

RECEIVED

Jul 21 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
In the Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Common Pleas Case No. 2018-CP-22-824

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 Pain 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.

**RESPONDENT BEVERLY HOMES, LLC'S MOTION TO SUPPLEMENT
RECORD ON APPEAL PURSUANT TO RULE 212(b)**

Respondent Beverly Homes, LLC, by and through the undersigned counsel, hereby moves pursuant to Rule 212(b), SCACR, to supplement the Record on Appeal to add the deposition excerpt of Forrest Beverly found at page 147, line 23-page 149, line 20 (See Exhibit 1). This Motion corrects a typographical error from Respondent's Initial Brief, which has been corrected with the Final Brief. This Motion is not made

for purposes of undue delay or any other improper purpose. Counsel attempted to obtain the consent from Appellant attorney but received notification that he is out on vacation. Therefore, Respondent requests to supplement the Record on Appeal.

s/David S. Cobb
David S. Cobb
TURNER PADGET
Post Office Box 22129
Charleston, South Carolina 29413-2129
Direct: (843) 576-2803
Fax: (843) 577-1629
dcobb@turnerpadget.com
ATTORNEYS FOR RESPONDENT
BEVERLY HOMES, LLC

July 21, 2022

tabbies®
EXHIBIT
B

ELECTRONICALLY FILED - 2020 Sep 10 12:07 PM - GEORGETOWN - COMMON PLEAS - CASE#2018CP2200824



Deposition of:
Forrest B. Beverly 30b6

December 5, 2019

In the Matter of:

**Lorenzo, Evarista Juan Vs. Port City
Elevator, Inc. Et Al.**

A. William Roberts, Jr & Assoc.
800-743-3376 | calendar-awr@veritext.com | www.veritext.com

Page 146

1 A. That would have been done by my
2 accounts payable, in-house, on what the total
3 allocations for that job would be based on the
4 square footage number that was pre-negotiated.
5 Q. Okay. So was \$2,944 the total amount
6 of money that Toppers All Construction was to be
7 paid for all of their work at this property?
8 A. If all the work, the scope of work was
9 completed, that would their total amount that would
10 be paid, correct, plus any -- you know, you see
11 extras like crown molding and stuff, that would be
12 above the total allotment.
13 Q. Okay. And so as of January 20th of
14 2017, did they still have \$1,744 worth of work left
15 to complete?
16 A. Well, they would have had that plus the
17 extra amounts. Add \$450 to that, plus any extras
18 they would have had, but that would have been the
19 allotment left for -- in general for the trim
20 contractor on that job. That doesn't necessarily
21 mean that's specific for that. She based that on
22 her allocations for trim in that house.
23 Q. Okay.
24 A. Alan's not the one that did the -- that
25 stamped this. That would have been done in our

Page 147

1 office.
2 Q. Correct. Okay.
3 As of January 17th of 2017, does this
4 document indicate that \$1,650 worth of work had
5 been completed by Alan?
6 A. Correct.
7 Q. Do you know what 4BV stands for?
8 A. 4 Bellevue.
9 Q. Okay. And what is "rough extras" --
10 A. "Rough" is \$1,200 and "extras,"
11 specifically crown molding, \$450.
12 Q. What does "rough" mean?
13 A. Rough trim. That's the rough-end stage
14 of the trim package.
15 Q. And does that include installing doors
16 to the elevator shaft?
17 A. Correct.
18 MS. WRIGHT: I want to mark that as the
19 next exhibit.
20 (Exhibit 9, Photograph, was marked for
21 identification.)
22 BY MS. WRIGHT:
23 Q. Okay. I'm going to show you some
24 documents here. Is this the residential elevator
25 specifications contract from Port City Elevator,

Page 148

1 Inc.?
2 A. Correct.
3 Q. And is it dated December 2nd of 2016?
4 A. Correct.
5 Q. And is that the date that you hired
6 Port City Elevator, Inc., for this property?
7 A. Yeah. Based on this contract, we --
8 this is when we negotiated with them, and this
9 would have been kind of the deposit invoice. But,
10 yes, this would have been when we signed the
11 contract with them to move forward with the
12 elevator in the house.
13 Q. And does this document indicate the
14 specifications of what they were going to be doing?
15 A. Correct.
16 Q. And did Port City Elevator, Inc., come
17 to the property prior to developing this set of
18 specifications?
19 A. They would typically come in to measure
20 and make sure that the opening is the correct width
21 and any blocking that needs to be done in the
22 elevator shaft would be there.
23 Q. Do you know the name of the person who
24 entered the property prior to December 2nd of 2016
25 from Port City Elevator, Inc.?

Page 149


1 A. I do not. Jonathan would know that.
2 We haven't had any discussion about this.
3 Q. Do you know what this means, where it
4 says [reading]: Note, door handle can't be changed
5 after the elevator is ordered?
6 A. Yes.
7 Q. What does that mean?
8 A. That means that you either have a door
9 that swings from left to right or right to left,
10 and once it's ordered, that's something that's done
11 at the factory, so you would have to make sure that
12 that's done. That's a two-part in the residential
13 elevator: There's a door that opens to the
14 elevator shaft, and there's a door on the elevator
15 itself. So that would be pertaining to the actual
16 door in the elevator itself.
17 Q. Okay. Do you know whose signature this
18 is?
19 A. It looks like Jonathan Martin's
20 signature.
21 Q. And here where it says [reading], Solid
22 accordion gate with three clear vision panels -- is
23 that gate part of the elevator itself?
24 A. Correct.
25 Q. And is the gate installed when the

