

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.

LIBRARY ASSOCIATES, INC.,

Defendant/Third-Party
Plaintiff,

v.

LITHKO CONTRACTING, LLC; et al.

Third-Party Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2019-CP-10-01108

RECEIVED

May 13 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.¹ 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.

Mikell R. Scarborough
Master in Equity

¹ 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