

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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AUG 19 2013

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

SC Court of Appeals

Alexander S. Macaulay, Presiding Judge Seventh Judicial Circuit

Appellate Case No. 2012-213237

Stoneledge at Lake Keowee Owners' Association, Inc., C. Dan Carson, Jeffrey J. Dauler, Joan W. Davenport, Michael Furnari, Donna Furnari, Jessy B. Grasso, Nancy E. Grasso, Robert P. Hayes, Lucy H. Hayes, Ty Hix, Jennifer D. Hix, Paul W. Hund, III, Ruth E. Isaac, Michael D. Plourde, Mary Lou Plourde, Carol C. Pope, Steven B. Taylor, Bettie J. Taylor, and Robert White, Individually, and on behalf of all others similarly situated Plaintiffs,

v.

IMK Development Co., LLC, Keowee Townhouses, LLC, Ludwig Corporation, LLC, SDI Funding, LLC, Medallion At Keowee, LLC, Intergry's Keowee Development, LLC, Marick Home Builders, LLC, Bostic Brothers Construction, Inc., Miller/Player & Associates, Bradford D. Seckinger, John Ludwig, William Cox, Larry D. Lollis, Rick Thoennes, M Group Construction and Development, LLC, Mel Morris, Joe Bostic., Jeff Bostic, Clear View Construction, Michael Franz, MHC Contractors, Miguel Porras Choncoas, Builders FirstSource Southeast Group, Mike Green, Southern Concrete Specialties, Carl Compton d/b/a Compton Enterprise d/b/a Compton Enterprises, Gunter Heating & Air, All Pro Heating, A/C & Refrigeration, LLC, Coleman Waterproofing, Heyward Electrical Services, Inc. Tinsley Electrical, LLC, Hutch N Son Construction, Inc., Upstate Utilities, Inc., Southern Basements, Inc., Carl Catoe Construction, Inc., T.G. Construction, LLC, Delfino Construction, Francisco Jaview Zarate d/b/a Zarate Construction, Alejandro Avalos Cruz, Herber'to Acros Hernandez, Martin Hernandez-Aviles, Francisco Villalobox Lopez, Ambrosio Martinez-Ramirez, Ester Moran Mentado, Socorro Castillo, Montel, Upstate Utilities, Inc. MJG Construction and Homebuilders, Inc. d/b/a MJG Construction, KMAC of the Carolinas, Inc., Eufacio Garcia, Everado Jarmamillo, Garcia Parra Insulation, Inc., J&J Construction, Jose Nino, Jose Manuel Garcia, Eason Construction, Inc., and Vincent Morales d/b/a Morales Masonry, and Miller/Player & Associates, Defendants,

Of Whom Marick Home Builders, LLC and Rick ThoennesAppellants,

And

Of Whom Hutch N Son Construction, Inc., and Upstate Utilities, Inc. Respondents.

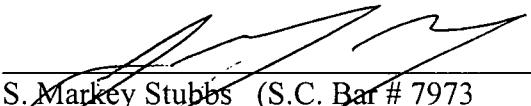
**DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

Respondent proposes the following be included in the Record on Appeal:

- (1) Order Granting Defendants Hutch-N-Son Construction, Inc. and Upstate Utilities, Inc.'s Motions for Summary Judgment filed September 25, 2012;
- (2) Marick Home Builders, LLC's Answer to Plaintiff's First Amended Complaint and Amended Third-Party Complaint Against Michael Franz, Clearview Construction, Miguel Porras Choncoas, MHC Contractors, Miller/Player & Associates, Builders FirstSource Southeast Group, Southern Concrete Specialties, Carl Compton d/b/a Compton Enterprise a/k/a Compton Enterprises, Gunter Heating & Air, All Pro Heating, A/C & Refrigeration, LLC, Coleman Waterproofing, Heyward Electrical Services, Tinsley Electrical, LLC and Hutch N Son Construction dated February 4, 2011;
- (3) Third Amended Complaint of Stoneledge at Lake Keowee Owners' Association, Inc. dated April 3, 2012;
- (4) Answer to Third Amended Complaint and Cross Claims of Marick Home Builders, LLC dated April 5, 2012;
- (5) Transcript of Proceedings for Hearing on Hutch-N-Son Construction, Inc. and Upstate Utilities, Inc.'s Motions for Summary Judgment, dated September 5, 2012, pp. 1-24; alternative designation 35 – 55;
- (6) Upstate Utilities, Inc.'s Notice of Motion and Motion for Summary Judgment filed June 1, 2012;
- (7) Upstate Utilities, Inc.'s Notice of Motion and Motion for Summary Judgment as to Equitable Indemnity filed August 21, 2012;
- (8) Upstate Utilities, Inc.'s Memorandum in Support of Summary Judgment filed July 15, 2016;
- (9) Hutch-N-Son Construction, Inc.'s Notice of Motion and Motion for Summary Judgment filed August 10, 2012;
- (10) Hutch-N-Son Construction, Inc.'s Memorandum in Support of Motion for Summary Judgment filed September 4, 2012;
- (11) (In dispute per Motion to Dismiss)

