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Mar 06 2023

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS
THE HONORABLE BENTLEY D. PRICE
CIRCUIT COURT JUDGE

APPELLATE CASE NO. 2022-000016

Richard W. and Rebecca A. Dreier; Yolanda J. Dreier; Jacob R. and Carla Emerson; John B. and Lori Anne Gecy; Aaron M. and Stasha R. Grooms; AvaRae Hall; Michael B. and Cheyenne M. Johnson; Kenny Manuel Lopez and Kelsey Trudel Lopez; Dylan C. and Samantha Dawn Machado; Marvin K. and Maryalice Mamaril; Thomas R. and Melissa S. McFeely; Michael and Karen M. Rodriguez; Sarmed and Jessica M. Shafi; James J. Smith, III and Alayshia Smith; and Nichole J. Versteegen,

PLAINTIFFS,

versus

Advanced Flooring & Design Division of ISI, LLC f/k/a Advanced Flooring and Design, LLC; Americo Roofing Concepts, Inc.; Archer Exteriors, Inc.; Armor Building Solutions, LLC; Builders FirstSource-Southeast Group, LLC; Crossroads Enterprises, LLC; D.R. Horton, Inc.; Dean Custom Air, LLC; East Coast Construction Cleanup Corp. f/k/a S.C. Cleanup Co., Inc.; Freedom Homes, Inc. f/k/a Armor Building Solutions, Inc.; Hutton's Landscapes, Inc.; Lather Construction SC, Inc.; Lather Construction, Inc.; Masco Cabinetry, LLC; ProBuild East, LLC; Professional Drywall & Paint Services, LLC; Professional Exteriors, II, LLC; Quality Electric of the Coastal Carolinas Incorporated; Superior Association Services, LLC; and Valim Construction, LLC,

DEFENDANTS,

Of Whom Sarmed and Jessica M. Shafi, Lather Construction, Inc., Hutton's Landscapes, Inc., and East Coast Construction Cleanup Corp. f/k/a S.C. Cleanup Co., Inc. are the

RESPONDENTS,

And

D.R. Horton, Inc. is the

APPELLANT.

**RESPONDENT HUTTON'S LANDSCAPES, INC.'S
DESIGNATION OF MATTER TO BE INCLUDED
IN THE RECORD ON APPEAL**

Hutton's Landscapes, Inc., Respondent in the above referenced matter, proposes the following be included in the Record on Appeal:

1. Complaint, filed May 1, 2018;
2. Second Amended Complaint, filed November 20, 2019;
3. D.R. Horton's Answer to Second Amended Complaint and Cross-Claims, filed December 2, 2019;
4. D.R. Horton's Second Amended Answer to Second Amended Complaint and Cross-Claims, filed August 23, 2021;
5. Hutton's Landscapes' Answer to D.R. Horton's Second Amended Answer to Second Amended Complaint and Cross-Claims, filed August 31, 2021;
6. Lather Construction's Motion for Summary Judgment as to Claims of D.R. Horton, filed October 8, 2021;
7. Hutton's Landscapes' Motion for Summary Judgment on the Cross-Claims of D.R. Horton, filed October 19, 2021;
8. Hutton's Landscapes' Memorandum of Law in Support of Its Motion for Summary Judgment on the Cross-Claims of D.R. Horton, filed October 26, 2021 with attached exhibits:
 - A: Independent Contractor Agreement between D.R. Horton and Hutton's Landscapes; and
 - B: Excerpts of Ronald Bunner Deposition;
9. Transcript of hearing held before The Honorable H. Steven DeBerry, IV on October 29, 2021 (designated pages only), pp. 1-51 and 55;
10. East Coast Construction's Motion for Summary Judgment as to the Cross-Claims of D.R. Horton, filed November 10, 2021;
11. Form 4 Order Denying Hutton's Landscapes' Motion for Summary Judgment, filed November 12, 2021;
12. Form 4 Order Denying Lather Construction's Motion for Summary Judgment; filed November 12, 2021;

