

RECEIVED

Aug 05 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Hon. Martha M. Rivers

Magistrate Case No.: 2024-CV-26-1040781
Circuit Case No.: 2024-CP-26-05611
Appellate Case No.: 2024-002158

D.R. Horton, Inc.....Appellant,

v.

Edward and April Mannone.....Respondents.

RECORD ON APPEAL

s/John T. Crawford, Jr.
John T. Crawford, Jr. (S.C. Bar # 69682)
Kathryn L. Harden (S.C. Bar #103217)
Kenison, Dudley & Crawford, LLC
325 West McBee Avenue, Suite 301
Greenville, SC 29601
(864) 242-4899
crawford@conlaw.com
harden@conlaw.com
Attorneys for Appellants

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

Greenville, South Carolina
July 16, 2025

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STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

2024CV261040781
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

JUDGMENT

Edwrd & April Mannone
3103 Gilham Loop
Myrtle Beach, SC 29588
(917) 751-8573

PLAINTIFF(S)

Vs

D.R. Horton Builder
4049 Belle Terre Blvd
Myrtle Beach, SC 29579

DEFENDANT(S)

The issues in this action were tried in the Surfside Beach Magistrate Court on July 17, 2024 at which time a Judgment for the Plaintiff, **Edwrd & April Mannone, ,** was rendered in the amount of **\$7,500.00**.

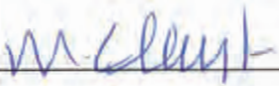
IT IS THEREFORE ORDERED that the Plaintiff recover from the Defendant(s):

D.R. Horton Builder

the total amount of **\$7,580.00** which includes other relief, if any, as stated below.

Court Costs / Filing Fees

80.00


JUDGE

Surfside Beach Magistrate Court
9630 Scipio Lane
Myrtle Beach, SC 29588
Phone: (843) 915-5291 Fax: (843) 915-6291

July 17, 2024

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Horry
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2024CP2605611

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)

Electronically signed on 2024-11-20 16:23:19 page 3 of 3

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

2024CV261040781
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

SUMMONS

Edwrd & April Mannone
3103 Gilham Loop
Myrtle Beach, SC 29588
(917) 751-8573

PLAINTIFF(S)

Vs

Dr Horton Builder
4049 Belle Terre Blvd
Myrtle Beach, SC 29579

DEFENDANT(S)

TO THE DEFENDANT(S) NAMED ABOVE:

YOU ARE SUMMONED and required to answer the allegations of the attached complaint and present any appropriate counterclaims/crossclaims to the attached Complaint within THIRTY days from the first day after receipt of this summons. Your Answer must be received by the:

Surfside Beach Magistrate Court
9630 Scipio Lane
Myrtle Beach, SC 29588
Phone: (843) 915-5291
Fax: (843) 915-6291

If you fail to answer within the prescribed time, a judgment by default may be rendered against you for the amount or other remedy requested in the attached complaint, plus interest and costs. **If you desire a jury trial, you must request one in writing at least five (5) working days prior to the date set for trial.** If no jury trial is timely requested, the matter will be heard and decided by the Judge.

Given under my hand:


JUDGE

READ ATTACHED INSTRUCTIONS CAREFULLY

May 1, 2024

SURFSIDE BEACH MAGISTRATE COURT

9630 Scipio Lane
Myrtle Beach, SC 29588
Phone: (843) 205-5291
Fax: (843) 205-6291

Civil Case: 2024CV26104 0781

Date: May 1, 2024

PLAINTIFF (you): Edward and April Mannone (Name)

Mailing Address:

3103 Gillham Loop
Myrtle Beach, SC 29588

Phone Number: 917-751-8573
516-458-6163

DEFENDANT (them): D.R. HORTON BUILDER (Name)

Physical Address:

4049 Belle Terre Blvd
Myrtle Beach, SC 29579

Phone Number: 843-984-0933

Mailing Address (if different from above):

Additional Defendant (if applicable): _____ (Name)

Physical Address:

Phone Number _____

Mailing Address (if different from above):

***NOTE:** If you are suing a company, please specify if they are a d/b/a, corporation, LLC, etc. If you are suing a corporation, please call the Secretary of State at (803) 734-2158 or visit their website at <https://businessfilings.sc.gov/BusinessFiling/Entity/AgentSearch> to obtain the name of the Registered Agent that accepts service for that company.

AMOUNT OF SUIT: \$ 7500.00

COURT COST: \$ 80-

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

Edward Mannone)

PLAINTIFF(S))

3103 Gillham Loop)

STREET ADDRESS)

Myrtle Beach, SC 29588)

CITY, STATE, ZIP)

VS.)

D.R. Horton Builders)

DEFENDANT(S))

4049 Belle Terre Blvd)

STREET ADDRESS)

Myrtle Beach, SC 29579)

CITY, STATE, ZIP)

2024CV26104

CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

COMPLAINT

I, Edward Mannone, the Plaintiff in this civil action, do make the following claims:

1. I, Edward Mannone, believe the Defendant, D.R. Horton Builders is a resident of Horry County, and resides at 4049 Belle Terre Blvd MB, SC which is within Judge Manuela A. Clayton's magisterial jurisdiction or the Complaint is properly filed in Horry County.

2. I make this complaint on the following:

Failure to fulfill warranty on flooring and replacement of defective floor on entire 1st floor caused by construction crew.

(Attached supplement if necessary)

3. I believe, because of the above information, that I am entitled to and do request a judgment for \$ 7500.00 and/or other relief as below requested:

including any costs resulting in this action.

I state, under penalty of perjury, that the above is correct and truthful, except those based on my information and belief.

DATED: 5/1/24

Edward Mannone
Plaintiff (or his attorney or agent)

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

Edward Mannoner)

PLAINTIFF(S))

VS.)

DR. Horton Builders)

DEFENDANT(S))

2024CV26104

CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

AFFIDAVIT AND ITEMIZATION
OF ACCOUNTS

Plaintiff, Edward Mannoner, personally appearing before me, who, being duly sworn, states that he is the Plaintiff in this action, and that the Itemization of Accounts which follows is true and correct.

He further states that no part of the sum included in the itemization below has been paid or satisfied in any fashion, and is today due and owed to him.

ITEMIZATION OF ACCOUNTS

<u>FLOORING BILL (188293.24)</u>	\$ <u>7500.00</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____
Court Costs	\$ <u>80.00</u>
TOTAL \$ _____	

(Copies of bills, papers, or other proof of any of the above accounts should be attached to this document.)

Ed Mannoner

Plaintiff (or his attorney or agent)

Sworn to before me
this 1st day of May, 2024.)

Susan M. Beerna
Magistrate or Notary Public for South Carolina)

My Commission expires 2/6/34)



SHERWIN-WILLIAMS.