- (12) Specimen of Release approved and consented to by counsel;
- (13) Marick Home Builders, LLC's Motions for Summary Judgment dated September 4, 2012;
- (14) Affidavit of Rhett Whitlock dated March 14, 2012;
- (15) Affidavit of Rhett Whitlock dated August 9, 2012;
- (16) Affidavit of Donny White dated August 23, 2012;
- (17) Affidavit of Glenn Stewart, M.E., P.E. dated August 30, 2012;
- (18) September 17, 2012 Email Correspondence from Gallivan, White & Boyd, P.A. (Counsel for Hutch N Son Construction, Inc.) to the Honorable Alexander S. Macaulay with copy to all counsel of record;
- (19) March 5, 2013 Correspondence to Ward Law Firm (Counsel for Marick Home Builders, LLC) from Gallivan, White & Boyd, P.A. (Counsel for Hutch N. Son Construction, Inc.)
- (20) March 11, 2013 Correspondence to Gallivan, White & Boyd, P.A. (Counsel for Hutch N Son Construction, Inc.) from Ward Law Firm (Counsel for Marick Home Builders, LLC);
- (21) March 11, 2013 Correspondence to the Honorable Alexander S. Macaulay from Ward Law Firm (Counsel for Marick Home Builders, LLC).

Respectfully Submitted,



S. Markey Stubbs (S.C. Bar # 7973)
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mstubbs@brblegal.com; File No. 7603.336
Attorneys for Respondent Upstate Utilities, Inc.

August 19, 2013
Columbia, SC

APPELLANT'S COUNSEL OF RECORD:

Jason M. Imhoff
C. Reed Teague
The Ward Law Firm, P.A.
Post Office Box 5663
Spartanburg, South Carolina 29304-3188

RESPONDENT HUTCH N SON'S
COUNSEL OF RECORD:

Shelley S. Montague, Esquire
Gallivan White & Boyd, PA
Post Office Box 7368
Columbia, South Carolina 29202

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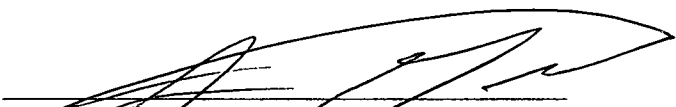
And

Of Whom Hutch N Son Construction, Inc., and Upstate Utilities, Inc. Respondents.

CERTIFICATION

The matter designed herein contains no matter irrelevant to the within appeal.

Respectfully Submitted,



S. Markey Stubbs (S.C. Bar # 7973)
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mstubbs@brblegal.com; File No. 7603.336
Attorneys for Respondent Upstate Utilities, Inc.

August 19, 2013
Columbia, SC

APPELLANT'S COUNSEL OF RECORD:

Jason M. Imhoff
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**RESPONDENT HUTCH N SON'S
COUNSEL OF RECORD:**

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Gallivan White & Boyd, PA
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Of Whom Marick Home Builders, LLC and Rick Thoennes are the Appellants,

And

Of Whom Hutch N Son Construction, Inc., and Upstate Utilities, Inc. are the Respondents.

PROOF OF SERVICE

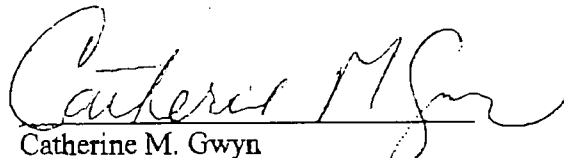
I, Catherine M. Gwyn, of Baker, Ravenel & Bender, attorneys for Respondent Upstate Utilities, Inc., do hereby certify that I have this 19th day of August 2013 served all counsel of record with copies of **Respondent Upstate Utilities, Inc.'s Designation of Matter** by mailing said copies by United States Mail, first class postage pre-paid, to said counsel at the following addresses:

APPELLANT'S COUNSEL OF RECORD:

Jason M. Imhoff
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The Ward Law Firm, P.A.
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Spartanburg, South Carolina 29304-3188
Attorneys for Appellate

CO-RESPONDENT'S COUNSEL OF RECORD

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Attorneys for Hutch N Son Construction, Inc.



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(803) 799-9091
Our File No.: 7603.336

August 19, 2013



BAKER RAVENEL BENDER

ATTORNEYS AT LAW

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 WYBEN BENDER
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 PATRICK D. QUINN
 WILSON P. DAVIS

CHARLES E. BAKER
 (1935-2010)

¹OF COUNSEL
²ALSO ADMITTED IN GEORGIA
³ALSO ADMITTED IN VIRGINIA

August 19, 2013

Via FACSIMILE TO: 734-1496:

The Honorable Jenny Kitchings
 Clerk of Court
 South Carolina Court of Appeals
 1015 Sumter Street
 Columbia, South Carolina 29201

ATTENTION: AMELIA

RE: Stoneledge at Lake Keowee Owners' Association, et al v.
 IMK, et al.
 Appellate Case No. 2012-213237
 Our File No.: 7603.336

Dear Amelia:

Per your request, attached please find the Proof of Service for the Upstate Utilities' Designation of Matter.

Yours truly,

Catherine M. Gwyn
 Assistant to S. Markey Stubbs

Enclosures: Proof of Service
 cc: Jason M. Imhoff, Esquire (w/enclosure)
 Shelley S. Montague, Esquire (w/enclosure)