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Aug 27 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

The Honorable R. Scott Sprouse
Circuit Court Judge

Appellate Case No.: 2024-000057
Circuit Court Case No.: 2019-CP-04-01942

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.

A&J Framing, Inc.; A-z, Inc.; AJ Landscaping & Grading, LLC, a/k/a AJ Landscaping & Grading, LLC; Allpro Textures, LLC; Alpha E.M.C.; Alpha Omega Construction Group, Inc.; American Concrete and Precast, Inc., a/k/a ACP Concrete, Inc.; Atlanta Floor Designs Center; A Grade Above Others, LLC; BFK Builders, Inc.; BMC East, LLC d/b/a Coleman Floor, LLC; Brand-Vaughn Lumber Co., Inc.; Bravo Carpenters, Inc.; Builders Designhouse, LLC; Builders FirstSource Southeast Group, LLC, a/k/a Builders FirstSource, Inc.; Builders Services Group, LLC, f/k/a Masco Contractor Services Central, Inc., f/k/a Gale Industries, Inc., d/b/a Gale Contractor Services; Cannaday Siding & Gutter, Inc.; Caryl Mechanics II, Inc., a/k/a Caryl Mechanicals, Inc.; CBU Enterprises, Inc.; Cortes Painting, LLC; CPI Security Systems, Inc.; Dom

Group, LLC; Dupree Plumbing Company, Inc.; Ferguson Enterprises, Inc.; Five Star Construction, Inc.; Five Star Foundations, LLC; Galloway-Bell, Inc., a/k/a Galloway-Bell, Inc. II; GBS Building Supply – US LBM, LLC, f/k/a GBS Building Supply, Inc.; General Shale Brick, Inc.; Get Floored, LLC; Greener Pastures, Inc., a/k/a Greener Pastures of Aiken, LLC; Installed Building Products, LLC, a/k/a Installed Building Products II, LLC; IBP Asset, LLC, d/b/a/ Blue Ridge Building Products; JLS Masonry, Inc.; Kings Landscaping, LLC; L&M Products, Inc; Long Heating & Air Conditioning, Inc.; M&L General Construction, LLC; M&M Foundations, LLC; Manale Landscaping, LLC; MJ Cowboys, LLC; Nazareth Builders, LLC; NM Contractors, LLC; Poinsett Development, LLC; Poinsett Homes, LLC; P&L Enterprises, LLC; P&T Construction, Inc., a/k/a P&T Construction, Inc.; ProBuild Company, LLC, a/k/a ProBuild Holdings, Inc.; Rite Rug Co.; Rodney Howard Grading, Inc., a/k/a Rodney Howard Grading Co.; Sandlapper Concrete, LLC; Silver Line Building Products Corporation; Sodfather, Inc.; Landscape Contractors; Stock Building Supply, LLC; Topbuild Home Services, Inc., a/k/a Gale Contractor Service; Tucker Materials, Inc., a/k/a Gypsum; UTM Enterprises, Inc.; and Willow Tree Landscaping, Inc.,

Third-Party Defendants,

and

Aaron D. Peris; Harrelson Painting, LLC; Huttig Building Products,

Fourth and Fifth Party
Plaintiffs and Defendants,

Of whom

JLS Masonry, Inc., is the

Appellant,

v.

Natalie Zitek, individually, and on behalf of all others similarly situated and as assigned of the claims of Third-Party Plaintiff D.R. Horton, Inc.,

Respondents.

RESPONDENTS' THIRD MOTION FOR EXTENSION

Pursuant to Rule 240, SCACR, Respondents request an extension of the deadline for filing and serving their Initial Brief and Designation of Matters to Include in the Record on Appeal. The current deadline is September 3, 2024. Respondents request the Court extend the date for an additional (10) ten days, setting the Respondents' deadline to file their Initial Brief and Designation of Matters to September 13, 2024. This extension is necessary because of the Respondents' workload and Circuit Court and Appellate briefing deadlines. Counsel have been addressing final matters and hearings in a two-week date certain trial scheduled to begin September 16, 2024. This is Respondents' third extension request; however, Respondents also note Appellant received two extensions via consent. Further, Respondents' counsel has conferred with and obtained the consent of Appellants' counsel.

