group is my group.
Q. So the company that was your father's, what is that?
A. Co., Inc.
Q. Is that Beverly Construction, Co., Inc., still in existence today?
A. Yes.

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Q. And when you were working for Beverly Construction, Co., Inc., what was your position or job title?

A. Project manager.

Q. What years did you work there?

A. Probably '06 to 2009.

Q. Are there any other members or principals of Beverly Construction Group?

A. Yes. My sister is a minority owner.

Q. And what is her name?

A. Rebecca Beverly.

Q. And what are her duties with the company?

A. She's the office manager.

Q. And other than yourself being the managing member, what are your duties?

A. I handle -- my main duty would be handling the development and overseeing the management.

Q. Has Beverly Construction Group, LLC, ever been sued?

A. No. I don't -- no.

Q. What type of work is Beverly Construction Group, LLC, primarily engaged in?

A. We construct new homes, residential

homes.

Q. Do you ever do any remodeling or repairs, or is it all new construction?

A. We do a small amount of remodeling.

Q. What percentage of Beverly Construction Group's work is new construction?

A. 95 percent.

Q. 95? What type of licenses does Beverly Construction Group hold?

A. General contractor.

Q. Who is the licensee for that?

A. I am.

Q. Are there any other licenses that Beverly Construction Group holds?

A. We have a water and sewer license and a plumbing license.

Q. Who was the licensee for the water and sewer?

A. I am. I'm the qualifier for all those.

Q. And the plumbing too?

A. Uh-huh.

Q. Is that a yes, sir?

A. Yes.

Q. Has Beverly Construction Group ever lost its license?

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Contract, was marked for identification.)
BY MS. BISSET:
Q. Sir, I'd like to show you what is marked as Exhibit 2. Do you recognize what Exhibit 2 consists of?
A. Yes.
Q. And what is Exhibit 2?
A. It's the residential construction contract.
Q. And is this the contract for the work to be performed by Beverly Construction Group on 39 Gasparilla Circle?
A. That is correct.
Q. And do you know who signed this contract?
A. I did, Forrest Beverly.
Q. What was Beverly Construction Group's role for this project?
A. Construct a new residential home for the owner of the property.
Q. Was Beverly Homes --
A. Beverly Construction.
Q. Was Beverly Construction responsible for hiring all the subcontractors?
A. Correct.

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Q. Was Beverly Construction responsible for coordination of all the trades and subcontractors?
A. Correct.
Q. And was Beverly Construction responsible for inspecting all the work performed by the subcontractors?
A. Correct.
Q. Did Beverly Construction self-perform any work on this project?
A. No. Just supervision and light cleanup.
Q. Did Beverly Construction have any employees on this project?
A. We did.
Q. Who were those employees?
A. Jonathan Martin.
Q. And what was Mr. Martin's title or position at this time?
A. That would be the construction supervisor.
Q. And is Mr. Martin still currently employed with you?
A. He is.
Q. And is his job title today still

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construction supervisor?

A. He is.

Q. Any other employees that Beverly Construction had on this project?

A. No.

Q. What was Mr. Martin's -- what were his responsibilities on this project?

A. Coordinate day-to-day operation of the job, coordinate subcontractors, and quality control.

Q. Do you happen to know when construction on this home began? If you don't, that's fine.

A. I do not.

MS. BISSET: Let's mark that.

(Exhibit 3, Building Permit, was marked for identification.)

BY MS. BISSET:

Q. Sir, I'm going to show you what we marked as Exhibit 3. It's a building permit. Does this permit aid you in being able to determine when, approximately, the work would have started on this project?

A. I'm sorry? I don't see the issue -- oh, here it is.

8/22/16, that would have been the

occupants to have -- you know, to occupy the home.

Q. So approximately around this time -- would Beverly Construction's work have ceased on the property around this time?

A. Correct.

Q. Did Beverly Construction hire all its subcontractors for this project?

A. Correct.

(Exhibit 5, Roster Card, was marked for identification.)

BY MS. BISSET:

Q. I'll show you what we marked as Exhibit 5. Do you recognize what's depicted in this document, sir?

A. It's a roster card.

Q. And it had for the first trade, it says the residential contractor is Beverly Construction, and that's your company, sir?

A. Correct.

Q. And it says for the trade of foundation that the contractor was Beverly Construction?

A. Correct.

Q. Did Beverly Construction do the foundation work for this project, or did it hire somebody?

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Do you recognize what is reflected as Exhibit 7?

A. Yes. It's the invoice from Strand Paint to supply, install, and finish Sheetrock at the Bellevue residence. It's dated December 7th, 2016.

Q. Okay. And when Strand Paint sent this invoice to -- it has "Beverly Homes" on it. Is that --

A. A lot of people -- our marketing company is Beverly Homes. Beverly Homes had nothing to do with this job in any form.

Q. Okay. I just noticed that was printed up as --

A. Yeah. That was just an invoice. Beverly Homes is not a contractor. They are just an LLC that owns land and markets.

Q. Okay. So this bill should have gone to -- should have been addressed to Beverly Construction?

A. Yeah. It was paid out of Beverly Construction Group.

Q. And when Beverly Construction received this invoice from Strand Paint dated 12/7/2016, would all of the drywall work that would have been

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records of a specific date when safety training was performed?

A. No, the company would not keep those records.

Q. Is it common for Beverly Homes [sic] to construct a house with an elevator shaft?

A. Beverly Homes doesn't construct houses.

Q. I'm just going to apologize. My outline was written with the name Beverly Homes, so thank you for --

A. Beverly Homes doesn't have anything to do with the job.

Q. Yeah. I apologize. Beverly Construction?

A. Right.

Q. Is it common for Beverly Construction to construct a home with an elevator shaft?

A. Correct. We do construct several homes with an elevator shaft.

Q. Is that -- if you were estimating the percentage of the total homes that you constructed, what percentage of them would have elevator shafts?

A. Probably better to go by a number. I would estimate we do five to ten a year that have elevator shafts in them.

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[indicating].

Q. So would there be two barricades total?

A. Yeah, I would think that -- yeah, I guess you could -- I would think that system of two of them would equal one barricade, but it would be two different 2x4s.

Q. Okay. And is it your opinion that someone from Port City Elevators, Inc., could have reached over these two barricades and taken the measurements?

A. Absolutely.

Q. Okay. Do you know whether anyone inspected after Port City Elevators, Inc., had completed the measurements to confirm whether or not the barricades had been removed or replaced?

A. No. I have no firsthand knowledge of that.

MS. WRIGHT: I want to mark both of those as an exhibit.

(Discussion off the record.)

BY MS. WRIGHT:

Q. Was there any type of a safety meeting -- first I want to make sure I get the right entity name.

So is Beverly Construction Group the

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name of the general contractor for this home?
A. Correct.
Q. And is that the company that you own?
A. Correct.
Q. And was Beverly Homes, LLC, involved in this property?
A. No.
Q. Okay. Can you explain why Beverly Homes is listed on a number of the invoices?
A. That's just how some people perceive it. I mean, we don't correct them when it comes in, but all the invoices were paid on Beverly Construction Group. Beverly Homes is actually not even a general contractor. It has different ownership.
Q. Do you know who owns Beverly Homes?
A. Uh-huh.
Q. And who is that?
A. Me and my dad.
Q. And what does that company do?
A. They are a land development company.
Q. And I think earlier you said there was some Beverly company that does marketing; is that right?
A. They market, you know, themselves, but

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mostly what they're -- they do the land development. They own land.

In this particular case, we built on Mr. Pender's land. In other cases Beverly Construction Group might build on Beverly Homes's land, but that's not the case this particular time. Beverly Construction Group dealt straight with Carlton Pender to construct the house.

Q. Did Beverly Homes, LLC, have any ownership in the land or this house or anything at all?

A. Absolutely not.

Q. Okay. And did Beverly Homes, LLC, have any role in any marketing or land development involving this property?

A. No.

Q. So is it your opinion that the invoices that say "Beverly Homes" or "Beverly Homes, LLC," is just an error?

A. Correct.

Q. And it should have said "Beverly Construction Group"?

A. Correct. Obviously, normally our file is not dissected at this kind of level, so we're not worried about getting exact -- our people know

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what they mean and what it needs to be paid from, so they handle it. That's just a situation where a subcontractor, I guess, just assumed it was Beverly Homes for whatever reason.

Beverly Homes -- we do market Beverly Homes, you know, and they do development-type stuff, but this is a different scenario than that. They were totally exclusive from each other in this particular case.

Q. And are the two businesses, Beverly Homes and Beverly Construction Group, run out of the same office?

A. Correct.

Q. And what is that office address?

A. 9007 Highway 544.

Q. Okay. And does your father also own a separate construction company?

A. They were a former construction company. At this point, they are not. They are just a Co./Inc. that he owns different entities in.

Q. Okay. Other than Beverly Construction Group, is there any other Beverly company that was involved in this property?

A. No.

Q. Is there any other general contractor

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involved?

A. No.

Q. Who owned the land that this house was built on as of January 17th?

A. The Penders.

Q. And are their names Carlton and Joan Pender?

A. Correct.

Q. Do you know whether Carlton and Joan Pender had any type of insurance covering this property or that land at that time?

A. I would not be privy to that information, if they had any additional insurance.

Q. Who had control of the property and the home being built as of January 17th, 2017?

A. Rephrase that, please.

Q. Yes. Who was in control of the property and the house on January 17th, 2017?

A. Beverly Construction Group would have been the contractor onsite handling the vertical construction of the house, and would have had -- I guess we would have had any control of any construction that was taking place on the site. Is that what you mean?

Q. And are you aware of -- strike that.

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CERTIFICATE OF REPORTER

I, Michele L. Owens, Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending nor interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 24th day of December, 2019, at Seneca, Oconee County, South Carolina.

Michele L. Owens
Court Reporter
My Commission expires
November 14, 2024

ELECTRONICALLY FILED - 2020 Oct 19 9:25 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN
EVARISTA JUAN LORENZO,
Plaintiff,

vs. Civil Action No.: 2018CP2200824

PORT CITY ELEVATOR, INC.;
ALAN TOPPER, D/B/A
TOPPERS ALL CONSTRUCTION;
2020 CUSTOM CONTRACTORS;
AND CITADEL SITE MANAGEMENT, LLC

Defendants.

DEPOSITION OF: JONATHAN MARTIN
DATE: January 10, 2020
TIME: 2:10 p.m.
LOCATION: Maguire Law Firm
1600 North Oak Street, Suite B
Myrtle Beach, South Carolina
TAKEN BY: Counsel for the Plaintiff
REPORTED BY: Michele L. Owens

A. WILLIAM ROBERTS, JR., & ASSOCIATES

Fast, Accurate & Friendly

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Charlotte, NC (704) 573-3919
Asheville, SC (828) 123-9876

Q. You don't have to tell me every job you've had, but generally, after you stopped going to college, what did you do up until now? What type of work?

A. Since I was 18, I've been in the building supply business and the residential construction business.

Q. How long have you been with -- well, let me ask this: Where are you working now?

A. I work for Beverly Construction Group.

Q. And what is your title there or your job duties there?

A. I'm a construction superintendant.

Q. How many employees does Beverly have?

A. I don't know the answer to that in total.

Q. All right. Are you just in South Carolina, or are you --

A. Yes.

Q. Okay. How many offices do you have?

A. One.

Q. And where is that located?

A. 9007 Highway 544, Myrtle Beach.

Q. Have you ever been arrested?

A. I have.

Q. Let me ask you it this way: Do you have any kind of criminal record?
A. I really don't know.
Q. Do you have any felonies?
A. No.
Q. Okay. We'll move on.
What is your date of birth?
A. April 12th, 1974.
Q. Okay. Do you have any relatives that live in the county that have different last names other than Martin?
A. Yes.
Q. And what names are those?
A. Willard, Graham, Lee -- those are married -- I guess if that's...
Q. Yeah, that's fine.
Are you a member of any church?
A. First Baptist Church of Murrells Inlet.
Q. Are you in any organizations -- any clubs or any organizations that you're a member of?
A. No, sir.
Q. Okay. What do you do for fun other than work?
A. I fish, hunt, water sports -- that's about it.

Q. How long have you been in the profession that you are in now as a construction superintendent?

A. I've been with Beverly Construction six years.

Q. And have you been a superintendent the whole time?

A. Yes.

Q. Where were you previous to -- what's the job directly before you were with Beverly?

A. I was with Myrtle Beach Building Supply.

Q. And who is the owner of Myrtle Beach Building Supply?

A. When I worked for them, my immediate manager and part owner was Bobbie Smith. I'm not sure who the other -- if there were other owners.

