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Mar 11 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas
The Honorable R. Lawton McIntosh

Case No. 2024-CP-04-02229
Appellate Case No. 2025-001549
Appellate Case No. 2025-002012

Moats Construction, Inc. and The Green Man, LLC,

Appellants,

v.

APB Partnership, LLC, Wesley Edwards, 2916 N. Main, LLC, W.H. Bass, Inc., Whataburger
Restaurants, LLC, and United Community Bank,

Respondents.

APPELLANT’S MOTION TO REINSTATE LIS PENDENS AND MECHANIC’S LIEN
DURING PENDENCY OF APPEAL

Appellant Moats Construction, Inc. hereby moves for reinstatement of the lis pendens and mechanic’s lien during the duration of this appeal pursuant to the automatic stay provisions of Rule 241, SCACR.

The lower court prematurely dismissed the lis pendens prior to the time period for Appellant to file its motion to reconsider under Rule 59(e), SCRCF, and prior to the time period

to perfect an appeal and the lower court refused to restore the lis pendens and mechanic's lien during this appeal.¹ This was error.

The lower court issued a formal order releasing the lis pendens and directing the clerk of court to cancel the same on June 17, 2025. (Lien Order at 7, 9, attached as **Exhibit 1**.) Appellants timely filed a motion to reconsider ten days later. (Mot. Reconsider, June 27, 2025, attached as **Exhibit 2**); *see* Rule 59(e), SCRCF. During that time, the lower court was prohibited from executing or taking any action to enforce its ruling. Rule 62(a), SCRCF. Nonetheless, the clerk of court immediately canceled the lis pendens after entry of the court's order on June 17. (*See* Letter from David L. Paavola to the Hon. R. Lawton McIntosh, Chief Admin. Judge, Circuit Court (July 16, 2025), attached as **Exhibit 3**.) The court later denied Appellants' motion to reconsider, after which Appellants timely filed a notice of appeal. (Form 4 Order, July 3, 2025, attached as **Exhibit 4**; Notice of Appeal, Aug. 1, 2025, attached as **Exhibit 5**); *see* Rule 203(b)(1), SCACR.

The service of a notice of appeal automatically stays the matters decided and relief ordered in the appealed order:

As a general rule, the service of a notice of appeal in a civil matter acts to *automatically stay matters decided* in the order, judgment, decree or decision on appeal, *and to automatically stay the relief ordered* in the appealed order, judgment, or decree or decision.

Rule 241(a), SCACR (emphasis added). This automatic stay continues for the duration of the appeal unless lifted by order of the lower court or appellate court. *Id.*

The Court of Appeals aptly described the effect of Rule 241, SCACR, in *Tillman v. Oakes*, 398 S.C. 245, 728 S.E.2d 45 (2012), where it stated:

When a party appeals an order, two questions may arise as to the effect of the appeal: (1) **what is the effect of the appeal on matters decided in the order, particularly the immediate effectiveness of relief ordered**; and (2) what is the

¹ Appellant fully briefed this issue in its Initial Brief and Reply Brief and it fully incorporates these arguments herein, but for brevity does not repeat these arguments in toto.

effect of the appeal on the power of the lower court to proceed with the underlying action while the appeal is pending. **The answer to the first question is governed by the stay and supersedeas provisions of Rule 241. If a stay exists, either automatically under Rule 241(a) or by supersedeas under Rule 241(c), the appealed order may not be carried out or enforced during the pendency of the appeal. This is the purpose of a stay under Rule 241—to determine whether the appealed order may be carried out or enforced—not to determine whether the action may proceed in the lower court while the appeal is pending.**

Id. at 254-55, 728 S.E.2d at 50-51 (emphasis added).

Limited exceptions to the automatic stay are “found in statutes, court rules, and case law.” Rule 241(b), SCACR. However, none of the exceptions enumerated in Rule 241(b)—money judgments; judgments directing the delivery of documents or personal property; judgments directing execution of conveyances; judgments directing sale or delivery of possession of real property, family court orders, etc.—are applicable in this instance. Additionally, there is no exception to the automatic stay in the Mechanic’s Lien Statute, S.C. Code Ann. § 29-5-10, *et seq.*, and no provision requiring an appeal bond.

