

The South Carolina 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.

Appellate Case No. 2025-001116

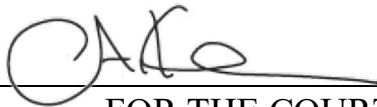
ORDER

On November 13, 2025, Respondent filed his initial brief and designation of matter. On December 17 and 18, 2025, Respondent moved to amend his designation of matter, providing the proposed amended designation of matter and representing that Appellant's counsel consented to the amendment. After careful consideration, Respondent's motion to amend his designation of matter is granted. The amended designation of matter is accepted as filed.

On January 5, 2026, Appellant moved to strike portions of Respondent's brief and 19 items that are included in Respondent's amended designation of matter. On January 21, 2026, Respondent filed a return, opposing Appellant's motion. On January 28, 2026, Appellant's filed a reply, arguing in part that Respondent failed to timely file its return to the motion to strike and did not move to file the return

out of time; thus, the return should not be considered by this court. On January 30, 2026, Respondent moved to file the return to the motion to strike out of time. Appellant filed a return, opposing the motion.

After careful consideration, Respondent's motion to file its return out of time is granted. Additionally, we grant Appellant's motion to strike Respondent's initial brief and amended designation of matter. Respondent shall serve and file an amended initial brief and second amended designation of matter that does not include matters not presented to the circuit court. *See* Rule 210(c), SCACR ("The Record shall not, however, include matter which was not presented to the lower court or tribunal."). Specifically, the following matters from Respondent's amended designation of matter shall be omitted from Respondent's second amended designation of matter and not referenced in Respondent's amended initial brief: numbers 3, 11, 16, 19-29, 32-34, 45, 62, and 65.



FOR THE COURT J.

Columbia, South Carolina

FILED
Feb 25 2026

cc:

John S. Nichols, Esquire
Benjamin Thomas Shelton, Esquire
John T. Crawford, Jr., Esquire
William Jacob Henerey, Esquire
Jason Michael Imhoff, Esquire
Kimila Lynn Wooten, Esquire
Amelia Morgan Farmer, Esquire
David Lee Paavola, Esquire
Carl F. Muller, Esquire