Q. And did you leave that job to go to Beverly?

A. I did, yes.

Q. And why did you leave to go to Beverly?

A. Just -- I was wanting to get into vertical construction instead of the sales.

Q. Have you ever been fired from a job?

A. No.

Q. Ever been disciplined or written up or reprimanded at your current job?
A. No.
Q. What training have you had since you've been at Beverly?
A. I haven't had any specific training.
Q. Before you started working at Beverly, like, when you -- from the time your career began to the present, do you have any certifications or licenses?
A. No, sir.
Q. Do you have any specific training, or did you just sort of learn on the job?
A. I just have my God-given talent and skill and experience.
Q. Okay. Who actually hired you at Beverly?
A. Forrest Beverly.
Q. And just in layman's terms, what are your job duties? What do you do on a daily basis?
A. I manage the construction of the residential homes that Beverly Construction builds.
Q. Is it all residential, or do you do commercial as well?
A. I've only done residential.

Q. As you may know, our firm represents Ms. Lorenzo in regards to an incident that happened in January of 2017. Are you familiar with that incident?

A. I am, yes.

Q. And what was the name of the family that was building on that property?

A. Their name? Well, it was the Pender residence.

Q. Pender?

A. Yes.

Q. And, again, this happened in January of 2017, the incident we're here about today. When did your company first start working or setting foot on the actual premises, begin working?

A. I don't recall the exact date.

Q. Did you actually enter into a contract with the Penders?

A. I received a contract and package to build their home from my office.

Q. Now, when that happens -- if you could just walk us through what happens. You receive information. What do you do next?

A. Typically, I would set up a meeting with the homeowner to make sure the information

that I have is what we're going to build, go through the plans, and have a meeting to go through the details to make sure that what I'm doing -- before I even start, you know, I have an understanding and I've got a dialog and relationship with the owner.

Q. And do you recall doing that in this particular case?

A. I do.

Q. And in fairness to you, how many houses are you involved with building in a year?

A. It varies. Some years, you know, I've only done 10; some years I've done 65. So it depends on the market.

Q. How would you describe this home in comparison to other homes that you build?

A. This was a custom home with specifics that the owner wanted.

Q. How would you describe your initial meeting with the customer?

A. It went well.

Q. And at that point, did you begin work after --

A. Yes. I don't recall exactly how long after we met, but it would have typically started

within weeks of meeting with them.

Q. And I'm not trying to pin you down. I'm just trying to get a really rough idea. This happened in January. Would it have been less than a year that you had been working on the home up until this event in January?

A. Best I can remember, yes.

Q. Okay. Would this have been -- did the incident occur -- if I asked you was it towards the middle, the beginning, or the end of the build, where would you say it was?

A. I would say middle.

Q. What is your recollection of the work that was done on the property up until the date this happened?

A. I remember when -- the stage of construction that the house was in was interior trim had been done, and it was beginning to be painted.

Q. And who would have been responsible for the interior trim?

A. For this part of the trim, it would have been Alan Topper.

Q. And had you worked with Alan in the past?

A. Yes.
Q. And on more than one occasion, or...
A. Yes.
Q. How would you describe your relationship with Alan?
A. A good relationship.
Q. Were there any particular issues or problems that you recall having with Mr. Topper during this build?
A. I don't recall any specific issues that I had with him.
Q. Okay. Okay. Do you remember during that time where you would have butted heads with him?
A. To the best that I can recall, anything we would have butted heads on would have had to do with quality issues or workmanship or something that wasn't meeting the expectation that the Penders would have wanted, and -- but it would have had nothing to do with this accident.
Q. Okay. It was nothing personal? Is that what it sounds like? Was it more --
A. Absolutely. My customers are number one, and we want them to feel that way, and it is -- they're our main focus. I'm going to do what

Q. Okay. This was a three-story home; is that right?
A. Yes.
Q. Are you aware of what floors the doors had been installed on prior to this incident? Let's start with the second floor doors. Were they installed?
A. I'm not sure which floor doors were installed, first or last.
Q. Maybe a better question would have been, on the date this happened, January 17th, 2017, had -- are you aware as to whether the doors had been installed throughout the house?
A. Yes.
Q. Are you aware of any doors that had not yet been installed?
A. No.
Q. Other than Alan Topper's company, would any other company have been responsible for the installation of the doors?
A. No.
Q. And my understanding is this house had an elevator that was going to be installed; is that right?
A. Yes.

Q. And was Port City Elevator responsible for the installation of the elevator?
A. Yes.
Q. Had the actual elevator been installed at the date that Ms. Lorenzo had fallen?
A. No.
Q. At what juncture of the build would that elevator have been installed?
A. It would have been put in very close to the end of the build.
Q. Okay. In regard to the subs, would you have had a contractor agreement with each of the subs in writing?
A. No.
Q. And do you have a policy or procedure regarding agreements with subs?
A. We have a subcontractor agreement that they sign before -- you know, when they come on board, but I wouldn't have had a specific contract with a price, bid.
Q. So you would have had a subcontractor agreement, but that would have been signed by both the subcontractor and your company?
A. Yeah. That would have been something they would have signed when they came to work for

us or before they came to work with us or before we would have done any business with them.

Q. So let's say that -- just pick a company, Port City Elevator or Topper; it doesn't matter -- if they had done work on a prior job and signed a sub agreement, would you have had them sign one each time there's a build, or do you sign a new sub agreement each time, or would it suffice to have the old one?

A. There would have been only one subcontractor -- to the best of my knowledge, only one subcontractor agreement would have been signed, and I'm assuming that would have been updated as needed.

Q. Okay.

MR. PEARCE: Just off the record.

MR. MAGUIRE: Yeah.

(Discussion off the record.)

BY MR. MAGUIRE:

Q. Now, who would have installed the elevator shafts?

A. The shaft would have been framed during the framing stage of construction, and I believe on this job, it was 20/20.

Q. And who would have installed the doors

to the elevators?

A. Well, the interior doors would have been installed with Alan Topper.

Q. Okay. Who hired them to install the doors? In your company, would you have been the one responsible for hiring Alan Topper?

A. Yes.

Q. And who would have installed the door casing?

A. That comes as part of the doors, so it would have been done with Alan Topper.

Q. Other than the subcontractors, would anybody else have been present on the property on or around -- I don't mean just that date, but let's say in January of 2017 or December of '17 [sic]. Maybe the family, would they be coming on the premises?

MS. WALKER: Object to the form.

BY MR. MAGUIRE:

Q. Was the family, the Penders, were they occasionally present at the site?

A. I mean, I don't know. I mean, they owned the property.

Q. So they certainly could if they wanted to?

A. Yes. I don't know that I would have any right to keep them off the property.

Q. And I guess I'm saying, is there anybody other than the subcontractors and the Penders that you're aware of that would have been on the property?

A. I don't know.

Q. Okay. I assume, at this point, the house has been closed on and the Penders are living in the home, to the best of your knowledge, now?

A. Yes, they are.

Q. And so what paperworks or documentation would have been presented by your company to them, like -- you know, when you build a home, as builders do you turn over a booklet or pamphlets or a binder with all the information of the home with the subcontractors? Does that get turned over?

A. When the home is finished, we set up a walk-through, and at the time of the walk-through I would present them with a folder that would include a utilities list to have their utilities converted over, maintenance instructions for cabinets and flooring, and I would have produced -- there would have been a list of subcontractors that worked on the home, and there would have been the termite

bond and a walk-through checklist.

Q. So before the trim work is even started, what subcontractors would have been working on the home?

A. Can you repeat the question?

Q. So before we got to the trim work, before we get to that stage, obviously there's -- well, I'll just ask you -- framers. What subcontractors have done work?

A. Prior to the installation of the interior trim would have been Sheetrock, then it would have been insulation, then it would have been electrical, it would have been plumbing, it would have been HVAC. Then it would be framing and concrete.

Q. Does your company actually do any of the painting, or do you subcontract it out all the time?

A. We do not do the painting. It is subcontract work.

Q. What do painters do on the door casings?

A. They paint it.

Q. Do they put putty or do they do anything around the --

A. They could putty and caulk it before they paint it, if it's needed.

Q. Is it fair to say, usually the painting is done after the trim work is completed?

A. Yes.

Q. Were you ever present when Ms. Lorenzo was on the property?

A. No.

Q. If you can recall when -- the first time that you arrived on the property, what work had been done?

A. I don't quite understand that.

Q. I think she's trying to -- after Ms. Lorenzo was injured, did you come to the property?

A. I did, yes. I don't recall if it was the day of the accident or the following day.

Q. Okay.

A. I don't recall exactly which day.

Q. How did you get contacted regarding that matter?

A. I don't know exactly how I received, you know, information about what happened. I do recall only having a conversation with Gerald Ryan with Strand Paint, and I don't know if I had called

him or he called me. I'm not sure which way that went, but I was notified through him.

Q. When you arrived on the property, was it -- were the doors already installed, the interior doors?

A. Yes.

Q. On all the floors?

A. Best I can recall, yes.

Q. Was the door casing already completed on the elevator doors at the elevator shaft?

A. To the best of my recollection, it would have been installed with the door, yes.

Q. What contractors or people worked on the interior doors besides Alan Topper?

A. I don't know of anybody else that would have been in the home during the time of the trim. Usually the subcontractors, we give them space and the time to do their work, and then someone else would come in.

Q. Now, once this incident happened, what investigation did y'all do to try to figure out what happened?

A. We really had little information about what happened, and -- really had no information, and we, you know, didn't have any -- we didn't do

area?

A. You would have to -- the barricade would not need to be removed in any aspect until the Sheetrock was done.

Q. And after the Sheetrock was done -- let me -- in relation to this incident in January of 2017, when would the Sheetrock have been completed?

A. Can you repeat the question?

Q. Yes. This incident happened January 17th, 2017. When, in relation to that date, approximately, would the Sheetrock have been completed?

A. During this time of year, there's Thanksgiving, there's Christmas -- there's holidays; there's weather. It could be anywhere from four to six weeks, around -- you know, there's a lot of variables coming into -- knowing that the accident happened on January the 17th, I'm not sure when the Sheetrock was started.

Q. So would the Sheetrock have to be completed before the trim work would get started?

A. Yes.

Q. What else could not have been started until the Sheetrock was completed? I guess that's

a good way to...

A. Say that --

Q. So the Sheetrock has to be completed before you can start the trim work?

A. That's correct.

Q. What other work would be waiting on the Sheetrock?

A. There would be no other work waiting on the Sheetrock.

Q. Okay. Painting?

A. Well, everything that comes after Sheetrock would be waiting on Sheetrock.

Q. Okay. So let's go through each. What's going to go after the Sheetrock? You're going to have trim --

A. The typical process of construction would be the Sheetrock is finished, installation of interior trim, and then paint, and then cabinets, tops, plumbing/electrical trim-out, punch-out, locks, etc.

Q. Now, I know I touched on this earlier, but who installed the doorknobs?

A. To the best of my belief, that was done by 20/20.

Q. Okay. And, again, the trim was Alan

Topper, right?

A. Yes.

Q. You're not aware of who the subcontractor hired by Strand was?

A. No.

Q. If instead of putting a 2x4 to keep the door secure, a nail was driven into the door, what would be the correct way to do that, to keep it safe, if you know?

A. Well, again, I don't -- I'm not an expert in how to do that. I would just -- I guess there are a lot of different ways you could do it: Nail it to the side of the door; you could put it into the doorknob hole, there is -- I don't have an opinion one way or the other which is the best way.

Q. Do you hire a subcontractor to paint on every home you do?

A. Yes.

Q. And just so we are clear, when you got there that day, you cannot recall what specific barricades, if any, were in front of the door? Is that fair?

A. Yeah. There was -- there was a barricade up. Going back to when I got there, if -- there was something over the door, you know,

not allowing it to be opened.

Q. Who would have been on the property from the time Ms. Lorenzo fell up until the time you arrived there?

A. I don't know anyone who would have had a reason to be there.

Q. Can we agree that falling from the third floor would present more danger than falling from the second floor?

A. Yeah, I mean, it would be a higher -- a longer distance.

Q. Is there any reason why a barricade would be put on the second floor door but not the third floor door?

A. No.

Q. Is it common to work around unprotected edges such as an elevator shaft? Does that happen regularly?

A. I think it would be uncommon in my -- you know, if it were me there, it would be uncommon to work in an unsafe environment. I think it's kind of the responsibility of the subcontractors to make sure their environment is safe, and they're taking -- creating a safe environment for their workers and they are paying attention and that kind

a specific time or date that I spoke to or called someone or met them there.

Q. Would you have paid -- and I'm using Alan Topper more as an example. It could be any of the subcontractors. But once they're finished with their work, would they submit a bill to you for payment? Is that how it works?

A. Yes.

Q. And in other words, they don't have to wait until the home is completely built? When they're finished with their work, they could submit their bill. Is that fair?

