



The South Carolina Court of Appeals

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May 07, 2024

The Honorable Julie J. Armstrong
100 Broad St Ste 106
Charleston SC 29401-2210

REMITTITUR

Re: Andrew McIntire v. Red Bay Constructors Corp.
Lower Court Case No. 2016CP1001833
Appellate Case No. 2021-001055

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,


CLERK

Enclosure

cc: Jaan Gunnar Rannik, Esquire
William Wharton Watkins, Jr., Esquire
John Joseph Dodds, IV, Esquire
Danielle F. Payne, Esquire

Shelley Sunderman Montague, Esquire
Erin DuBose Dean, Esquire
Stacey Patterson Canaday, Esquire
Suzanne Cuba Ulmer, Esquire
James H. Elliott, Jr., Esquire
Samia Hanafi Albenberg, Esquire
Brent Morris Boyd, Esquire
Shanna Milcetic Stephens, Esquire
Preston Bruce Dawkins, Jr., Esquire
John Elliott Rogers, II, Esquire
Diane Summers Clarke, II, Esquire
Stephen Lynwood Brown, Esquire
Edward D. Buckley, Jr., Esquire
Jason Alan Daigle, Esquire
Russell Grainger Hines, Esquire
Timothy J. Newton, Esquire

The Supreme Court of South Carolina

Andrew and Kimberly McIntire, Appellants,

v.

Seaquest Development Company, Inc.; Red Bay Constructors Corp.; Benzenberg Custom Cabinets, Inc.; Jonathan Marshall Construction; Coastal Window & Door Center of Charleston, LLC; Carolina Window & Millwork, LLC n/k/a Carolina Window & MillworkOmni Glass Industries, LLC; Southcoast Exteriors, Inc.; Michael Casteen d/b/a Michigan Prestain Co.; Coastal Plumbing & Gas, LLC; Foam Insulation Co., Inc.; Jerry Comer d/b/a Jerry's Tile & Marble, LLC; Lowcountry Fireplaces, Inc.; Carolina Pest Solutions, Inc.; and New South Construction Supply, LLC, Defendants,

of which Red Bay Constructors Corp.; Benzenberg Custom Cabinets, Inc.; Jonathan Marshall Construction; Coastal Window & Door Center of Charleston, LLC; Carolina Window & Millwork, LLC n/k/a Carolina Window & Millwork-Omni Glass Industries, LLC; Southcoast Exteriors, Inc.; Michael Casteen d/b/a Michigan Prestain Co.; Coastal Plumbing & Gas, LLC; Foam Insulation Co., Inc.; Jerry Comer d/b/a Jerry's Tile & Marble, LLC; Lowcountry Fireplaces, Inc.; Carolina Pest Solutions, Inc.; and New South Construction Supply, LLC, are Respondents

AND

Seaquest Development Company, Inc., Third-Party Plaintiff/Petitioner,

v.

Architectural Products of Charleston, LLC; and Sealtight

of South Carolina, LLC, Third-Party
Defendants/Respondents.

Appellate Case No. 2023-001643

ORDER

Based on the vote of the Court, the petition for a writ of certiorari is denied.

FOR THE COURT

BY Patricia Howard

CLERK

Columbia, South Carolina
April 16, 2024

cc:

Shelley Sunderman Montague
Suzanne Cuba Ulmer
Shanna Milcetic Stephens
Preston Bruce Dawkins, Jr.
William Wharton Watkins, Jr.
John Joseph Dodds, IV
Diane Summers Clarke, II
Erin DuBose Dean
Stacey Patterson Canaday
Albert A. Lacour, III
Jaan Gunnar Rannik
James H. Elliott, Jr.

Samia Hanafi Albenberg
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Stephen Lynwood Brown
Edward D. Buckley, Jr.
Jason Alan Daigle
Russell Grainger Hines
John Elliott Rogers, II
The Honorable Jenny Abbott Kitchings

The South Carolina Court of Appeals

Andrew and Kimberly McIntire, Appellants,

v.

Sequest Development Company, Inc.; Red Bay Constructors Corp.; Benzenberg Custom Cabinets, Inc.; Jonathan Marshall Construction; Coastal Window & Door Center of Charleston, LLC; Carolina Window & Millwork, LLC n/k/a Carolina Window & Millwork-Omni Glass Industries, LLC; Southcoast Exteriors, Inc.; Michael Casteen d/b/a Michigan Prestain Co.; Coastal Plumbing & Gas, LLC; Foam Insulation Co., Inc.; Jerry Comer d/b/a Jerry's Tile & Marble, LLC; Lowcountry Fireplaces, Inc.; Carolina Pest Solutions, Inc.; and New South Construction Supply, LLC, Defendants,

AND

Sequest Development Company, Inc., Third-Party Plaintiff/Appellant,

v.

