

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

69634

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SEP 04 2013

SC Court of Appeals

Appeal from Charleston County
Court of Common Pleas

Roger M. Young, Sr., Circuit Court Judge

Case No. 2010-CP-10-9672

Hayden Jeffords, individually, and on behalf of All Others Similarly Situated, Titus Gudel, Harold S. McEwan, D. Everett Walker, Paul Kane, Jeanne Debosh, Margarita Staudt, Leslie Anne O'Neal, Trivette C. Hatcher, William Scanlon, Delia Scanlon, Christy C. Parish, Joseph LaDue, Deborah LaDue, Pamela Snyder, Steven Goldberg, Brent McClaine, Brian Rasmussen, McKenzie Hutaff, Brian Kavanagh, Lynn Harris, and Kenneth A. Brown, Plaintiffs,

Of Whom Titus Gudel, Harold S. McEwan, William Scanlon, Delia Scanlon, Steven Goldberg, Brent McClaine, McKenzie Hutaff, Lynn Harris, and Kenneth A. Brown are the Secondary Appellants,

and

Of Whom John Zohlen, Mary Zohlen, Leslie Anne O'Neal, and Trivette C. Hatcher are the Respondents.

v.

East Bridge Town Lofts, LLC, a/k/a East Bridge, LLC, a/k/a East Ridge Homes, LLC a/k/a East Bridge Lofts, LLC; Central 3, LLC; Creekstone East Bridge, LLC; Creekstone SC I, LLC; Alexandra Road Investors, LLC; Creekstone Management, LLC; Creekstone Management, Inc.; Donald K. Henry; Everett Jackson; Steve Keller; Edward Michael Washburn; Kevin Ball; East Coast Carpentry a/k/a ECC Contracting, LLC; Fuller Drywall & Paint, Ltd.; Delta Mechanical, Inc. a/k/a Carolina Delta Mechanical; Wasson Electric Heating & Air; Bay Club Homes, LLC; Terracon Consultants, Inc.; Salvador Rubalcaba d/b/a Rubalcaba Construction, Defendants,

Of Whom East Bridge Town Lofts, LLC, a/k/a East Bridge, LLC, a/k/a East Ridge Homes, LLC, a/k/a East Bridge Lofts, LLC; Central 3, LLC; Creekstone East Bridge, LLC; Creekstone SC I, LLC; Alexandra Road Investors, LLC; Creekstone Management, LLC; Creekstone Management, Inc.; Donald K. Henry; Everett Jackson; Steve Keller; Edward Michael Washburn; and Kevin Ball are the Primary Appellants,

v.

East Bridge Lofts, LLC; Central 3, LLC; Creekstone Eastbridge, LLC; and Creekstone SC I, LLC; Alexandra Road Investors, LLC; Creekstone Management, LLC; Donald K. Henry; Everett Jackson; Steve Keller; Edward Michael Washburn; Kevin Ball; and Bay Club Homes, LLC; Third-Party Plaintiffs,

v.

Robert Wasson and Barbara Wasson, individually and d/b/a Wasson Electric Heating & Air; and Charleston Chimney Services, Inc., Third-Party Defendants.

**RESPONDENTS' MOTION FOR BRIEFING EXTENSION
(IF BRIEFING IS NOT STAYED BY PENDING MOTION(S) TO DISMISS)**

YOUNG CLEMENT RIVERS, LLP
Edward D. Buckley, Jr.
Russell G. Hines
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-and-

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*Attorneys for Respondents John Zohlen,
Mary Zohlen, Leslie Anne O'Neal, and
Trivette C. Hatcher*

TO: THE HONORABLE JUDGES OF THE SOUTH CAROLINA COURT OF APPEALS

COME NOW the Respondents, John Zohlen, Mary Zohlen, Leslie Anne O'Neal, and Trivette C. Hatcher (hereinafter, the "Respondents"), by and through their undersigned counsel,¹ pursuant to Rule 263, SCACR, and any other applicable authority, and, upon the following grounds, respectfully move this Honorable Court for an extension of the deadline for filing/serving the Respondents' initial briefs in response to the Primary and Secondary Appellants (and corresponding designation of matter to be included in the record on appeal) to the extent such a motion is necessary, i.e., if the deadline is not already stayed by virtue of the Respondents' pending motion to dismiss certain Secondary Appellants (and another pending motion filed by counsel for the Secondary Appellants to dismiss Titus Gudel as a Secondary Appellant).