Accordingly, the general rule requiring a stay applies to this situation and the matters decided and the relief ordered in the appealed Lien Order should have been stayed pending the outcome of this appeal.

Pursuant to the Mechanic’s Lien Statute, Respondents always have the option to post a bond to release the mechanic’s lien from the property should they desire to sell the property during the pendency of this appeal. S.C. Code Ann. § 29-5-110. However, if APB Partnership does not post a bond and sells its property before the appeal is concluded, then Moats will have lost a significant statutory right to foreclose on the property if it is successful on this appeal.

For these reasons, Appellants ask this Court to reinstate the *lis pendens* and the mechanic’s lien during the pendency of this appeal.

/s/ David L. Paavola

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March 11, 2026
Cayce, South Carolina

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STATE OF SOUTH CAROLINA
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Moats Construction, Inc. and The Green Man, LLC,

Appellants,

v.

APB Partnership, LLC, Wesley Edwards, 2916 N. Main, LLC, W.H. Bass, Inc., Whataburger Restaurants, LLC, and United Community Bank,

Respondents.

PROOF OF SERVICE

I certify that the APPELLANT’S MOTION TO REINSTATE LIS PENDENS AND MECHANIC’S LIEN DURING PENDENCY OF APPEAL has been served on John S. Nichols and Daniel L. Draisen, counsel for Respondents APB Partnership, LLC, Wesley Edwards, and 2619 N. Main, LLC, by email sent to their primary e-mail addresses listed in the Attorney Information System, john@bluesteinattorneys.com, daniel@injuredsc.com, Paul H. Hoefler and C. Elizabeth Weston, counsel for Respondent United Community Bank, by email sent to their primary e-mail addresses listed in the Attorney Information System, phoefler@robinsongray.com and lweston@robinsongray.com, Dana Woodrum Lang, counsel for WH Bass, Inc., by email sent to her primary e-mail address listed in the Attorney Information System, dana.lang@wbd-us.com, and Christopher B. Major, counsel for Whataburger Restaurants, LLC, by email sent to his primary e-mail address listed in the Attorney Information System, cmajor@hsblawfirm.com, on March 11, 2026.

s/David L. Paavola

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March 11, 2026
Cayce, South Carolina

EXHIBIT 1

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

IN THE COURT OF COMMON PLEAS

MOATS CONSTRUCTION, INC. and THE GREEN MAN, LLC,

Plaintiffs,

v.

APB PARTNERSHIP, LLC, WESLEY EDWARDS, 2916 N. MAIN, LLC, W.H. BASS, INC., WHATABURGER RESTAURANTS, LLC, and UNITED COMMUNITY BANK,

Defendants.

C/A No. 2024-CP-04-02229

ORDER DISCHARGING MECHANIC'S LIENS, RELEASING LIS PENDENS, AND DISMISSING PLAINTIFFS' CAUSES OF ACTION FOR LIEN FORECLOSURE

This matter came on for hearing before the Court on the 5th day of June, 2025 pursuant to Defendants APB Partnership, LLC, Wesley Edwards, and 2916 N. Main, LLC's Motion to Dissolve Mechanic's Liens, Dismiss Plaintiffs' Claims for Foreclosure of Mechanic's Liens, and to Dismiss Defendants APB Partnership, LLC, Wesley Edwards and 2916 N. Main, LLC. In attendance at the hearing were the Plaintiffs, Moats Construction, Inc. and The Green Man, LLC, and their attorney David L. Paavola, Esq., of Kenison, Dudley & Crawford, LLC, and Daniel L. Draisen, Esq. of The Injury Law Firm, P.C., attorney for Defendants APB Partnership, LLC, Wesley Edwards, and 2196 N. Main, LLC. Christopher B. Major, Esq., attorney for Defendant Whataburger Restaurants, LLC, and C. Elisabeth Weston, Esq., attorney for United Community Bank, were also present

but did not participate and took no position on Defendants' Motion. All parties were properly notified of the date, time, and location of the hearing.