04/18/24 12:46 PM

CUSTOMER ORDER

Page: 1 of 1

CUST#: 0000-0000-1
JOB:
BILL TO: EDWARD MANNONE
3103 GILLHAM LOOP
MYRTLE BEACH SC 29588

STORE: 702296 SHERWIN-WILLIAMS
770 CENTURY CIRCLE
CONWAY SC 29526 9999
PHONE: (843) 347-7440
FAX: (843) 347-7442

TYPE: STORE
CUST PO#: ..
CONTROL#: 0049676
ORDER#: OE0049676A702296
ENTRY DATE: 04/18/24
REQUIRED DATE: 04/18/24
CANCEL DATE:
EMPLOYEE: RABON, DERRICK
STATUS: IN PROCESS
CONTACT: EDWARD MANNONE
PHONE: (917) 751-8573
DELIVERY: NO
INSTALL: YES
DEMONSTRATION: NO
CUST ORDER JOB:

SHIP TO: EDWARD MANNONE
3103 GILLHAM LOOP
TAKE UP AND INSTALL HOUSE
MYRTLE BEACH SC 29588

SALES #	SIZE	PRODUCT / MFG NBR	DESCRIPTION	QTY		EXTENDED		S-W		SALES	
				ORDERED	PRICE	PRICE	STATUS	PURCHASE	ORDER	TERM/TRAN	
1016-18437	EACH	33519-03	DRFTWD COLL SILVSHAD	1126.59	3.19	3593.82	ON ORDER				
589-4845	EACH	SL2N100001	2N1 UNDERLAYMENT	12.00	42.99	515.88	ON ORDER				
577-2629	EACH	DRWIMS	DOMESTIC T-MOLD	3.00	54.99	164.97	ON ORDER				
1			INSTALLATION LABOR-NO	1.00	3047.49	3047.49	COMMITTED				
1013-45138	EACH	PR15096	SHOEMOLD WHT PRIMED	312.00	.82	255.84	COMMITTED				
2			INSTALLATION LABOR-NO	1.00	234.00	234.00	COMMITTED				
1025-20436	EACH	HGL612C	6 MIL POLY 12X100 RO	1.00	110.00	110.00	COMMITTED				
SUB TOTAL						7922.00					
TAX						371.24					
ORDER TOTAL						8293.24					

THIS IS NOT AN INVOICE

INSTRUCTIONS FOR DEFENDANT

1. If you do not wish to oppose plaintiff's claim you may:
 - a. Contact plaintiff and make an out-of-court settlement with the plaintiff before the trial date and file with the magistrate court a dismissal of the case signed by the plaintiff, or
 - b. Make no answer to the complaint. In that case, the plaintiff will be given a default judgment against you in the amount specified in the complaint.
2. If you wish to oppose the claim:
 - a. You must file an answer with the magistrate's court within the time limit specified in the summons. If you fail to answer within that time period, you lose your right to defend the case and the plaintiff may be given a default judgment against you in the amount specified in the complaint. Your answer may be made in writing in a form approved by the magistrate, or your answer may be made orally to the magistrate's court if you appear in person within the time limit specified in the summons.
 - b. If you answer within the specified time, you will be notified of the time and date of the trial. You must maintain a correct mailing address with the court and you must appear for trial. Should you fail to appear, you lose your right to defend the case and the plaintiff may be given a default judgment against you in the amount specified in the complaint.
 - c. At the time for trial you must bring with you all books, papers, witnesses, and evidence you have to establish your defense. You are required to comply with the South Carolina Rules of Evidence.
 - d. At your request the court will issue a subpoena for any witness you may need (you must request the subpoena as soon as possible and before the trial date). There is a fee of \$3.00 for the magistrate to prepare and mail a subpoena. If the subpoena is delivered by a deputy, there is an additional service fee of \$8.00 that must be paid to the court. Further, you will be responsible to the witness for a fee of \$25.00.
3. If you desire a jury trial, you must request one in writing at least five (5) working days prior to the date set for trial. If no jury trial is timely requested, the matter will be heard and decided by the magistrate.
4. If you have a claim against the plaintiff that grows out of the same transaction or occurrence as the plaintiff's claim, you may file a counterclaim. The counterclaim must be filed with the magistrate within the time limit specified in the summons for answering. The counterclaim must be made in writing in a form approved by the magistrate, or it may be made orally to the magistrate's court if you appear in person within the time limit specified in the summons. Your counterclaim will be tried at the same time as the plaintiff's claim if it does not exceed the jurisdiction of the magistrate to hear. If the counterclaim exceeds the magistrate's jurisdiction, the entire matter will be transferred to the circuit court.
5. If you have a claim against the plaintiff that does not grow out of the same occurrence or transaction as the plaintiff's claim, you may file a claim (complaint) against the plaintiff. This claim would be heard separate and apart from the plaintiff's claim against you.
6. If you are a member of the Armed Services of the United States, please advise the court upon receipt of this summons.
7. If you are under 18 years of age, please advise the court upon receipt of this summons.
8. If you are a prisoner in any municipal, county, state, or federal jail or prison, please advise the court upon receipt of this summons.
9. You may be represented by an attorney, but are not required to have one. The magistrate's court will explain the procedure of the court and will help you prepare papers related to your action if you require such assistance. The court cannot, however, represent you or provide you with an attorney or give you any legal advice.
10. If you are a business and are going to be represented by a Non-Lawyer, a Non-Lawyer Authorization Form must be included with your Answer/Counterclaim. (See 33-1-103 SC Code of Laws)

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
)
)
)

2024CV261040781
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT
ANSWER

Edwrd & April Mannone
3103 Gilham Loop
Myrtle Beach, SC 29588
(917) 751-8573

PLAINTIFF(S)

Vs

Dr Horton Builder
4049 Belle Terre Blvd
Myrtle Beach, SC 29579

DEFENDANT(S)

On _____ I was served with a Complaint requiring me to answer within thirty days from the date of service. My Answer, which is hereby filed with the **Surfside Beach Magistrate Court**, is as follows:

CHECK ONE:

A. ☐ I contest the jurisdiction of the court based on the following: (use additional pages if necessary)

B. ☐ I admit everything in the complaint and do not want a trial.

C. ☐ I admit that I am responsible, but not for the total amount claimed by the Plaintiff(s) because: (use additional pages if necessary) _____

D. ☐ I deny that I am responsible at all because: (use additional pages if necessary) _____

YOU MUST FILE THIS DOCUMENT WITH THE COURT WITHIN THIRTY DAYS

THE DEFENDANT/PLAINTIFF STATES THAT THE INFORMATION CONTAINED IN THIS ANSWER IS TRUE AND CORRECT TO THE BEST OF HIS/HER KNOWLEDGE.

DATED: _____

SIGNATURE OF DEFENDANT(S) (OR ATTORNEY)

IF MORE THAN ONE DEFENDANT, ALL MUST FILE ANSWER

PLEASE RETURN TO:

Surfside Beach Magistrate Court
9630 Scipio Lane
Myrtle Beach, SC 29588
Phone: (843) 915-5291
Fax: (843) 915-6291

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

D.R. Horton Builder
4049 Belle Terre Blvd
Myrtle Beach, SC 29579

MAGISTRATE SUMMONS

You are hereby summoned to be and appear personally in the

Surfside Beach Magistrate Court
9630 Scipio Lane
Myrtle Beach, SC

on **July 17, 2024** at **8:30 AM** to serve as a party in a Bench Trial in the case of:

RE: Edwrd & April Mannone

Vs

D.R. Horton Builder

PLAINTIFF(S)

DEFENDANT(S)

Civil Case Number: **2024CV261040781, Summons & Complaint.**

**HEREIN FAIL NOT, ON PAIN OF FORFEITING THE LAWFUL PENALTY IN
SUCH CASE MADE AND PROVIDED.**

JUDGE

Surfside Beach Magistrate Court
9630 Scipio Lane
Myrtle Beach, SC 29588
Phone: (843) 915-5291
Fax: (843) 915-6291

June 12, 2024

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

Edwrd & April Mannone
3103 Gilham Loop
Myrtle Beach, SC 29588

MAGISTRATE SUMMONS

You are hereby summoned to be and appear personally in the

Surfside Beach Magistrate Court
9630 Scipio Lane
Myrtle Beach, SC

on **July 17, 2024** at **8:30 AM** to serve as a party in a Bench Trial in the case of:

RE: Edwrd & April Mannone Vs D.R. Horton Builder

PLAINTIFF(S)

DEFENDANT(S)

Civil Case Number: **2024CV261040781, Summons & Complaint.**

**HEREIN FAIL NOT, ON PAIN OF FORFEITING THE LAWFUL PENALTY IN
SUCH CASE MADE AND PROVIDED.**

JUDGE

Surfside Beach Magistrate Court
9630 Scipio Lane
Myrtle Beach, SC 29588
Phone: (843) 915-5291
Fax: (843) 915-6291

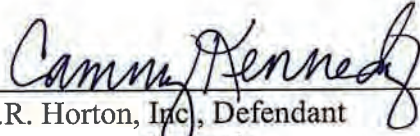
June 12, 2024

STATE OF SOUTH CAROLINA
COUNTY OF HORRY
EDWARD & APRIL MANNONE,
PLAINTIFFS,
VS.
D.R. HORTON, INC.,
DEFENDANT.

