

RECEIVED

Dec 20 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
The Honorable Martha M. Rivers

Case No. 2024-CP-26-05611

DR Horton Builder

Appellant,

v.

Edward and April Mannone

Respondents.

NOTICE OF APPEAL

D.R. Horton, Inc., incorrectly identified as DR Horton Builder, (“Appellant”) appeals the Honorable Martha M. Rivers Order Denying D.R. Horton’s Appeal, entered November 20, 2024, attached as **Exhibit 1**. Appellant received notice of entry of the order on November 22, 2024.

[SIGNATURE ON FOLLOWING PAGE]

s/ John T. Crawford

John T. Crawford (SC Bar No.: 69682)
KENISON, DUDLEY & CRAWFORD, LLC
325 West McBee Avenue, Suite 301
Greenville, South Carolina 29601
(864) 242-4899
Email: crawford@conlaw.com

Attorney for Appellant

December 20, 2024

Other counsel of record:

Edward and April Mannone
3103 Gilham Loop
Myrtle Beach, SC 29588
Pro Se

RECEIVED

Dec 20 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
The Honorable Martha M. Rivers

Case No. 2024-CP-26-05611

DR Horton Builder

Appellant,

v.

Edward and April Mannone

Respondents.

PROOF OF SERVICE

The undersigned does hereby certify that on December 20, 2024, a copy of the Notice of Appeal was served via email and by FedEx overnight depository on all parties of record as follows and filed with the Clerk of Court for Greenville County Court of Common Pleas via electronic filing. A copy of the sent email is enclosed as **Exhibit A** with this Proof of Service.

I certify that I have caused the service of the Notice of Appeal on all parties of record via email and by depositing a copy in the FedEx overnight depository, addressed as follows:

Edward and April Mannone
3103 Gilham Loop
Myrtle Beach, SC 29588
emannone@verizon.net

s/ John T. Crawford
John T. Crawford (SC Bar No.: 69682)
KENISON, DUDLEY & CRAWFORD, LLC
325 West McBee Avenue, Suite 301
Greenville, South Carolina 29601
(864) 242-4899
Email: crawford@conlaw.com
Attorney for Appellant

D.R. Horton, Inc. v. Mannone (C.A. 2024-CP-26-05611)

From Kelly Nix <nix@conlaw.com>

Date Fri 12/20/2024 5:18 PM

To emannone@verizon.net <emannone@verizon.net>

Cc John Crawford <crawford@conlaw.com>; Kathryn Harden <harden@conlaw.com>; Cara Smith <smith@conlaw.com>; Natascha Genc <genc@conlaw.com>

 2 attachments (352 KB)

24.12.20 Notice of Appeal.pdf; Ex. 1 Mannone Appeal.pdf;

Dear Mr. & Mrs. Mannone,

Attached please find a Notice of Appeal and Exhibit 1, in the above-referenced matter which are being filed in Circuit Court and in the Court of Appeals today.

****PLEASE NOTE THAT OUR GREENVILLE OFFICE IS NOW LOCATED AT 325 W. MCBEE AVENUE, SUITE 301, GREENVILLE, SC 29601. ****



Kelly Nix

Office Manager

KENISON, DUDLEY & CRAWFORD, LLC

325 W. McBee Avenue, Suite 301

Greenville, SC 29601

Email: nix@conlaw.com

Main: (864) 242-4899

Website: www.conlaw.com

This email contains information that may be confidential and/or privileged. If you are not the intended recipient, or the employee or agent authorized to receive for the intended recipient, you may not copy, disclose or use any contents in this email. If you have received this email in error, please immediately notify the sender at Kenison, Dudley & Crawford, LLC by replying to this email and delete the original and reply emails. Thank you.

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
The Honorable Martha M. Rivers

Case No. 2024-CP-26-05611

DR Horton Builder

Appellant,

v.

Edward and April Mannone

Respondents.

NOTICE OF APPEAL

D.R. Horton, Inc., incorrectly identified as DR Horton Builder, (“Appellant”) appeals the Honorable Martha M. Rivers Order Denying D.R. Horton’s Appeal, entered November 20, 2024, attached as **Exhibit 1**. Appellant received notice of entry of the order on November 22, 2024.

[SIGNATURE ON FOLLOWING PAGE]

s/ John T. Crawford

John T. Crawford (SC Bar No.: 69682)
KENISON, DUDLEY & CRAWFORD, LLC
325 West McBee Avenue, Suite 301
Greenville, South Carolina 29601
(864) 242-4899
Email: crawford@conlaw.com

Attorney for Appellant

December 20, 2024

Other counsel of record:

Edward and April Mannone
3103 Gilham Loop
Myrtle Beach, SC 29588
Pro Se

DR Horton Inc
PLAINTIFF(S)

Edward Mannone et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

Defendant DR Horton Inc., erroneously named as DR Horton, appealed the Magistrate's Court judgment raising the issue of improper service of litigation. DR Horton Inc. was served at a superintendent office in Horry County, South Carolina, and not at the principal place of business of the corporation or through its registered agent in the state of South Carolina. However, defendant acknowledged it received the summons and complaint on May 9, 2024, sent an answer on June 25, 2024, and filed an authorization for the superintendent to appear as the agent for purposes of magistrate's court. No responsive pleading raised an objection to service. The Magistrate Court found defendant in default for failure to timely file an answer and held a damages hearing.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 11/20/2024 .

April Mannone for April Mannone
Edward Mannone for Edward Mannone
April Mannone for April Mannone
Edward Mannone for Edward Mannone

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

From arguments of counsel and return of the Magistrate, it appears that this is the first objection to service. The filing of the answer and appearance in court without objection waived any objection to service. Defendant participated in the hearing. The court was within its discretion to hold defendant in default as no answer was received until July 2024. Therefore, this court denies DR Horton Inc's to set aside the default judgment of \$7,580.00. Defendant made the conscience decision in how it presented its case.



Horry Common Pleas

Case Caption: DR Horton Inc VS Edward Mannone , defendant, et al

Case Number: 2024CP2605611

Type: Order/Electronic Form 4

IT IS SO ORDERED.

/s/ Hon. Martha M. Rivers (2788)