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**Dec 17 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM BEAUFORT COUNTY

The Honorable Maite Murphy, Circuit Court Judge  
Civil Action No. 2021CP2700069

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Appellate Case No. 2025-001116  
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Mark W. McGilton, Respondent,

v.

1223 May River Road, LLC, D.R. Horton, Inc.,  
and Lotty Trucking, LLC f/k/a Ramos Trucking, LLC,

Defendants,

of which D.R. Horton is the Appellant,

AND

1223 May River Road, LLC, Third-Party Plaintiffs,

v.

Kenneth Scott Builders, Inc., Third-Party Defendants.

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**RESPONDENT'S AMENDED DESIGNATION OF ADDITIONAL MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL**

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Respondent Mark W. McGilton designates the following amended additional matter to be included in the Record on Appeal in this matter:

1. July 21, 2021, First Set of Interrogatories and First Set of Requests for Production of Documents served upon D.R. Horton, Inc. by Mark W. McGilton, filed in Circuit Court as Exhibit 1 to Mark W. McGilton's November 4, 2021, Motion to Compel.

2. September 3, 2021, email correspondence between Ben Shelton and Stephanie Simpson, filed in Circuit Court as Exhibit 2 to Mark W. McGilton's November 4, 2021, Motion to Compel.

3. September 15, 2021, Deposition Transcript of Kenneth Tosky, not fully filed in Circuit Court, but partially filed as Exhibit 4 to D.R. Horton, Inc.'s Memorandum in Support of its Motion to for Summary Judgment as to Plaintiff Mark W. McGilton and presented to the Court by way of Mark W. McGilton's Memorandum in Opposition to D.R. Horton, Inc.'s Motion for Summary Judgment.

4. September 17, 2021, email correspondence sent by Brooklyn Valentine to Jason Imhoff, filed in Circuit Court as Exhibit 2 to Mark W. McGilton's November 4, 2021, Motion to Compel.

5. September 17, 2021, Rule 11 letter sent to D.R. Horton, Inc. by Mark W. McGilton, filed in Circuit Court as Exhibit 3 to Mark W. McGilton's November 4, 2021, Motion to Compel.

6. September 30, 2021, email correspondence, filed in Circuit Court as Exhibit 6 to Plaintiff's Memorandum in Support of Motion to Compel and for Sanctions, pg. 235 of 239 of filing.

7. November 1, 2021, email correspondence sent by Ben Shelton to Jason Imhoff, filed in the Circuit Court as Exhibit 2 to Mark W. McGilton's November 4, 2021, Motion to Compel.

8. November 4, 2021, Motion to Compel and Motion for Sanctions with exhibits filed by Mark W. McGilton on November 4, 2021.

9. April 26, 2022, Motion for Order of Dismissal of 1223 May River Road, LLC and Kenneth Scott Builders, LLC filed by Mark W. McGilton with consent by 1223 May River Road, LLC and Kenneth Scott Builders, LLC in Circuit Court on April 26, 2022.

10. July 11, 2022, Notice of Motion to Compel and Sanctions Hearing for December 7, 2023, sent by the Circuit Court to all attorneys of record via email.

11. July 15, 2022, Answers and Responses to Mark W. McGilton's First Set of Interrogatories and First Set of Requests for Production served by D.R. Horton, Inc., presented to the Court through Mark W. McGilton's Memorandum in Support of his Motion to Compel filed August 16, 2022, and referenced in Exhibit 7 filed therewith (Rule 11 letter addressed to D.R. Horton, Inc. on August 10, 2022)

12. August 10, 2022, Rule 11 letter sent to D.R. Horton, Inc. by Mark W. McGilton, filed in Circuit Court as Exhibit 7 to Plaintiff's Memorandum in Support of Motion to Compel and for Sanctions.

13. August 22, 2022, email correspondence between Ben Shelton and Jason Imhoff, filed in Circuit Court as Exhibit O to D.R. Horton, Inc.'s Motion to Reconsider, Alter or Amend the Order Granting Plaintiff's Motion for Rule to Show Cause, to Strike and for Contempt filed on January 27, 2025.