Having reviewed the pleadings, Affidavits, and exhibits, and heard fully the arguments of counsel, Defendants APB Partnership, LLC, Wesley Edwards, and 2916 N. Main, LLC's Motion is **GRANTED**. I make the following findings of fact and conclusions of law:

FINDINGS OF FACT:

1. Even if the Court, when viewing the facts in a light most favorable to the Plaintiffs, were to find that the Plaintiffs timely filed and served their Mechanic's Liens upon the APB Defendants *within ninety (90) days* after Plaintiffs ceased to labor on or furnish labor or materials to the Property as is required by S.C. Code of Laws § 29-5-90 (which is disputed), I find that the Plaintiffs failed to foreclose the liens within the statutory six (6) month timeframe in which to do so.

2. Based on an e-mail from Moats, Moats states on April 4, 2024 at 12:57 pm:

“we told everyone that if you didn't pay . . . we would be demobilizing from the sight [sic], which means, as I'm sure you know, **removing all of our equipment from the project sight [sic]. Which we did.**” “we did not want to leave an un-safe sight [sic] **as we had also removed our traffic control.**”

3. Mr. Moats, by his own statement, admits that Moats demobilized from the job site on April 3, 2024.

4. In his Affidavit, Mr. Moats asserts that Moats still had traffic control devices (i.e., orange road cones) on the job site after April 3, 2024, that Moats only partially demobilized on April 3, 2024, and that Moats did incidental work to remove the cones and some materials from the job site on April 29, 2024 which extended the time within which it had to file its Mechanic's Lien.
5. Assuming that the traffic cones belonged to Moats, and that it either intentionally or accidentally failed to remove its traffic cones and materials from the job site when it took everything else off the site, I find that it would be unreasonable (based on the alleged scope of incidental work done) to allow Moats a lien time extension until April 29, 2024, some twenty-six (26) additional days after pulling off the job site, to return to the site to remove easily movable cones or materials.
6. I find that the incidental work done by Moats in removing the remaining traffic cones on April 29, 2024 was not done to a) complete construction, or b) done at the owner or General Contractor's request.
7. Even if the Court extended the date of demobilization to April 13 (the date Moats claims it met with City officials on the jobsite), the Summons and Complaint would have had to have been filed on or before October 13, 2024.
8. The Summons and Complaint in this matter were filed on October 28, 2024, well beyond the statutory six (6) month timeframe in which to do so.
9. During the hearing, counsel for The Green Man, LLC acknowledged to the Court that The Green Man, LLC did not file an action to foreclose its Mechanic's Liens within the statutory six (6) month timeframe, and that its foreclosure actions were not timely filed.

10. As a result of Plaintiffs' failure to foreclose its Mechanic's Liens within the statutory timeframe, Plaintiffs' Mechanic's Liens, and each of them, dissolved by operation of law and are of no force and effect.

11. Viewing the undisputed facts in a light most favorable to the Plaintiffs, Defendants APB Partnership, LLC, Wesley Edwards, and 2916 N. Main, LLC are entitled to judgment as a matter of law and are entitled to (partial) Summary Judgment in this matter as to Plaintiffs' Fifth and Sixth causes of action for Foreclosure of Mechanic's Lien.

CONCLUSIONS OF LAW:

While Defendants' Motion was filed as a Motion to Dismiss, matters outside the pleadings were presented by the parties and allowed by the Court in the form of Affidavits and exhibits. Pursuant to SCRCP, Rule 12(b):

If, on a motion asserting the defense numbered (6) to dismiss for failure of the pleading to state facts sufficient to constitute a cause of action, matters outside the pleading are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.

As such, the Court treats Defendants' Motion as one for Summary Judgment pursuant to SCRCP, Rule 56, having given the parties reasonable opportunity to present all materials made pertinent to such a motion by Rule 56.

Incidental work extends the time for a lien only when performed to complete the scope of work or at the behest of the owner or General Contractor. Removing easily moveable traffic cones, even if they belong to Moats (which is disputed) were not done to complete the work and Moats does not even allege that this was done at the behest

of the owner or General Contractor. Additionally, such work must be in good faith and not merely to extend the lien.

In Wood v. Hardy, 110 S.E.2d 157, 235 S.C. 131 (S.C. 1959), the South Carolina Supreme Court held:

The only requirement of the law is that the account be filed within ninety (90) days after he ceases to labor on or furnish labor or materials for such building or structure.'