2024CV261040781
CIVIL CASE NUMBER:
IN THE MAGISTRATE'S COURT
AUTHORIZATION FOR
NON-LAWYER REPRESENTATIVE

I, the undersigned Assistant Vice President for D.R. Horton, Inc., improperly named as D.R. Horton Builders, hereby authorize Jimmy Lisi, the Construction Manager, and Lori H. Roberts, the Customer Service Manager, at the Myrtle Beach Division of D.R. Horton, Inc., non-lawyers, to represent this business in the above-titled civil action. I acknowledge that the business is legally bound by all actions undertaken by the representative during the course of the representation, as well as to any judgment of the Court obtained therefrom.

DATED: June 25, 2024


D.R. Horton, Inc., Defendant
By: Cammy Kennedy
1341 Horton Circle
Arlington, TX 76011
Phone: (817) 390-8200
Fax: (817) 390-1713

SWORN TO AND SUBSCRIBED BEFORE ME this 25th day of June, 2024.

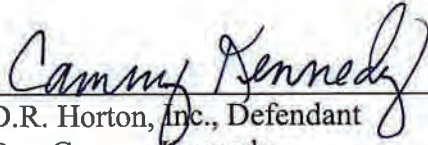

Notary Public in and for the State of Texas

My Commission expires: 08/16/25



CERTIFICATE OF SERVICE

This is to certify that a true and correct copy this Authorization for Non-Lawyer Representative has been forwarded via First-Class U.S. Mail to the Surfside Beach Magistrate Court, County of Horry, 9630 Scipio Lane, Myrtle Beach, South Carolina 29588 and Plaintiffs, Edward and April Mannone, 3103 Gilham Loop, Myrtle Beach, South Carolina 29588 on this 25 day of June, 2024.



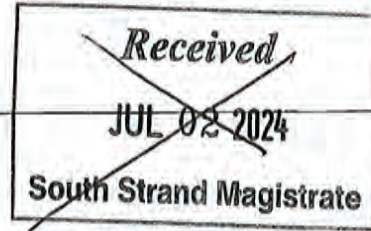
D.R. Horton, Inc., Defendant
By: Cammy Kennedy

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
)
)
)
)

2024CV261040781
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT
ANSWER

Edwrd & April Mannone
3103 Gilham Loop
Myrtle Beach, SC 29588
(917) 751-8573
PLAINTIFF(S)



Vs

Dr Horton Builder
4049 Belle Terre Blvd
Myrtle Beach, SC 29579
DEFENDANT(S)

On May 9, 2024 I was served with a Complaint requiring me to answer within thirty days from the date of service. My Answer, which is hereby filed with the **Surfside Beach Magistrate Court**, is as follows:

CHECK ONE:

A. ☐ I contest the jurisdiction of the court based on the following: (use additional pages if necessary)

B. ☐ I admit everything in the complaint and do not want a trial.

C. ☐ I admit that I am responsible, but not for the total amount claimed by the Plaintiff(s) because: (use additional pages if necessary)

D. ☒ I deny that I am responsible at all because: (use additional pages if necessary)

This home is outside of warranty - 1 year flooring. As a courtesy, D.R. Horton, Inc. offered to perform spot repairs to the flooring, but homeowners declined unless all flooring throughout the downstairs was replaced, which is unnecessary.

YOU MUST FILE THIS DOCUMENT WITH THE COURT WITHIN THIRTY DAYS

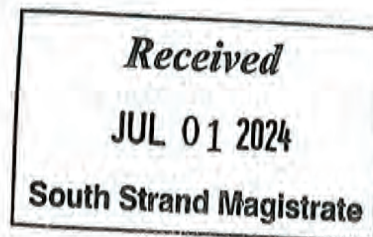
THE DEFENDANT/PLAINTIFF STATES THAT THE INFORMATION CONTAINED IN THIS ANSWER IS TRUE AND CORRECT TO THE BEST OF HIS/HER KNOWLEDGE.

DATED: June 25, 2024

Cammy Kennedy, Assistant Vice President D.R. Horton, Inc.

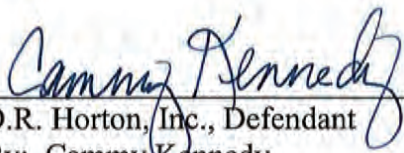
SIGNATURE OF DEFENDANT(S) (OR ATTORNEY) Cammy Kennedy, Assistant Vice President for D.R. Horton, Inc.
IF MORE THAN ONE DEFENDANT, ALL MUST FILE ANSWER

PLEASE RETURN TO:
Surfside Beach Magistrate Court
9630 Scipio Lane
Myrtle Beach, SC 29588
Phone: (843) 915-5291
Fax: (843) 915-6291



CERTIFICATE OF SERVICE

This is to certify that a true and correct copy D.R. Horton, Inc.'s Answer has been forwarded via First-Class U.S. Mail to the Surfside Beach Magistrate Court, County of Horry, 9630 Scipio Lane, Myrtle Beach, South Carolina 29588 and Plaintiffs, Edward and April Mannone, 3103 Gilham Loop, Myrtle Beach, South Carolina 29588 on this 25 day of June, 2024.



D.R. Horton, Inc., Defendant
By: Cammy Kennedy

STATE OF SOUTH CAROLINA	)	COMMON PLEAS CASE NUMBER
	)	2024-CP-10-_____
COUNTY OF HORRY	)	MAGISTRATE CIVIL CASE NUMBER
	)	2024-CV-261040781
DR HORTON BUILDER	)	
_____	)	
APPELLANT(S)	)	IN THE COURT OF COMMON PLEAS
	)	
VS.	)	NOTICE OF CIVIL APPEAL
EDWARD & APRIL MANNONE	)	
_____	)	
RESPONDENT(S)	)	

YOU WILL PLEASE TAKE NOTICE THAT Defendant, D.R. Horton, Inc., improperly identified as D.R. Horton Builder, (hereinafter "Appellant" or "D.R Horton"), by and through its undersigned counsel, move pursuant to Rule 18 of the South Carolina Rules of Magistrate Court ("SCRMCM") to appeal the judgment of the Magistrate Court in the above-captioned matter. Said appeal will be heard before the Court of Common Pleas, State of South Carolina, County of Horry, on a date determined by the aforementioned Court.

Pursuant to Rule 18 of the South Carolina Rules of Magistrate Court, Defendant appeals the Order, enclosed herein, issued by the Honorable Manuela Ardeljan Clayton on July 17, 2024, awarding Seven Thousand Five Hundred Eighty and 00/100 Dollars (\$7,580.00) to Plaintiffs Edward Mannone and April Mannone (hereinafter "Respondents") in the above-captioned matter.

1. On or around May 1, 2024, Edward & April Mannone (hereinafter "Respondents") filed a Complaint against D.R. Horton in the Surfside Beach Magistrate Court in Horry County, South Carolina (hereinafter "Lawsuit").

