

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Fenwick Commons Homeowners Association, Inc.,

Plaintiffs,

v.

Portrait Homes–South Carolina, LLC, Portrait Homes–Fenwick Commons, LLC, D.R. Horton, Inc., Samuel Glover d/b/a Glover’s Brickworks, Inc., JJA Construction, Inc. d/b/a JJA Framing, JJA Construction, Inc. d/b/a JJA Framing Company, Jose Castillo d/b/a JJA Framing, Jose Castillo d/b/a JJA Framing Company, International Construction Services, Inc., International Construction Services, Inc. d/b/a International Construction, United Siding Specialists, Inc., Old Charleston Builders, LLC, Heritage Construction Consultants, Inc., Robert H. Yarnall d/b/a Heritage Construction Consultants, Inc., PNL Construction, LLC, Clear Choice Group, LLC, Built Right Construction, LLC, Alfonso Villavicencio d/b/a Alfonso’s Painting, Alfonso Painting & Drywall, Inc., Diria Tawi Painting, Inc., Juan Luis Sanchez d/b/a Sanchez Brothers Painting, Sanchez Brothers Painting, Inc., Windward Shutters, LLC d/b/a Windward Hurricane Shutters, LLC, 84 Lumber Company, Builders FirstSource – Southeast Group, LLC, Americo Roofing Concepts f/k/a Americo Roofing Concepts Enterprises, Inc., Americo Roofing Concepts, Inc. f/k/a American Roofing Concepts, Archer Exteriors, Inc. and Professional Exteriors, LLC, Luciano Dias Gomes d/b/a Prestige Home Construction, Geraldo Da Cunha, Pablo Rojas Franco, Charles Gunter, Henry A. Palmer, Julio C. Crespo, Brasilican Contracting, LLC, Charles Bowser d/b/a CWB Services, Levi Arruda, Jose Geraldo Dos Reis, Leandro De Paulo Araujo, Helio A. De Rezende, Vinicius Araujo De Freitas a/k/a Vinicius Araujo, Robert M. Hughes d/b/a Robert’s Vinyl Siding, Lucas Rodrigues Barcelos a/k/a Lucas Rodriguez Barcelos, Karla Bezerra, Rodrigo B. Vasconcelos, Rondinely G. Da Silva, Marcio Nunes Da Silva, W&M Vinyl Siding, LLC, Bar Contractors, Inc., William Construction Services, LLC, and Donald Lee d/b/a Vinyl Siding Specialists

Defendants.

Archer Exteriors, Inc.,

Third-Party Plaintiff,

v.

Henry A. Palmer,

IN THE
COURT OF
COMMON
PLEAS
IN THE
NINTH
JUDICIAL
CIRCUIT

2018-CP-10-
0330

ORDER

RECEIVED

Aug 05 2024

SC Court of Appeals

Third-Party Defendant.

International Construction Services, Inc. and International Construction Services, Inc. d/b/a International Construction,

Third-Party Plaintiff,

v.

Bar Contractor, Inc. and William Construction Services, LLC,

Third-Party Defendant.

D.R. Horton, Inc.

Third-Party Plaintiff,

v.

Stier Supply Company Inc., American Builders and Contractors Supply Co., Inc. d/b/a ABC Supply Co. Inc., Professional Drywall and Paint Services, LLC, and Lou Pontigo and Associates, Inc.,

Third-Party Defendants.

This matter came before me on July 26, 2024, with regard to Defendant Professional Exteriors, LLC's Motion for Summary Judgment seeking dismissal of D.R. Horton, Inc.'s Cross-Claims pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. Drew Hamilton Butler of Richardson, Plowden & Robinson, P.A. appeared on behalf of Professional Exteriors, LLC, while Jason M. Imhoff of Kenison, Dudley & Crawford, LLC, appeared on behalf of D.R. Horton, Inc..

Before the Court were Professional Exteriors' Motion and Memorandum in Support of Summary Judgment as well as D.R. Horton's Memorandum in Opposition. Upon review and consideration of these filings, and counsel's oral arguments, the Court finds that the contractual

indemnity provision included in the Independent Contractor Agreement, as drafted by D.R. Horton, and entered into by the parties on August 6, 2009, required Professional Exteriors to indemnify D.R. Horton for D.R. Horton's own negligent, grossly negligent, and/or intentional acts or omissions, in violation of S.C. Code Ann. § 32-2-10. Therefore, the Agreement is void and unenforceable as a matter of law such that the Court dismisses D.R. Horton, Inc.'s contractual indemnity cross-claim against Professional Exteriors, LLC, with prejudice.

AND IT IS SO ORDERED.

A handwritten signature in cursive script, appearing to read "J.C. Nicholson, Jr.", written in black ink.

The Honorable J.C Nicholson, Jr. (Ret.)

Special Referee

July 30, 2024
Charleston, South Carolina