14. August 31, 2022, email correspondence between Ben Shelton and Stephanie Simpson, filed in Circuit Court as Exhibit O to D.R. Horton, Inc.'s Motion to Reconsider, Alter or Amend the Order Granting Plaintiff's Motion for Rule to Show Cause, to Strike and for Contempt filed on January 27, 2025.

15. September 13, 2022, email correspondence sent by Ben Shelton to Jason Imhoff and Stephanie Simpson, filed in Circuit Court as Exhibit O to D.R. Horton, Inc.'s Motion to Reconsider, Alter or Amend the Order Granting Plaintiff's Motion for Rule to Show Cause, to Strike and for Contempt filed on January 27, 2025.

16. September 16, 2022 email exchange between Jason Imhoff and Ben Shelton, presented to the court in Respondent's Motion to Compel filed October 17, 2023, relating to Respondent's attempts to coordinate deposition with Defendant and in argument during Motion to Compel on December 7, 2023.

17. October 25, 2022, email correspondence sent by Ben Shelton to Jason Imhoff and Stephanie Simpson, filed in Circuit Court as Exhibit O to D.R. Horton, Inc.'s Motion to Reconsider, Alter or Amend the Order Granting Plaintiff's Motion for Rule to Show Cause, to Strike and for Contempt filed on January 27, 2025.

18. November 8, 2022, email correspondence between Ben Shelton and Jason Imhoff, filed in Circuit Court as Exhibit O to D.R. Horton, Inc.'s Motion to Reconsider, Alter or Amend the Order Granting Plaintiff's Motion for Rule to Show Cause, to Strike and for Contempt filed on January 27, 2025.

19. December 6, 2022, email correspondence from Harrison Williams to Jason Imhoff regarding the follow-up of D.R. Horton, Inc.'s request for a conference call with Ben Shelton regarding search terms and outstanding discovery, presented to the court in Respondent's Motion to Compel filed October 17, 2023, relating to Respondent's attempts to coordinate deposition with Defendant and in argument during Motion to Compel on December 7, 2023.

20. December 16, 2022, email correspondence sent by Jason Imhoff to Ben Shelton, not filed in Circuit Court, presented to the court in Respondent's Motion to Compel filed October

17, 2023, relating to Respondent's attempts to coordinate deposition with Defendant and in argument during Motion to Compel on December 7, 2023.

21. January 24, 2023, email correspondence sent by Jason Imhoff to Ben Shelton, presented to the court in Respondent's Motion to Compel filed October 17, 2023, relating to Respondent's attempts to coordinate deposition with Defendant and in argument during Motion to Compel on December 7, 2023.

22. January 28, 2023, email correspondence sent by Jason Imhoff to Ben Shelton, presented to the court in Respondent's Motion to Compel filed October 17, 2023, relating to Respondent's attempts to coordinate deposition with Defendant and in argument during Motion to Compel on December 7, 2023.

23. February 2, 2023, email correspondence sent by Jason Imhoff to Ben Shelton, presented to the court in Respondent's Motion to Compel filed October 17, 2023, relating to Respondent's attempts to coordinate deposition with Defendant and in argument during Motion to Compel on December 7, 2023.

24. February 3, 2023, email correspondence sent by Jason Imhoff to Ben Shelton, presented to the court in Respondent's Motion to Compel filed October 17, 2023, relating to Respondent's attempts to coordinate deposition with Defendant and in argument during Motion to Compel on December 7, 2023.

25. February 13, 2023, email correspondence sent by Jason Imhoff to Ben Shelton, not electronically filed in Circuit Court, presented to the court in Respondent's Motion to Compel filed October 17, 2023, relating to Respondent's attempts to coordinate deposition with Defendant and in argument during Motion to Compel on December 7, 2023.

26. February 14, 2023, email correspondence and Notice of 30(b)(6) Deposition of D.R. Horton, Inc., presented to the court in Respondent's Motion to Compel filed October 17, 2023, relating to Respondent's attempts to coordinate deposition with Defendant and in argument during Motion to Compel on December 7, 2023.

27. March 10, 2023, email correspondence between Brooklyn Valentine and Stephanie Simpson regarding scheduling D.R. Horton, Inc.'s 30(b)(6) deposition and D.R. Horton requesting new dates be circulated not filed in Circuit Court, presented to the court in Respondent's Motion to Compel filed October 17, 2023, relating to Respondent's attempts to coordinate witness deposition with Defendant and in argument during Motion to Compel on December 7, 2023.