2. The Lawsuit alleged that D.R. Horton failed to fulfill the warranty on the flooring for the home located at 3103 Gillham Loop, Myrtle Beach, South Carolina 29588 (hereinafter the "Property"), which was purchased by the Respondents from D.R. Horton.

3. Subsequently, two superintendents at D.R. Horton's Myrtle Beach Division Office were served on May 9, 2024, with the Complaint, despite the registered agent for D.R. Horton being CT Corporation System located at 2 Office Park Court Suite 103, Columbia, South Carolina 29223.

4. On June 25, 2024, Cammy Kennedy, a representative and counsel for D.R. Horton, filed D.R. Horton's Answer to the Complaint and Authorization of Non-Lawyer Representative, which was sent First-Class U.S. Mail to the Surfside Beach Magistrate Court, located at 9630 Scipio Lane, Myrtle Beach, South Carolina 29588.

5. Additionally, the above-reference pleadings were also sent First-Class U.S. Mail to the Respondents at the Property address.

6. At the hearing set for July 17, 2024, the Court found that due to D.R. Horton's Answer not being filed within thirty (30) days of service, the Appellants were in default and failed to allow D.R. Horton to provide evidence disputing the allegations.

7. The Court entered a Judgement that granted the Respondents Seven Thousand Five Hundred Eighty and 00/100 Dollars (\$7,580.00), which is attached hereto as **Exhibit A**.

Included in D.R. Horton's grounds for this appeal is that the facts do not support this award, there is no evidence supporting this award as Respondents did not present evidence causally linking their claims against D.R. Horton to any damages suffered by Respondents, and the Court incorrectly found D.R. Horton in default and failed to provide D.R. Horton the ability to offer testimony regarding the allegations.

Additionally, and in the alternative, Rule 11(e) of the SCRMC, provides that a court may set aside a default or a default judgement if the Defendant is able to show good cause in accordance with Rule 12, such as for the reasons of mistake, inadvertence, surprise, or excusable neglect. See

Rule 12(b) SCRMC. The court improperly treated the late answer filed by D.R. Horton as a default, despite the fact that D.R. Horton had filed an answer with the court prior to the hearing, the service upon D.R. Horton was not proper, D.R. Horton had good cause as to why the answer was late and the actions taken to quickly rectify it after it became aware of the issue. Moreover, pursuant to Rule 55(c) of the SCRCP, D.R. Horton has a meritorious defense to the Respondents' claims as outlined in its Answer.

Defendant requests a hearing on this Appeal for the aforementioned reasons and a vacating of the Order issued by the Honorable Manuela Ardeljan Clayton. This Notice of Appeal will be served on Pro Se Plaintiffs and the Magistrate Court, as required by Rule 18(b), SCRMC.

s/ John T. Crawford, Jr.

John T. Crawford, Jr. (SC Bar # 69682)

Kathryn L. Harden (SC Bar #103217)

325 West McBee Avenue, Suite 301

Greenville, South Carolina 29601

Telephone: (864) 242-4899

Facsimile: (864) 242-4844

crawford@conlaw.com

harden@conlaw.com

Counsel for D.R. Horton, Inc.

August 14, 2024
Greenville, South Carolina

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

2024CV261040781
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

JUDGMENT

Edwrd & April Mannone
3103 Gilham Loop
Myrtle Beach, SC 29588
(917) 751-8573

PLAINTIFF(S)

Vs

D.R. Horton Builder
4049 Belle Terre Blvd
Myrtle Beach, SC 29579

DEFENDANT(S)

The issues in this action were tried in the Surfside Beach Magistrate Court on July 17, 2024 at which time a Judgment for the Plaintiff, **Edwrd & April Mannone, ,** was rendered in the amount of **\$7,500.00**.

IT IS THEREFORE ORDERED that the Plaintiff recover from the Defendant(s):

D.R. Horton Builder

the total amount of **\$7,580.00** which includes other relief, if any, as stated below.

Court Costs / Filing Fees

80.00

JUDGE



Surfside Beach Magistrate Court
9630 Scipio Lane
Myrtle Beach, SC 29588
Phone: (843) 915-5291 Fax: (843) 915-6291

July 17, 2024

ELECTRONICALLY FILED - 2024 Aug 14 4:22 PM - HORRY - COMMON PLEAS - CASE#2024CP2605611

ORIGIN ID: OKA (864) 242-4899
NATASCHA GENC
KENNISON, DUDLEY & CRAWFORD, LL
325 W MCBEE AVE
SUITE 301
GREENVILLE, SC 29601
UNITED STATES US

SHIP DATE: 14AUG24
ACTWGT: 0.50 LB
CAD: 251324624/NET4730

BILL SENDER

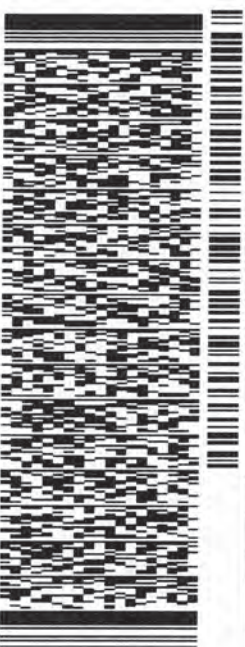
TO **SURFSIDE BEACH MAGISTRATE COURT**

9630 SCIPIO LANE

MYRTLE BEACH SC 29588

(864) 242-4899 REF: DRH/MANNONE
INV/ PO DEPT

583J6/A12D9AE3



THU - 15 AUG 12:00P

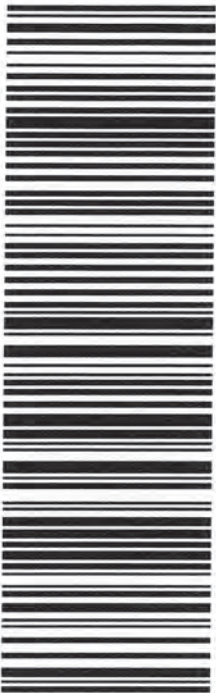
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SUITE 301
GREENVILLE, SC 29601
UNITED STATES US

SHIP DATE: 14AUG24
ACTWGT: 0.50 LB
CAD: 251324624INET4730

TO **EDWARD AND APRIL MANNONE**

3103 GILHAM LOOP

MYRTLE BEACH SC 29588

(864) 242-4899
REF: DRH/MANNONE
DEPT

583J6/A12D9AE3


J243824071301uv

TRK# 7779 7854 7265
0201

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RES 29588
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STATE OF SOUTH CAROLINA	)	
COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS
	)	2024CP2605611
DR Horton Builder	)	
Plaintiff	)	RETURN OF THE CIVIL APPEAL
Vs.	)	
Edward and April Mannone	)	
Defendant	)	

This matter is on appeal from the Magistrate Court of Horry County South Carolina, the Honorable Manuela A. Clayton, Presiding Judge. A complaint was filed for failure to fulfill a warranty on flooring caused by DR Horton's construction crew. DR Horton was personally served on May 9, 2024. The court did not receive an answer until July, 1, 2024 stating that DR Horton denies responsibility because the flooring was outside of warranty. A default hearing was scheduled for July 17, 2024. All parties were present pro se.

Mr. Mannone testified that on March 5th he signed a contract and while the home was under construction, his neighbor noticed on June 3rd that the windows were left open during a rain storm and after the laminate floors were put into the new home. The neighbors were present in court. During a facetime call, the Mannone's noticed the floors were saturated. He called the builder, Rob Shore, to let them know the floors got wet and need to be replaced. The builder told him he understood. After closing on June 17th, Ms. Mannone did a walk through and did a punch list. The transition piece of the flooring was warped. After 3-4 months, the builder came to fix a few things such as the flooring by the fireplace and the transition piece. DR Horton had a floor inspector come out and when they heard the floors were wet, they told the Mannone's the floors were fine when they were installed. The Mannone's were then told the floors being wet voided the warranty because it was topical water damage. The Mannone's had an estimate done to replace the floors themselves and the estimate was for more than \$8,000.