1. On July 31, 2013, the Respondents filed a Motion to Dismiss Certain Parties, With Request for Briefing to be Stayed or Otherwise Held in Abeyance Pending Action on Motion ("Respondents' Motion to Dismiss Certain Parties").

2. The Respondents' Motion to Dismiss Certain Parties has not as yet been acted upon by the Court.

3. Additionally, on May 20, 2013, counsel for the Secondary Appellants filed a motion to dismiss Titus Gudel as a Secondary Appellant, indicating that Gudel no

¹ Pursuant to this Court's order filed July 2, 2013, the undersigned are also counsel for Hayden Jeffords, D. Everett Walker, Paul Kane, Jeanne Debosh, Margarita Staudt, Christy C. Parish, Joseph LaDue, Deborah LaDue, Pamela Snyder, Brian Rasmussen, and Brian Kavanagh, all of whom are identified as Plaintiffs in the above caption, but all of whom are no longer participating in this appeal, because they were dismissed and/or withdrawn from this appeal by the aforementioned order.

longer wishes to pursue the appeal. A copy of this motion is attached hereto for reference as **Exhibit A**.

4. To the best of the Respondents' knowledge, the motion to dismiss Gudel has not as yet been acted upon by the Court.

5. Pursuant to Rule 240(b), SCACR, "[a] motion to dismiss an appeal or relive counsel . . . automatically stay[s] the time limits for perfecting the appeal until the motion is decided." The Respondents understand that this stay includes all briefing deadlines.

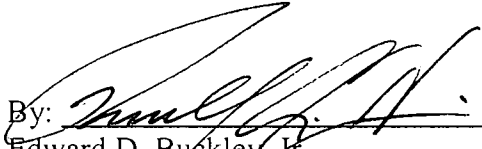
6. Nonetheless, out of an abundance of caution, in the Respondents' Motion to Dismiss Certain Parties, the Respondents included, as an alternative request, a motion to extend their deadline for filing/serving initial briefs in response to the Primary and Secondary Appellants (and their corresponding designation of matter) through September 3, 2013, to the extent that the deadline was not already stayed by the pendency of their motion to dismiss.

7. Here, again, out of an abundance of caution, to the extent that the appeal is not already stayed by the pendency of the Respondents' Motion to Dismiss Certain Parties (and the motion to dismiss Gudel), the Respondents move for a 30-day extension (from September 3, 2013), placing their deadline for filing/serving initial briefs in response to the Primary and Secondary Appellants (and corresponding designation of matter) at October 3, 2013. In light of the issues involved in this case, the two groups of appellants, and other demands upon the time of the Respondents' counsel, the extension requested will be of considerable benefit to counsel in briefing the issues for this Court's consideration. Additionally, by correspondence dated August 9, 2013, the Court

requested that the parties submit a proposed revised appellate caption to be used in this case. The Respondents filed/served their proposed revised caption on August 19, 2013, and the issue of the appropriate caption to be used in this case is still under consideration by the Court. Under the circumstances, which include the pendency of motions to dismiss certain parties, the undersigned believe that the requested extension is founded upon good cause and is in the interests of justice and that it will not work any undue prejudice upon any other party to this appeal.