28. March 17, 2023, email correspondence from Ben Shelton to Stephanie Simpson, sending his dates of availability to take D.R. Horton, Inc.'s 30(b)(6) deposition, presented to the court in Respondent's Motion to Compel filed October 17, 2023, relating to Respondent's attempts to coordinate deposition with Defendant and in argument during Motion to Compel on December 7, 2023.

29. March 22, 2023, email correspondence from Ben Shelton to Stephanie Simpson and Jason Imhoff following up with his March 17, 2023 email correspondence, presented to the court in Respondent's Motion to Compel filed October 17, 2023, relating to Respondent's attempts to coordinate with Defendant and in argument during Motion to Compel on December 7, 2023.

30. March 24, 2023, email correspondence between Ben Shelton, attorney for Respondent and Jason Imhoff, and John Crawford attorneys for Appellant, filed in Circuit Court as Exhibit O to D.R. Horton, Inc.'s Motion to Reconsider, Alter or Amend the Order Granting Plaintiff's Motion for Rule to Show Cause, to Strike and for Contempt filed on January 27, 2025.

31. April 1, 2023, email correspondence between Ben Shelton and John Crawford, filed in Circuit Court as Exhibit O to D.R. Horton, Inc.'s Motion to Reconsider, Alter or Amend the Order Granting Plaintiff's Motion for Rule to Show Cause, to Strike and for Contempt filed on January 27, 2025.

32. April 5, 2023, email correspondence between John Crawford and Brooklyn Valentine regarding Ben Shelton's additional dates of availability to take D.R. Horton, Inc.'s 30(b)(6) deposition, presented to the court in Respondent's Motion to Compel filed October 17, 2023, relating to Respondent's attempts to coordinate deposition with Defendant and in argument during Motion to Compel on December 7, 2023.

33. May 3, 2023, email correspondence from Stephanie Simpson to Brooklyn Valentine replying to Brooklyn Valentine's April 5, 2023, email correspondence regarding the deposition of Jared O'Saka and D.R. Horton, Inc.'s 30(b)(6) depositions, presented to the court in Respondent's Motion to Compel filed October 17, 2023, relating to Respondent's attempts to coordinate with Defendant and in argument during Motion to Compel on December 7, 2023.

34. May 4, 2023, email correspondence between Brooklyn Valentine and Stephanie Simpson confirming Jason Imhoff and Jared O'Saka's availability for Jared O'Saka's deposition, presented to the court in Respondent's Motion to Compel filed October 17, 2023, relating to Respondent's attempts to coordinate deposition with Defendant and in argument during Motion to Compel on December 7, 2023.

35. July 17, 2023, email correspondence sent by Ben Shelton to John Crawford, filed in Circuit Court as Exhibit O to D.R. Horton, Inc.'s Motion to Reconsider, Alter or Amend the Order Granting Plaintiff's Motion for Rule to Show Cause, to Strike and for Contempt filed on January 27, 2025.

36. July 21, 2023, email correspondence between Ben Shelton and John Crawford, filed in Circuit Court as Exhibit O to D.R. Horton, Inc.'s Motion to Reconsider, Alter or Amend the Order Granting Plaintiff's Motion for Rule to Show Cause, to Strike and for Contempt filed on January 27, 2025.

37. August 3, 2023, email correspondence between Ben Shelton and John Crawford, filed in Circuit Court as Exhibit O to D.R. Horton, Inc.'s Motion to Reconsider, Alter or Amend the Order Granting Plaintiff's Motion for Rule to Show Cause, to Strike and for Contempt filed on January 27, 2025.

38. August 11, 2023, email correspondence with attached PDF titled, "Phase 7 Map" sent by John Crawford to Ben Shelton, filed in Circuit Court as Exhibit O to D.R. Horton, Inc.'s Motion to Reconsider, Alter or Amend the Order Granting Plaintiff's Motion for Rule to Show Cause, to Strike and for Contempt filed on January 27, 2025.

