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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

Hon. R. Scott Sprouse, Circuit Court Judge

Case No.: 2019-CP-04-01942
Appellate Case No.: 2023-001681

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

v.

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

AND

D.R. Horton, Inc.,
Third-Party Plaintiff,

v.

AJ 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.; Builders Designhouse, LLC; BMC East LLC d/b/a Coleman Floor, 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.; 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 Green Pastures of Aiken, LLC; IBS Asset, LLC d/b/a Blue Ridge Building Products; 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; 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; Silver Line Building Products Corp.; Dupree Plumbing Co., Inc.; UTM Enterprises, Inc; and Willow Tree Landscaping, Inc., and Silver Line Building Products Corporation,

Third-Party Defendants,

Of whom Galloway-Bell, Inc. a/k/a Galloway-Bell, Inc. II is the Respondent,

AND

D.R. Horton, Inc. is the Appellant.

RESPONDENT GALLOWAY-BELL, INC. A/K/A GALLOWAY-BELL, INC. II'S DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

Respondent Galloway-Bell, Inc. a/k/a Galloway-Bell, Inc. II proposes the material in the attached Exhibit A to be included in the Record on Appeal.

The undersigned hereby certifies this designation contains no matter that is irrelevant to this appeal.

EXHIBIT A
PROPOSED DESIGNATION OF RECORD ON APPEAL

1. South Carolina Independent Contractor Agreement between Galloway-Bell, Inc., a/k/a Galloway-Bell, Inc. II (“Galloway-Bell”) and D.R. Horton (“Horton”) dated December 17, 2012.
2. Plaintiff’s Summons and Complaint dated September 25, 2019.
3. Horton’s Amended Answer and Third-party Complaint dated March 11, 2021.
4. Horton’s Second Amended Answer and Third-party Complaint dated February 23, 2022.
5. Notice and Opportunity to Cure Letter, dated December 11, 2019.
6. Plaintiff’s Responses to Respondent’s Requests to Admit, dated May 16, 2023.
7. Galloway-Bell’s Motion for Summary Judgment as to Horton’s Crossclaims dated May 1, 2023.
8. Galloway-Bell’s Memorandum in Support of its Motion for Summary Judgment dated July 11, 2023.
9. Horton’s Memorandum in Opposition to Motions for Summary Judgment dated July 11, 2023.
10. Horton’s Supplemental Memorandum in Opposition to Motions for Summary Judgment dated July 19, 2023.
11. Transcript of Hearing on Motions for Summary Judgment, July 20-21, 2023, pp.154–157.
12. Stipulation as to Plaintiff’s Limitations of Claims dated July 20, 2023.
13. Horton’s Motion to Reconsider dated September 11, 2023.
14. Form 4 Order granting Galloway-Bell’s Motion for Summary Judgment dated September 27, 2023.
15. Full Order granting Galloway-Bell’s Motion for Summary Judgment dated September 27, 2023.
16. Pre-trial transcript, September 1, 2023, pp.21–22; pp.63–68.
17. April 21, 2023, transcript pp.52–54.
18. Verdict Form dated September 19, 2023.
19. Deposition of Dr. Whitlock Transcript pp.1553–1560.
20. Deposition of Mr. Maddox Transcript p. 347.
21. Deposition of Mr. Moore Transcript p. 611.
22. Deposition of Mr. Jones Transcript pp. 238–240.

Signature page to follow

Respondent's Designation of Matter
Appellate Case No.: 2023-001681

Respectfully submitted,

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***Attorneys for Respondent Galloway-Bell, Inc., a/k/a
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Mt. Pleasant, South Carolina
April 10, 2024

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