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Sep 15 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

The Honorable R. Scott Sprouse, Circuit Court Judge

Appeal No. 2023-001401

Natalie Zitek, individually, and on behalf of others similarly situated,

Plaintiff,

v.

D.R. Horton, Inc., Jane Doe #1-10; and John Doe #1-50,

Defendants,

And

Dr. Horton, Inc.,

Third-Party Plaintiff,

v.

A&J Framing, Inc.; A-Z, Inc., AJ Landscaping & Grading, LLC; AJ Landscaping & Grading, LLC A/K/A AJ Landscaping & Grading, LLC; Allpro Textures, LLC; Alpha E.M.C.; Alpha Omega Construction Group, Inc.; American Concrete And precast, Inc., A/K/A ACP Concrete, Inc.; Atlanta Floor Designs Center; A Grade Above Others, LLC; BFK Builders, Inc.; BMC East LLC D/B/A Coleman Floor, LLC; Brand-Vaughn Lumber Co, Inc.; Bravo Carpenters, Inc.; Builders Designhouse, LLC; Builders FirstSource Southeast Group, LLC, A/K/A Builders FirstSource, Inc.; Builders Services Group, LLC F/K/A Masco Contractor Services Central Inc. F/K/A Gale Industries, Inc. D/B/A Gale Contractor Services; Cannaday Siding & Gutter, Inc.; Caryl Mechanics II, Inc., A/K/A Caryl Mechanicals, Inc.; CBU Enterprises, Inc.; Cortes Painting, LLC; CPI Security Systems, Inc.; Dom Group, LLC; Dupree Plumbing Company, Inc.; Ferguson Enterprises, Inc.; Five Star Construction Inc.; Five Star Foundations, LLC; Galloway-Bell, Inc. A/K/A Galloway-Bell Inc. II; GBS Building Supply – US LBM, LLC F/K/A GBS Building Supply, Inc.; General Shale Brick Inc.; Get Floored, LLC; Greener Pastures, Inc. A/K/A Greener Pastures of Aiken, LLC; Installed Building Products, LLC A/K/A Installed Building Products II, LLC; IBP Asset, LLC D/B/A Blue Ridge Building Products; JLS Masonry, Inc.; Kings Landscaping, LLC; L&M Electric, Inc.; Lade-Danlar, Inc.; Landshapers, LLC; Lansing Building Products, Inc.; Long Heating & Air Conditioning, Inc.; M&L General Construction, LLC A/K/A M&L General Construction, Inc.; M&L Reyna Construction, LLC; M&M Foundations, LLC; Manale Landscaping, LLC; MJ Cowboys, LLC; Nazareth Builders, LLC; NB Contractors, LLC; Poinsett Development,

LLC; Poinsett Homes, LLC; P&L Enterprises, LLC; P&T Construction, Inc. A/K/A P&T Construction, Inc.; Probuild Company, LLC A/K/A Probuild Holdings, Inc.; Rite Rug Co.; Rodney Howard Grading, Inc. A/K/A Rodney Howard Grading Co.; Sandlapper Concrete, LLC; Silver Line Building Products Corporation; Sodfather Inc., Landscape Contractors; Stock Building Supply, LLC; Topbuild Home Services, Inc. A/K/A Gale Contractors Service; Tucker Materials, Inc. A/K/A Gypsum; UTM Enterprises, Inc.; and Willow Tree Landscaping, Inc.,

Third-Party Defendants.

And

Aaron D. Peris; Harrelson Painting, LLC; Huttig Building Products; et al,
Fourth and Fifth-Party Defendants and Plaintiffs.

Of Whom,

D.R. Horton, Inc., is theAppellant,

And

Natalie Zitek, individually, and on behalf of others similarly situated;

Jane Doe #1-10; and John Doe #1-50;