39. September 19, 2023, Rule 11 letter sent to D.R. Horton, Inc., filed in Circuit Court as Exhibit 3 to Mark W. McGilton's Renewed Motion to Compel D.R. Horton, Inc., and Rule to Show Cause regarding Sanction per Rule 37(d), SCRCPP, against Defendant D.R. Horton, Inc.

40. November 9, 2023, Notice of Motion to Compel and Sanctions Hearing for December 7, 2023, sent by the Circuit Court to all attorneys of record via email.

41. December 1, 2023, email correspondence between John Crawford and Ben Shelton, filed in Circuit Court as Exhibit O to D.R. Horton, Inc.'s Motion to Reconsider, Alter or Amend the Order Granting Plaintiff's Motion for Rule to Show Cause, to Strike and for Contempt filed on January 27, 2025.

42. December 6, 2023, email correspondence between John Crawford and Ben Shelton, filed in Circuit Court as Exhibit O to D.R. Horton, Inc.'s Motion to Reconsider, Alter or Amend

the Order Granting Plaintiff's Motion for Rule to Show Cause, to Strike and for Contempt filed on January 27, 2025.

43. January 3, 2024, Consent Confidentiality Order filed by D.R. Horton, Inc. and Mark W. McGilton in Circuit Court on January 3, 2024.

44. March 15, 2024, Affidavit of Attorney's Fees and Costs filed by Mark W. McGilton in Circuit Court on March 15, 2024.

45. April 19, 2024, Deposition Transcript with exhibits of Kenneth Tosky, partially filed as Exhibit 2 to D.R. Horton, Inc.'s Memorandum in Support of its Motion for Summary Judgment as to Mark W. McGilton and presented to the Court by way of Mark W. McGilton's Memorandum in Opposition to D.R. Horton, Inc.'s Motion for Summary Judgment.

46. June 10, 2024, Memorandum in Opposition to D.R. Horton, Inc.'s Motion to Amend Scheduling Order with Exhibits filed by Mark W. McGilton in Circuit Court on June 10, 2024.

47. June 24, 2024, Rule 11 letter from Mark W. McGilton to D.R. Horton, Inc., filed in Circuit Court as Exhibit O to D.R. Horton, Inc.'s Motion to Reconsider, Alter or Amend the Order Granting Plaintiff's Motion for Rule to Show Cause, to Strike and for Contempt filed on January 27, 2025.

48. June 25, 2024, subpoena and Notice of Deposition and of Lindsay Moore, filed in Circuit Court as Exhibits 2 and 3 to D.R. Horton, Inc.'s Memorandum in Support of Motion for Sanctions per Rule 37(d), SCRCF, against Plaintiff.

49. June 26, 2024, subpoena and Notice of Deposition and of Michael Fryar, filed in Circuit Court as Exhibits 5 and 6 to D.R. Horton, Inc.'s Memorandum in Support of Motion for Sanctions per Rule 37(d), SCRCF, against Plaintiff.

50. June 27, 2024, letter from D.R. Horton, Inc. to Mark W. McGilton, filed in Circuit Court as Exhibit O to D.R. Horton, Inc.'s Motion to Reconsider, Alter or Amend the Order Granting Plaintiff's Motion for Rule to Show Cause, to Strike and for Contempt filed on January 27, 2025.

51. June 29, 2024, letter from Mark W. McGilton to D.R. Horton, Inc., filed in the Circuit Court as an enclosure to Mark W. McGilton's letter to the Clerk of Court filed on October 18, 2024.

52. July 10, 2024, Mark W. McGilton's Subpoena and Notice De Bene Esse Deposition of Joseph R. Hsu, MD, filed in Circuit Court as Exhibit 2 to Mark W. McGilton's Memorandum in Support of Motion for Rule to Show Cause, Consolidated Memorandum of Discovery Motions against D.R. Horton, Inc., and Memorandum in Opposition to Defendant D.R. Horton, Inc.'s Motion for Costs and Sanctions Against Plaintiff.

53. July 16, 2024, D.R. Horton, Inc.'s Subpoena and Cross Notice De Bene Esse Deposition of Joseph R. Hsu, MD, filed in Circuit Court as Exhibit 3 to Mark W. McGilton's Memorandum in Support of Motion for Rule to Show Cause, Consolidated Memorandum of Discovery Motions against D.R. Horton, Inc., and Memorandum in Opposition to Defendant D.R. Horton, Inc.'s Motion for Costs and Sanctions Against Plaintiff.