In 57 C.J.S. Mechanics' Liens § 125, at page 632, it is said:

'* * * The statute runs from the date of the last item, even though the doing of the last item of work is somewhat delayed, provided the delay is not for the purpose of extending the period for giving notice. * * *'

In the case of Breeding v. Melson, 4 W.W.Harr. 9, 34 Del. 9, 143 A. 23, 25, 60 A.L.R. 1252, it appeared that certain labor and material were furnished by the plaintiff from March, 1921, to October, 1921, after which time nothing further was furnished by him until April, 1922, when labor and material of the value of \$3.40 were furnished. The record discloses that the building constructed was a moving picture theater and was temporarily opened in September, 1921, the windows being closed with metal, and that the defendant waited until April, 1922, for the plaintiff to get the necessary material for him to complete the building as he had contracted to do. **The Court held that in order to extend the time for filing of a mechanic's lien, the work performed or materials furnished must be required by the contract, and what is done must be done in good faith for the purpose of fully performing the obligation of the contract, and not for the mere purpose of extending the time for filing the lien.** The Court said, in upholding the validity of the filing of the lien within 30 days after the expiration of 90 days from the completion of the building, pursuant to statute, that the lien was valid. We quote from the Opinion the following:

'* * * It is quite true that very little material was supplied by the plaintiff, and that the value of the same was insignificant, but that fact cannot have any bearing on his status as a contractor, as the statute does not specify that any particular amount of labor or material shall be furnished.'

In District Heights Apartments, Section D-E v. Noland Company, Inc., 202 Md. 43, 95 A.2d 90, 94, 39 A.L.R.2d 387, it was said:

* * * But where a claimant, after a contract is substantially completed, does additional work or furnishes additional material which is necessary for the proper performance of his contract, and which is done in good faith at the request of the owner or for the purpose of fully completing the contract, and not merely as a gratuity or act of friendly accommodation, the period for filing the lien will run from the doing of such work or the furnishing of such materials, irrespective of the value thereof. *Harrison v. Stouffer*, 193 Md. 46, 65 A.2d 895. * * *

In *Butler Contracting v. Court Street*, 631 S.E.2d 252, 369 S.C. 121 (S.C. 2006),

the South Carolina Supreme Court states:

The position adopted in *Wood*, as reflected in foreign precedent cited in that 1959 opinion, has not changed substantially in more recent cases from other courts. "**[W]hen an unreasonable period of time has elapsed since substantial completion of the work, the performance of trivial services or the furnishing of trivial materials generally will not extend the time for filing the certificate past the date of substantial completion.... If, however, subsequent to the date of substantial completion, trivial services or materials are provided at the request of the owner, rather than at the initiative of the contractor for the purpose of saving a lien, the furnishing of such work or material will extend the commencement of the period for filing a certificate of mechanic's lien.**" *F.B. Mattson Co. v. Tarte*, 247 Conn. 234, 719 A.2d 1158, 1161 (1998) (holding that, although roofing project had been substantially completed more than a month earlier, deadline to file mechanic's lien began to run upon removal of scaffolding and roofing brackets from property at request of owner); accord *Franklin Bldg. Supply Co. v. Sumpter*, 139 Idaho 846, 87 P.3d 955, 959-61 (2004) (deadline to file mechanic's lien began to run when builder purchased a sheet of cedar and locking door handle for house, not when certificate of occupancy was issued several weeks earlier; although dollar value of items was minimal, they were actually used in constructing and repairing the home, were reasonably necessary to complete construction and punch list according to terms of contract, were not merely trivial or insubstantial, and purchases were not intended to extend time for filing lien); *Interstate Elec. Servs. Corp. v. Cummings Props., LLC*, 63 Mass.App.Ct. 295, 825 N.E.2d 1059, 1063-64 (2005) (mere delay in completing contract and performance of trifling items of work have never been held under Massachusetts statute fatal to maintenance of a mechanic's lien when work was done in good faith and was necessary to a complete performance of the contract); *Security Ben. Life Ins. Corp. v.*

Fleming Companies, 21 Kan.App.2d 833, 908 P.2d 1315, 1321-22 (1995) (for purposes of mechanic's lien filing deadline, store checkout system installer last performed work on date it set up direct store delivery system and trained employees on its use; although other work was completed earlier, work performed on that date was necessary to comply with terms of contract); 53 Am.Jur.2d Mechanics' Liens § 211 (1996).

