

THE STATE OF SOUTH CAROLINA
In the Court of Appeal

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas
Hon. R. Scott Sprouse, Circuit Court Judge

Case No. 2019-CP-04-01942
Appellate Case No. 2023-001401

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,Defendant,

D.R. Horton, Inc.,Appellant,

v.

AJ Landscaping & Grading LLC, A/K/A AJ Landscaping & Grading, Inc;
Allpro Textures, LCC; Alpha Omega Construction Group, Inc.; American
Concrete and Precast, Inc., A/K/A ACP Concrete, Inc.; A&J Framing, Inc;
Alpha E.M.C; A-Z, Inc.; Atlanta Floor Designs Center; A Grade Above
Others, LLC; Brand-Vaughan Lumber Co., Inc.; BKF Builders, Inc;
Builders Designhouse, LLC; BMC East, LLC D/B/A Coleman Floor,
LLC; Builders Firstsource Southeast Group, LLC,A/K/A Builders
Firstsource, Inc; Bravo Carpenters, Inc.; Caryl Mechanics II, Inc.; Caryl
Mechanicals, Inc.; Cannaday Siding and Gutter, Inc; Cortes Painting,
LLC; CBU Enterprises, Inc.; CPI Security Systems, Inc.; Dom Group,
LLC; Ferguson Enterprises, Inc.; Five Star Construction Inc.; Five Star
Foundations, LLC; Galloway-Bell, Inc.; A/K/A Galloway-Bell, Inc. II
BGET Floored, LLC; GBS Building Supply-Us LBM, LLC, A/K/A GBS
Building Supply, Inc.; General Shale Brick Inc.; Greener Pastures, Inc.
A/K/A Greener Pastures of Aiken, Inc; IBP Asset, LLC D/B/A Blue Ridge
Building Products; JLS Masonry, Inc.; Kings Landscaping, LLC;
Landshapers, LLC; Lade-Danler, Inc.; Lansing Building Products, Inc.;
Long Heating & Air Conditioning, Inc.; L&M Electric, Inc.; Manale
Landscaping, LLC; MJ Cowboys, LLC; M&L General Construction, LLC.
A/K/A M&L General Construction, Inc.; M&Lreyna Construction, LLC;
M&M Foundations, LLC; Nazareth Builders, LLC, NB Contractors, LLC;
Poinsett Development, LLC; Poinsett Homes, LLC; P&T Construction,
LLC; P&L Enterprises, LLC; Probuild Company, A/K/A Probuild

Holdings, Inc.; Rite Rug Co.; Rodney Howard Grading Co.; Sandlapper Concrete, LLC; Sodfather, Inc., Landscape Contractors; Stock Building Supply, LLC; Topbuild Home Services, Inc, A/K/A Gale Contractors Service; Tucker Materials, Inc., A/K/A Gypsum; UTM Enterprises, Inc., Dupree Plumbing Company, Inc.; Willow Tree Landscaping, Inc.,Third-Party Defendants,

of which Builder Services Group (f/k/a Masco Contractor Services Central Inc. f/k/a Gale Industries, Inc. d/b/a Gale Contractors Services) and IBP Assets, LLC d/b/a Blue Ridge Building Products, are the Respondents.

REQUEST FOR CLARIFICATION

Respondent IBP Assets, LLC d/b/a Blue Ridge Building Products (hereinafter “Blue Ridge”) hereby requests clarification of this Court’s August 23, 2024 ruling as to the following particulars:

1. This Court’s Order states that transcripts of proceedings and orders that occurred after August 17, 2024 are stricken from the record on appeal. Blue Ridge requests clarification as follows:

- a. Does the date referenced in the Order contain a typographical error? Specifically, should the year be 2023?
- b. The trial court’s formal Order granting Blue Ridge’s motion for summary judgment was filed August 23, 2023. That Order is also on appeal. Should the cut-off date therefore be August 23, 2023?

2. This Court’s August 23, 2024 Order only addresses Appellant’s reply brief and the very narrow issues raised in Blue Ridge’s June 28, 2024 motion. This raises the question:

- a. Are the initial Appellant’s and Respondent’s briefs referencing stricken materials in the record on appeal to be filed as final briefs unchanged except for the removal of citations to the stricken materials as per Rule 211(b), SCACR?

3. The Court's August 23, 2024 Order allows Appellant to file an amended brief and supplemental designations within fifteen days. Respondents' final briefs are due fifteen days from the Order. Blue Ridge requests clarification as follows:

- a. May Appellant's amended reply brief raise new arguments or designate new materials for the record on appeal?
- b. When is the amended record on appeal to be filed? If the amended record on appeal is re-paginated after the stricken materials are removed, it may affect citations in all final briefs.

Counsel for the undersigned has reached out to opposing counsel in an effort to work out these issues, but to date has not received a response.

Respectfully submitted,

s/Timothy J. Newton
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September 4, 2024

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SC Court of Appeals

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PROOF OF SERVICE

I certify that I have served Installed Building Products, LLC A/K/A Installed Building Products II, LLC's Request for Clarification on the parties of record by emailing a copy to the attorneys of record as follows:

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September 4, 2024