Respectfully submitted,

YOUNG CLEMENT RIVERS, LLP

By: 
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-and-

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*Attorneys for Respondents John Zohlen,
Mary Zohlen, Leslie Anne O'Neal, and
Trivette C. Hatcher*

Charleston, South Carolina

Dated: 8/30/13

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Mary-Margaret S. Fitzhenry
Email: mfitzhenry@hayeslaw.org

May 20, 2013

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Post Office Box 11639
Columbia, SC 29211

Re: *Hayden Jeffords, et al vs. East Bridge Town Lofts, LLC, et al.*
Appellate No.: 2012-213351
HLF File No.: 69.001

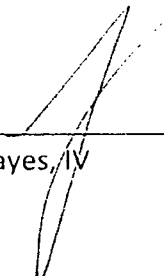
Dear Ms. Kitchings:

Enclosed please find an original and seven copies of a *Petition to Dismiss Plaintiff/Secondary Appellant* with regard to the above-referenced matter. Also enclosed is firm's check in the amount of \$25.00 for the appropriate filing fee. Please file the original and return a clocked-in copy to our office in the self-addressed stamped envelope enclosed for your convenience.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact us.

With kind regards, I remain

Very truly yours,



John C. Hayes, IV

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SC Court of Appeals

JCH/jml

Enclosures

cc: All Counsel of Record (via email w/ enc.)

COPY

Exhibit A

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE CHARLESTON COUNTY
Court of Common Pleas

The Honorable Roger M. Young, Sr.

Appellate No. 2012-213351
Trial Court Case No. 2010-CP-10-9672

Hayden Jeffords, Individually and on Behalf of All Others Similarly Situated, Titus Gudel, Harold S. McEwan, D. Everett Walker, Paul Kane, Jeanne Debosh, Margarita Staudt, Leslie Ann O'Neal, Trivette C. Hatcher, William Scanlon, Delia Scanlon, Christy C. Parish, Joseph LaDue, Deborah LaDue, Pamela Snyder, Steven Goldberg, Brent McClaine, Brian Rasmussen, McKenzie Hutaff, Brian Kavanagh, Lynn Harris, and Kenneth A. Brown.....Plaintiffs,

Of Whom Hayden Jeffords, Individually and on Behalf of All Others Similarly Situated, Titus Gudel, Harold S. McEwan, D. Everett Walker, Paul Kane, Jeanne Debosh, Margarita Staudt, William Scanlon, Delia Scanlon, Christy C. Parish, Joseph LaDue, Deborah LaDue, Pamela Snyder, Steven Goldberg, Brent McClaine, Brian Rasmussen, McKenzie Hutaff, Brian Kavanagh, Lynn Harris, and Kenneth A. Brown are the Secondary Appellants,

Of Whom John Zohlen, Mary Zohlen, Leslie Anne O'Neal, and Trivette C. Hatcher are the Respondents.

v.

East Bridge Town Lofts, LLC a/k/a East Bridge, LLC a/k/a East Ridge Homes, LLC a/k/a East Bridge Lofts, LLC, Central 3, LLC, Creekstone East Bridge, LLC, Creekstone SC I, LLC, Alexandra Road Investors, LLC, Creekstone Management, LLC, Creekstone Management, Inc., Donald K. Henry, Everett Jackson, Steve Keller, Edward Michael Washburn, Kevin Ball, East Coast Carpentry a/k/a ECC Contracting, LLC, Fuller Drywall & Paint, Ltd., Delta Mechanical, Inc., a/k/a Carolina Delta Mechanical, Wasson Electric Heating & Air, Bay Club Homes, LLC, Terracon Consultants, Inc., Salvador Rubalcaba d/b/a Rubalcaba Construction, Robert Wasson and Barbara Wasson, Individually d/b/a Wasson Electric Heating & Air, Inc., and Charleston Chimney Services, Inc.....Defendants,

Of Whom East Bridge Town Lofts, LLC a/k/a East Bridge, LLC a/k/a East Ridge Homes, LLC a/k/a East Bridge Lofts, LLC, Central 3, LLC, Creekstone East Bridge, LLC, Creekstone SC I, LLC, Alexandra Road Investors, LLC, Creekstone Management, LLC, Creekstone Management, Inc.,

COPY

Exhibit A

Donald K. Henry, Everett Jackson, Steve Keller, Edward Michael Washburn, and Kevin Ball are the Primary Appellants,

v.

