

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM CHARLESTON COUNTY
Jennifer B. McCoy, Circuit Court Judge

S.C. SUPREME COURT

Appellate Case No. 2025-001224
Case No. 2016-CP-10-03783

Opinion No. 2025-6099

The Retreat at Charleston National Country Club Home Owners Association, Inc., and The
Retreat at Charleston National Country Club Horizontal Property Regime,
Plaintiffs,

v.

Winston Carlyle Charleston National, LLC; Colin R. Campbell Construction, Inc.; Colin
Campbell, individually; Builders FirstSource-Southeast Group, LLC; Builders FirstSource, Inc.;
Americo Roofing Concepts, Inc.; DVS, Inc.; Advanced Building Connection, LLC; Guy C. Lee
Building Materials, LLC; WS Contractors, LLC; Dino Schwartz, Individually; Charleston
Exteriors, LLC; ECC Contracting, LLC; Hurley Services, LLC; McDaniel Construction Co.,
LLC; AC Construction Corp.; AC Construction, Inc.; L&G Construction Group, LLC; Liollo
Architecture; JC Contractors, LLC; Soto & Vasquez Construction, LLC; Costa De Oliveira
Construction, LLC; Solesmar Jesus De Oliveria; Wilson Lucas Sales d/b/a Miracle Siding;
Miracle Siding, LLC; Royal Homes of SC, Inc.; Collen Batissa; Christopher Batissa; Norma
Ferreira Bruno; Mendez Construction, LLC; Juan Garza Ramos, individually; Juan Garza Ramos
d/b/a Juan Constructors; Jessica Marroquin, individually; Jessica Marroquin d/b/a Marroquin
Construction; Carlos Marroquin, individually; Carlos Marroquin Construction; Carlos and
Jessica Marroquin d/b/a Marroquin Construction; Feliciano Cruz Silva; Garcia Roofing, LLC;
Givair De Caris; and Mario Salgado;
Defendants,

Builders FirstSource-Southeast Group, LLC, Petitioner

v.

Pohlman Quality Contractors; Pohlman Quality Exteriors; Palmetto Trim and Renovation;
Edward Bruce Witham; and East Coast Carpentry, Third-Party Defendants,

Of which Palmetto Trim and Renovation; Hurley Services, LLC; ECC Contracting, LLC; East Coast Carpentry; AC Construction, Inc.; WS Contractors, LLC; Pohlman Quality Exteriors, Inc.; and L&G Construction Group, LLC are the Respondents.

MOTION TO STAY

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Petitioner, Builders FirstSource-Southeast Group, LLC, respectfully moves this Court for an Order to Stay the following separate, but related appeals:

1. Builders FirstSource-Southeast Group, LLC v. MI Windows and Doors, Inc.; ECC Contracting, LLC; Hurley Services, LLC; and Charleston Exteriors, LLC,
 - Supreme Court Appellate Case No. 2025-001176
 - Court of Appeals Case No. 2020-000415
 - Unpublished Opinion No. 2025-UP-072
 - Heard March 15, 2023
 - Filed February 26, 2025
 - Court of Appeals Judges McDonald, Thomas, and Hewitt
 - “BFS Damico Appeal”
2. Builders FirstSource-Southeast Group, LLC v. Hurley Services, LLC and Charleston Exteriors, LLC,
 - Court of Appeals Case No. 2020-001328
 - Unpublished Opinion No. 2025-UP-078
 - i. Heard December 5, 2023
 - ii. Filed March 12, 2025
 - iii. Withdrawn, Substituted, Refiled June 25, 2025
 - iv. Court of Appeals Judges McDonald, Vinson, and Bromell Holmes
 - “BFS Six Fifty Six Appeal”
3. Builders FirstSource-Southeast Group, LLC v. Hurley Services, LLC,
 - Court of Appeals Case No. 2021-000290
 - Unpublished Opinion No. 2025-UP-082
 - i. Heard December 5, 2023
 - ii. Filed March 12, 2025
 - iii. Withdrawn, Substituted, Refiled June 25, 2025
 - iv. Court of Appeals Judges McDonald, Vinson, and Bromell Holmes
 - “BFS Pavic Appeal”

The primary basis for the Stay is to promote and preserve judicial economy. The secondary basis for the Stay is to promote and preserve the issues on appeal.

All of the foregoing appeals, including this one (Appellate Case No. 2025-001224, “BFS Retreat Appeal,”) relate to Petitioner’s claims seeking contractual indemnification from its respective subcontractors for damages allegedly resulting from deficiencies in the work performed by the subcontractors at construction projects in South Carolina.

Petitioner's claims against the respective subcontractors in the separate appeals are based primarily on the same contract provisions that are at issue in this appeal. In fact, Petitioner's claims against Respondent ECC Contracting, LLC in this appeal are based on contractual indemnity provisions identical to those at issue in the BFS Damico Appeal. See Exhibit A, BFS-ECC Agreements in Records on Appeal for BFS Retreat Appeal and BFS Damico Appeal. Additionally, Petitioner's claims against Respondent Hurley Services, LLC in this appeal are based on contractual indemnity provisions identical to those at issue in the BFS Six Fifty Six Appeal and BFS Pavic Appeal. See Exhibit B, BFS-Hurley Agreements in Records on Appeal for BFS Retreat Appeal, BFS Six Fifty Six Appeal, and BFS Pavic Appeal.

Further, Questions Presented by Petitioner in this BFS Retreat Appeal, while worded slightly differently, are substantively the same as the Questions Presented by Petitioner in the BFS Damico Appeal. See Exhibit C, BFS Petitions for Certiorari in BFS Retreat Appeal and BFS Damico Appeal. Moreover, the same will hold true for Petitioner's Petitions for Certiorari that are, absent any extension, due to be filed with this Court on July 25, 2025 for BFS Six Fifty Six Appeal and BFS Pavic Appeal.

Although the claims and contracts at issue in these separate appeals are substantively identical and most of the Questions Presented by Petitioner are or will be the same, consolidation of the appeals is not appropriate because there are multiple separate and distinct factual and legal issues that exist amongst the separate appeals that do not exist in this appeal. As such, Petitioner submits that consolidation of the appeals would distract from the Court's consideration of those primary issues common to each appeal, and also potentially cause the separate and distinct issues to be overlooked or confused by the Court of the parties.

Petitioner respectfully submits that a Stay of the separate appeals will promote judicial economy by allowing the Court and the parties to focus upon resolution of the significant issues common to each of the referenced appeals. The interests of both this Court and those of the parties are most effectively served by first resolving the issues in the BFS Retreat Appeal, which should resolve the issues common to each of the separate appeals. Additionally, a Stay of the separate appeals will preserve the separate and distinct issues on appeal while also promoting and preserving the primary issues on appeal that exist in all of the appeals.

Counsel for Respondents in BFS Damico Appeal, BFS Six Fifty Six Appeal, and BFS Pavic Appeal agree and consent to the Motion to Stay.

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