A&J Framing, Inc.; A-Z, Inc.; AJ Landscaping & Grading, LLC A/K/A AJ Landscaping & Grading, LLC; Allpro Textures, LLC; Alpha E.M.C.; Alpha Omega Construction Group, Inc.; American Concrete And precast, Inc., A/K/A ACP Concrete, Inc.; Atlanta Floor Designs Center; A Grade Above Others, LLC; BFK Builders, Inc.; BMC East LLC D/B/A Coleman Floor, LLC; Brand-Vaughn Lumber Co, Inc.; Bravo Carpenters, Inc.; Builders Designhouse, LLC; Builders FirstSource Southeast Group, LLC, A/K/A Builders FirstSource, Inc.; Builders Services Group, LLC F/K/A Masco Contractor Services Central Inc. F/K/A Gale Industries, Inc. D/B/A Gale Contractor Services; Cannaday Siding & Gutter, Inc.; Caryl Mechanics II, Inc., A/K/A Caryl Mechanicals, Inc.; CBU Enterprises, Inc.; Cortes Painting, LLC; CPI Security Systems, Inc.; Dom Group, LLC; Dupree Plumbing Company, Inc.; Ferguson Enterprises, Inc.; Five Star Construction Inc.; Five Star Foundations, LLC; Galloway-Bell, Inc. A/K/A Galloway-Bell Inc. II; GBS Building Supply – US LBM, LLC, F/K/A GBS Building Supply, Inc.; General Shale Brick Inc.; Get Floored, LLC; Greener Pastures, Inc. A/K/A Greener Pastures of Aiken, LLC; Installed Building Products, LLC A/K/A Installed Building Products II, LLC; IBP Asset, LLC D/B/A Blue Ridge Building Products; JLS Masonry, Inc.; Kings Landscaping, LLC; L&M Electric, Inc.; Lade-Danlar, Inc.; Landshapers, LLC; Lansing Building Products, Inc.; Long Heating & Air Conditioning, Inc.; M&L General Construction, LLC A/K/A M&L General Construction, Inc.; M&L Reyna Construction, LLC; M&M Foundations, LLC; Manale Landscaping, LLC; MJ Cowboys, LLC; Nazareth Builders, LLC; NB Contractors, LLC; Poinsett Development, LLC; Poinsett Homes, LLC; P&L Enterprises, LLC; P&T Construction, Inc. A/K/A P&T Construction, Inc.; Probuild Company, LLC A/K/A

Probuild Holdings, Inc.; Rite Rug Co.; Rodney Howard Grading, Inc. A/K/A Rodney Howard Grading Co.; Sandlapper Concrete, LLC; Silver Line Building Products Corporation; Sodfather Inc., Landscape Contractors; Stock Building Supply, LLC; Topbuild Home Services, Inc. A/K/A Gale Contractors Service; Tucker Materials, Inc. A/K/A Gypsum; UTM Enterprises, Inc.; and Willow Tree Landscaping, Inc.,

Aaron D. Peris; Harrelson Painting, LLC; Huttig Building Products; and Therma-Tru, Ltd;

Arcides Garcia; Brandon Chaves; C&H Wood Flooring, Inc.; Dora Maria Pina; Felix Tile; Filadelfo Avila Carrillo; Francisco Sanchez; J&K Floor Corp.; JCT Flooring; Jose Javier Marin; Lemus Tile; Leos Flooring, LLC; Martin Garcia; Nora Canales; Othon Delgado Ramas; Resendiz Flooring; Richard Bumbalough; Richard Gerardo Loreda Gomez; Robert Gillespie; Roberto Morales Ferretiz; Roberto Tile, Inc.; Scorpio Tile Glass Work; and Urias Flooring, Co., LLC;

Zenon Gutierrez Antunez; Jesus Perez; Fredy Perez and Venustiano Perez, Individually and D/B/A Fredy's HVAC; Nicholas Sota A/K/A Nicholas Soto, Individually and D/B/A Soto HVAC; Jason Weaver, Individually and D/B/A Tiger Mechanical; and Panuncio Victoriano Martinez, Individually and D/B/A Victoriano HVAC, LLC;

Brothers Contractors, Inc.; Brothers Contractors, LLC; Nataren Contractors, LLC; Jimenez Contractors, LLC; Jimenez Contractors, Inc.; Henry Construction, LLC; SL Commercial Construction, Inc.; Rogelio Basilio-Vazquez; Geovany Leiva; Geovany Leiva D/B/A GSF Renovations, LLC; GSF Renovations, LLC; RJ Quality Construction, Inc.; Rafael Bonzalez-Colazo, Individually and D/B/A RJ Commercial Construction, Inc.; Santos Metal Works, LLC; AHR Construction, Inc.; Denny Concepcion; RJ Commercial Construction, Inc.; Safeway Roofing; Torres Quality Construction; JJS Commercial Construction, Inc.; Jose Hernandez; Bonilla Construction, Inc.; and Jose P. Jimenez, Individually and D/B/A Bonilla Construction, Inc.;

Carlos Humberto Landaverry; Ngan My Giang; Landaverry Flooring, LLC; Hector Flooring; Scorpio Tile & Glassworks, Inc.; Jose Javier Marin; O&E Flooring; Othon Ramos; Saguay Flooring; and Cruz Flooring;

AJ&I Flooring, LLC; Antonio's Flooring, LLC; Bryan's Flooring Services, LLC; Enriquez Floors, LLC; Garcia's Carpet, Inc.; Hector Flooring, Inc.; Carolina Hernandez D/B/A Josue's Flooring, LLC; NM Alex Carpet, Inc.; Promesa Flooring; and Vinny's Perfection Flooring, LLC;

Jesus Jimenez; and Jesus Robles Montez A/K/A Robles Construction;

Toribio Islas; and Alejandro Soto,

are the Respondents,

**NOTICE OF WITHDRAWAL OF
PETITION FOR WRIT OF SUPERSEDEAS**

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Petitioners M&L Reyna Construction, LLC (“M&L Reyna”) and MJ Cowboys, LLC (“MJ Cowboys”) (jointly “Petitioners”), Third-Party Defendants below, hereby notify this Court that they are withdrawing their Petition for Writ of Supersedeas. Petitioners have settled all of the claims against them, rendering their Petition moot.