In the instant case, Moats would have the Court believe that it reasonably took Moats some *twenty-six (26) additional days* after pulling off the jobsite to return to the site to remove its easily movable traffic cones and remaining materials. The Court declines to do so.

Based upon the pleadings in this case, the Affidavits and exhibits attached to Defendants' Motion, and the Affidavit and exhibits filed by Moats, Defendants APB Partnership, LLC, Wesley Edwards, and 2916 N. Main, LLC are entitled to the discharge Plaintiffs' Mechanic's Liens, to release of the Lis Pendens, and to dismissal of the Plaintiffs' causes of action for Foreclosure of Mechanic's Liens with prejudice.

To the extent that Plaintiffs asserted other causes of action based on contract or equity against Defendants APB Partnership, LLC, Wesley Edwards, and 2916 N. Main, LLC, Defendants' Motion as to those causes of action is denied at this time.

Pursuant to SC Code, Ann., Section 29-5-20, et seq., Defendants APB Partnership, LLC, Wesley Edwards, and 2916 N. Main, LLC are hereby determined and declared to be the prevailing party in the within matter with regard to Plaintiffs' Mechanic's Lien causes of action. As such, Defendants are entitled to an award of attorney's fees and costs incurred in defending the matter. If Defendants seek an award of attorney's fees and costs, Defendants APB Partnership, LLC, Wesley Edwards, and 2916 N. Main, LLC shall

submit to the Court, with copies to opposing counsel, an appropriate Affidavit of Attorney's Fees and costs. Any party wishing to contest the amount requested may request a hearing on Defendants' request for an award of attorney's fees and costs within ten (10) days of submission, and upon filing a hearing request the Clerk of Court is directed to set such hearing at the next available term of court.

IT IS THEREFORE ORDERED, ADJUDGE AND DECREED that:

1. The Mechanic's Lien dated July 2, 2024 and filed by Moats Construction, Inc. on real estate owned by 2916 N. Main, LLC on July 3, 2024 in the Office of the Register of Deeds for Anderson County, South Carolina in Book 65 at Page 112 is hereby dissolved and the Register of Deeds is directed to mark same discharged and released of record.
2. The Mechanic's Lien dated July 2, 2024 and filed by Moats Construction, Inc. on real estate owned by APB Partnership, LLC on July 3, 2024 in the Office of the Register of Deeds for Anderson County, South Carolina in Book 65 at Page 121 is hereby dissolved and the Register of Deeds is directed to mark same discharged and released of record.
3. The Mechanic's Lien dated July 2, 2024 and filed by The Green Man, LLC on real estate owned by 2916 N. Main, LLC on July 3, 2024 in the Office of the Register of Deeds for Anderson County, South Carolina in Book 65 at Page 129 is hereby dissolved and the Register of Deeds is directed to mark same discharged and released of record.
4. The Mechanic's Lien dated July 2, 2024 and filed by The Green Man, LLC on real estate owned by APB Partnership, LLC on July 3, 2024 in the Office of the Register of Deeds for Anderson County, South Carolina in Book 65 at Page 136 is hereby dissolved and the Register of Deeds is directed to mark same discharged and released of record.

5. The Amended Mechanic's Lien dated February 19, 2025 and filed by Moats Construction, Inc. on real estate owned by APB Partnership, LLC on February 20, 2025 in the Office of the Register of Deeds for Anderson County, South Carolina in Book 67 at Page 29 is hereby dissolved and the Register of Deeds is directed to mark same discharged and released of record.
6. The Lis Pendens filed in the within case, C/A No. 2024-CP-04-02229, on the property of the Defendants, 2900 N. Main Street, Anderson, SC 29621, **TMS# 122-12-02-005**, 2902 N. Main Street, Anderson, SC 29621, **TMS# 122-12-02-003**, and 2916 N. Main Street, Anderson, SC 29621, **TMS# 122-12-02-002**, is hereby cancelled and the Clerk of Court is directed to mark same cancelled of record.
7. Plaintiffs' Fifth and Sixth causes action for Foreclosure of Mechanic's Lien are hereby dismissed with prejudice.
8. As the prevailing party with regard to Plaintiffs' Mechanic's Lien causes of action, pursuant to SC Code, Ann., Section 29-5-20, et seq., Defendants are entitled to an award of attorney's fees and costs incurred in defending the matter. If Defendants seek an award of attorney's fees and costs, Defendants APB Partnership, LLC, Wesley Edwards, and 2916 N. Main, LLC, by and through its attorney, shall submit to the Court, with copies to opposing counsel, an appropriate Affidavit of Attorney's Fees and costs. Any party wishing to contest the amount requested may request a hearing on Defendants' request for an award of attorney's fees and costs within ten (10) days of submission and, upon filing a hearing request, the Clerk of Court is directed to set such hearing at the next available term of court.