A. Yes.

Q. On the day that you came to the scene, whether it was that day or the next day, after Ms. Lorenzo was injured, do you recall any fresh paint on or around the elevator?

A. I do not.

MR. MAGUIRE: That's all I have. Thank you.

MS. WALKER: Sorry. I won't be long, but just a couple of follow-ups.

FURTHER EXAMINATION

BY MS. WALKER:

Q. The question about the fresh paint,

correct me if I'm wrong, but you didn't open the door to the third floor elevator shaft when you were present on the site after the accident, did you?

A. No.

Q. So you didn't look at the interior of the door frame?

A. I did not.

Q. And then one follow-up question about the text messages, number ten --

A. Okay.

Q. -- that you were asked about, so this is in reference to 78 Jackson Loop, and what it says is "Tomorrow at the latest to do the stairs."

Does that suggest to you that what was left at that particular job was, like, a portion of the job, a small piece that related to the stairs --

A. Yes.

Q. -- as opposed to the entire job needing to be done at 78 Jackson Loop?

A. Yes.

Q. You would agree with that?

A. I do.

Q. So does that suggest to you that those

text messages that we looked at between January 4th and January 7th were likely related to the Pender residence at 4 Bellevue?

A. Yes, that sounds about right.

MS. WALKER: Those are all my questions. Thank you very much.

MS. BISSET: Nothing for me.

MR. PEARCE: Josh, do you have any follow-ups?

MR. SHAW: No, sir. Thank you.

(The witness, after being advised of his right to read and sign this transcript, waives that right.)

(Deposition concluded at 4:42 p.m.)

CERTIFICATE OF REPORTER

I, Michele L. Owens, Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending nor interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 23rd day of January, 2020, at Seneca, Oconee County, South Carolina.

_____

Michele L. Owens
Court Reporter
My Commission expires
November 14, 2024

ELECTRONICALLY FILED - 2020 Oct 19 9:25 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

EXHIBIT 4

Instrument Book Page
201400003512 2355 1

201400003512
Filed for Record in
GEORGETOWN SC
WANDA PREVATTE, REGISTER OF DEEDS
04-30-2014 At 02:50:52 pm.
DEED 11.00
STATE TAX 217.10
COUNTY TAX 91.85
Book 2355 Page 1 - 5

Prepared without benefit of title examination by:
Moore, Johnson & Saraniti Law Firm, P.A.
PO Box 14737, 1271 Glenn's Bay Road
Surfside Beach, South Carolina 29587

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

Lt 4 Belle Vue

LIMITED WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, **Conway National Bank,** (hereinafter called "Grantor"), for and in consideration of the sum of **Eighty-Three Thousand Two Hundred & 00/100s ($83,200.00) Dollars** to it, hand paid at and before the sealing of these presents, in the State aforesaid, (the receipt of which is hereby acknowledged) has granted, bargained, sold and released and by these Presents does hereby grant, bargain, sell and release unto **Carlton E. Pender and Joan B. Pender** (hereinafter called "Grantee"), for and during their joint lives and upon the death of either of them, then to the survivor of them, their heirs and assigns forever, in fee simple, together with every contingent remainder and right of reversion, the following described property, located in Georgetown County, South Carolina, to-wit:

THIS PROPERTY IS MORE COMMONLY KNOWN AS 39 GASPARILLA DRIVE, (LOT 4, BELLE VUE), MURRELLS INLET, SC 29576 AND IS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE.

TMS #:	**41-0106-036-12-00**
TAX NOTICE ADDRESS:	**81 Warrior Way** **Sharpsburg, GA 30277**

THIS CONVEYANCE IS SUBJECT TO RESTRICTIVE CONDITIONS OR COVENANTS OF RECORD AND EASEMENTS OR RIGHTS-OF-WAY, EITHER OF RECORD OR APPEARING ON THE GROUND. THIS CONVEYANCE IS FURTHER SUBJECT TO ALL ZONING AND OTHER GOVERNMENTAL REGULATION AND MATTERS AN ACCURATE SURVEY WOULD REVEAL.

GEORGETOWN COUNTY PARCEL
#41-0106-036-12-00
SPE

TOGETHER, with all and singular the Rights, Members, Hereditaments and Appurtenances to the Premises belonging or in any wise incident or pertaining.

TO HAVE AND TO HOLD, all and singular the said premises before mentioned unto said **GRANTEE**, for and during their joint lives and upon the death of either of them, then to the survivor of them, their heirs and assigns forever, in fee simple, together with every contingent remainder and right of reversion, and the Grantor does hereby bind itself and its successors to warrant and forever defend all and singular the premises unto the Grantee, their successors and assigns, against the Grantor and its successors, but against no others.

IN WITNESS WHEREOF, the **GRANTOR** has caused these presents to be signed and sealed this 29th day of April in the year Two Thousand Fourteen and the Two Hundred Thirty-Seventh year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

(#1 witness sign here)

(Notary sign as #2 witness)

GRANTOR

Conway National Bank

By: Philip H. Thomas, SVP
Its: Senior Vice President

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY) **ACKNOWLEDGMENT**

I, the undersigned notary, do hereby certify that the above subscribed Grantor(s), Conway National Bank, by its Senior Vice President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 29 day of April, 2014.

Notary Public for the State of SC
My Commission Expires: 12.5.17
(Seal)

ELECTRONICALLY FILED - 2020 Oct 19 9:25 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

EXHIBIT "A"

ALL AND SINGULAR, all that certain piece, parcel or lot of land situate, lying and being in Murrells Inlet, Georgetown County, South Carolina, being shown and designated as Lot 4 on a survey of Belle Vue (Phase I & II) dated April 24, 2003, prepared by Culler Land Surveying Co., Inc., which survey is recorded in Slide Book 463 at Page 1 in the Office of the Register of Deeds for Georgetown County, South Carolina. Said survey is incorporated herein by reference as if fully set out.

This being a portion of the property conveyed to Conway National Bank by Deed of Joe M. Crosby, Master in Equity for Georgetown County, dated May 18, 2011, and recorded May 31, 2011 in Deed Book 1691 at Page 74, records of Georgetown County.

ELECTRONICALLY FILED - 2020 Oct 19 9:25 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

STATE OF SOUTH CAROLINA)

) **AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS**

COUNTY OF GEORGETOWN)

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information

2. The property being transferred is located at 39 Gasparilla Drive, Murrells Inlet, SC 29576 bearing Georgetown County Tax Map Number 41-0106-036-12-00, was transferred by Conway National Bank to Carlton E. Pender and Joan B. Pender on April 29th, 2014

3. Check one of the following:

The deed is:

(a) ____X_____subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth

(b)_____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary

(c) _____ exempt from the deed recording fee because (See Information section of affidavit): _____ _____ _____ _____ _____ _____ _____ _____ (If exempt, please skip items 4-7, and go to item 8 of this affidavit)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty? Check Yes or No

4 Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):

(a) ____X_____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of $83,200 00

(b) _____ The fee is computed on the fair market value of the realty which is _____

(c) The fee is computed on the fair market value of the realty as established for property tax purposes which is _____

5 Check Yes or No to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer If "Yes," the amount of the

outstanding balance of this lien or encumbrance is:

6 The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here: ___$83,200.000_____

(b) Place the amount listed in item 5 above here: _____0 00_____

(If no amount is listed, place zero here)

(c) Subtract Line 6(b) from Line 6(a) and place result here: ___$83,200 00_____

7 The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: _____$308 95_____

8 As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Grantor

9 I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both

Conway National Bank

By: Phillip H. Thomas, SVP

Its: Senior Vice President

SWORN to before me this 29 of April, 2014

Notary Public for South Carolina

My Commission Expires: 12-5-17

ELECTRONICALLY FILED - 2020 Oct 19 9:25 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

ELECTRONICALLY FILED - 2020 Oct 19 9:25 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

Instrument	Book	Page
201400003512	2355	5

139051 Joye

201400003512
Filed for Record in
GEORGETOWN SC
WANDA PREVATTE, REGISTER OF DEEDS
04-30-2014 At 02:50:52 pm.

DEED	11.00
STATE TAX	217.10
COUNTY TAX	91.85

Book 2355 Page 1 - 5

Wanda F. Prevatte

RECORDED THIS DATE

BRIAN D. SHULT

EXHIBIT 5

ELECTRONICALLY FILED - 2020 Oct 19 9:25 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

Receipt# 2014 051286 *** REAL ESTATE NOTICE ***
TMS 41 0106 0361200

Entered 10/01/2014
Paid 1/12/2015
1,466.75 BK 00000

Name: PENDER CARLTON E
PENDER JOAN B
81 WARRIOR WAY
SHARPSBURG GA 302770000
District: 410 MURRELS I/GARDEN CTY

Ratio	Acres	Lots	Land Value	# Bld.	Bld.Value	TotValue	121,500
Res.						TAX EXEMP-TIONS	
Farm							
Other 6		1.0	121,500				

Desc LOT 4 BELLE VUE SLD 428-10 **Serial#** 012.9

City-LEVY-County	City Tax	County Tax	WSFD	Extra Fees	Total
188.3		1,372.71	94.04		1,466.75
		1,372.71	94.04		1,466.75

Tax Aftr Exempt **Feb Amt** **Mar Amt**
Jan Amt **Fee:** **Interest:** **PAID** 1466.75
Penalty: **PAID**
Comment:

Cf8-Fees
Cf1-New Name **Cf7-Exit**

Receipt# 2015 052620 *** REAL ESTATE NOTICE ***

TMS 41 0106 0361200

Entered 10/30/2015
Paid 1/15/2016
1,530.90 RC 00086
Abated 5/04/2016
Refund 5/04/2016 1,530.90

Name: PENDER CARLTON E
PENDER JOAN B
81 WARRIOR WAY
SHARPSBURG GA 302770000
District: 410 MURRELS I/GARDEN CTY

Replaced By 2015 052620 A

Ratio	Acres	Lots	Land Value	# Bld.	Bld.Value	TotValue	121,500
Res.						TAX EXEMP-TIONS	
Farm							
Other 6		1.0	121,500			Serial#	

Desc LOT 4 BELLE VUE SLD 428-10

City-LEVY-County	City Tax	County Tax	WSFD	Extra Fees	Total
192.9		1,406.24	124.66		1,530.90
		1,406.24	124.66		1,530.90

Tax Aftr Exempt
Jan Amt Feb Amt Mar Amt PAID 1530.90
Penalty: Fee: Interest:
Comment: REFUNDED

Cf8-Fees Cf16-Memo Inq
Cf1-New Name Cf7-Exit

ELECTRONICALLY FILED - 2020 Oct 19 9:25 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

Receipt# 2015 052620 A *** REAL ESTATE NOTICE ***
TMS 41 0106 0361200

Entered 5/04/2016
Paid 5/04/2016
1,260.00 AD 00000

Name: PENDER CARLTON E
PENDER JOAN B
81 WARRIOR WAY
SHARPSBURG GA 302770000
District: 410 MURRELS I/GARDEN CTY

Replaces 2015 052620

Ratio	Acres	Lots	Land Value	# Bld.	Bld.Value	TotValue	TAX EXEMP-TIONS
Res.							
Farm							
Other 6	1.0		100,000			100,000	

Desc LOT 4 BELLE VUE SLD 428-10 Serial# 017.1

City-LEVY-County	City Tax	County Tax	WSFD	Extra Fees	Total
		1,157.40	102.60		1,260.00
192.9		1,157.40	102.60		1,260.00

Tax Aftr Exempt
Jan Amt Feb Amt Mar Amt PAID 1260.00
Penalty: Fee: Interest:
Comment: **APPEAL FINAL REVIEW**
APPEAL SETTLED 5/3/16-RF PAID
Cf8-Fees JD
Cf1-New Name Cf7-Exit

ELECTRONICALLY FILED - 2020 Oct 19 9:25 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

Receipt# 2017 052560 *** REAL ESTATE NOTICE ***
TMS 41 0106 0361200

Entered 10/24/2017
Paid 12/28/2017
3,774.97 MC 00001

Name: PENDER CARLTON E
PENDER JOAN B
77 PINNACLE DR
MURRELLS INLET SC 295760000
District: 410 MURRELS I/GARDEN CTY

Ratio	Acres	Lots	Land Value	# Bld.	Bld.Value	TotValue	289,500
Res.						TAX EXEMP-	
Farm						TIONS	
Other 6		1.0	100,000	3	189,500	Serial#	

Desc LOT 4 BELLE VUE SLD 428-10

City-LEVY-County	City Tax	County Tax	WSFD	017.3	Extra Fees	Total
		3,378.47		300.50	96.00	3,774.97
194.5		3,378.47		300.50		3,774.97

Tax Aftr Exempt
Jan Amt
Penalty:
Comment:

Feb Amt
Fee:

Mar Amt
Interest:

PAID 3774.97

PAID

Cf8-Fees
Cf1-New Name Cf7-Exit

Cf16-Memo Inq

ELECTRONICALLY FILED - 2020 Oct 19 9:25 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

COUNTY OF GEORGETOWN

P.O. DRAWER 421270
GEORGETOWN, SOUTH CAROLINA 29442-4200

RECEIVED IN PAYMENT OF 2018 AD VALORUM TAXES
PAID ONLY ON THE REAL PROPERTY DESCRIBED HEREON
LOT 4 BELLE VUE SLD 428-10

Base Taxes -	$5,894.88
Fees -	$0.00
Costs -	$0.00
Penalty -	$0.00
TOTAL TAXES PAID -	$5,894.88

PENDER CARLTON E
PENDER JOAN B
77 PINNACLE DR
MURRELLS INLET SC 295760000

Scan this code with your mobile phone to view this bill.