Architectural Products of Charleston, LLC; and Sealtight of South Carolina, LLC, Third-Party Defendants,

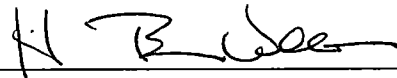
of which Red Bay Constructors Corp.; Benzenberg Custom Cabinets, Inc.; Jonathan Marshall Construction; Coastal Window & Door Center of Charleston, LLC; Carolina Window & Millwork, LLC n/k/a Carolina Window & Millwork-Omni Glass Industries, LLC; Southcoast Exteriors, Inc.; Michael Casteen d/b/a Michigan Prestain Co.; Coastal Plumbing & Gas, LLC; Foam Insulation Co., Inc.; Jerry Comer d/b/a Jerry's Tile & Marble, LLC; Lowcountry Fireplaces, Inc.; Carolina Pest Solutions, Inc.; and New South Construction

Supply, LLC are the Respondents.

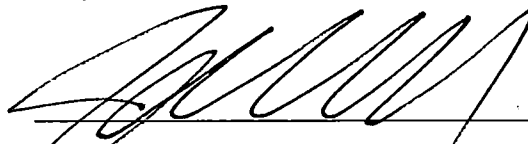
Appellate Case No. 2021-001055

ORDER

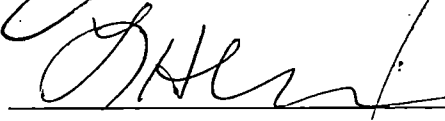
After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.



C.J.



J.



J.

Columbia, South Carolina

FILED
Sep 21 2023

cc:

Jaan Gunnar Rannik, Esquire
William Wharton Watkins, Jr., Esquire
John Joseph Dodds, IV, Esquire
Danielle F. Payne, Esquire
Shelley Sunderman Montague, Esquire
Erin DuBose Dean, Esquire
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Stephen Lynwood Brown, Esquire
Edward D. Buckley, Jr., Esquire
Jason Alan Daigle, Esquire
Russell Grainger Hines, Esquire
Timothy J. Newton, Esquire
The Honorable Jennifer B. McCoy

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Andrew and Kimberly McIntire, Appellants,

v.

Sequest Development Company, Inc.; Red Bay Constructors Corp.; Benzenberg Custom Cabinets, Inc.; Jonathan Marshall Construction; Coastal Window & Door Center of Charleston, LLC; Carolina Window & Millwork, LLC n/k/a Carolina Window & Millwork-Omni Glass Industries, LLC; Southcoast Exteriors, Inc.; Michael Casteen d/b/a Michigan Prestain Co.; Coastal Plumbing & Gas, LLC; Foam Insulation Co., Inc.; Jerry Comer d/b/a Jerry's Tile & Marble, LLC; Lowcountry Fireplaces, Inc.; Carolina Pest Solutions, Inc.; and New South Construction Supply, LLC, Defendants,

AND

Sequest Development Company, Inc., Third-Party Plaintiff/Appellant,

v.

Architectural Products of Charleston, LLC; and Sealtight of South Carolina, LLC, Third-Party Defendants,

of which Red Bay Constructors Corp.; Benzenberg Custom Cabinets, Inc.; Jonathan Marshall Construction; Coastal Window & Door Center of Charleston, LLC; Carolina Window & Millwork, LLC n/k/a Carolina Window & Millwork-Omni Glass Industries, LLC; Southcoast Exteriors, Inc.; Michael Casteen d/b/a

Michigan Prestain Co.; Coastal Plumbing & Gas, LLC; Foam Insulation Co., Inc.; Jerry Comer d/b/a Jerry's Tile & Marble, LLC; Lowcountry Fireplaces, Inc.; Carolina Pest Solutions, Inc.; and New South Construction Supply, LLC are the Respondents.

Appellate Case No. 2021-001055

Appeal From Charleston County
Jennifer B. McCoy, Circuit Court Judge

Unpublished Opinion No. 2023-UP-206
Submitted May 17, 2023 – Filed May 31, 2023

AFFIRMED

Jaan Gunnar Rannik, of Epting & Rannik, LLC, of Charleston, for Appellants Andrew McIntire and Kimberly McIntire.