JUSTIN O'TOOLE LUCEY, P.A.

s/ Dabny Lynn

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Attorneys for Plaintiff

August 27, 2024
Mount Pleasant, South Carolina

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Group, LLC; Dupree Plumbing Company, Inc.; Ferguson Enterprises, Inc.; Five Star Construction, Inc.; Five Star Foundations, LLC; Galloway-Bell, Inc., a/k/a Galloway-Bell, Inc. II; GBS Building Supply – US LBM, LLC, f/k/a GBS Building Supply, Inc.; General Shale Brick, Inc.; Get Floored, LLC; Greener Pastures, Inc., a/k/a Greener Pastures of Aiken, LLC; Installed Building Products, LLC, a/k/a Installed Building Products II, LLC; IBP Asset, LLC, d/b/a/ Blue Ridge Building Products; JLS Masonry, Inc.; Kings Landscaping, LLC; L&M Products, Inc; Long Heating & Air Conditioning, Inc.; M&L General Construction, LLC; M&M Foundations, LLC; Manale Landscaping, LLC; MJ Cowboys, LLC; Nazareth Builders, LLC; NM Contractors, LLC; Poinsett Development, LLC; Poinsett Homes, LLC; P&L Enterprises, LLC; P&T Construction, Inc., a/k/a P&T Construction, Inc.; ProBuild Company, LLC, a/k/a ProBuild Holdings, Inc.; Rite Rug Co.; Rodney Howard Grading, Inc., a/k/a Rodney Howard Grading Co.; Sandlapper Concrete, LLC; Silver Line Building Products Corporation; Sodfather, Inc.; Landscape Contractors; Stock Building Supply, LLC; Topbuild Home Services, Inc., a/k/a Gale Contractor Service; Tucker Materials, Inc., a/k/a Gypsum; UTM Enterprises, Inc.; and Willow Tree Landscaping, Inc.,

Third-Party Defendants,

and

Aaron D. Peris; Harrelson Painting, LLC; Huttig Building Products,

Fourth and Fifth Party
Plaintiffs and Defendants,

Of whom

JLS Masonry, Inc., is the

Appellant,

v.

Natalie Zitek, individually, and on behalf of all others similarly situated and as assigned of the claims of Third-Party Plaintiff D.R. Horton, Inc.,

Respondents.

PROOF OF SERVICE

I certify that on August 27, 2024, a copy of Respondents' Third Motion for Extension to file their Initial Brief and Designation of Matters was served on all counsel of record via email as listed below:

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s/ Dabny Lynn

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Sohayla R. Townes
Mandee N. Funai
Charlotte B. Winckler
Alexandra S. O'Neill

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SC Court of Appeals

Via Email & U.S. Mail

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: Natalie Zitek vs. D.R. Horton vs. JLS Masonry, et al.
Case No.: 2019-CP-04-01942
Appellate Case No.: 2024-000057

Dear Mrs. Kitchings:

Pursuant to Section (b)(2) the Supreme Court's order Methods of Electronic filing and service under Rule 262 of the South Carolina Appellate Court Rules (as amended May 6, 2022), please find enclosed for filing Respondent's Motion for Extension to File and Serve her Initial Brief and Designation of Matter with regard to the above-referenced matter. By copy of this letter, I am serving all counsel of record via email. Our firm's check in the amount of \$50.00 has been placed in today's mail to cover the filing fee of the same.

Your assistance in this matter is greatly appreciated.

Sincerely,



Annette M. Mixson
Paralegal

:amm

Enclosures (as stated)

cc w/ encl: All Counsel of Record (via email only)