RECEIPT NO.	2018 052761
DATE PAID	12/31/2018

Allison Sippel Peteet
Treasurer/Tax Collector, Georgetown County, S.C.

Record on Appeal
428

ELECTRONICALLY FILED - 2020 Oct 19 9:25 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

Receipt# 2019 052723 *** REAL ESTATE NOTICE ***
TMS 41 0106 0361200

Entered 10/14/2019
Paid 12/27/2019 00001
6,199.39 MC
Abated 1/08/2020
Refund 1/08/2020 6,103.39

Name: PENDER CARLTON E
PENDER JOAN B
77 PINNACLE DR
MURRELLS INLET SC 295760000
District: 410 MURRELS I/GARDEN CTY

Replaced By 2019 052723 A

Ratio	Acres	Lots	Land Value	# Bld.	Bld.Value	TotValue	451,300
Res.						TAX EXEMP-	
Farm						TIONS	
Other 6		1.0	100,000	3	351,300	Serial#	

Desc LOT 4 BELLE VUE SLD 428-10

City-LEVY-County	City Tax	County Tax	WSFD	017.5	Extra Fees	Total
207.9		5,629.52		473.87	96.00	6,199.39
		5,629.52		473.87		6,199.39

Tax Aftr Exempt **Feb Amt** **Mar Amt** **PAID** 6199.39
Jan Amt **Fee:** **Interest:**
Penalty:
Comment:

REFUNDED

Cf8-Fees
Cf1-New Name **Cf7-Exit** Cf16-Memo Inq **MtgCo:** CORELOGIC

ELECTRONICALLY FILED - 2020 Oct 19 9:25 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

Receipt# 2019 052723 A *** REAL ESTATE NOTICE ***
TMS 41 0106 0361200

Entered 1/08/2020
Paid 1/08/2020
2,026.11 AD 00000

Name: PENDER CARLTON E
PENDER JOAN B
39 GASPARILLA CIR
MURRELLS INLET SC 295760000
District: 410 MURRELS I/GARDEN CTY

Replaces 2019 052723

	Ratio	Acres	Lots	Land Value	# Bld.	Bld.Value	TotValue	451,300
Res.	4		1.0	100,000	3	351,300	TAX EXEMP- SC TIONS	2,086.81
Farm								
Other								

Desc LOT 4 BELLE VUE SLD 428-10 Serial#

City-LEVY-County	City Tax	County Tax	WSFD 017.5	Extra Fees	Total
207.9		3,753.01	315.91	44.00	4,112.92
		1,982.11			2,026.11

Tax Aftr Exempt
Jan Amt Feb Amt Mar Amt PAID 2026.11
Penalty: Fee: Interest:
Comment: **CORRECTED NOTICE**LEGAL RESIDENCE**
1/07/2020 - LR APPROVED (NZ) PAID
Cf8-Fees SCM MtgCo: CORELOGIC
Cf1-New Name Cf7-Exit

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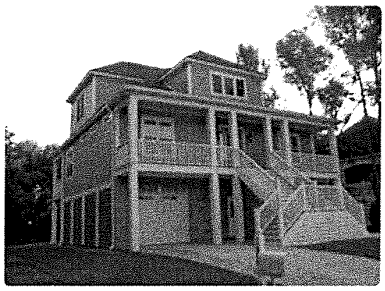
qPublic.net™ Georgetown County, SC

Summary

Parcel Number	41-0106-036-12-00
Account #	59942
Property Address	39 GASPARILLA CIR
Legal Description	LOT 4 BELLE VUE SLD 428-10-- (Note: Not to be used on legal documents.)
Acres/Lot	1.000
Property Usage	Improved Residential Lot (Q100)
Mobile Home Decal #	
Tax District	Dist 41
Neighborhood	BELL VUE SUB. 41



Owners

PENDER CARLTON E
30 GASPARILLA CIR
MURRELLS INLET SC 29576

PENDER JOAN B
30 GASPARILLA CIR
MURRELLS INLET SC 29576

Valuation

		2019	2018	2017	2016	2015
+	Building Value	$321,300	$321,300	$159,500	$0	$0
+	Land Value	$100,000	$100,000	$100,000	$100,000	$121,500
+	Misc Value	$30,000	$30,000	$30,000	$0	$0
=	Total Market Value	$451,300	$451,300	$289,500	$100,000	$121,500
+	Ag Credit	$0	$0	$0	$0	$0
=	Total Taxable Value	$451,300	$451,300	$289,500	$100,000	$121,500
	Capped Taxable Value	*$451,300	*$451,300	*$289,500	*$100,000	*$121,500
	Total Assessment	$18,052	$27,078	$17,370	$6,000	$7,290
	** Taxes Only	$1,982.11	$5,894.88	$3,678.97	$1,264.20	$1,260.00
	Payment Date	1/08/2020	12/31/2018	12/28/2017	1/12/2017	5/04/2016

*This parcel is subject to the value cap
** Does not include fees and penalties.

Land

Land Use	Number of Units	Unit Type	Land Type	Frontage	Depth
Res ImpQ (Q100)	1.00	LOT	SITE	0	0

Buildings

Building Type	1.5 FIN / 4	**Roof Type**	GABLE
Year Built	2017	**Roof Coverage**	COMP SHINGLE
Finished Area	2679	**ExteriorWalls**	HARDI PLANK
Total Area	5803	**Fireplaces**	1
Num of Bedrooms	4	**Full Bathrooms**	1
Foundation	PIER WITH CURTAIN WALL	**Half Bathrooms**	1

Yard Items

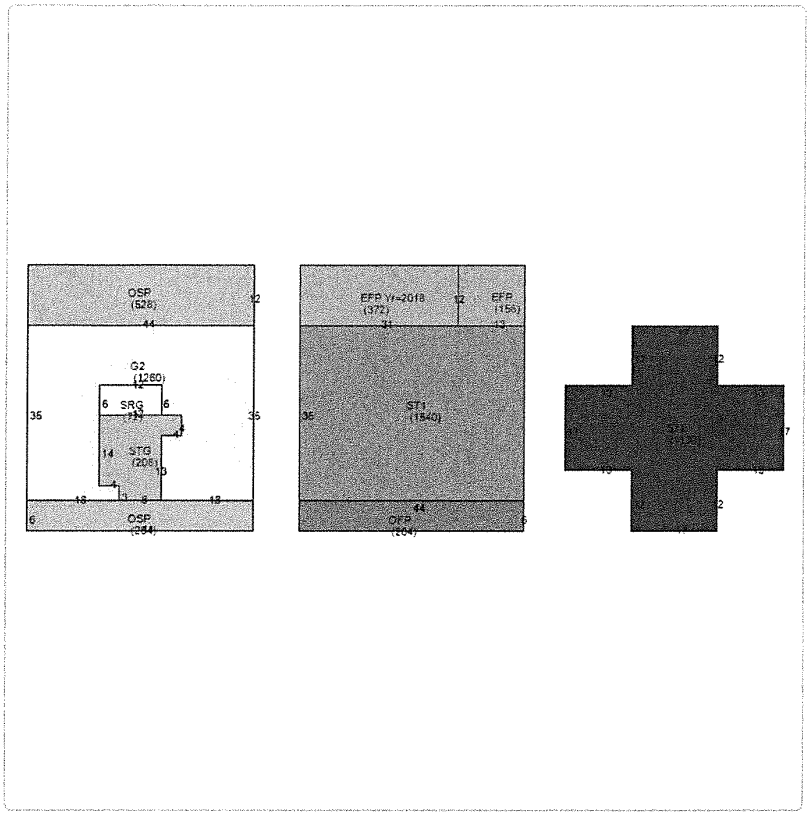
Description	Year Built	Out Building Type	Size	Quantity	Units	Grade
ELEV-PAS	2017	ELEV-PAS (61)	0 x 0	1	1 LEN	AVERAGE
DWY	2017	Concrete	0 x 0	1	1 SF	AVERAGE

Sales

Sale Date	Sale Price	Instrument	Deed Book	Deed Page	Vacant or Improved	Grantor	Grantee
4/29/2014	$83,200	Warranty	2355	1	Improved	CONWAY NATIONAL BANK	PENDER CARLTON E
5/27/2011	$225,000	Master in Eq	1691	74	Improved	DOVE CHRISTINA,	CONWAY NATIONAL BANK
7/17/2006	$425,000	Warranty	112	198	Improved	LAKETREE INC,	
9/29/2005	$690,000	Warranty	1712	124	Improved	FOUR BROTHERS OF SC LLC,	LAKETREE INC

Sketches

ELECTRONICALLY FILED - 2020 Oct 19 9:25 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824



Photos

No data available for the following modules: Commercial Buildings, Mobile Home Buildings.

Georgetown County makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll
User Privacy Policy
GDPR Privacy Notice

Developed by Schneider GEOSPATIAL

Last Data Upload: 10/8/2020, 6:25:22 AM

Version 2.3.89

ELECTRONICALLY FILED - 2020 Oct 19 9:25 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

RESIDENTIAL CONSTRUCTION CONTRACT

This Residential Construction Contract ("Contract") is made by and between Beverly Construction Group ("Contractor") and Carlton & Joan Pender ("Owner") and is subject to the terms and conditions stated below. The effective date of this Contract shall be the date it is last signed by Owner or Contractor ("Effective Date").

Contractor and Owner agree as follows:

1. **Name, Address and license number of Contractor:** Beverly Construction Group, LLC, 9007 Hwy 544, Myrtle Beach SC 29588. License #G113946
2. **Name, and address of Owner:** Carlton & Joan Pender, [redacted]
3. **Construction site (legal description):** TMS # 41-0106-036-12-00 Lot 4 Belle Vue Subdivision on Gasparilla Dr in Murrells Inlet, SC
4. **Description of House plans and specifications:** 2944 HTD Raised Beach
5. **Compensation to Contractor:** Regardless of the compensation type selected, the compensation to Contractor does not reflect any price changes resulting from any change orders agreed upon in a writing signed by all the parties. All parties signing on behalf of Owner shall be jointly and severally liable for payment in full of all compensation to be paid to Contractor under this Contract.

Fixed-Price Contract: A fixed price of $ 388,820.65 which shall be paid to Contractor according to the following schedule: (disbursements will be made within three (3) business days after substantial completion of the specified items)

(a) $ 2,000.00 initial deposit;
(b) $ 20,000.00 execution of contract;
(c) $ 366,820.65 per bank schedule.

6. **Other Provisions and Conditions:** Addendum 1 and 2 attached .
7. **Contract Documents:** The documents that form the contract between Contractor and Owner are this Residential Construction Contract, the House Plans and Specifications, and all modifications and change orders agreed to by the parties hereafter ("Contract Documents")
8. **Change Orders:** The parties may agree to written change orders in the construction of the House, and the Purchase Price and Time for Completion shall be adjusted as agreed to by both parties.
9. **Inspections; Occupancy:** During the course of construction, Owner or Owner's designated representatives may enter and inspect the House for the purpose of appraisal, inspection and evaluation. Such inspections shall take place at reasonable times and in such a manner as not to interfere with the progress of construction. Until substantial completion of the House, Owner agrees not to occupy or store personal property in the House.
10. **Insurance and Risk of Loss:** Contractor shall purchase and maintain throughout the entire course of construction an "All Risks" builder's risk insurance policy from a company licensed to do business in South Carolina in the amount of the House's "Replacement Cost" without any voluntary deductibles. "Replacement Cost" shall mean the full cost of replacement of the House at the same site with new material of like kind

Owner Owner Contractor

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and quality without deduction for depreciation. The policy shall include coverage for theft, vandalism and malicious mischief. Contractor shall assume the obligation and cost of restoring, rebuilding, repairing, and/or replacing the House. Such risk of loss or damage assumed by Contractor shall continue until the delivery to Owner of a valid certificate of occupancy, and until such time Contractor shall also bear the risk of loss for theft, damage or destruction of building materials, tools, equipment, appliances and fixtures, whether incorporated in the House or stored on or off site.

