

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
John M. Milling, Special Referee

Case No. 2009-CP-26-11862

Appellate Case No. 2013-001281

RECEIVED
SEP 18 2013
SOUTH CAROLINA COURT OF APPEALS

Harleysville Group Insurance, a Pennsylvania corporation, Appellant/Respondent,

v.

Heritage Communities, Inc., a South Carolina corporation;
Heritage Magnolia North, Inc., a South Carolina
corporation; Buildstar Corp., a South Carolina
corporation; Magnolia North Horizontal Property Regime;
Magnolia North Property Owners Assoc., Inc., a South
Carolina corporation; and National Surety Corp., Defendants,

Of whom Heritage Communities, Inc., a South Carolina
corporation; Heritage Magnolia North, Inc., a South
Carolina corporation; Buildstar Corp., a South Carolina
corporation; and National Surety Corp. are Respondents,

And Magnolia North Horizontal Property Regime and
Magnolia North Property Owners Assoc., Inc., a South
Carolina corporation are Respondents/Appellants.

APPELLANT/RESPONDENT'S DESIGNATION OF
MATTER FOR THE RECORD ON APPEAL

Pursuant to Rule 209, SCACR, Appellant/Respondent Harleysville Group Insurance ("Harleysville") submits its designations of matter for inclusion in the record on appeal. These designations are in addition to the matters designated by opposing counsel in the Respondents'/Appellants' Designation of Matter. Undersigned counsel

certifies, pursuant to Rule 209(c), SCACR, that the designation contains no matter which is irrelevant to the appeal:

ORDERS

1. Order of Reference appointing the Honorable John M. Milling as Special Referee, October 21, 2010.
2. Special Referee's Order denying Harleysville's Motion for Directed Verdict or Declaratory Judgment, February 28, 2013.
3. Special Referee's Order disposing of case, February 28, 2013.
4. Special Referee's Order denying Motions to Alter or Amend, April 22, 2013.

PLEADINGS

5. Harleysville's Declaratory Judgment Complaint, December 10, 2009.
6. Answer and Counterclaim of Magnolia North Horizontal Property Regime, et al., December 17, 2009.
7. Harleysville's Reply to Counterclaim, January 4, 2010.

TRANSCRIPTS

8. Trial Transcript of December 13-14, 2010.
9. Hearing Transcript of December 9, 2011.
10. Hearing Transcript of April 9, 2013.

EXHIBITS

11. Ex. 1: Trial Transcript of Riverwalk Liability Action, January 5-15, 2009, pages 842-89.
12. Ex. 6: Trial Transcript of Underlying Magnolia North Liability Action, May 11-20, 2009, pages 447, 558, 887, 894, 1211-17, 1292-1302.
13. Ex. 6: Transcript of video deposition of Mr. Gwyn Hardister, April 15, 2009, played at underlying trial.

14. Ex. 9: Eighth Amended Complaint in Underlying Liability Action, February 24, 2009.
15. Ex. 11: Transcript of Deposition of Mr. Lee Wright, August 3, 2010.
16. Ex. 12: Commercial General Insurance Policies issued by Harleysville to insureds relevant to this action.
17. Ex. 15: Harleysville's Reservation of Rights Letter to Insureds relevant to this action.
18. Ex. 17: Harleysville's chart regarding policies, limits, and aggregate remaining.
19. Ex. 21: Baiden Construction Report.
20. Ex. 22: Transcript of motion hearing in River Oaks matter.
21. Ex. 23: Affidavit of Roger Van Wie.
22. Ex. 24: Deposition Transcript of James Graham, December 2, 2008.
23. Ex. 27: Underlying verdict form, May 20, 2009.
24. Harleysville's chart "Magnolia North Data," submitted to the Special Referee as an attachment to its Proposed Order, February 16, 2012.

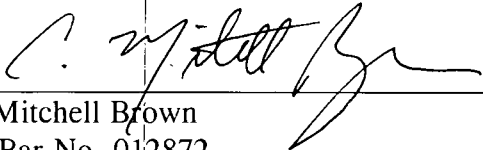
MISCELLANEOUS AND MOTIONS

25. Pre-Trial Brief of Magnolia North Horizontal Property Regime, et al., December 1, 2010.
26. Harleysville's Pre-Trial Brief, December 3, 2010.
27. Harleysville's Motion to Conform Evidence and Correct Mistake in Record, February 17, 2012.
28. Harleysville's Motion for Judgment as a Matter of Law and Directed Verdict, September 12, 2012.
29. Harleysville's Proposed Order, submitted as a memorandum of law in support of its Motion for Judgment as a Matter of Law and Directed Verdict, September 12, 2012.

30. Motion of Magnolia North Horizontal Property Regime, et al. to Alter or Amend, March 20, 2013.
31. Harleysville's Motion to Alter or Amend, March 21, 2013.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By:


C. Mitchell Brown
SC Bar No. 012872
E-Mail: mitch.brown@nelsonmullins.com
William C. Wood, Jr.
SC Bar No. 015111
E-Mail: bill.wood@nelsonmullins.com
A. Mattison Bogan
SC Bar No. 72629
E-Mail: matt.bogan@nelsonmullins.com
Miles E. Coleman
SC Bar No. 78264
E-Mail: miles.coleman@nelsonmullins.com
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

Robert C. Calamari
SC Bar No. 064985
E-Mail: bob.calamari@nelsonmullins.com
3751 Robert M. Grissom Parkway / Suite 300
Post Office Box 3939 (29578-3939)
Myrtle Beach, SC 29577-3165
(843) 448-3500

Attorneys for Appellant/Respondent

Columbia, South Carolina

September 18, 2013

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
John M. Milling, Special Referee

Case No. 2009-CP-26-11862
Appellate Case No. 2013-001281

Harleysville Group Insurance, a Pennsylvania corporation,..... Appellant/Respondent,

v.

Heritage Communities, Inc., a South Carolina corporation; Heritage Magnolia North, Inc., a South Carolina corporation; Buildstar Corporation, a South Carolina corporation; Magnolia North Horizontal Property Regime; Magnolia North Property Owners Association, Inc., a South Carolina corporation, and National Surety Corp.,..... Defendants.

Of whom Heritage Communities, Inc., a South Carolina corporation; Heritage Magnolia North, Inc., a South Carolina corporation; and National Surety Corp. are Respondents,

And Magnolia North Horizontal Property Regime and Magnolia North Property Owners Assoc., Inc., a South Carolina corporation are Respondents/Appellants.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellant, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

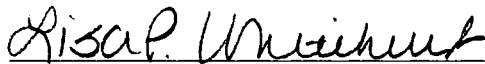
Appellant/Respondent's Designation of Matter to be Included in the Record on Appeal

Counsel Served:

John P. Henry, Esquire
Philip C. Thompson, Esquire
Thompson & Henry
1300 Second Avenue, 3rd Floor
Conway, SC 29528

Laura Johnson Evans, Esquire
Smith Moore Leatherwood, LLP
25 Calhoun Street, Suite 250
Charleston, SC 29401

Karin McCarthy, Esquire
Rivkin Radler
926 RXR Plaza
Uniondale, NY 11556



Lisa P. Whitehurst
Administrative Assistant

September 18, 2013