

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Hon. Bentley Price, Circuit Court Judge

Case No. 2019CP0702629
Appellant Case No. 2022-000469

Margaret A. Eberly and Barbara J. Pavelik; Plaintiffs,

v.

Advanced Flooring & Design Division of ISI, LLC; Archer Exteriors, Inc.;
Crossroads Enterprises, LLC; D.R. Horton, Inc.; East Coast Construction
Cleanup Corp.; Hutton's Landscapes, Inc.; Lather Construction SC, Inc.;
Lather Construction, Inc. Professional Drywall & Paint Services, LLC;
Professional Exteriors II, LLC; and Valim Construction, LLC, Defendants

Of which D.R. Horton, Inc., is the Appellant,

And

Hutton's Landscapes, Inc., Lather Construction SC, Inc., and Lather
Construction, Inc. are the Respondents.

MOTION OF APPELLANT D.R. HORTON, INC. TO HOLD
FURTHER BRIEFING IN ABEYANCE UNTIL AFTER THE COURT RULES IN
RELATED APPELLATE CASE NO. 2022-000016

Appellant D.R. Horton, Inc. moves to hold in abeyance further briefing in this case until
10 days after the Court rules in related appellate case number 2022-000016, *Shafi v. D.R. Horton*,

Inc. The Court heard argument in *Shafi* on September 11, 2024. Holding in abeyance further briefing and work on this case until after the Court rules on *Shafi* will conserve judicial resources because there are substantial and significant overlapping legal and factual similarities between the cases such that a decision in *Shafi* may decide or at least provide clarification as to some or all of the issues before the Court. The cases are related because:

1. Both cases involve the same trial judge, Judge Bentley Price, whose procedural irregularities in both cases has been challenged in both appeals and on the same grounds;
2. Both Judge Price and Respondent's counsel referred to and relied upon *Shafi* as the basis for the decision in this case;
3. The same procedural and substantive concerns in *Shafi* pervade the decision in this case because Judge Price *relied* on his decision in *Shafi* to decide the summary judgment motion in this case;
4. Both cases involve summary judgment motions that were decided on the same or substantially the same contractual provisions; and
5. Both cases involve identical or substantially identical residential construction contract issues of indemnity, duty to defend, and duty concerning Appellant Horton as an additional insured.

Appellant requests that the Court hold further briefing in abeyance until 10 days after the Court issues its decision in *Shafi v. D.R. Horton, Inc.*

October 17, 2024

Respectfully,

s/Carl F. Muller, SC Bar #4131
Carl F. Muller, Attorney-at-Law, P.A.
PO Box 1717
Greenville, SC 29602-1717
864-991-8904 Phone
864-751-2831 FAX
carl@carlmullerlaw.com
Attorney for Appellant
D. R. Horton, Inc.

John T. Crawford, Jr.,
(S.C. Bar No. 69355)
Kenison, Dudley & Crawford, LLC
704 McBee Ave.
Greenville, South Carolina 29601
(864) 242-4899
(864) 242-4844 (fax)
crawford@conlaw.com
Attorneys for Appellant
D. R. Horton, Inc.

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v.

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Cleanup Corp.; Hutton’s Landscapes, Inc.; Lather Construction SC, Inc.;
Lather Construction, Inc.; Professional Drywall & Paint Services, LLC;
Professional Exteriors II, LLC; and Valim Construction, LLC, Defendants,

Of which D.R. Horton, Inc., is the Appellant,

And

Hutton’s Landscapes, Inc.; Lather Construction SC, Inc.; and
Lather Construction, Inc., are the Respondents

PROOF OF SERVICE

The undersigned does hereby certify that on October 18, 2024, a copy of Appellant D.R. Horton, Inc’s Motion To Hold Further Briefing In Abeyance Until After The Court Rules In Related Appellate Case No: 2022-000016 was served by email on all counsel of record by copy of this email and filed by electronic mail with the Clerk of Court for the South Carolina Court of Appeals.

Emily Gifford Lucey, (S.C. Bar# 72785)
Megan C. White, (S.C. Bar#101895)
Payton D. Hoover, (S.C.Bar #75967)
Richardson Plowden & Robinson, PA
235 Magrath Darby Blvd., Ste. 100
Mt. Pleasant, SC 29464
843-805-6550 Phone
843-805-6599 FAX
egiffordlucey@richardsonplowden.com
MWhite@richardsonplowden.com
Phoover@richardsonplowden.com
Attorneys for Respondent Hutton's
Landscapes, Inc.

Carmen V. Ganjehsani, (S.C. Bar#73515)
Richardson Plowden & Robinson, PA
P.O. Drawer 778
Columbia, SC 2902
Phone: 803-377-4400
cganjehsani@richardsonplowden.com
Attorney for Respondent Hutton's
Hutton's Landscapes, Inc.

Jeffery A. Ross, (S.C. Bar No. 74254)
Philip P. Cristaldi, (S.C. Bar No.102219)
Scott H. Winograd, (SC. Bar No. 103483)
Ross & Cristaldi, LLC
863 Coleman Blvd., Suite B
Mt. Pleasant, South Carolina 29464
843-329-4040
jross@rclawsc.com
pcristaldi@rclawsc.com
swinograd@rclawsc.com
Attorneys for Respondent Lather
Construction, Inc., and
Lather Construction SC, Inc.

s/Carl F. Muller, SC Bar #4131
Carl F. Muller, Attorney-at-Law, P.A.
PO Box 1717
Greenville, SC 29602-1717
864-991-8904 Phone
864-751-2831 FAX
carl@carlmullerlaw.com
Attorney for Appellant
D.R. Horton, Inc.