11. **Owner's warranties**: Owner warrants and represents to Contractor that Owner owns the Construction Site in fee simple absolute subject only to Owner's recorded deeds of trust, restrictive covenants, minimum building lines on subdivision plats, and utility easements. Owner will deliver copies of applicable restrictive covenants, minimum building lines on subdivision plats, and utility easements upon request of Contractor. Owner further warrants and represents that, subject to the financing condition referenced above, if any, that Owner has the financial ability to pay the compensation to Contractor as set forth herein as it is due, and Owner will make such payments.
12. **Punch list**: Contractor shall notify Owner when the House is substantially complete. Owner shall thereupon promptly inspect the House and deliver to Contractor a written comprehensive list of all deficiencies that are detectable by visual examination. These deficiencies are referred to in the Contract Documents as "punch list" items. Contractor shall promptly and diligently correct all construction deficiencies so listed. Owner may withhold an amount estimated by Owner to be the reasonable cost of correcting the construction deficiencies noted on Owner's punch list from the payment due Contractor upon substantial completion. Any sum retained will be promptly paid as Contractor corrects such construction deficiency. In the event Contractor fails to complete the punch list in a reasonable time, Owner shall have the option of completing the punch list and paying for the same from the monies retained. Any balance of retainage shall be paid to Contractor. Contractor is liable for any deficiency.
13. **Contractor's Warranties**:
    (a) Contractor warrants that the construction will be performed in conformity (i) with the Contract Documents, (ii) with all laws, regulations, and codes applicable to the construction of the House, (iii) with any applicable restrictive covenants and homeowner' association documents, (iv) in a good and workmanlike manner, and (v) with new (unless otherwise specified) good quality materials.
    (b) Manufacturers' or vendors' warranties or guarantees (referred to as "product warranties" herein), if any, on materials, fixtures, appliances, and components, to the extent assignable, are deemed assigned by Contractor to Owner. Contractor will deliver to Owner all product warranty forms in its possession. Owner is responsible for compliance with any notice and claim procedures set forth therein. Contractor does not adopt and is not bound by any such product warranty. Owner's rights under the product warranties are in addition to Contractor's warranties in 13 (a) above.
14. **Contractor's duty to correct**: In addition to the warranties in paragraph 15, for a period of one (1) year from the date the certificate of occupancy is issued, Contractor will make all repairs and correction to the House that shall become necessary by reason of defects in labor or materials or substantial non-conformity with the Contract Documents which sere not detectable by visual examination at the time of preparation of the punch

Owner Owner Contractor

ELECTRONICALLY FILED - 2020 Oct 19 9:25 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824

list upon written notice of the defect from Owner. Should a repair or correction become defective within one (1) year from the date the repair or correction was made or attempted, Contractor will make all necessary adjustments to the repair or correction that shall become necessary by reason of defects in labor or materials or substantial non-conformity with the Contract Documents upon written notice of the defect from Owner. (Imperfections in non-structural components of the House resulting from normal settling and drying of materials shall not be considered "defects.")

15. **Completion documentation:** Upon substantial completion of the House, Contractor shall deliver to Owner a certificate of occupancy issued by the building inspector's office, all product warranties in the possession of Contractor, and a new construction termite guarantee if the Contract Documents require Contractor to provide treatment against wood destroying insects. Simultaneously with the receipt of the balance of compensation payable by Owner to Contractor upon substantial completion of the House (less any retainage for "punch list items" authorized in paragraph 7 above), Contractor will deliver to Owner an affidavit, in form and content standard in the construction industry and approved by Owner's title insurance company, verifying that all work, labor, services and materials for the construction of the House have been paid in full and indemnifying and holding Owner and Owner's title insurance company harmless from any and all costs, damage, or expense of any kind (including attorney's fees and court costs) arising out of or on account of any claims or liens of any contractor, laborer, or materialman of Contractor.
16. **Miscellaneous:** The parties also agree that
    (a) The Contract Documents may not be assigned or transferred without the written agreement of Contractor and Owner.
    (b) In the event that any court of competent jurisdiction shall declare any provision of the Contract Documents to be invalid, the remaining portions of the Contract Documents to be invalid, the remaining portions of the Contract Documents shall remain in full force and effect except to the extent that said adjudication of invalidity shall defeat the purpose of the contract, in which case it shall terminate.
    (c) This Contract shall be governed by and construed in accordance with the internal substantive laws of South Carolina without giving effect to its conflicts of laws.
    (d) This Contract shall be binding upon and shall inure to the benefit of the parties and their respective successors, assigns, executors and administrators, and their heirs.
    (e) As used herein the words in the singular include the plural and the masculine, feminine and neuter genders are interchangeable as required by context.
    (f) The Contract Documents constitute the entire understanding of the parties and all prior agreements and understandings are merged herein. The Contract Documents may not be modified or amended except in writing, signed by each of the parties hereto.
    (g) In case of conflict among the Contract Documents, the Specifications will take precedence over the House Plans, and the House Plans will take precedence over this Residential Construction Contract.
    (h) If any provisions herein is by its nature and effect required to be observed, dept or performed after substantial completion of the House, it shall survive same and

Owner _____ Owner _____ Contractor

remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

IN WITNESS WHEREOF, the parties have executed this Residential Construction Contract on the dates as set forth below.

CONTRACTOR:

BEVERLY CONSTRUCTION GROUP, L.L.C.

By _____

Date: 6-17-16

OWNER:

_____

Date: Jun 17, 2016

Jun 17, 2016
Witness to Owner

_____

Date: 6/17/2016

_____
Witness to Owner

Owner Owner Contractor

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ELECTRONICALLY FILED - 2020 Oct 19 9:25 AM - GEORGETOWN - COMMON PLEAS - CASE#2018CP220824

STATE OF SOUTH CAROLINA) IN THE COURT OF
COUNTY OF GEORGETOWN) COMMON PLEAS
CASE NO: 18-CP-22-00824

EVARISTA JUAN LORENZO,

PLAINTIFF,

vs.

PORT CITY ELEVATOR, INC.; ALAN TOPPER d/b/a TOPPERS ALL CONSTRUCTION; 20/20 CUSTOM CONTRACTORS, LLC; AND CITADEL SITE MANAGEMENT, LLC, DVBT CONSTRUCTION, a/k/a DVBT CONSTRUCTION, LLC; DVBT MULTISERVICES, LLC; BEVERLY CONSTRUCTION GROUP, LLC; BEVERLY HOMES, LLC; BEVERLY HOMEBUILDERS, LLC; STRAND PAINT CONTRACTORS, LLC; DEPAZ PAINTING, LLC; ENHANCED HEATING & AIR CONDITIONING, LLC; CARLTON PENDER; AND JOAN PENDER,

DEFENDANTS.

DEPOSITION OF:

GERALD RION
July 24, 2020
12:35 p.m. - 4:00 p.m.

Given before Debbie Rayl, Court Reporter and Notary Public in and for the State of South Carolina, in the law offices of Maguire Law Firm, Myrtle Beach, South Carolina, on Monday, the 24th day of July, 2020 commencing at 12:35 p.m.

APPEARANCES:

FOR THE PLAINTIFF:

P. BROOKE EAVES WRIGHT
Attorney at Law
MAGUIRE LAW FIRM
1600 N. Oak St. Suite B
Myrtle Beach, S.C. 29577

FOR THE DEFENDANT:
ALAN TOPPER d/b/a
TOPPERS ALL CONSTRUCTION:

KATHERINE WALKER
Attorney-at-Law
ETHRIDGE LAW GROUP
P.O. Box 20969
Charleston, S.C. 29413
(via Zoom)

FOR THE DEFENDANT:
PORT CITY ELEVATOR, INC.:

JOSHUA SHAW
Attorney-at-Law
HEDRICK GARDNER KINCHELOE & GARAFALO
1203 Main St. Suite 325
Columbia, S.C. 29201
(via Zoom)

APPEARANCES (CONTINUED)

FOR THE DEFENDANT:
BEVERLY CONSTRUCTION GROUP:

KIERRA BROWN
Attorney-at-Law
CARLOCK, COPELAND KINGMA & LOWELL, LLP
40 Calhoun St. Suite 400
Charleston, S.C. 29401
(via Zoom)

FOR THE DEFENDANT:
20/20 CUSTOM CONTRACTORS, LLC:

WILLIAM "TREY" WATKINS, JR.
Attorney-at-Law
WALL, TEMPLETON & HALDRUP, P.A.
P.O. Box 1200
Charleston, S.C. 29402
(via Zoom)

FOR THE DEFENDANT:
BEVERLY HOMES:

DAVID S. COBB
Attorney-at-Law
TURNER, PADGET, GRAHAM AND LANEY
P.O. Box 22129
Charleston, S.C. 29413
(via Zoom)

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Page 93

Q. So they ---
A. --- they had an arrangement ---
Q. --- went with someone else?
A. Well, they had an arrangement with another painter.
Q. Is it safe to say that when constructing a new residence, like interior painting is always going to be completed prior to delivering that residence to an owner?
A. Yes. I mean, it's -- that's -- that's what happens.
Q. Is it safe to say that painting is an essential part of constructed homes -- residential homes -- new residential homes?
A. I'm biased but I think it's very important.
MS. WRIGHT: Object to form.
BY MS. BROWN:
Q. Okay. I'll move on. I want to direct your attention -- and I'm sorry, I do not know how to screen share. But I want to direct your attention to the Strand Paint master subcontractor agreement. I think you have access to it.
Can you kind of tell me what the

Page 94

document is applicable to?
A. I really don't have knowledge of that document. I didn't -- Mr. Chandler handled any of those. That just wasn't part of what I did.
Q. But as far as you know, though, Strand Paint was operating at the site as a subcontractor for Beverly Construction Group?
A. Correct. Yes.
Q. Okay. And in operating as a subcontract on that site, Strand Paint had authority to subcontract to other companies; is that correct?
A. I -- like I said, I do not handle that side of it. That would be something I would probably defer to Mr. Chandler on.
Q. Well, Strand Paint did subcontract on that job, correct?
A. Oh, yes. Yeah. Are you asking did we? I'd say yes.
Q. Yes. So you had to have the authority to do it, correct?
MS. WRIGHT: Object to form.
MR. BREHMER: Object to the form.

Page 95

MS. BROWN: Withdrawn.
BY MS. BROWN:
Q. Okay. Let me see if I have anything else.
So did you arrange on behalf of Strand Paint for Plaintiff to conduct interior painting at the jobsite -- the subject jobsite?
A. Sorry. What are you asking again? I apologize.
Q. Did you arrange for Plaintiff to complete interior painting at the jobsite on January 17th, 2017?
A. Talking about Eva?
Q. Yes.
A. Oh. I think we discussed it. I mean, we were there to -- I was there to introduce her to Depaz Painting in hopes that -- that they could, you know, reach an agreement to work together. She had worked with us previously.
She's a -- she was an excellent worker and I -- I -- I kind of -- based on my conversation with Roberto, it -- we would all kind of -- I felt like, agreed to where, okay, we'll have her show up at the jobsite and he'll kind of get her going to start this house.
Q. So you consented to have Plaintiff

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come and complete interior painting at the jobsite?
A. Well, I consented to meet her -- have her meet at the jobsite so she can meet Roberto.
Q. And do what?
A. Hopefully, you know, the process was to -- that they would -- that he was going -- he was going to hire her to help with that particular project.
Q. Okay. And at the time of the incident, was Plaintiff physically engaged in her painting duties?
A. I'd say yes.
Q. You gave Plaintiff the information related to the address, the date and the time she was to arrive at the jobsite; is that correct?
A. That is correct.
Q. Okay. Does Strand Paint -- do you guys provide your subcontractors with the paint?
A. We do. Yeah, we provide most all the materials with the exception of certain reusable things like roller frames and spray -- we don't provide spray equipment or ladders or -- but we do provide the materials for the job.
Q. Okay. Is there a specific brand

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was that you asked her to come to the job in hopes that she and Mr. Depaz could reach some type of agreement about him employing her, correct?
A. Did I speak with her about that?
Q. Yes.
A. Not necessarily. I mean, I just -- all I said is, "Hey, there's a job if you -- if you -- if you'll come." And that's what I discussed with her the day of.
Q. Okay. Now ---
A. That conversation was happening real-time just prior to the -- to the incident.
Q. Say if Mr. Depaz had gotten there and said, "No, I'm not going to pay this lady", what were you going to do?
A. Well, I mean it -- I mean, certainly it had -- she would have been paid for whatever -- for showing up or whatever -- if she had done any work. Yeah, we would have -- we would have paid her.
If she had have worked with Roberto for two or three days and he said, "I ain't going to pay you", I'm sure we would have probably paid her.
Q. Okay. All right. So at the time that

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she fell, before Mr. Depaz got there, was it your obligation to pay her if he didn't?
A. Yeah. I mean, if -- yeah, until we, I guess, fully agreed or they -- like I said, I talked a lot with Roberto -- kind of, you know, gave him the -- the pain point that she was at. You know, she knew -- she knew what to expect for pay from what we -- she had been paid historically.
And like I say, we were -- we were in the process of -- I was trying to -- trying to get these two together and see if it, you know, see if it would work out for both of them.
Q. Okay. But if it hadn't worked out, you would have compensated her for her time?
A. Yeah. I mean, that would be the only fair thing to do. Sure.
MR. BREHMER: Thank you. All right. I think that ends it; does it not?
(Whereupon, the deposition was concluded at 4:00 p.m.)

