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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

RECEIVED
JUL 22 2022
SC Court of Appeals

Common Please 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
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ATTORNEYS FOR RESPONDENT
BEVERLY HOMES, LLC

July 21, 2022

EXHIBIT
tabbles
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	Page 148
<p>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</p>	<p>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.?</p>
<p>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,</p>	<p>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</p>

<p style="text-align: right;">Page 198</p> <p>1 that I have.</p> <p>2 MS. WRIGHT: I just have one.</p> <p>3 FURTHER EXAMINATION</p> <p>4 BY MS. WRIGHT:</p> <p>5 Q. Did you have any third-party company or</p> <p>6 other subcontractor that their job was just to do</p> <p>7 inspections of work?</p> <p>8 A. Not specific to the elevator shaft.</p> <p>9 Q. Okay. Do you have a copy of the home</p> <p>10 inspection that was done prior to closing?</p> <p>11 A. I don't know that one was done, unless</p> <p>12 the Penders have it, but I'm not familiar with</p> <p>13 that.</p> <p>14 MS. WRIGHT: I don't have anything</p> <p>15 further.</p> <p>16 THE WITNESS: Thank you.</p> <p>17 (The witness, after being advised of</p> <p>18 his right to read and sign this transcript, does</p> <p>19 not waive that right.)</p> <p>20 (Deposition concluded at 2:00 p.m.)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 200</p> <p style="text-align: center;">INDEX</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="text-align: right;">Page</th> <th style="text-align: right;">Line</th> </tr> </thead> <tbody> <tr> <td>3 Examination by Ms. Bisset</td> <td style="text-align: right;">4</td> <td style="text-align: right;">5</td> </tr> <tr> <td>4 Examination by Ms. Walker</td> <td style="text-align: right;">53</td> <td style="text-align: right;">24</td> </tr> <tr> <td>5 Examination by Ms. Wright</td> <td style="text-align: right;">89</td> <td style="text-align: right;">18</td> </tr> <tr> <td>6 Examination by Mr. Shaw</td> <td style="text-align: right;">189</td> <td style="text-align: right;">23</td> </tr> <tr> <td>7 Further Examination by Ms. Walker</td> <td style="text-align: right;">196</td> <td style="text-align: right;">5</td> </tr> <tr> <td>8 Further Examination by Ms. Bisset</td> <td style="text-align: right;">197</td> <td style="text-align: right;">8</td> </tr> <tr> <td>9 Further Examination by Ms. Wright</td> <td style="text-align: right;">198</td> <td style="text-align: right;">4</td> </tr> <tr> <td>10 Certificate of Reporter</td> <td style="text-align: right;">199</td> <td style="text-align: right;">1</td> </tr> <tr> <td>11</td> <td></td> <td></td> </tr> <tr> <td>12</td> <td></td> <td></td> </tr> <tr> <td>13</td> <td></td> <td></td> </tr> <tr> <td>14</td> <td></td> <td></td> </tr> <tr> <td>15</td> <td colspan="2" style="text-align: center;">REQUESTED INFORMATION INDEX</td> </tr> <tr> <td>16</td> <td colspan="2" style="text-align: center;">(No Information Requested)</td> </tr> <tr> <td>17</td> <td></td> <td></td> </tr> <tr> <td>18</td> <td></td> <td></td> </tr> <tr> <td>19</td> <td></td> <td></td> </tr> <tr> <td>20</td> <td></td> <td></td> </tr> <tr> <td>21</td> <td></td> <td></td> </tr> <tr> <td>22</td> <td></td> <td></td> </tr> <tr> <td>23</td> <td></td> <td></td> </tr> <tr> <td>24</td> <td></td> <td></td> </tr> <tr> <td>25</td> <td></td> <td></td> </tr> </tbody> </table>		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	REQUESTED INFORMATION INDEX		16	(No Information Requested)		17			18			19			20			21			22			23			24			25					