13. Transcript of trial held before The Honorable Bentley D. Price (designated pages only):

Volume I (November 15, 2021): pp. 1-4, 121-30, 135, 143-44, and 166-68;

Volume II (Second Amended Version received March 2, 2023) (November 16, 2021): pp. 1-5, 8, 10, 12, 27, 29-30, 32-55, 59-60, 79, and 83-84;

Volume III (November 17, 2021): pp. 263-269, 272, 296-300, 307-08, 337-38, 340, 342, and 347-48;

Volume IV (November 18, 2021): pp. 352-358, 398, 417, 431, 435, 437-38, 450-51, 463, and 476-77; and

Volume V (November 19, 2021): pp. 492-95, 510, 528, 534-35, 601-02, and 644-46;
14. Deposition of Sean Higgs (designated pages only): pp. 1; 12, ll. 5 – 24; 51, ll. 12-25; and 170, ll. 4-6;
15. Deposition of Matt Hutton (designated pages only): pp. 1-2; 6, ll. 12-14; 10, l. 4 – 12, l. 2; 15, ll. 5-10; 16, l. 1 -17, l. 21; 21, l. 8 – 23, l. 24; 25, l. 3- 26, l. 4; 27, l. 15 - 29, l. 2; 44, l. 13 – 45, l. 3; and 55, l. 9 – 58, l. 4;
16. Deposition of Kevin Ciccarella (designated pages only): pp. 1; 11, ll. 12-15; 38, ll. 15-21; 76, ll. 4-9; 77, l. 23 – 78, l. 5; 78, ll. 17-22; and 84, l. 10-85, l. 2;
17. Verdict Form, dated November 19, 2021 and filed November 22, 2021;
18. D.R. Horton’s Motion to Alter or Amend Judgment, filed November 24, 2021;
19. D.R. Horton’s Motion for JNOV, or in the alternative, for a New Trial Absolute, or in the alternative, for a New Trial *Nisi Remittitur*, filed November 29, 2021;
20. Order Denying D.R. Horton’s Motion to Alter or Amend Judgment, filed December 3, 2021; and
21. Form 4 Order Denying D.R. Horton’s Motion for New Trial, filed December 3, 2021.

I certify that this designation contains no matter which is irrelevant to this appeal.

[signature on following page]

Respectfully submitted,

/s Carmen V. Ganjehsani

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**ATTORNEYS FOR RESPONDENT
HUTTON'S LANDSCAPES, INC.**

March 6, 2023.

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CERTIFICATE OF SERVICE

I, the undersigned, attorney for Respondent Hutton's Landscapes, Inc., do hereby certify that I have this date served the foregoing Designation of Matter to be Included in the Record on Appeal, dated March 6, 2023, by personally serving the same pursuant to Section (d)(1) of the Supreme Court's Order dated May 6, 2022, on the following counsel of record using the primary email addresses listed in the Attorney Information System:

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A copy of the sent email is enclosed with this Certificate of Service.

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Dated: March 6, 2023.

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Subject: No. 2022-00016 Shafi v. D.R. Horton, Inc.
Date: Monday, March 6, 2023 12:04:00 PM
Attachments: [2022-000016 Shafi v. D.R. Horton \(Hutton's Designations\) \(2750738\).pdf](#)
[2022-000016 Shafi v. D.R. Horton \(Hutton's IRB\) \(2750711\).pdf](#)

Pursuant to the Supreme Court's Order dated May 6, 2022, please find served upon you the Initial Respondent's Brief and Designation of Matter to be Included in the Record on Appeal on behalf of Respondent Hutton's Landscapes, Inc.

Please note that I have designated portions of the most recently amended Volume II (November 16, 2021) of the trial transcript which was delivered by the court reporter on March 2, 2023.

Thank you,
Carmen Ganjehsani

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