Jason Alan Daigle, Stephen Lynwood Brown, Edward D. Buckley, Jr., and Russell Grainger Hines, all of Young Clement Rivers, of Charleston, for Appellant Seaquest Development Company, Inc.

Albert A. Lacour, III, of Clawson & Staubes, LLC, of Charleston, for Respondent Lowcountry Fireplaces, Inc.

Erin DuBose Dean and Stacey Patterson Canaday, both of Tupper, Grimsley, Dean & Canaday, P.A., of Beaufort, for Respondent Jonathan Marshall Construction.

Brent Morris Boyd and Timothy J. Newton, both of Murphy & Grantland, PA, of Columbia; James H. Elliott, Jr., of Richardson Plowden & Robinson, PA, of Mt.

Pleasant; Samia Hanafi Albenberg, of Richardson Plowden & Robinson, PA, of Charleston, all for Respondent New South Construction Supply, LLC.

Shelley Sunderman Montague, of Gallivan, White & Boyd, PA, of Columbia, for Respondent Benzenberg Custom Cabinets, Inc.

Shanna Milcetich Stephens, of Anderson Reynolds & Stephens, LLC, of Charleston; and Preston Bruce Dawkins, Jr., of Aiken Bridges Elliott Tyler & Saleeby, P.A., of Florence, both for Respondent Coastal Plumbing & Gas, LLC.

John Elliott Rogers, II, of The Ward Law Firm, PA, of Spartanburg, for Respondent Southcoast Exteriors, Inc.

William Wharton Watkins, Jr., of Wall Templeton & Haldrup, PA, of Charleston; John Joseph Dodds, IV, of Yarborough Applegate, LLC, of Charleston, both for Respondent Jerry Comer.

Diane Summers Clarke, II, of Barnwell Whaley Patterson & Helms, LLC, of Charleston, for Respondent Foam Insulation Co., Inc.

Suzanne Cuba Ulmer, of Kernodle Coleman of Charleston, for Respondent Carolina Pest Solutions, Inc.

Danielle F. Payne, of McAngus Goudelock & Courie, LLC, of Mt. Pleasant, for Respondent Red Bay Constructors Corp.

PER CURIAM: Andrew and Kimberly McIntire and Sequest Development Company (collectively, Appellants) appeal the circuit court's order denying their joint motion for clarification.¹ Appellants argue the circuit court erred in holding

¹ On May 18, 2023, this court received a letter from the McIntires explaining that they had settled their claims against Sequest Development Company and as a part

the subcontractors were no longer parties to this case after the order dismissing the case was reversed on appeal. We affirm.

We hold the circuit court properly denied Appellants' motion and concluded the subcontractors were no longer parties to this case on remand. *See Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 329, 730 S.E.2d 282, 285 (2012) ("[A]n unappealed ruling, right or wrong, is the law of the case."); *Rumpf v. Massachusetts Mut. Life Ins. Co.*, 357 S.C. 386, 398, 593 S.E.2d 183, 189 (Ct. App. 2004) ("Any unappealed portion of the trial court's judgment is the law of the case, and must therefore be affirmed."); *Dreher v. S.C. Dep't of Health & Env't Control*, 412 S.C. 244, 250, 772 S.E.2d 505, 508 (2015) ("Thus, should the appealing party fail to raise all of the grounds upon which a lower court's decision was based, those unappealed findings—whether correct or not—become the law of the case."); *Judy v. Martin*, 381 S.C. 455, 458, 674 S.E.2d 151, 153 (2009) ("Under the law-of-the-case doctrine, a party is precluded from relitigating, after an appeal, matters that were either not raised on appeal, but should have been, or raised on appeal, but expressly rejected by the appellate court."); *C. I. T. Corp. v. Corley*, 196 S.C. 339, 343 13 S.E.2d 440, 442 (1941) (holding that an unappealed order becomes the law of the case and the circuit court is "wholly without power or jurisdiction to revoke, vacate, overrule or reverse the same").

AFFIRMED.²

WILLIAMS, C.J., and VINSON and VERDIN, JJ., concur.

of the settlement, they had released all of their claims against the various subcontractors in this appeal. The McIntires thus requested their appeal be dismissed. Accordingly, the McIntires' appeal is dismissed.

² We decide this case without oral argument pursuant to Rule 215, SCACR.