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CERTIFICATE
STATE OF SOUTH CAROLINA
COUNTY OF HORRY

I, Debbie Rayl, Professional Verbatim Reporter and Notary Public for the State of South Carolina, certify that I did have GERALD RION to appear before me at 12:35 p.m. on the 24th day of July, 2020, in the office of Maguire Law Firm, Myrtle Beach, South Carolina; that the witness was duly sworn to tell the truth, the whole truth and nothing but the truth; that the foregoing pages constitute a true and accurate transcript of the testimony given at that time and place.

I further certify that I am not of counsel or kin to any of the parties to this cause of action, nor am I interested in any manner in its outcome.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 9th day of August, 2020.

_____
Debbie Rayl, Notary Public
My Commission expires January 24, 2021

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BEVERLY HOMES

Specifications to Construct 2944 HEATED 2396 UNHEATED

General

- Lot clearing and site prep (Allowance $5,000)
- Plans, Engineering, and Permits
- Water & Sewer Taps

Framing

- Raised home construction with 8 by 8 wood pilings
- 9' ceilings except where noted by plans (vaults, trays, etc.)
- 10" Ceilings on main floor
- Exterior walls and gables sheathed with 7/16" OSB and covered with house wrap
- Engineered roof trusses – Roof pitch (8/12)
- 7/16" OSB roof sheathing
- Floor Decking ¾ tongue and grove

Windows and Exterior Doors

- Single hung insulated vinyl windows with low E glass and extended jambs per plans
    - Picture frame painted trim with FJ RB3 casing and stool
    - Fiberglass screens
- Metal Doors per plan (6'8)
- Front door allowance ($1,200) **Owner would like to select an 8' tall door**
- Garage door allowance ($2,000)

1

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Exterior

- 30 Year Architectural Shingle
- Screen porch
- Wood porch railing
- Timbertech composite decking on front and rear porch and stairs
- Columns wrapped with composite material (6" bottom cap 4" top cap)
- White Vinyl soffit on porch ceilings
- 7.25 Lap and board n batten composite siding
- Horizontal 1 by 4 screening on bottom floor sides
- **Brick along garage door wall on bottom level**
- **No shutter included in this estimate**

Electrical (Fixture Allowance $3,500)

- 200 amp service
- 4 can lights included ($85 for additional can)
- Wire, switches, outlets, and labor
- Locations of lights, switches, and outlets to be confirmed by owner
- Bedrooms and living room wired for light and fan
- Phone and cable outlets – 8 pulls
- Bathroom exhaust fans
- Smoke detectors and door bell

Plumbing (Fiberglass tub/shower and fixture Allowance $4,400)

- Pex supply lines and PVC waste lines
- Rannai Water heater (7.4 GPM)
- PVC supply from water tap to house
- 4" PVC sewer service

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- Fiberglass tubs and showers (as per plans)
- Stainless steel kitchen sink
- Garbage disposal
- Culture marble vanity tops per plan
- Elongated bowl toilets and seats
- 2 outside hose bibs

Mechanical

- 14 Seer Goodman Heat Pump (Professional load calculation)
- 3 Stop Elevator

Drywall

- Smooth Ceilings
- Smooth Walls

Cabinets (Cabinet and Counter top allowance $17,800)

- Kitchen cabinets 36" and 42" staggered top cabinets (choice of stain from builder selections)
    - Kitchen counters (Granite color choices from builders selections)
    - Adult Height Vanity (white cultured marble tops)

Trim and Paint

- Elite molded santé fi 6'8 interior doors (Hollow Core)
- Crown Modling on main floor (5.25")
- White Oak stair treads and White Oak Hand Rail handrail
- 5 ¼ Wood speed base (Paint Grade)
- RB3 caseing
- Windows cased out with extended jambs and stools
- Door hardware

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- **No mirrors included in this estiamte**
- Bath hardware (towel, toilet paper holder, etc.)
- Closet Maid shelving **(no shelving in master closet included in this estimate)**
- Painting – 1 wall color choice (additional color $250)
    - Flat latex wall paint
    - Semi-gloss latex painted trim **(owner to select trim color)**

Floor Covering, tile showers (master and upstairs 5') and glass door allowance (Allowance $27,070.65)

Appliances and installation (Allowance $6,500)

Outside Improvements

- Construction debris removed and lot cleaned up
- Sprinkler System
- 15-20 shrubs with mulch
- Fully sodded yard
- Concrete drive and Walk (450 sq ft)
- House complete and ready to move in

Quality Assurance

- One year builder's warranty
- Walk through inspection prior to closing
- Manufacture's warranties on appliances, fixtures, and equipment

Total Price

$388,820.65

Optional

Change hollow core to solid core door

$100 per door

4

Beverly Construction 0083

Change 6'8 interior door to 8'0

$250 per door

BUILT-IN

$2,750

Sherwin williams duration paint (interior)

$2,700

16" block pilings

$13,500

Pine V groove ceiling

$8 per sq ft

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FRONT

Beverly Construction 0085

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LEFT

Beverly Construction 0086

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REAR

Beverly Construction 0087

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RIGHT

Beverly Construction 0088

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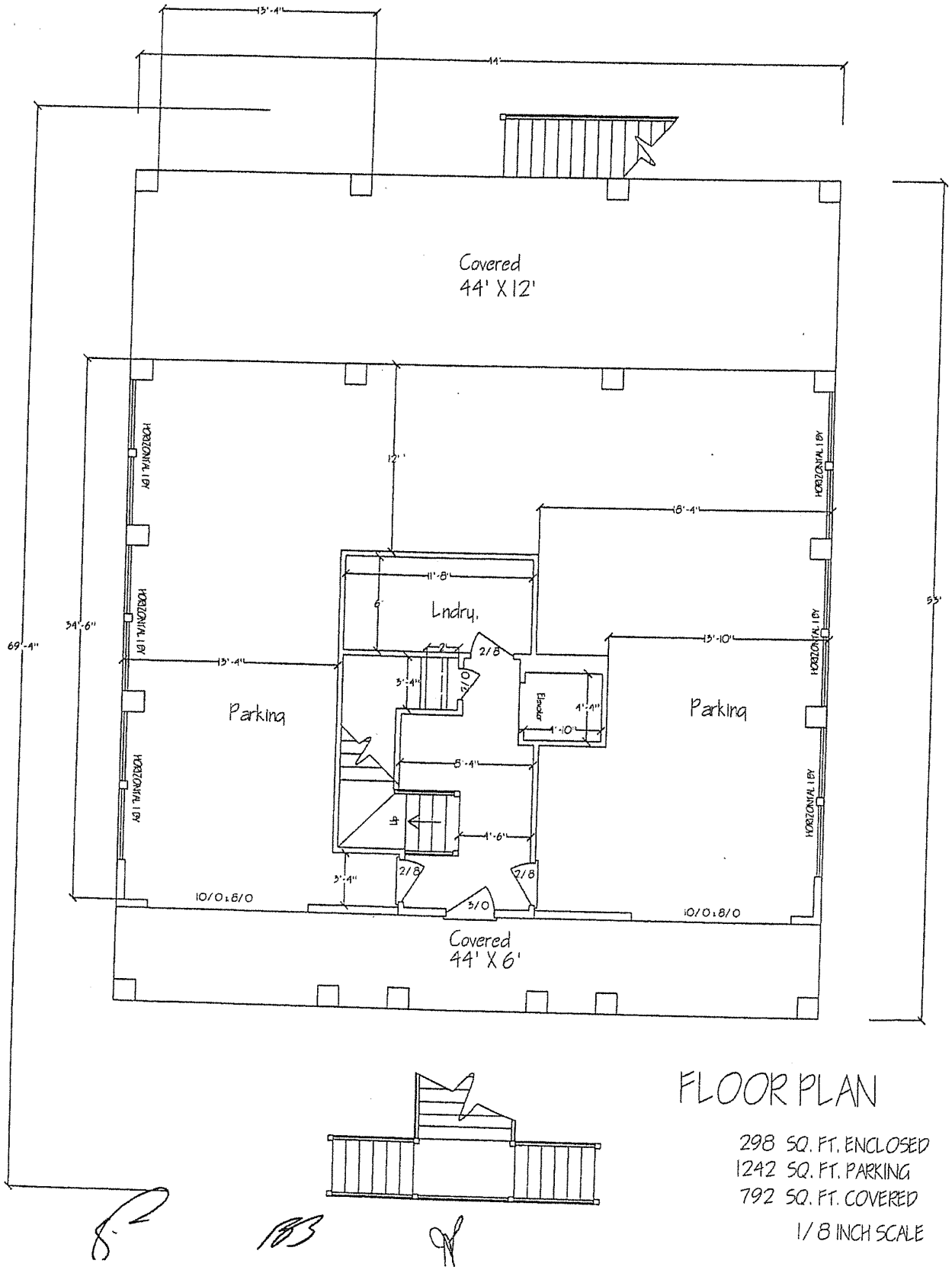


FLOOR PLAN

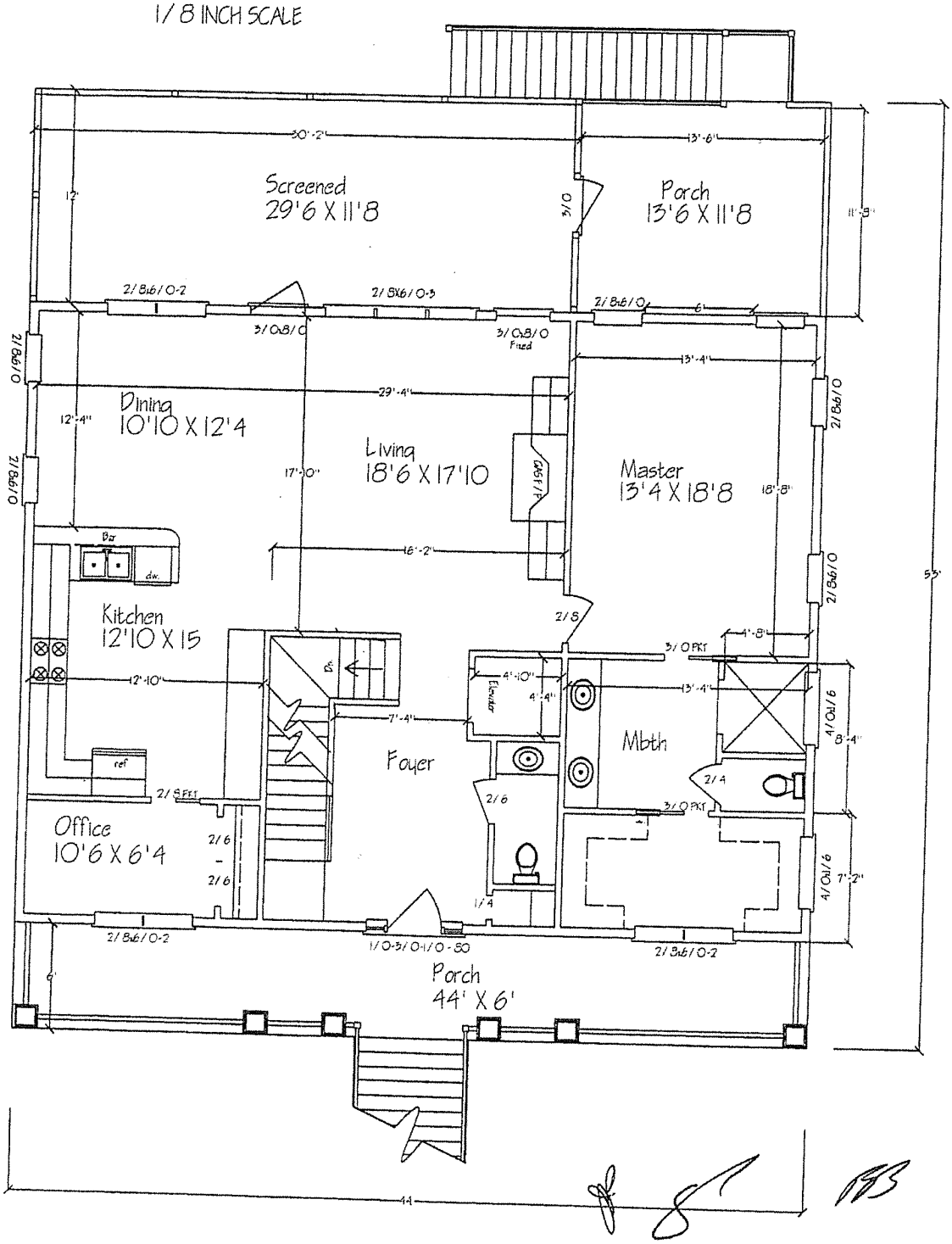
298 SQ. FT. ENCLOSED
1242 SQ. FT. PARKING
792 SQ. FT. COVERED
1/8 INCH SCALE