The construction manager with DR Horton said he was aware of the topical water damage. The builder stated it would be addressed, if need be, but that all parties agreed to monitor. Prior to closing, they do two walk throughs and that the flooring was not on the list. After closing, there were issues that were addressed, but even at the 11 month there was nothing about the flooring put on the list. They brought in the floor installers and stated there were topical issues, but throughout the course of the entire home. They were willing to replace just the section that was wet. Their first indication throughout the downstairs may have been pet related or caused by the homeowners. DR Horton did not believe that the windows being left open caused the floors to be damaged. There is a 1 year warranty on the flooring, homeowners requested the warranty 1 year and 1 month after the floors were done. Ms. Mannone then stated they did not agree to monitor the flooring situation. She believes it was to drag it

out until its out of warranty. Ms. Mannone stated the floors have a 10 year water warranty and pet protection plan.

The court then inquired as to the default from DR Horton. The construction manager stated he understood he was in default, but did not feel they were responsible to replace the entire flooring and agreed to just replace the one section. He stated all he has was pictures of the flooring and he would need to check with the builder to see if they noted which parts were damaged. Ms. Mannone then stated there were four windows throughout the home, but DR Horton was only concerned with two spots. DR Horton stated the agreement between the builder and the Mannones to monitor was not in writing, the court inquired as to whether the builder was present for court and DR Horton stated he was not. DR Horton asked why it was not on the punch list, Ms. Mannone stated it was not on the punch list because they were told it was being taken care of. DR Horton said they were not notified; however, the Mannone's provided the court with text messages to Steve, who works for DR Horton, that shows they notified DR Horton. The court inquired whether Steve was present in the courtroom, he was not. The court inquired whether the construction manager ever went out to the home to see the damages, he stated he did not. The court found in favor of the Plaintiffs for \$7500.

DR Horton then hired an attorney to appeal the case. The appeal states that DR Horton was not able to provide evidence disputing the allegations. The court allowed DR Horton to explain their side; however, the people from DR Horton that the Mannones dealt with were not present for the hearing. The appeal states that DR Horton had good cause as to why the answer was late; however, the representatives from DR Horton did not state to the court why it was late, they just agreed numerous times that they were in default.

Respectfully Submitted,



Manuela A. Clayton

Surfside Magistrate

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

CASE NO. 2024CP2605611

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

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SC Court of Appeals

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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)

Electronically signed on 2024-11-20 16:23:19 page 3 of 3

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

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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

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[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

CASE NO. 2024CP2605611

DR Horton Inc
PLAINTIFF(S)

Edward Mannone et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

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- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
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- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
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IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

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☒ See Page 2 for additional information.

For Clerk of Court Office Use Only

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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:

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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)

