

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM JASPER COUNTY
Court of Common Pleas

Maite Murphy, Circuit Court Judge

Case No.: 2021-CP-27-00069
Appellate Case No. 2025-001116

RECEIVED

Jan 05 2026

SC Court of Appeals

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, Inc. is the Appellant,

AND

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

v.

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

APPELLANT'S MOTION TO HOLD BRIEFING IN ABEYANCE
PENDING A DECISION ON APPELLANT'S MOTION TO STRIKE

Appellant D.R. Horton moves to hold briefing in abeyance while the Court considers and decides Appellant's Motion to Strike those portions of Respondent McGilton's Brief and Amended Designations of Record on Appeal that include or refer to documents, emails, statements, or references that Respondent's attorney has **acknowledged** were not filed with the circuit court. Such items are not properly includable in Respondent's Brief, its Designations of

Matter, or in the Record on Appeal. There are at least nineteen(19) items at issue.¹ Appellant has simultaneously filed this Motion to Hold Briefing in Abeyance until its Motion to Strike is decided because Appellant needs clarity to prepare its Reply Brief, its final Designations of Matter, and the Record on Appeal. In support of this Motion to Strike, Appellant states as follows.

1. Upon receipt of Respondent's initial Designations of Record, Appellant noticed many of the items did not include a "filed date," which precluded Appellant from knowing what was being designated and whether all items designated had been filed with the circuit court. Appellant wrote a letter to Respondent asking for the filed dates and about items that might not have been filed with the circuit court.
2. Weeks later, Appellant received an Amended Designation of Record filed on December 18, 2025 that specifically identified some items as not having been filed with the circuit court and implied others had also not been filed with the circuit court.
3. Respondent's attorney also sent Appellant's counsel an email that identified 16 emails that it acknowledged were not filed with the circuit court but were listed by Respondent's attorney in the Amended Designations.
4. Appellant has reviewed the items that were not filed in the circuit court and determined how those materials were used in Respondent's Brief. Based on that review, Appellant filed the Motion to Strike Portions of Respondent's Brief and Amended Designations, which has been filed simultaneously with this Motion.

¹The improper materials included in the Amended Designation include at least numbers 3, 11, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 45, 62, and 65.

5. Appellant needs a decision on its Motion to Strike before it submits its Reply Brief, Designations, and prepares the Record on Appeal because it is not possible to know what Appellant is replying to or including without such clarity. There are simply too many violative items. Appellant needs this issue resolved to properly prepare its responsive materials.

CONCLUSION

Appellant asks this Court to hold briefing in abeyance until after the Court issues a decision on its Motion to Strike materials that were not filed with the circuit court.

January 5, 2026

Respectfully,

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AND

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v.

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PROOF OF SERVICE

The undersigned does hereby certify that on January 5, 2026, a copy of the
APPELLANT'S MOTION TO HOLD BRIEFING IN ABEYANCE PENDING A DECISION
ON APPELLANT'S MOTION TO STRIKE was served by email on all counsel

of record as follows, and filed by electronic email with the Clerk of Court for the South Carolina Court of Appeals.

January 5, 2026

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