Page 198

1 that I have.
 2 MS. WRIGHT: I just have one.
 3 FURTHER EXAMINATION
 4 BY MS. WRIGHT:
 5 Q. Did you have any third-party company or
 6 other subcontractor that their job was just to do
 7 inspections of work?
 8 A. Not specific to the elevator shaft.
 9 Q. Okay. Do you have a copy of the home
 10 inspection that was done prior to closing?
 11 A. I don't know that one was done, unless
 12 the Penders have it, but I'm not familiar with
 13 that.
 14 MS. WRIGHT: I don't have anything
 15 further.
 16 THE WITNESS: Thank you.
 17 (The witness, after being advised of
 18 his right to read and sign this transcript, does
 19 not waive that right.)
 20 (Deposition concluded at 2:00 p.m.)
 21
 22
 23
 24
 25

Page 199

1 CERTIFICATE OF REPORTER
 2 I, Michele L. Owens, Court Reporter and
 3 Notary Public for the State of South Carolina at
 4 Large, do hereby certify that the transcript is a
 5 true, accurate, and complete record.
 6 I further certify that I am neither
 7 related to nor counsel for any party to the cause
 8 pending nor interested in the events thereof.
 9 Witness my hand, I have hereunto
 10 affixed my official seal this 24th day of December,
 11 2019, at Seneca, Oconee County, South Carolina.
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25



Michele L. Owens

Michele L. Owens
 Court Reporter
 My Commission expires
 November 14, 2024

Page 200

INDEX

	Page	Line
3 Examination by Ms. Bisset	4	5
4 Examination by Ms. Walker	53	24
5 Examination by Ms. Wright	89	18
6 Examination by Mr. Shaw	189	23
7 Further Examination by Ms. Walker	196	5
8 Further Examination by Ms. Bisset	197	8
9 Further Examination by Ms. Wright	198	4
10 Certificate of Reporter	199	1
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

REQUESTED INFORMATION INDEX

(No Information Requested)

Page 201

EXHIBITS

	Page	Line
2 PLAINTIFF EXHIBITS		
3 Exhibit P1, B&A Quality Construction	98	4
4 Invoices		
5 Exhibit P2, Enhanced Heating & Air	100	7
6 Conditioning Invoice		
7 Exhibit P3, New Construction Walk Thru	104	17
8 Inspection List		
9 Exhibit P4, 20/20 Custom Contractors	112	5
10 Invoices		
11 Exhibit P5, Myrtle Beach Building	119	22
12 Supply Invoice		
13 Exhibit P6, Floor Plans	138	18
14 Exhibit P7, Master Subcontract	145	16
15 Agreement		
16 Exhibit P8, Drawing/Photograph	157	16
17 Exhibit P9, Photograph	147	20
18 Exhibit P10, Port City Elevator	189	21
19 Documents		
20		
21		
22		
23		
24		
25		

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

Jul 21 2022

SC Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
In the Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Common Pleas Case No. 2018-CP-22-824

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 Pain 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.

PROOF OF SERVICE

The undersigned, certifies that she served a copy of **Respondent Beverly Homes, LLC's Motion to Supplement Record on Appeal Pursuant to Rule 212(b)** upon all other counsel of record by emailing a copy to:

Thomas J. Rode
15 Middle Atlantic Wharf
Charleston, South Carolina 29401
thomas@tktlawyers.com

E. Glenn Elliott, Esquire
181 East Evans Street, Suite 409
Florence, South Carolina 29506
ege@aikenbridges.com

-and-

Ian Maguire
P. Brooke Eaves Wright
1600 North Oak Street, Suite B
Myrtle Beach, South Carolina 29577
ian@maguirelawfirm.com
eaves@maguirelawfirm.com
Attorneys for Appellant

Katherine Walker, Esquire
Michael Ethridge, Esquire
Post Office Box 20969
Charleston, South Carolina 29413
KWalker@EthridgeLawGroup.com
MEthridge@EthridgeLawGroup.com
Attorneys for Alan Topper d/b/a All
Construction

Karl S. Brehmer, Esquire
Post Office Box 7966
Columbia, South Carolina 29202
ksb@brownandbrehmer.com
Attorneys for Strand Paint Contractors,
LLC

July 21, 2022

Attorneys for Depaz Painting, LLC

Christopher H. Pearce, Esquire
1314 Professional Drive
Myrtle Beach, South Carolina 29577
CPearce@PearceLawGroup.com
Attorneys for Beverly Homebuilders,
LLC

Christina A. Bisset, Esquire
Post Office Box 1349
Myrtle Beach, South Carolina 29578
christina.bisset@mgclaw.com
Attorneys for Citadel Site Management,
LLC

s/Heather Hagen

Heather Hagen

Jul 21 2022

SC Court of Appeals

DAVID S. COBB
Direct Dial: (843) 576-2803
Direct Fax: (843) 577-1629
dcobb@turnerpadget.com

July 21, 2022

by e filing and regular mail:

Jenny Abbott Kitchings
Court of Appeals Clerk of Court
Post Office Box 11629
Columbia, South Carolina 29211

Re: **Evarista Lorenzo v. Port City Elevator**
Appellate Docket No.: 2021-000326
TP File No.: 12049.141

Dear Ms. Kitchings:

We enclose Beverly Homes, LLC's Motion to Supplement Record on Appeal Pursuant to Rule 212(b), with attached proof of service. The filing fee is enclosed by regular mail for the costs associated with this request. If you have any questions or need additional information, please call me at your convenience. With kind regards,

TURNER PADGET

s/David S. Cobb

David S. Cobb

DSC/hah
enclosures
cc: counsel of record (with enclosures)