Electronically signed on 2024-11-20 16:23:19 page 3 of 3

5:22



June 3, 2022
1:49 PM

Edit

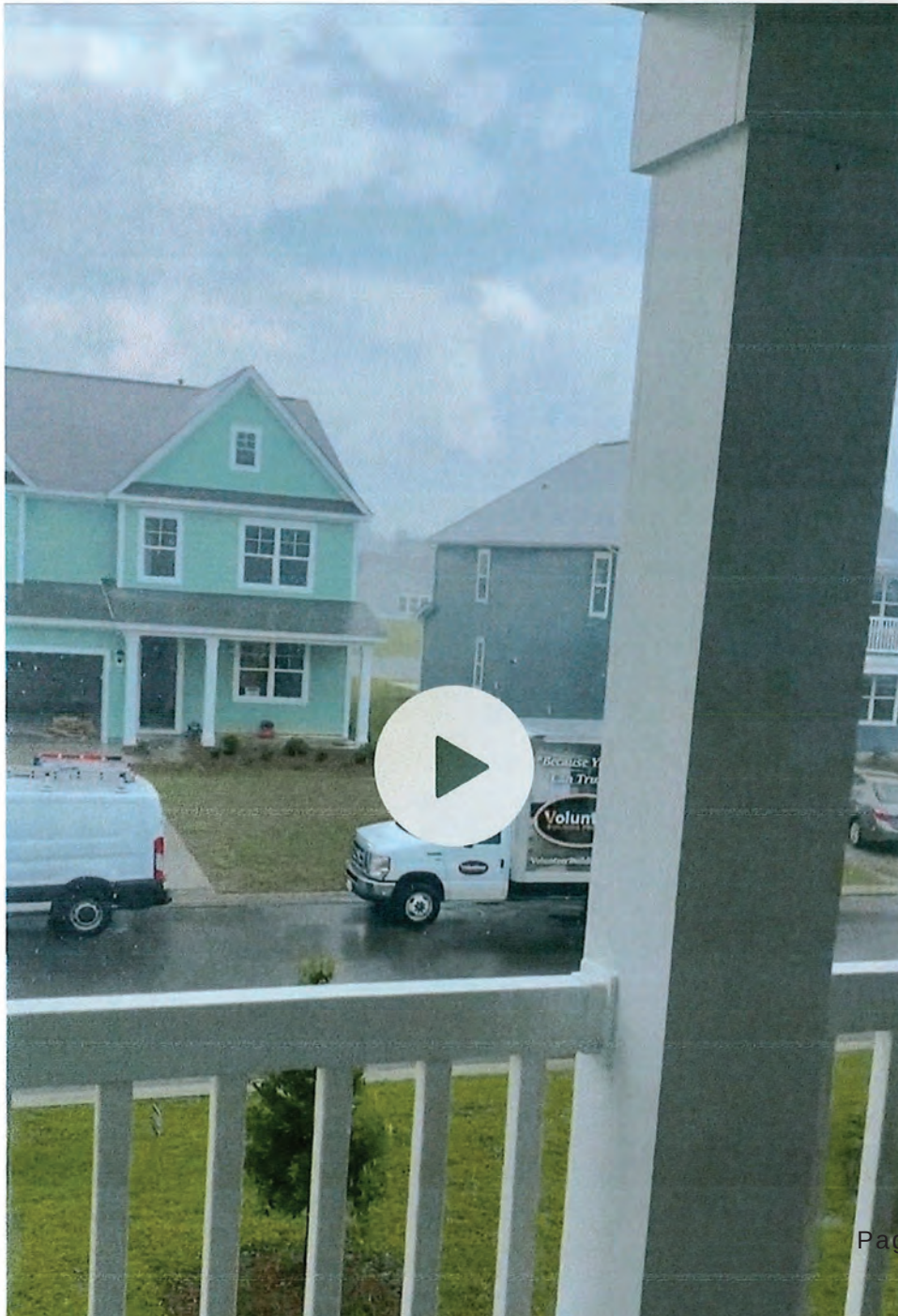


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June 3, 2022
1:57 PM

Edit



3:47



June 4, 2022
5:39 PM

Edit

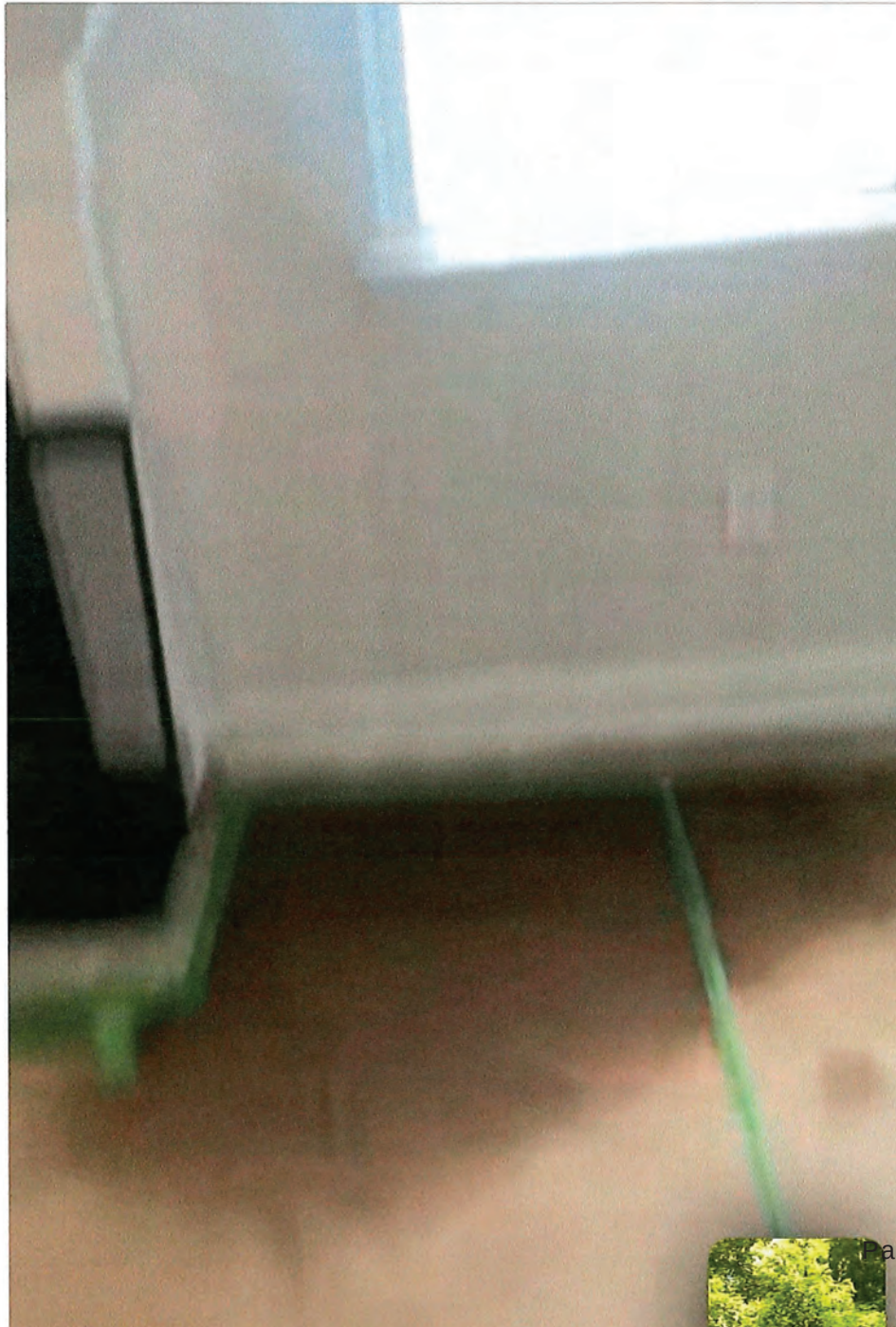


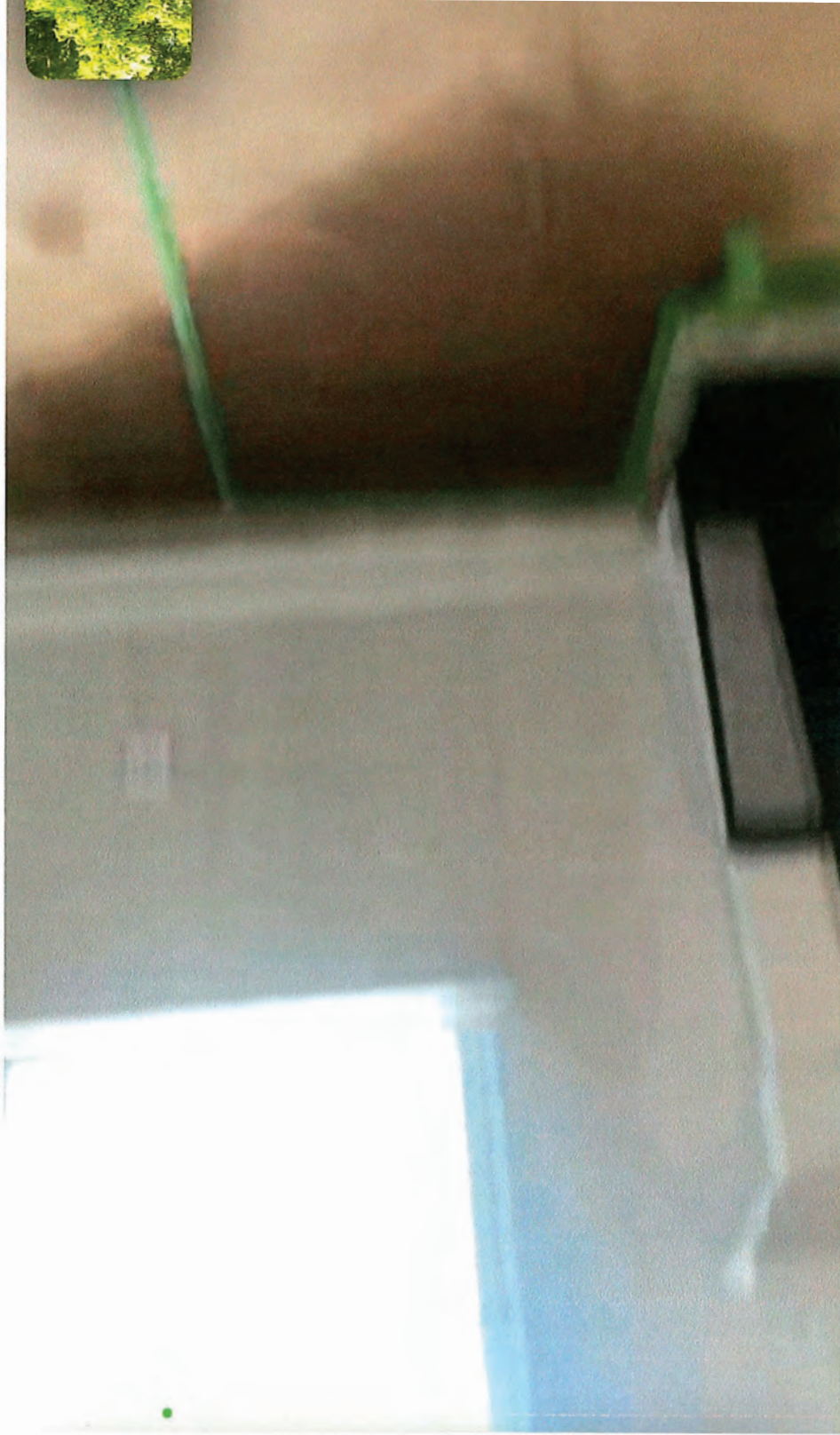
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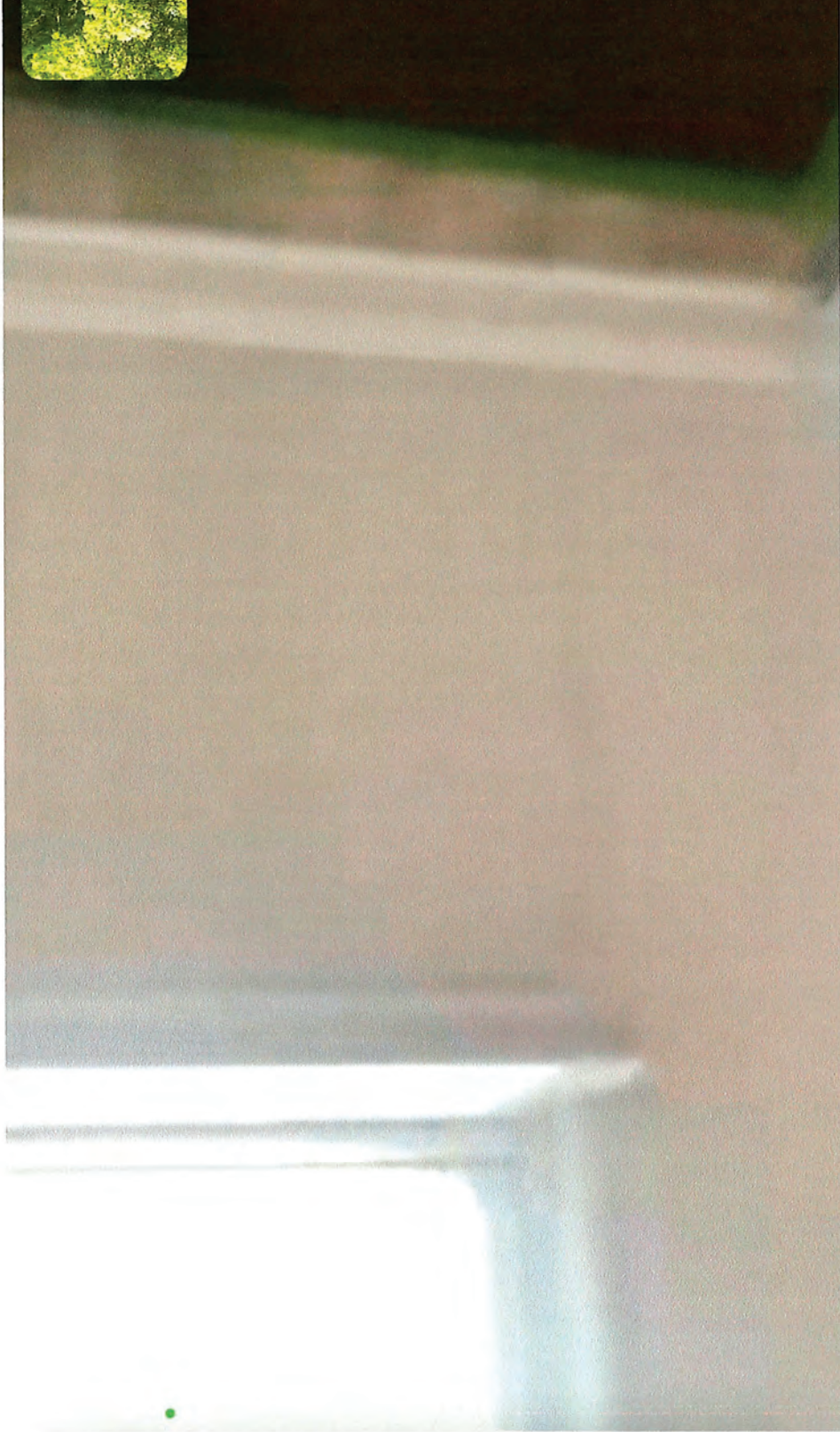


