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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-In Equity

Appellate Case No. 2024-000788

Case No.: 2019-CP-10-01108

Balfour Beatty Construction, LLC, Appellant,

v.

Library Associates, LLC; and Metropolitan Life Insurance Company, a New York Corporation, Defendant

And

Library Associates, LLC, Third-Party Plaintiff,

v.

Lithko Contracting, LLC, Guy M. Beaty, Inc., Bernard MMC, LLC, Gulf Stream Construction Company, Inc., Precision Walls, Inc., Palmetto Automatic Sprinkler Company, Inc., Cook & Boardman, LLC, Strong Tower Construction, LLC d/b/a Koch Corporation, Watson Electrical Construction Co., LLC, Trimark Foodcraft, LLC, Pleasant Places, Inc., David Allen Company, Inc., Premier Exteriors, LLC, Warco Construction, Inc., Old North State Masonry, LLC, Tom Rochester & Associates d/b/a Southeastern Architectural Systems, Forton Company, LLC, Low Country Case & Millwork, Inc., Quantum Coatings, LLC, Balfour Beatty Construction Group, Inc., Third-Party Defendants.

Of which Library Associates, LLC is the Respondent.

**APPELLANT'S DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD
ON APPEAL**

Appellant Balfour Beatty Construction, LLC (“Appellant”) by and through undersigned counsel, proposes the following be included in the Record on Appeal:

1. Order Granting Balfour Beatty Construction LLC’s Motion to Amend Complaint, filed October 2, 2019;
2. Order to Consolidate and Refer to the Charleston County Master-In-Equity, filed November 18, 2019;
3. Order Granting Strong Tower Construction, LLC d/b/a Koch Corporation’s Motion for Partial Summary Judgment, filed September 9, 2021;
4. Order Granting Watson Electrical Construction Co., LLC’s Motion for Partial Summary Judgment, filed September 13, 2021;
5. Order Granting Third-Party Defendant Warco Construction, Inc.’s Motion for Partial Summary Judgment, filed September 13, 2021;
6. Order Granting Premier Exteriors, LLC’s Motion for Summary Judgment Against Balfour Beatty Construction, LLC, filed December 22, 2021;
7. Order Regarding Library’s Motion for Directed Verdict, filed October 26, 2021;
8. Order, filed October 6, 2023;
9. Order Awarding Attorneys’ Fees and Costs, filed April 12, 2024;
10. Order Awarding Punitive Damages, filed April 12, 2024;
11. Order granting, in part, and denying in part, Balfour’s Motion to Alter or Amend the Order Awarding Punitive Damages and Motion for Election of Remedy, filed April 29, 2024;
12. Order entering Judgment in favor of Library Associates, LLC against Balfour Beatty Construction, LLC, filed May 6, 2024;
13. Order Denying Balfour’s Motion to Alter or Amend the October 6, 2023 Order and Balfour’s Motion to Alter or Amend the Award of Punitive Damages, filed May 15, 2024;
14. Summons and Complaint, C.A. No. 2019-CP-10-01108, filed March 5, 2019;
15. Library Associates, LLC’s Answer to Plaintiff’s Complaint and Counterclaims, filed May 3, 2019;
16. Amended Answer and Counterclaims of Library Associates, LLC and Third Party Complaint, filed May 15, 2019;
17. Amended Summons and Complaint, C.A. No. 2019-CP-10-01108, filed October 3, 2019;