Beverly Construction 0089

FLOOR PLAN

1540 SQ. FT. HEATED
430 SQ. FT. PORCHES
362 SQ. FT. SCREENED

1/8 INCH SCALE



Beverly Construction 0090

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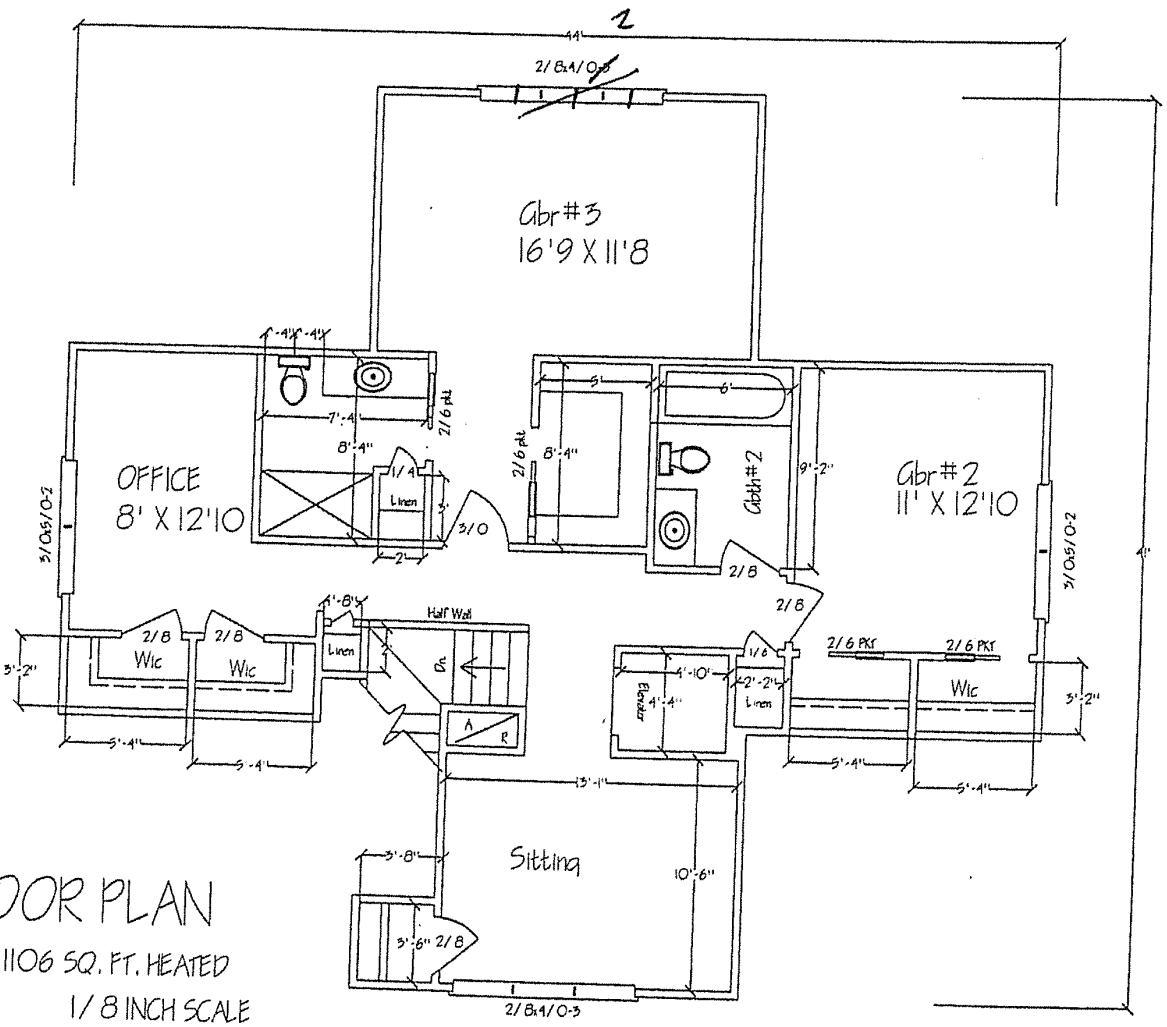

FLOOR PLAN

1106 SQ. FT. HEATED

1/8 INCH SCALE

Beverly Construction 0091

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RESIDENTIAL CONSTRUCTION CONTRACT

This Residential Construction Contract ("Contract") is made by and between Beverly Construction Group ("Contractor") and Carlton & Joan Pender ("Owner") and is subject to the terms and conditions stated below. The effective date of this Contract shall be the date it is last signed by Owner or Contractor ("Effective Date").

Contractor and Owner agree as follows:

1. **Name, Address and license number of Contractor:** Beverly Construction Group, LLC, 9007 Hwy 544, Myrtle Beach SC 29588. License #G113946
2. **Name, and address of Owner:** Carlton & Joan Pender, [redacted]
3. **Construction site (legal description):** TMS # 41-0106-036-12-00 Lot 4 Belle Vue Subdivision on Gasparilla Dr in Murrells Inlet, SC
4. **Description of House plans and specifications:** 2944 HTD Raised Beach
5. **Compensation to Contractor:** Regardless of the compensation type selected, the compensation to Contractor does not reflect any price changes resulting from any change orders agreed upon in a writing signed by all the parties. All parties signing on behalf of Owner shall be jointly and severally liable for payment in full of all compensation to be paid to Contractor under this Contract.

Fixed-Price Contract: A fixed price of $ 388,820.65 which shall be paid to Contractor according to the following schedule: (disbursements will be made within three (3) business days after substantial completion of the specified items)

(a) $ 2,000.00 initial deposit;
(b) $ 20,000.00 execution of contract;
(c) $ 366,820.65 per bank schedule.

6. **Other Provisions and Conditions:** Addendum 1 and 2 attached .
7. **Contract Documents:** The documents that form the contract between Contractor and Owner are this Residential Construction Contract, the House Plans and Specifications, and all modifications and change orders agreed to by the parties hereafter ("Contract Documents")
8. **Change Orders:** The parties may agree to written change orders in the construction of the House, and the Purchase Price and Time for Completion shall be adjusted as agreed to by both parties.
9. **Inspections; Occupancy:** During the course of construction, Owner or Owner's designated representatives may enter and inspect the House for the purpose of appraisal, inspection and evaluation. Such inspections shall take place at reasonable times and in such a manner as not to interfere with the progress of construction. Until substantial completion of the House, Owner agrees not to occupy or store personal property in the House.
10. **Insurance and Risk of Loss:** Contractor shall purchase and maintain throughout the entire course of construction an "All Risks" builder's risk insurance policy from a company licensed to do business in South Carolina in the amount of the House's "Replacement Cost" without any voluntary deductibles. "Replacement Cost" shall mean the full cost of replacement of the House at the same site with new material of like kind

Owner Owner Contractor

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and quality without deduction for depreciation. The policy shall include coverage for theft, vandalism and malicious mischief. Contractor shall assume the obligation and cost of restoring, rebuilding, repairing, and/or replacing the House. Such risk of loss or damage assumed by Contractor shall continue until the delivery to Owner of a valid certificate of occupancy, and until such time Contractor shall also bear the risk of loss for theft, damage or destruction of building materials, tools, equipment, appliances and fixtures, whether incorporated in the House or stored on or off site.

11. **Owner's warranties**: Owner warrants and represents to Contractor that Owner owns the Construction Site in fee simple absolute subject only to Owner's recorded deeds of trust, restrictive covenants, minimum building lines on subdivision plats, and utility easements. Owner will deliver copies of applicable restrictive covenants, minimum building lines on subdivision plats, and utility easements upon request of Contractor. Owner further warrants and represents that, subject to the financing condition referenced above, if any, that Owner has the financial ability to pay the compensation to Contractor as set forth herein as it is due, and Owner will make such payments.
12. **Punch list**: Contractor shall notify Owner when the House is substantially complete. Owner shall thereupon promptly inspect the House and deliver to Contractor a written comprehensive list of all deficiencies that are detectable by visual examination. These deficiencies are referred to in the Contract Documents as "punch list" items. Contractor shall promptly and diligently correct all construction deficiencies so listed. Owner may withhold an amount estimated by Owner to be the reasonable cost of correcting the construction deficiencies noted on Owner's punch list from the payment due Contractor upon substantial completion. Any sum retained will be promptly paid as Contractor corrects such construction deficiency. In the event Contractor fails to complete the punch list in a reasonable time, Owner shall have the option of completing the punch list and paying for the same from the monies retained. Any balance of retainage shall be paid to Contractor. Contractor is liable for any deficiency.
13. **Contractor's Warranties**:
    (a) Contractor warrants that the construction will be performed in conformity (i) with the Contract Documents, (ii) with all laws, regulations, and codes applicable to the construction of the House, (iii) with any applicable restrictive covenants and homeowner' association documents, (iv) in a good and workmanlike manner, and (v) with new (unless otherwise specified) good quality materials.
    (b) Manufacturers' or vendors' warranties or guarantees (referred to as "product warranties" herein), if any, on materials, fixtures, appliances, and components, to the extent assignable, are deemed assigned by Contractor to Owner. Contractor will deliver to Owner all product warranty forms in its possession. Owner is responsible for compliance with any notice and claim procedures set forth therein. Contractor does not adopt and is not bound by any such product warranty. Owner's rights under the product warranties are in addition to Contractor's warranties in 13 (a) above.
14. **Contractor's duty to correct**: In addition to the warranties in paragraph 15, for a period of one (1) year from the date the certificate of occupancy is issued, Contractor will make all repairs and correction to the House that shall become necessary by reason of defects in labor or materials or substantial non-conformity with the Contract Documents which sere not detectable by visual examination at the time of preparation of the punch

Owner Owner Contractor

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list upon written notice of the defect from Owner. Should a repair or correction become defective within one (1) year from the date the repair or correction was made or attempted, Contractor will make all necessary adjustments to the repair or correction that shall become necessary by reason of defects in labor or materials or substantial non-conformity with the Contract Documents upon written notice of the defect from Owner. (Imperfections in non-structural components of the House resulting from normal settling and drying of materials shall not be considered "defects.")

15. **Completion documentation:** Upon substantial completion of the House, Contractor shall deliver to Owner a certificate of occupancy issued by the building inspector's office, all product warranties in the possession of Contractor, and a new construction termite guarantee if the Contract Documents require Contractor to provide treatment against wood destroying insects. Simultaneously with the receipt of the balance of compensation payable by Owner to Contractor upon substantial completion of the House (less any retainage for "punch list items" authorized in paragraph 7 above), Contractor will deliver to Owner an affidavit, in form and content standard in the construction industry and approved by Owner's title insurance company, verifying that all work, labor, services and materials for the construction of the House have been paid in full and indemnifying and holding Owner and Owner's title insurance company harmless from any and all costs, damage, or expense of any kind (including attorney's fees and court costs) arising out of or on account of any claims or liens of any contractor, laborer, or materialman of Contractor.
16. **Miscellaneous:** The parties also agree that
    (a) The Contract Documents may not be assigned or transferred without the written agreement of Contractor and Owner.
    (b) In the event that any court of competent jurisdiction shall declare any provision of the Contract Documents to be invalid, the remaining portions of the Contract Documents to be invalid, the remaining portions of the Contract Documents shall remain in full force and effect except to the extent that said adjudication of invalidity shall defeat the purpose of the contract, in which case it shall terminate.
    (c) This Contract shall be governed by and construed in accordance with the internal substantive laws of South Carolina without giving effect to its conflicts of laws.
    (d) This Contract shall be binding upon and shall inure to the benefit of the parties and their respective successors, assigns, executors and administrators, and their heirs.
    (e) As used herein the words in the singular include the plural and the masculine, feminine and neuter genders are interchangeable as required by context.
    (f) The Contract Documents constitute the entire understanding of the parties and all prior agreements and understandings are merged herein. The Contract Documents may not be modified or amended except in writing, signed by each of the parties hereto.
    (g) In case of conflict among the Contract Documents, the Specifications will take precedence over the House Plans, and the House Plans will take precedence over this Residential Construction Contract.
    (h) If any provisions herein is by its nature and effect required to be observed, dept or performed after substantial completion of the House, it shall survive same and

Owner Owner Contractor

remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

IN WITNESS WHEREOF, the parties have executed this Residential Construction Contract on the dates as set forth below.