June 4, 2022
5:39 PM

Edit







12:27



Steve >



the report found a lot of spots on my entire floor not just by the windows that were left open..

Just to remind you, my stair landing was also installed in a rainstorm, and they had to come and replace that because it was all

12:27



Steve >

report and said that I told them the windows were left open so of course, Mohawk is going to say the floor was damaged because of negligence to windows being left open and never got a chance to acclimate to the house. I have

5:04
Phone



Steve >

I am trying to clear
some workorders
please see pics on
this and confirm if
you will (these)
items complete
Kind regards,
Steve Cole

Jul 31, 2023 at 12:45 PM

Everything on that
list is done. The
only thing that is
open is the
downstairs floor

5:12
◀ Phone



Steve >

Please text me.

Good morning
Steve, this is
Eddie Mannone
from 3103 Gillham
Loop.. I just spoke
with Kaysa and
she said that you
were supposed to
get back to me
about what's
going on with my
floor.. please give
me a call about
this matter

12:27



Steve >

in the entire house and you know that. Just because I have pictures of one spot does not mean that the other parts of the floor were not damaged from this. The floor needs to acclimate to the house and by leaving windows open. The

12:27



Steve >

neighbors that came over to shut my windows after the the floor was installed at different times in rainstorms. we did not take pictures every single time. the report found a lot of spots on my entire floor not just by the windows that were left open..

1 STATE OF SOUTH CAROLINA * COURT OF COMMON PLEAS
2 COUNTY OF HORRY * TRANSCRIPT OF RECORD
3 -----X
4 D.R. HORTON BUILDER, *
5 Plaintiff, *
6 vs. * Case No. 2024-CP-26-05611
7 EDWARD AND APRIL MANNONE, *
8 Defendants. *
9 -----X

November 20, 2024

B E F O R E:

The Honorable Martha Rivers, Presiding Judge

A P P E A R A N C E S:

Kathryn Harden, Esq.

Attorney for the Plaintiff

April Mannone, Pro Se Defendant

Edward Mannone, Pro Se Defendant

Recorded by: Webex

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SC Official Court Reporter III

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E X H I B I T S

(None.)

COURT REPORTER LEGEND

Dash (--)	Indicates an interruption in speech
Ellipses (...)	Indicates trailing off in speech
(ph)	Indicates phonetic word
[Verbatim]	Indicates the word is said as written
(Indiscernible)[Transcription]	Indicates word(s) is not known due to audio recording quality

P R O C E E D I N G S

1
2 THE COURT: D.R. Horton versus Edward Mannone. I
3 apologize if I'm screwing up somebody's name. Is anyone here
4 for that case? I see Ms. April. And Mr. Edward; yes, sir, I
5 see you.

6 Is anyone here for D.R. Horton?

7 Ms. Kathryn Harden? Ms. Harden?

8 MS. HARDEN: Yes, Your Honor.

9 THE COURT: Okay. Are you an attorney?

10 MS. HARDEN: Yes, Your Honor.

11 THE COURT: Okay. Just making sure.

12 Is anyone else here on this case or it's just us?

13 MS. HARDEN: I think it's just us.

14 THE COURT: All right. And I believe this is your
15 appeal?

16 MS. HARDEN: Yes, it is, Your Honor. Thank you so much.

17 So, initially, this was a magistrate court case. It was
18 filed in 2024. And the reason for my appeal today, Your
19 Honor, is, essentially, we're focusing on the surface. And
20 so, you may not be aware of D.R. Horton. D.R. Horton is a
21 national builder. They actually are throughout the United
22 States. And, specifically, they are found and their principal
23 place of business is actually in Texas.

24 With that being said, they do have offices throughout
25 South Carolina, and actually, throughout the South. There is

1 one in Myrtle Beach, South Carolina. The important part of
2 this, Your Honor, is that, when this summons and complaint was
3 filed, the individual -- and, again, I understand that there
4 can be a difference with regards to improper naming of a
5 defendant. For instance, in this case, they said that it was
6 D.R. Horton Builder instead of what it should have been, which
7 is D.R. Horton, Inc.

8 Now, while that itself would not be enough for it to be
9 considered improper service, they did send it to and it was
10 served at 4049 Belle [inaudible].

11 THE COURT: What is it? For some reason, you're going in
12 and out. I don't know if you're turning your head, because
13 I'm not watching you the whole time you're talking, but -- and
14 the -- I think the crux of your matter is when it started
15 going out. You said they were named D.R. Horton -- I'm
16 looking at it right now -- Builder, and it should be D.R.
17 Horton, Inc.