East Bridge Lofts, LLC, Central 3, LLC, Creekstone Eastbridge, LLC, and Creekstone SC I, LLC, Alexandra Road Investors, LLC, Creekstone Management, LLC, Donald K. Henry, Everett Jackson, Steve Keller, Edward Michael Washburn, Kevin Ball, and Bay Club Homes, LLC.....Third-Party Plaintiffs,

v.

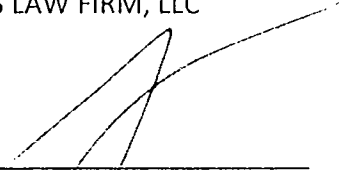
Robert Wasson and Barbara Wasson, Individually and d/b/a Wasson Electric Heating & Air, and Charleston 2 Chimney Services, Inc.....Third-Party Defendants.

PETITION TO DISMISS PLAINTIFF/SECONDARY APPELLANT

COMES NOW, Plaintiff/Secondary Appellant, Titus Gudel moves this Court for an order dismissing him from this Appeal as this Plaintiff/Secondary Appellant no longer wishes to pursue the Appeal.

I SO MOVE:

HAYES LAW FIRM, LLC



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COPY

Exhibit A

THE STATE OF SOUTH CAROLINA
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Roger M. Young, Sr., Circuit Court Judge SEP 04 2013

SC Court of Appeals

Case No. 2010-CP-10-9672

Hayden Jeffords, individually, and on behalf of All Others Similarly Situated, Titus Gudel, Harold S. McEwan, D. Everett Walker, Paul Kane, Jeanne Debosh, Margarita Staudt, Leslie Anne O'Neal, Trivette C. Hatcher, William Scanlon, Delia Scanlon, Christy C. Parish, Joseph LaDue, Deborah LaDue, Pamela Snyder, Steven Goldberg, Brent McClaine, Brian Rasmussen, McKenzie Hutaff, Brian Kavanagh, Lynn Harris, and Kenneth A. Brown, Plaintiffs,

Of Whom Titus Gudel, Harold S. McEwan, William Scanlon, Delia Scanlon, Steven Goldberg, Brent McClaine, McKenzie Hutaff, Lynn Harris, and Kenneth A. Brown are the Secondary Appellants,

and

Of Whom John Zohlen, Mary Zohlen, Leslie Anne O'Neal, and Trivette C. Hatcher are the Respondents.

v.

East Bridge Town Lofts, LLC, a/k/a East Bridge, LLC, a/k/a East Ridge Homes, LLC a/k/a East Bridge Lofts, LLC; Central 3, LLC; Creekstone East Bridge, LLC; Creekstone SC I, LLC; Alexandra Road Investors, LLC; Creekstone Management, LLC; Creekstone Management, Inc.; Donald K. Henry; Everett Jackson; Steve Keller; Edward Michael Washburn; Kevin Ball; East Coast Carpentry a/k/a ECC Contracting, LLC; Fuller Drywall & Paint, Ltd.; Delta Mechanical, Inc. a/k/a Carolina Delta Mechanical; Wasson Electric Heating & Air; Bay Club Homes, LLC; Terracon Consultants, Inc.; Salvador Rubalcaba d/b/a Rubalcaba Construction, Defendants,

Of Whom East Bridge Town Lofts, LLC, a/k/a East Bridge, LLC, a/k/a East Ridge Homes, LLC, a/k/a East Bridge Lofts, LLC; Central 3, LLC; Creekstone East Bridge, LLC; Creekstone SC I, LLC; Alexandra Road Investors, LLC; Creekstone Management, LLC; Creekstone Management, Inc.; Donald K. Henry; Everett Jackson; Steve Keller; Edward Michael Washburn; and Kevin Ball are the Primary Appellants,

v.