CONTRACTOR:

BEVERLY CONSTRUCTION GROUP, L.L.C.

By _____

Date: 6-17-16

OWNER:

_____

Date: Jun 17, 2016

Jun 17, 2016
Witness to Owner

_____

Date: 6/17/2016

_____
Witness to Owner

Owner Owner Contractor

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BUILDER WARRANTEE

Beverly Homes, LLC

This Limited Warranty Agreement is extended by Beverly Homes, LLC, of Myrtle Beach, SC, the Builder, to Carlton & Jean Pender, the Purchaser, who is the original Buyer of the property at: Lot 4 Belle Vue.

1. COVERAGE

The Builder warrants that all construction related to the house substantially conforms to the specifications and the change orders for the job. Within one (1) year from the date of closing, or occupancy by the Purchaser, whichever is first, the Builder will repair or replace, at the Builders option, any latent defects in material or workmanship by the standards of construction relevant to County Building Codes. A latent defect is defined as one which was not apparent or ascertainable at the time of occupancy. The Purchaser agrees to accept a reasonable match in any repair or replacement in the event the original item is no longer available. The Purchaser understands that the sole remedy under this Limited Warranty Agreement is repair as set forth hereto. Any claim for breach of this warranty must be brought within one (1) year from the date of closing or occupancy by the Purchaser, whichever is first.

2. EXCLUSIONS FROM COVERAGE

The Limited Warranty does not cover the following items:

a. Damage resulting from fires, floods, storms, electrical malfunctions, accidents, nor acts of God.
b. Damage from alterations, misuse or abuse of the covered items by any person.
c. Damage resulting from the Purchasers' failure to observe any operating instructions furnished by the Builder at the time of installation.
d. Damage resulting from the malfunction of equipment or lines of the telephone, gas, power or water companies.
e. Any item listed as Non-warrantable Conditions on the list that is incorporated into this Warrantee; the Purchaser acknowledges receipt of the list of Non-warrantable Conditions. Any item furnished or installed by the Builder, including appliances or equipment, that are covered by the manufacturer's warranties. The Builder hereby assigns (to the extent that they are assignable)and conveys to the Purchaser all warranties provided by the manufacturer on manufactured items such as appliances and equipment that have been installed or included in the purchase of the Property. (The Purchaser accepts this assignment and acknowledges that the Builder's only responsibility relating to such items is to lend assistance to the Purchaser in settling any claim resulting from the installation of these products. Following are examples of such: appliances and equipment though not every home includes all of these items and some homes may include appliances and equipment not on this list: refrigerator, range, washing machine, dishwasher, garbage disposal, ventilating fan, HVAC equipment, water heater, microwave and light fixtures.)
f. Conditions resulting from the condensation on, or expansion or contractions of materials.

Beverly Homes, LLC

( )BUYER ( )BUYER ( )SELLER ( ) SELLER HAVE READ THIS PAGE

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g. Defects that are the results of characteristics common to the materials used, such as (but not limited to) warping and deflection of wood, fading, caulking and checking of paint due to sunlight; cracks due to drying and curing of concrete, stucco, plaster, bricks and masonry; drying, shrinking and cracking of caulking and weather stripping.

3. LIMITATION OF WARRANTY

This warranty is personal to the original Purchaser and does not run with the property or the items contained in the house. The original Purchaser may not assign, transfer or convey this warranty.

4.OBTAINING SERVICE

It shall be the policy of the Builder to warrant the Purchaser's home according the following guidelines:

A. All requests for warranty shall be in writing. The only exception will be in the case of an emergency such as plumbing leaks, etc.

b. If the service needed is mechanically related (i.e. plumbing, HVAC, electrical appliances) the homeowner should call the subcontractor direct.

d. The Builder will begin performing the obligations under this warranty within a reasonable time of the Builder's receipt of any such request and will diligently pursue these obligations. Repair work will be done during the Builders normal working hours except where delay will cause additional damage. The Purchaser agrees to provide the Builder or the Builder's representative access to the home.

5. BUILDER ACKNOWLEDGEMENT:

Purchaser acknowledges and agrees that the Builder, Beverly Homes, LLC, shall be responsible for all Construction, Warrantee and Building related items.

6. NO OTHER WARRANTIES

I acknowledge having read, understood, and received a copy of this Limited Warranty.

PURCHASER — DATE: June 17, 2016

PURCHASER — DATE: June 17, 2016

BUILDER — DATE: 6-17-16

Beverly Homes, LLC

(____)BUYER (____)BUYER (____)SELLER (_____) SELLER HAVE READ THIS PAGE

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BEVERLY HOMES, LLC

NON-WARRRANTABLE CONDITIONS

This statement of conditions that are not subject to Builder's Warranties explains some of the changes and needs for maintenance that occur in a new home over the first year or so of occupancy. A house requires more maintenance and care than most products because it is made of many different components, each with its own special characteristics. The purchaser understands, like other products made by humans, a house is not perfect, it will show minor flaws and unforeseeable defects, and it may require some adjustments and touching up.

As described in the Limited Warranty provided to the Purchaser of which this statement of Non-Warrantable Conditions is made a part, the Builder will correct certain defects that arise during defined time periods after construction is completed. Other items that are not covered by Builder's Warranties may be covered by manufacturer's warranties. Some conditions, including (but not limited to) those listed in statement of Non-Warrantable Conditions, are not covered under Builder's Warranties. The Purchaser should read these carefully and understand the Purchaser has not contracted for the Builder to correct certain types of maintenance (a) that are the responsibility of the Purchaser and (b) that could lead to problems if they are neglected.

The following list outlines some of the conditions that are not warranted by the Builder. The Purchaser should be sure to understand this list. If the Purchaser has any questions, they should ask the Builder and feel free to consult an attorney before signing this acknowledgement.

1.CONCRETE

Concrete foundations, steps, walks, driveways, and patios will develop cracks that do not affect the structural integrity of the building. These cracks are caused by characteristics of the concrete itself. No reasonable method of eliminating these cracks exists. This condition does not affect the strength of the building.

2. MASONRY AND MORTAR

Masonry and mortar can develop cracks from shrinkage of either the mortar or the brick. This condition is normal and should be not be considered a defect.

3. WOOD

Wood will sometime check or crack or the fibers will spread apart because of the drying out process. This condition is most often caused by the heat inside the house or exposure to the sun on the outside of the house. This condition is considered normal, and the homeowner is responsible for any maintenance or repairs resulting from it.

4. SHEETROCK AND DRYWALL

Sheetrock and drywall will sometimes develop nail pops or settlement cracks. These nail pops and settlement cracks are a normal part of the drying out process. These items can easily be handled by the homeowner with spackling during normal redecorating. However, if the homeowner wishes, the Builder will send a worker at the end of one (1) year following closing, to make the necessary repairs. The Builder's repairs will not include repainting.

5. FLOOR SQUEAKS

After extensive research and writing on the subject, technical experts have concluded that much has been tried, but that little can be done about floor squeaks. Generally, floor squeaks will appear and disappear over time with changes in the weather and other phenomena.

Beverly Homes, LLC

(_____)BUYER (_____)BUYER (_____)SELLER (_____) SELLER HAVE READ THIS PAGE

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6. FLOORS

Floors are not warranted for damage caused by neglect or the incidents of use. Wood, tile, and carpet all require maintenance. Floor casters are recommended to prevent scratching or chipping of wood or tile, and stains should be cleaned from carpets, wood, or tile immediately to prevent discoloration. Carpet has a tendency to loosen in damp weather and will stretch tight again in drier weather. Reflective cracks in floor tile may occur if the concrete sub-floor underneath develops a crack as described in Item 1, Concrete. Since there is no reasonable method for removing cracks from concrete, so it is with resulting reflective cracks in the tile floor.

7. CAULKING

Exterior caulking and interior caulking in bathtubs, shower stalls, and ceramic tile surfaces will crack or bleed somewhat in the months after installation. These conditions are normal and should not be considered a problem. Any maintenance or repairs resulting from them are the homeowner's responsibility. All caulking should be checked and replaced on an annual basis.

8. BRICK DISCOLORATIONS

Most bricks may discolor because of the elements, rain run-off, weathering, or bleaching. Efflorescence the formation of salts on the surface of brick wall may occur because of the passage of moisture through the wall. Efflorescence is a common occurrence, and the homeowner can clean these areas as the phenomenon occurs.

9. BROKEN GLASS

Any broken glass or mirror that are not noted by the Purchaser on the final inspection are the responsibility of the Purchaser.

10. FROZEN PIPES

The Purchaser must take precautions to prevent the freezing of pipes and sill cocks during the cold weather, such as removing outside hoses from sill cocks, leaving faucets with a slight drip, and turning off the water system if the house is to be left for extended periods during cold weather.

11. STAINED WOOD

All items that are stained will normally have a variation of colors because of the different textures of the woods. Because of weather changes, doors that have panels will sometimes dry out and leave a small space of bare wood, which the homeowner can easily touch up. These normal conditions should not be considered defects.

12. PAINT

Good quality paint has been used internally and externally on this home. Nevertheless, exterior paint can sometimes crack or check. The source of this defect is most often something other than paint. To avoid problems with the paint, Purchaser should avoid allowing lawn sprinklers to hit painted areas, washing down painted areas, and so on. Purchaser should also not scrub latex painted, inside walls and be careful of newly painted walls as they move furniture. The best paint will be stained or chipped if it is not cared for properly. Any defects in painting that are not noted at the final inspection are the Purchaser's responsibility. Exterior paint should be checked annually and repainted.

13. COSMETIC ITEMS

The Purchaser has not contracted with the Builder to cover ordinary wear and tear or other occurrences subsequent to construction that affect the condition of features in the home. Chips, scratches, or mars in tile, woodwork, walls, porcelain, brick, mirrors, plumbing fixtures, marble, and formica tops, lighting fixtures, kitchen and other appliances, doors, paneling, fiberglass tubs and

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showers, screens, windows, carpet, vinyl, floors, cabinets, and the like that are not recognized and Noted by the Purchaser at the final inspection are non-warrantable conditions, and the upkeep of any cosmetic aspect of the house is the Purchaser's responsibility. Also, de-silvering and black edging of mirrors are not warranted.

14. PLUMBING

Dripping faucets, toilet adjustments, and toilet seats are covered by the Builder's warranty for a one (1) year period only. After that, they are the Purchaser's responsibility. If the plumbing is stopped up during the warranty period and the person servicing the plumbing finds foreign materials in the line, the Purchaser will be billed for the call.

15. DRAINAGE AND ALTERATIONS TO GRADING

All yards will be graded to drain away from the house. Any disruptions or alteration by the homeowner will void this warranty. There can and often will be standing water in drainage ditches and swales. The homeowner is responsible for maintaining their portion of any drainage structure (ditches or swales) by keeping them unobstructed and by maintaining the grass to avoid erosion.

16. LAWN AND SHRUBS

The Builder accepts no responsibility for the growth of grass or shrubs. Once the Builder grades, seeds, and/or sods the yard, the Purchaser must water the plants and grass the proper amount, and plant ground cover where necessary to prevent erosion. The Builder will not re-grade a yard, nor remove or replace any shrubs or trees, except for those that are noted as diseased at the final inspection.

17. ROOF

During the first year the warranty on the Purchaser's roof if for the workmanship and materials. After that the warranty on the roof is for material only and is prorated over the lifetime use of the roof and will be good for the duration of the warranty guarantee. Warranty claims for any defect of materials will be handled with the manufacturer. The Builder will not be responsible for damages caused by walking on the roof.

18. HEATING AND AIR CONDITIONING

The Purchaser's source of heating and air conditioning is covered by a manufacturer's warranty. The Purchaser is responsible for making sure the filters are kept clean and changed on a 30-day basis. Failure to do so may void the warranty. Having the equipment serviced or checked at least yearly is a good idea.

19. ROAD AND CURBING

Roads and curbing are not warranted to the Purchaser as the road right-of-way and drainage easements are dedicated and ownership transferred to County. Nothing should be placed in drainage easement other than grass.

PURCHASER — DATE: June 17, 2016

PURCHASER — DATE: 6/17/16

BUILDER — DATE: 6/17/2016

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