

# The South Carolina Court of Appeals

Natalie Zitek, individually, and on behalf of all others  
similarly situated; Plaintiff,

v.

D.R. Horton, Inc., Jane Doe #1-10; and, John Doe #1-50,  
Defendant,

D.R. Horton, Inc., Appellant,

v.

AJ Landscaping & Grading LLC, A/K/A AJ Landscaping  
& Grading, Inc; Allpro Textures, LCC; Alpha Omega  
Construction Group, Inc.; American Concrete and  
Precast, Inc., A/K/A ACP Concrete, Inc.; A&J Framing,  
Inc; Alpha E.M.C; A-Z, Inc.; Atlanta Floor Designs  
Center; A Grade Above Others, LLC; Brand-Vaughan  
Lumber Co., Inc.; BKF Builders, Inc; Builders  
Designhouse, LLC; BMC East, LLC D/B/A Coleman  
Floor, LLC; Builders Firstsource Southeast Group,  
LLC,A/K/A Builders Firstsource, Inc; Bravo Carpenters,  
Inc.; Caryl Mechanics II, Inc.; Caryl Mechanicals, Inc.;  
Cannaday Siding and Gutter, Inc; Cortes Painting, LLC;  
CBU Enterprises, Inc.; CPI Security Systems, Inc.; Dom  
Group, LLC; Ferguson Enterprises, Inc.; Five Star  
Construction Inc.; Five Star Foundations, LLC;  
Galloway-Bell, Inc.; A/K/A Galloway-Bell, Inc. II BGET  
Floored, LLC; GBS Building Supply-Us LBM, LLC,  
A/K/A GBS Building Supply, Inc.; General Shale Brick  
Inc.; Greener Pastures, Inc. A/K/A Greener Pastures of  
Aiken, Inc; IBP Asset, LLC D/B/A Blue Ridge Building  
Products; JLS Masonry, Inc.; Kings Landscaping, LLC;  
Landshapers, LLC; Lade-Danler, Inc.; Lansing Building  
Products, Inc.; Long Heating & Air Conditioning, Inc.;  
L&M Electric, Inc.; Manale Landscaping, LLC; MJ  
Cowboys, LLC; M&L General Construction, LLC.

A/K/A M&L General Construction, Inc.; M&Lreyna Construction, LLC; M&M Foundations, LLC; Nazareth Builders, LLC, NB Contractors, LLC; Poinsett Development, LLC; Poinsett Homes, LLC; P&T Construction, LLC; P&L Enterprises, LLC; Probuild Company, A/K/A Probuild Holdings, Inc.; Rite Rug Co.; Rodney Howard Grading Co.; Sandlapper Concrete, LLC; Sodfather, Inc., Landscape Contractors; Stock Building Supply, LLC; Topbuild Home Services, Inc, A/K/A Gale Gale Contractors Service; Tucker Materials, Inc., A/K/A Gypsum; UTM Enterprises, Inc., Dupree Plumbing Company, Inc.; Willow Tree Landscaping, Inc., Third-Party Defendants,

of which Builder Services Group (f/k/a Masco Contractor Services Central Inc. f/k/a Gale Industries, Inc. d/b/a Gale Contractors Services) and IBP Assets, LLC d/b/a Blue Ridge Building Products, are the Respondents.

Appellate Case No. 2023-001401

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ORDER

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On October 29, 2024, Appellant filed a motion to strike portions of Respondent's briefs that include "statements, references, or events that occurred after [August 23, 2023,] or include references to pleadings not provided to the trial court." Appellant provided redlined versions of Respondents' briefs, which Appellant proposed be used to correct Respondents' briefs to omit the improper material. On November 8, 2024, Respondents filed a return, arguing against the motion to strike. On November 13, 2024, Appellant filed a reply to the return to the motion to strike. After careful consideration, we grant Appellant's motion to strike portions of Respondent's briefs that include statements, references, or events that occurred after August 23, 2023, or include references to pleadings not provided to the trial court. After reviewing the redlined versions of Respondents' briefs provided by Appellant, we have determined those versions correctly remove the stricken materials. Within thirty days of the date of this order, Respondents shall serve and

file amended initial briefs that remove stricken material in accordance with the redlined briefs submitted by Appellant.

On November 4, 2024, Appellant filed amended initial reply briefs and a supplemental designation of matter. On November 8, 2024, Respondents moved to strike a portion of Appellant's initial brief, portions of Appellant's amended initial reply briefs, and thirteen items designated in Appellant's supplemental designation of matter. In the alternative, Respondents moved for an opportunity to meaningfully respond to Appellant's arguments raised for the first time in its reply briefs. Appellant filed a return, opposing Respondents' requests. On November 18, 2024, Respondents filed a reply in which they withdrew their requests to strike portions of Appellant's amended initial brief and portions of the briefs concerning insurance. After careful consideration, we deny Respondents' motion to strike; however, we grant Respondents the opportunity to file final sur-reply briefs. Within thirty days of the date of this order, Respondents shall serve and file final sur-reply briefs.

*Krista Carter*

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FOR THE COURT

Columbia, South Carolina

cc:

Jason Michael Imhoff, Esquire  
Carl F. Muller, Esquire  
Everett Augustus Kendall, II, Esquire  
Alicia Noel Bolyard, Esquire  
Timothy J. Newton, Esquire

**FILED**  
**Jul 08 2025**