East Bridge Lofts, LLC; Central 3, LLC; Creekstone Eastbridge, LLC; and Creekstone SC I, LLC; Alexandra Road Investors, LLC; Creekstone Management, LLC; Donald K. Henry; Everett Jackson; Steve Keller; Edward Michael Washburn; Kevin Ball; and Bay Club Homes, LLC; Third-Party Plaintiffs,

v.

Robert Wasson and Barbara Wasson, individually and d/b/a Wasson Electric Heating & Air; and Charleston Chimney Services, Inc., Third-Party Defendants.

PROOF OF SERVICE

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-and-

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Joshua F. Evans
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(843) 849-8400

*Attorneys for Respondents John Zohlen,
Mary Zohlen, Leslie Anne O'Neal, and
Trivette C. Hatcher*

I, Russell G. Hines, of Young Clement Rivers, LLP, do hereby certify that a copy of the **Respondents' Motion for Briefing Extension (if Briefing is Not Stayed by Pending Motion(s) to Dismiss)** was sent to all counsel via united states mail, postage pre-paid on August 30, 2013 addressed as follows:

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Joshua F. Evans, Esquire
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P.O. Box 12129
Columbia, SC 29201

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John C. Hayes, IV, Esquire
Mary-Margaret Fitzhenry, Esquire
180 Meeting Street Suite 330
Charleston, SC 29401

Respectfully submitted,

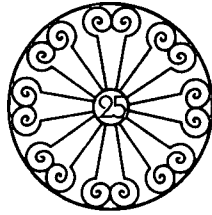
YOUNG CLEMENT RIVERS, LLP



Russell G. Hines (SC Bar No. 72100)

Charleston, South Carolina

Dated: 8/30/13



YCR LAW
Young Clement Rivers, LLP

Russell G. Hines
Associate

Direct Dial: (843) 720-5488
Direct Fax: (843) 579-1327
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August 30, 2013

VIA U.S. MAIL

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

Re: Hayden Jeffords et al. vs. East Bridge Town Lofts et al.
Circuit Case No.: 2010-CP-10-9672
Appellate Case No.: 2012-213351
YCR File No.: 14096-20090424

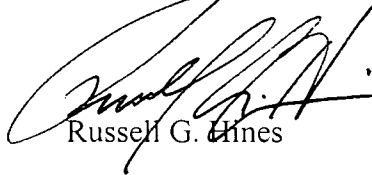
Dear Ms. Kitchings:

Enclosed for filing in the above-referenced matter please find the original and seven (7) copies of the **Respondents' Motion for Briefing Extension (if Briefing is not Stayed by Pending Motion(s) to Dismiss)** along with a **Proof of Service** for the same. Kindly return a stamped copy of the motion and proof of service to our office in the envelope provided. Of course, please let me know if you have any questions or concerns.

With best wishes and kindest regards, I am

Sincerely,

YOUNG CLEMENT RIVERS, LLP



Russell G. Hines

RGH/jla

cc: (all below via U.S. Mail)

Justin O'Toole Lucey, Esquire, Justin O'Toole Lucey, P.A.
Joshua F. Evans, Esquire, Justin O'Toole Lucey, P.A.
Robert T. Lyles, Jr., Esquire, Lyles & Lyles, LLC
Jason A. Pittman, Esquire, Lyles & Lyles, LLC
John C. Hayes, IV, Esquire, Hayes Law Firm, LLC
Mary-Margaret S. Fitzhenry, Esquire, Hayes Law Firm, LLC
I. Keith McCarty, Esquire, McCarty Law Firm, LLC
Michael S. Seekings, Esquire, Leath Bouch & Seekings, LLP

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Page 2 of 2

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