18 And they were served where?

19 MS. HARDEN: They were served at 4049 Belle Terra
20 Boulevard, which is in Myrtle Beach, South Carolina.

21 THE COURT: And what kind of office is that?

22 MS. HARDEN: Now, that's the office for the
23 superintendent, for the intendants [verbatim]. And this is
24 for all of the subdivisions within the South. So, this is not
25 where any registered agent would be.

1 In fact, D.R. Horton does have a registered agent. Their
2 registered agent is CT Corporation System. And the reason
3 that D.R. Horton uses this is because they are a huge company.
4 And so, what happens is is that CT Corporation is served, and
5 then, instead of it going to the individual location, it then
6 goes directly to the in-house counsel of D.R. Horton, and then
7 D.R. Horton then works from it from there.

8 This, however, was not served on CT Corporation; it was
9 actually served at the D.R. Horton location where
10 superintendents, assistant superintendents were given the
11 paperwork.

12 D.R. Horton's in-house counsel did not become aware of
13 this until later. They then filed an answer on June 25th,
14 2024. That was sent to the magistrate court, as well with an
15 authorization of non-lawyer representation. Due to the fact
16 that it was a magistrate court, she wanted to have the
17 construction manager as well as the customer service manager,
18 as there was history with warranty as well as work that was
19 performed on the home, so she wanted both of them to be able
20 to represent the company in the magistrate's court.

21 Unfortunately, when they appeared, the judge at that time
22 found them in default, as the answer had not been filed within
23 that 30 days. And then, in addition, they had rendered a
24 judgment for the plaintiff in the amount of \$7,500. They were
25 not able to give any testimony. They were not able to

1 question. They were not able to present any facts to the
2 Court. And, instead, they were only able to, in a sense, ask
3 with regards to damages.

4 And so, at this point in time, Your Honor, we are not
5 requesting that the case be thrown out. We are just
6 requesting that we move back to magistrate's court and that we
7 allow the process -- that we allow the hearing to go forward,
8 that we allow the answer to go forward, and we allow D.R.
9 Horton the proper representation. And that's just due to
10 improper service.

11 Now, D.R. Horton did attempt to -- again, they filed an
12 answer, they filed an authorization of service, and we have
13 attempted to resolve this matter with them outside of court.
14 But, again, with regards to this particular, there was an
15 issue with service. My client was not properly notified, not
16 properly served, and therefore, the default judgment, we
17 believe, should be struck and a hearing should be rescheduled
18 in this matter. And, again, as it is magistrate's court, the
19 standard of review is de novo.

20 THE COURT: Okay. And do you know where the Court got
21 the date of May 9th, 2024, for your service? It says it was
22 personally served on May 9th, 2024. Is that the
23 superintendent service that you were just speaking of?

24 MS. HARDEN: Yes, Your Honor.

25 THE COURT: All right. And did your answer raise any

1 allegations regarding inadequate service?

2 MS. HARDEN: It did not, Your Honor.

3 THE COURT: All right. What was the answer?

4 MS. HARDEN: The answer was just essentially a magistrate
5 court answer, one that we would find online. The form is
6 NV-2. It was filed by the assistant vice president of
7 D.R. Horton, Cammy Kennedy, and she was doing it with the
8 authorization of D.R. Horton.

9 As you can see, it has -- No. D is crossed, "I deny that
10 I'm responsible at all because" -- and in that section, it
11 states, "This home is outside warranty, one-year flood. As a
12 courtesy, D.R. Horton offered to perform spot repairs to the
13 flooring but homeowner declined unless all flooring throughout
14 the downstairs was replaced, which is unnecessary." So, that
15 was the answer that was submitted.

16 THE COURT: And, in my mind, this is similar to the case
17 we had before; it's unfortunate D.R. Horton did that. I'm
18 going to deny your request. I think the company -- there may
19 have been an argument regarding their service, but they
20 essentially waived that argument when they filed an answer,
21 not bringing up that argument, sent an authorized agent to
22 appear in court, did not make that argument to the magistrate
23 as seen in the return for the civil appeal, and just perhaps
24 should have let somebody else review it if that's what they
25 were going to argue about.

1 Mr. and Mrs. Mannone -- Mahone? I don't want to...

2 MS. MANNONE: "Ma-no-nee."

3 THE COURT: "Ma-no-nee"? Thank you.

4 D.R. Horton can appeal my ruling as well. This does not
5 end your case, necessarily. They can go forward and say,
6 "Hey, she's wrong. She should have taken it under review in
7 the first -- as an initial statement for us and seeing that
8 this was improper and gone forward."

9 You did not properly serve D.R. Horton; I will give them
10 that; however --

11 MS. MANNONE: Could I -- could I just say something about
12 serving? When I did serve -- just in saying "in serving,"
13 when I did go to the office to serve the papers, I did explain
14 to them it was a company, and I was asking them about serving,
15 and they told me to serve the papers where I lived, which was
16 the county I lived in. And this is the office that I did walk
17 into if I had a problem or I called if I had a problem. This
18 is the office that they -- the people that I dealt with, the
19 warranty company I dealt with worked out of the office. The
20 man that showed up, which was ---

21 THE COURT: But, Ms. Mannone -- Ms. Mannone --

22 MS. MANNONE: --- James [indiscernible] worked out of -

23 THE COURT: Ms. Mannone, please listen to me. Just like
24 I'm saying that they should have raised these issues before,
25 if they had raised those issues, it sounds like they would

1 have been correct, that you did not do proper service. I
2 understand you didn't understand what you're doing because
3 you're not an attorney, but what we do is, just because you're
4 not an attorney and you come to court, doesn't mean you don't
5 get to abide by the rules.

6 And so, the fact that D.R. Horton then sent -- you know,
7 did not understand what they were doing and going into what I
8 suspect they didn't -- whoever signed off on all that didn't
9 fully understand that they were coming in to court with the
10 service argument that their attorney has now brought up in
11 appeal, but it was not raised in front of the magistrate's
12 court at that time, and he went forward with the hearing with
13 the default and they sent an answer.

14 I mean, the initial thing is that they filed an answer
15 that did not raise the service issue either at that point,
16 which would normally be a waiver of that issue in court.

17 So, taking into the fact that they may have had an answer
18 and it was late by the service that they didn't complain about
19 at that time. So, for all those reasons, I am going to deny
20 the relief --

21 MS. MANNONE: Right, the appeal.

22 THE COURT: --- the appeal. But what I'm telling you is
23 they could appeal me --

24 MS. MANNONE: Could appeal you.

25 THE COURT: Right. So, this is not over. So, I

1 encourage you to reach out to their attorney or have their
2 attorney reach out to you. I don't know if y'all want to keep
3 going in this matter or not. That's completely up to you.
4 Okay?

5 MS. MANNONE: Right. Okay.

6 THE COURT: Because I'm not -- I'm not going to -- I'm
7 going to deny the appeal.

8 And good luck to you in this matter. Okay?

9 MS. MANNONE: Thank you.

10 THE COURT: Thank you.

11 (The above hearing was adjourned.)
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1 CERTIFICATE OF TRANSCRIBER

2 CASE NAME/NUMBER: D.R. Horton Builder v. Mannone

3 2024-CP-26-05611

4 DATE OF HEARING: 11/20/24

5 COURT REPORTER/MONITOR: Webex

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11 information, and that I am neither counsel for, related to,
12 nor employed by any of the parties to this case, and I have no
13 interest, financial or otherwise, in its outcome.

14
15 16
17 /s/ Bobbi Fisher_____

18 Bobbi Fisher, RPR and Certified Transcriber

19 Date Prepared: 12/27/24

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