September 15, 2023

s/Helen F. Hiser

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Supply, LLC; Topbuild Home Services, Inc. A/K/A Gale Contractors Service; Tucker Materials, Inc. A/K/A Gypsum; UTM Enterprises, Inc.; and Willow Tree Landscaping, Inc.,

Third-Party Defendants.

And

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Jesus Jimenez; and Jesus Robles Montez A/K/A Robles Construction;

Toribio Islas; and Alejandro Soto,

are the Respondents,

CERTIFICATE OF SERVICE

I certify that I have served M&L Reyna Construction, LLC and MJ Cowboys, LLC's **Notice of Withdrawal of Petition for Writ of Supersedeas** on the parties of record by emailing a copy to the attorneys of record as follows:

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September 15, 2023

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September 15, 2023

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SC Court of Appeals

Via S.C. Courts E-Filing

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RE: Natalie Zitek, individually, and on behalf of all others similarly situated, v. D.R. Horton, Inc., Jane Doe #1-10; and, John Doe #1-50; v. D.R. Horton, Inc., v. A J Landscaping & Grading, LLC, a/k/a A J Landscaping & Grading, LLC; AllPro Textures, LLC; Alpha Omega Construction Group, Inc.; American Concrete and Precast, Inc.; a/k/a ACP Concrete, Inc.; A & J Framing, Inc.; Alpha E.M.C.; A-Z, Inc.; Atlanta Floor Designs Center; A Grade Above Others, LLC; Brand-Vaughan Lumber Co, Inc.; BKF Builders, Inc.; Blue Ridge Building Products, LLC; Builders DesignHouse, LLC; BMC East, LLC; Builders FirstSource Southeast Group, LLC, a/k/a Builders FirstSource, Inc.; Bravo Carpenters, Inc.; Caryl Mechanics II, Inc., a/k/a Caryl Mechanicals, Inc.; Cannaday Siding & Gutter, Inc.; Coleman Floor, LLC; Cortes Painting, LLC; CBU Enterprises, Inc.; CPI Security Systems, Inc.; Dom Group, LLC; Ferguson Enterprises, Inc.; Five Star Construction Inc.; Five Star Foundations, LLC; Galloway- Bell, Inc., a/k/a Galloway-Bell, Inc. II; Get Floored, LLC; GBS Building Supply - Us LBM, LLC, f/k/a GBS Building Supply, Inc.; General Shale Brick Inc.; Greener Pastures, Inc., a/k/a Greener Pastures of Aiken, LLC; Installed Building Products, LLC, a/k/a Installed Building Products II, LLC; JLS Masonry, Inc.; Kings Landscaping, LLC; LandShapers, LLC; Lade-Danlar, Inc.; Lansing Building Products, Inc.; Long Heating & Air Conditioning, Inc.; L & M Electric, Inc.; Manale Landscaping, LLC; MJ Cowboys, LLC; M & L General Construction, LLC, a/k/a M & L General Construction, Inc.; M&L Reyna Construction, LLC; M&M Foundations, LLC; Nazareth Builders, LLC; NB Contractors, LLC; Poinsett Development, LLC; Poinsett Homes, LLC; P&T Construction, Inc., a/k/a P & T Construction, Inc.; P & L Enterprises, LLC; ProBuild Company, LLC a/k/a ProBuild Holdings, Inc.; Rite Rug Company, Inc., a/k/a Rite Rug Co.; Rodney Howard Grading Inc., a/k/a Rodney Howard Grading Co.; Sandlapper Concrete, LLC
Civil Action No.: 2019CP0401942 (Anderson)
MGC File No.: 22224.23008
Appeal No.: 2023-001401

Dear Ms. Kitchings:

The Honorable Jenny Abbott Kitchings
September 15, 2023
Page 2

Enclosed please find Respondent M&L Reyna Construction, LLC and MJ Cowboys, LLC's Notice of Withdrawal of Petition for Writ of Supersedeas, and the Proof of Service in the above-referenced matter. We are serving counsel of record via email.

If you have any questions, please do not hesitate to contact me.

Sincerely,
McAngus Goudelock & Courie, LLC

A handwritten signature in black ink, appearing to read "Hiser", with a long horizontal flourish extending to the right.

Helen F. Hiser

Enclosures

Cc: Counsel of Record (via Email only)