18. Answer and Counterclaims of Library Associates, LLC to Amended Complaint of Balfour Beatty Construction, LLC and Third Party Complaint, filed October 17, 2019;
19. Second Amended Summons and Complaint, C.A. No. 2019-CP-10-01108, filed October 12, 2020;
20. Answer and Counterclaims of Library Associates, LLC to the Second Amended Complaint of Balfour Beatty Construction, LLC and Third Party Complaint, filed October 20, 2020;
21. Balfour's Proposed Order, Submitted to the Master May 23, 2023;
22. Library's Proposed Order, Submitted to the Master May 23, 2023;
23. Balfour Beatty Construction, LLC's Motion to Alter/Amend Order Granting Judgment to Library Associates, LLC, filed October 16, 2023;
24. Balfour Beatty Construction, LLC's Motion to Require Library to Elect a Remedy, filed October 16, 2023;
25. Library Associates, LLC's Petition for Attorneys' Fees and Costs, filed November 6, 2023;
26. Balfour Beatty Construction, LLC's Memorandum in Opposition to Library Associates, LLC's Petition for Attorneys' Fees and Costs, filed March 7, 2024;
27. Balfour Beatty Construction, LLC's Memorandum in Support of its Motion to Require Library to Elect a Remedy, filed March 7, 2024;
28. Balfour Beatty Construction, LLC's Memorandum in Support of Motion to Alter/Amend the Order Granting Judgment to Library Associates, filed March 7, 2024;
29. Library Associates, LLC's Memorandum in Support of its Petition for Attorneys' Fees and Costs and Pursuant to the Declaratory Judgment Act, Additional Interest Payments, Past and Future, as Direct Costs Incurred and for Prejudgment Interest as Provided by Law; and in Support of Pending Rule 52(b) and 59(e) Motions to Alter or Amend and Make Additional Findings, filed March 7, 2024;
30. Balfour Beatty Construction, LLC's Amended Motion to Require Library Associates, LLC to Elect a Remedy, filed March 8, 2024;
31. Balfour Beatty Construction, LLC's Memorandum in Response to Library Associates, LLC's Memorandum in Support of its Petition for Attorneys' Fees and Costs and Pursuant to the Declaratory Judgment Act, Additional Interest Payments, Past and Future, as Direct Costs Incurred and for Prejudgment Interest as Provided by Law; and in Support of Pending Rule 52(b) and 59(e) Motions to Alter or Amend and Make Additional Findings, filed March 11, 2024;
32. Balfour Beatty Construction, LLC's Motion to Strike Affidavit of Marvin D. Infinger, filed March 11, 2024;

33. Library Associates, LLC's Reply to Balfour Beatty Construction, LLC's Memorandum in Opposition to its Petition for Attorneys' Fees and Costs, filed March 11, 2024;
34. Revised Affidavit of Marvin D. Infinger, filed March 11, 2024;
35. Affidavit of Franklin E. Worrell, filed March 28, 2024;
36. Balfour Beatty Construction, LLC's Motion in Limine Regarding Hearing on Punitive Damages, filed April 1, 2024;
37. Library Associates, LLC's Filing of Exhibits Pertaining to the March 13, 2024 Hearing, filed April 10, 2024
38. Library Associates, LLC's Supplemental Petition for Attorneys' Fees and Costs; and in Addition Other Relief Pursuant to Declaratory Judgment Cause of Action, filed April 10, 2024;
39. Supplemental Affidavit of Kimberly Bennett Brown, filed April 10, 2024;
40. Balfour Beatty Construction, LLC's Motion to Alter or Amend the Order Awarding Punitive Damages and Election of Remedy Pursuant to Rule 59(e), filed April 22, 2024;
41. Library Associates, LLC's Notice of Election of Remedy, filed May 6, 2024
42. Balfour Beatty Construction, LLC's Motion to Alter or Amend Pursuant to Rule 59(e), filed May 9, 2024;
43. Excerpts from Trial Transcript of September 13, 2021 to December 3, 2021, to include:
Pages: 1-3; 90-284; 464-600; 675-816; 1608-1611; 1786-1892; 1894-1897;
1899-2046; 2159-2162; 2167; 2231-2233; 2278-2331; 2579-2582; 2598-2778;
2781-2784; 2793-2871; 2872-2924; 2938-3036; 3039-3081; 3116; 3252-3255;
3301-3304; 3457-3458; 3688-3691; 3693; 3837; 3883-3886; 3887-4038; 4040-4181;
4194-4204; 4216-4234; 4263-4270; 4275-4296; 4340-4341; 4395-4398;
4460-4487.
44. Transcript of March 13, 2024 Hearing on Balfour Beatty Construction, LLC's Motion to Alter/Amend Order Granting Judgment to Library Associates, LLC;
45. Transcript of March 13, 2024 Hearing on Library Associates, LLC's Petition for Attorneys' Fees and Costs;
46. Transcript of April 2, 2024 Hearing on Balfour Beatty Construction, LLC's Motion to Alter/Amend Order Granting Judgment to Library Associates, LLC;
47. Transcript of April 2, 2024 Hearing on Balfour Beatty Construction, LLC's Motion to Require Library Associates, LLC to Elect a Remedy;