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<p style="text-align: right;">Page 199</p> <p>1 CERTIFICATE OF REPORTER</p> <p>2 I, Michele L. Owens, Court Reporter and</p> <p>3 Notary Public for the State of South Carolina at</p> <p>4 Large, do hereby certify that the transcript is a</p> <p>5 true, accurate, and complete record.</p> <p>6 I further certify that I am neither</p> <p>7 related to nor counsel for any party to the cause</p> <p>8 pending nor interested in the events thereof.</p> <p>9 Witness my hand, I have hereunto</p> <p>10 affixed my official seal this 24th day of December,</p> <p>11 2019, at Seneca, Oconee County, South Carolina.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 </p> <p>18</p> <p>19</p> <p>20</p> <p>21 Michele L. Owens</p> <p>22 Court Reporter</p> <p>23 My Commission expires</p> <p>24 November 14, 2024</p> <p>25</p>	<p style="text-align: right;">Page 201</p> <p style="text-align: center;">EXHIBITS</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="text-align: right;">Page</th> <th style="text-align: right;">Line</th> </tr> </thead> <tbody> <tr> <td>2 PLAINTIFF EXHIBITS</td> <td></td> <td></td> </tr> <tr> <td>3 Exhibit P1, B&A Quality Construction</td> <td style="text-align: right;">98</td> <td style="text-align: right;">4</td> </tr> <tr> <td>4 Invoices</td> <td></td> <td></td> </tr> <tr> <td>5 Exhibit P2, Enhanced Heating & Air</td> <td style="text-align: right;">100</td> <td style="text-align: right;">7</td> </tr> <tr> <td>6 Conditioning Invoice.</td> <td></td> <td></td> </tr> <tr> <td>7 Exhibit P3, New Construction Walk Thru</td> <td style="text-align: right;">104</td> <td style="text-align: right;">17</td> </tr> <tr> <td>8 Inspection List</td> <td></td> <td></td> </tr> <tr> <td>9 Exhibit P4, 20/20 Custom Contractors</td> <td style="text-align: right;">112</td> <td style="text-align: right;">5</td> </tr> <tr> <td>10 Invoices</td> <td></td> <td></td> </tr> <tr> <td>11 Exhibit P5, Myrtle Beach Building</td> <td style="text-align: right;">119</td> <td style="text-align: right;">22</td> </tr> <tr> <td>12 Supply Invoice</td> <td></td> <td></td> </tr> <tr> <td>13 Exhibit P6, Floor Plans</td> <td style="text-align: right;">138</td> <td style="text-align: right;">18</td> </tr> <tr> <td>14 Exhibit P7, Master Subcontract</td> <td style="text-align: right;">145</td> <td style="text-align: right;">16</td> </tr> <tr> <td>15 Agreement</td> <td></td> <td></td> </tr> <tr> <td>16 Exhibit P8, Drawing/Photograph</td> <td style="text-align: right;">157</td> <td style="text-align: right;">16</td> </tr> <tr> <td>17 Exhibit P9, Photograph</td> <td style="text-align: right;">147</td> <td style="text-align: right;">20</td> </tr> <tr> <td>18 Exhibit P10, Port City Elevator</td> <td style="text-align: right;">189</td> <td style="text-align: right;">21</td> </tr> <tr> <td>19 Documents</td> <td></td> <td></td> </tr> <tr> <td>20</td> <td></td> <td></td> </tr> <tr> <td>21</td> <td></td> <td></td> </tr> <tr> <td>22</td> <td></td> <td></td> </tr> <tr> <td>23</td> <td></td> <td></td> </tr> <tr> <td>24</td> <td></td> <td></td> </tr> <tr> <td>25</td> <td></td> <td></td> </tr> </tbody> </table>		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		
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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:

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-and-

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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

RECEIVED
JUL 22 2022
SC Court of Appeals

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)



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FIRST-CLASS MAIL
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Turner Padgett

P.O. Box 22129 Charleston, SC 29413

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SC Court of Appeals

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