

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

BALFOUR BEATTY CONSTRUCTION,  
LLC,

Plaintiff,

v.

LIBRARY ASSOCIATES, LLC; and  
METROPOLITAN LIFE INSURANCE  
COMPANY, a New York Corporation,

Defendants.

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LIBRARY ASSOCIATES, INC.,

Defendant/Third-Party  
Plaintiff,

v.

LITHKO CONTRACTING, LLC; et al.

Third-Party Defendants.

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IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

CASE NO.: 2019-CP-10-01108

**RECEIVED**

**May 23 2024**

**SC Court of Appeals**

**ORDER**

This matter came before the Court on Balfour Beatty's Motion, filed April 22, 2024, to Alter or Amend the Order Awarding Punitive Damages and Election of Remedy Pursuant to Rule 59(e), SCRPC.

In its October 6, 2023 Order, the Court "orders a bifurcated hearing on punitive damages pursuant to S.C. Code Section 15-32-510 et seq. for Contractor's breach of contract accompanied by a fraudulent act." (Order, p. 44). Pursuant to the October 6, 2023 Order and the Order of Reference, dated January 7, 2020, this Court has authority to "hear and decide all matters in this

matter and issue a final judgment” in the case with any appeal to the South Carolina Supreme Court or Court of Appeals. S.C. Code Ann. Section 14-11-85 and Rule 53, SCRPC.

Accordingly, the Motion to Alter or Amend the October 6, 2023 Order is **DENIED** as to Item 1 as no Rule 59(e), SCRPC Motion was required as the Court had yet to issue its Order Awarding Punitive Damages.<sup>1</sup> The Motion is also **DENIED** as to Item 2 regarding punitive damages and the Court restates its basis in the April 12, 2024 Order Awarding Punitive Damages.

The Motion to Alter or Amend the October 6, 2023 Order is **GRANTED** as to Item 3 to include the Declaratory Judgment cause of action by Library Associates in its choice of election of remedy.

**IT IS SO ORDERED.**

This the \_\_\_\_\_ day of \_\_\_\_\_ 2024.

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Mikell R. Scarborough  
Master in Equity

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<sup>1</sup> See *Portrait Homes- South Carolina v. Pennsylvania National Mutual Ins. Co.*, Op. No. 6038 filed Dec. 13, 2023 (Ct. App. 2023) found in Order, page 2.



Charleston Common Pleas

**Case Caption:** Balfour Beatty Construction LLC , plaintiff, et al VS Library Associates LLC , defendant, et al

**Case Number:** 2019CP1001108

**Type:** Master/Order/Other

So Ordered

s/Mikell R. Scarborough 3062