54. July 16, 2024, Deposition Transcript of Theodore "Andy" Rowland, filed in Circuit Court as Exhibit 1 to Mark W. McGilton's Memorandum in Support of Motion for Rule to Show Cause, and referenced in Consolidated Memorandum of Discovery Motions against D.R. Horton, Inc. and Memorandum in Opposition to Defendant D.R. Horton, Inc.'s Motion for Costs and Sanctions Against Plaintiff.

55. July 18, 2024, Deposition Transcript of Alfredo Uriostegui with exhibits, filed in Circuit Court as Exhibit 3 to Plaintiff's Return to Defendant D.R. Horton, Inc.'s Motion for Reconsideration.

56. July 19, 2024, Deposition Transcript of Michael Allen Fryar, filed in Circuit Court as Exhibit 7 to Mark W. McGilton's Memorandum in Support of Motion for Rule to Show Cause, Consolidated Memorandum of Discovery Motions against D.R. Horton, Inc., and Memorandum in Opposition to Defendant D.R. Horton, Inc.'s Motion for Costs and Sanctions Against Plaintiff and as Exhibit 7 to D.R. Horton, Inc.'s Memorandum in Support of Motion for Sanctions per Rule 37(d), SCRCF, against Plaintiff.

57. August 20, 2024, Letter with Exhibit 3 filed by Mark W. McGilton in Circuit Court on August 20, 2024.

58. August 26, 2024, Deposition Transcript of Lindsay Moore, filed in Circuit Court as Exhibit 8 to Mark W. McGilton's Memorandum in Support of Motion for Rule to Show Cause, Consolidated Memorandum of Discovery Motions against D.R. Horton, Inc., and Memorandum in Opposition to Defendant D.R. Horton, Inc.'s Motion for Costs and Sanctions Against Plaintiff, and as Exhibit 4 to D.R. Horton, Inc.'s Memorandum in Support of Motion for Sanctions per Rule 37(d), SCRCF, against Plaintiff.

59. September 16, 2024, Deposition Transcript of Joseph R. Hsu, MD, filed in Circuit Court as Exhibit 4 to Mark W. McGilton's Memorandum in Support of Motion for Rule to Show Cause, Consolidated Memorandum of Discovery Motions against D.R. Horton, Inc., and Memorandum in Opposition to Defendant D.R. Horton, Inc.'s Motion for Costs and Sanctions Against Plaintiff.

60. October 14, 2024, Affidavit of Benjamin T. Shelton filed in Circuit Court on October 14, 2024.

61. October 15, 2024, Affidavit of John Crawford filed in Circuit Court on October 15, 2024.

62. November 4, 2024, email correspondence from Cara Smith to Ben Shelton regarding the production of additional discovery material presented to the Court by way of D.R. Horton Inc.'s Response and Objections to Plaintiff's Proposed Order on Rule to Show Cause, to Strike Pleadings and for Contempt, wherein D.R. Horton, Inc. notes in its footnote, "Since the hearing, D.R. Horton has provided the land development documents for the remaining phases of the agreement, bringing the total documents produced to date to 4,603."

63. December 23, 2024, letter from D.R. Horton, Inc., sent to Mark W. McGilton, filed in Circuit Court as Exhibit 1 to Mark W. McGilton's Reply to D.R. Horton's "Response" and as Exhibit 4 to Plaintiff's Return to Defendant D.R. Horton, Inc.'s Motion for Reconsideration.

64. January 15, 2025, Letter filed by Mark W. McGilton in Circuit Court on January 15, 2025.

65. NEF History McGilton v. 1223 May River Road, LLC, et al., published by the Court, and available to all Attorneys of Record via South Carolina Courts' e-filing system.

The below certifies by their signatures that Respondent's Designation of Matter includes no matter that is irrelevant to this Appeal.

**SHELTON LAW FIRM, LLC**

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Hilton Head Island, South Carolina  
December 17, 2025

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Columbia, South Carolina  
December 17, 2025

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