48. Balfour Beatty Construction, LLC's Notice and Certificate of Mechanic's Lien, filed January 25, 2019;
49. Balfour Beatty Construction, LLC's Notice and Certificate of Amended Mechanic's Lien, filed July 23, 2019;
50. Balfour Beatty Construction, LLC's Exhibit 3;
51. Balfour Beatty Construction, LLC's Exhibit 11;
52. Balfour Beatty Construction, LLC's Exhibit 12;
53. Balfour Beatty Construction, LLC's Exhibit 26;
54. Balfour Beatty Construction, LLC's Exhibit 27;
55. Balfour Beatty Construction, LLC's Exhibit 28;
56. Balfour Beatty Construction, LLC's Exhibit 42;
57. Balfour Beatty Construction, LLC's Exhibit 46;
58. Balfour Beatty Construction, LLC's Exhibit 56;
59. Balfour Beatty Construction, LLC's Exhibit 72;
60. Balfour Beatty Construction, LLC's Exhibit 81;
61. Balfour Beatty Construction, LLC's Exhibit 83;
62. Balfour Beatty Construction, LLC's Exhibit 85;
63. Balfour Beatty Construction, LLC's Exhibit 111;
64. Balfour Beatty Construction, LLC's Exhibit 138;
65. Balfour Beatty Construction, LLC's Exhibit 141;
66. Balfour Beatty Construction, LLC's Exhibit 143;
67. Balfour Beatty Construction, LLC's Exhibit 150;
68. Balfour Beatty Construction, LLC's Exhibit 151;
69. Balfour Beatty Construction, LLC's Exhibit 154;
70. Balfour Beatty Construction, LLC's Exhibit 201;
71. Balfour Beatty Construction, LLC's Exhibit 202;

72. Balfour Beatty Construction, LLC's Exhibit 215;
73. Balfour Beatty Construction, LLC's Exhibit 226;
74. Balfour Beatty Construction, LLC's Exhibit 231;
75. Balfour Beatty Construction, LLC's Exhibit 255;
76. Balfour Beatty Construction, LLC's Exhibit 257;
77. Balfour Beatty Construction, LLC's Exhibit 263;
78. Balfour Beatty Construction, LLC's Exhibit 292;
79. Balfour Beatty Construction, LLC's Exhibit 300;
80. Balfour Beatty Construction, LLC's Exhibit 301;
81. Balfour Beatty Construction, LLC's Exhibit 303;
82. Balfour Beatty Construction, LLC's Exhibit 304;
83. Balfour Beatty Construction, LLC's Exhibit 305;
84. Balfour Beatty Construction, LLC's Exhibit 312;
85. Balfour Beatty Construction, LLC's Exhibit 350;
86. Library Associates, LLC's Exhibit 3;
87. Library Associates, LLC's Exhibit 35;
88. Library Associates, LLC's Exhibit 44;
89. Library Associates, LLC's Exhibit 114
90. Library Associates, LLC's Exhibit 141;
91. Library Associates, LLC's Exhibit 142
92. Library Associates, LLC's Exhibit 143; and
93. Library Associates, LLC's Exhibit 146B.

The undersigned hereby certifies, pursuant to Rule 209(c), SCACR, that Appellant's Designation of Matter to be included in the Record on Appeal contains no matter which is irrelevant to the appeal.

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