IT IS SO ORDERED.

(e-signature affixed hereto)

R. Lawton McIntosh,
Circuit Court Judge

Date: _____



Anderson Common Pleas

Case Caption: Moats Construction Inc , plaintiff, et al VS Apb Partnership Llc ,
defendant, et al

Case Number: 2024CP0402229

Type: Order/Summary Judgment

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

EXHIBIT 2

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

Moats Construction, Inc., and The
Green Man, LLC,

Plaintiffs,

vs.

APB Partnership, LLC; Wesley
Edwards; 2916 N Main, LLC, W.H.
Bass, Inc., Whataburger Restaurants,
LLC, and United Community Bank,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT

C.A. No.: 2024-CP-2229

**PLAINTIFFS' MOTION TO RECONSIDER
ORDER DISCHARGING MECHANIC'S
LINES, RELEASING LIS PENDENS, AND
DISMISSING PLAINTIFFS' CAUSES OF
ACTION FOR LIEN FORECLOSURE**

Plaintiff Moats Construction, Inc. moves pursuant to Rules 59(e), SCRCP, and the Court's inherent authority, for the Court to reconsider and vacate its Order Discharging Mechanic's Liens, Releasing Lis Pendens, and Dismissing Plaintiff's Causes of Action for Lien Foreclosure (the "Order") as to Moats Construction, Inc's filed mechanic's liens and foreclosure cause of action.

The Court erred in granting summary judgment at this stage of the litigation when there are disputed issues of material fact and discovery has not started. There are genuine issues of material fact as to Moats Construction's last date of furnishing labor or materials on the project and this precludes a grant of summary judgment. For this reason, the Court's Order discharging Moats Construction's mechanic's liens and granting summary judgment on its foreclosure cause of action should be vacated.

LEGAL STANDARDS

Rule 59 – Motion to Alter or Amend

A motion made pursuant to Rule 59(e), SCRCP, is an appropriate “vehicle to seek ‘reconsideration’ of issues and arguments.” *Elam v. S.C. DOT*, 361 S.C. 9, 21, 602 S.E.2d 772, 778 (2004). Such a motion is appropriate where a party “believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it.” *Id.* at 24, 602 S.E.2d at 780. A motion for reconsideration is appropriate to “prevent manifest injustice” and permit a “court to correct its own errors, ‘sparing the parties and the appellate courts the burden of unnecessary appellate proceedings.’” *Pacific Ins. Co. v. Am. Nat’l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998).

Rule 56 - Summary Judgment

Summary judgment is only appropriate when the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, “show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Rule 56(c), SCRCP. “A fact is deemed ‘material’ if proof of its existence or nonexistence would affect the disposition of the case under the applicable law.” *Knight v. Am. Nat. Fire Ins. Co.*, 831 F.Supp. 1284, 1285 (D.S.C. 1993) (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)). “An issue of material fact is ‘genuine’ if the evidence offered is such that a reasonable jury might return a verdict for the non-movant.” *Id.*

“Under Rule 56(c), the party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact.” *Lanham v. Blue Cross & Blue Shield of S.C., Inc.*, 349 S.C. 356, 361, 563 S.E.2d 331, 333 (2002) (citing *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991)). When deciding whether a genuine issue

of material fact exists, the court must view “the evidence and all inferences which can be reasonably drawn therefrom . . . in the light most favorable to the nonmoving party.” *Id.* at 361-62, 563 S.E.2d at 333 (citing *Sumner v. Carpenter*, 328 S.C. 36, 492 S.E.2d 55 (1997)).

“Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law.” *Id.* at 363, 563 S.E.2d at 334 (citing *Brockbank v. Best Capital Corp.*, 341 S.C. 372, 534 S.E.2d 688 (2000)). “Summary judgment should not be granted even when there is no dispute as to evidentiary facts if there is disagreement concerning the conclusion to be drawn from those facts.” *Id.* at 362, 563 S.E.2d at 333 (citing *Moriarty v. Garden Sanctuary Church of God*, 341 S.C. 320, 534 S.E.2d 672 (2000)). “Summary judgment is a drastic remedy, which should be cautiously invoked so that no person will be improperly deprived of a trial of the disputed factual issues.” *Id.* at 363, 563 S.E.2d at 334 (citing *Baughman*, 306 S.C. 101, 410 S.E.2d 537). “This means . . . that summary judgment must not be granted until the opposing party has had a full and fair opportunity to complete discovery.” *Id.*

ARGUMENT

I. The Last Date of Work is a Disputed Issue of Material Fact.

Moats Construction’s last date of work is a disputed issue of material fact that precludes summary judgment at this stage of the litigation before any discovery has been completed. The APB Defendants assert that Moats Construction’s last date of work was April 3, 2024. Moats Construction contends that it continued to furnish labor and materials until April 29, 2024. If the APB Defendants are correct, then Moats Construction’s mechanic’s liens were not foreclosed within six months; however, if Moats Construction is correct, then the liens were timely foreclosed.

On summary judgment, the facts must be viewed in a light most favorable to the non-moving party. Here, the Court relies heavily on Russell Moats’ April 4, 2024 email stating that

Moats Construction demobilized from the work site on the previous day. However, the final date of furnishing work and demobilization is a disputed fact issue as shown by Russell Moats' sworn affidavit and accompanying pictures reflecting Moats Construction's traffic control devices still functioning for their intended purpose at least as late as April 12, 2024, and that Moats Construction did not fully demobilize until April 29, 2024. (Moats Aff. ¶¶ 12-14). If the last date of work is the final day of demobilization on April 29, 2024, then Moats Construction's liens were timely. These facts remain in dispute and cannot be resolved on summary judgment.

The Court also concluded that it would be unreasonable for Moats Construction to have waited to collect its traffic control devices until April 29, 2024, based on an April 4, 2024 email about demobilization. (Order ¶ 5). However, Russell Moats's sworn affidavit shows that (1) the traffic control devices were still in use at least through April 12, 2024 based on photographs, (Moats Aff. ¶ 12 & Exhibit 7 (photograph)); (2) Russell Moats continued to interface with Anderson County officials at least through April 12 or 13, 2024, (Moats Aff. ¶13); and (3) demobilization was completed on April 29, 2024, (Moats Aff. ¶ 14). Based on these facts, viewed in a light most favorable to Moats Construction, April 29, 2024, was the last date of work and was not an unreasonable date to finish demobilization. At a minimum, it is a disputed issue of fact for a fact finder to decide whether the work done on April 29, 2024 was labor furnished as part of the contract, or whether there was an unreasonable delay between April 12, 13, 2024 and April 29, 2024.

The Court also errs in concluding that demobilization on April 29, 2024, was not work done within Moats Construction's contract and that it had to be done at the owner's request. (Order ¶ 6). The work performed by Moats Construction on April 29, 2024, qualified as "furnish[ing] labor" under the mechanic's lien statute. S.C. Code Ann. § 29-5-90. Mobilization and

demobilization are work that are part of every construction contract. (Moats Aff ¶ 8). It takes labor to demobilize. The South Carolina Supreme Court has previously held that the mechanic's lien statute does not specify any amount of materials or labor that must be "furnished" under the statute to begin the statutory 90-day period. *Butler Contracting, Inc. v. Court Street, LLC*, 369 S.C. 121, 130, 631 S.E.2d 252, 257 (2006) ("[T]he statute does not specify any particular amount of materials or labor which must be furnished") (citing *Wood v. Hardy*, 235 S.C. 131, 133-136, 110 S.E.2d 157, 157-59 (1959)).

Further, the in *Butler Contracting, Inc. v. Court Street, LLC*, the South Carolina Supreme Court stated that:

[W]here a claimant, after a contract is substantially completed, does additional work or furnishes additional material which is necessary for the proper performance of his contract, and which is done in good faith at the request of the owner or for the purpose of fully completing the contract, and not merely as a gratuity or act of friendly accommodation, the period for filing the lien will run from the doing of such work or the furnishing of such materials, irrespective of the value thereof.

Id. at 130-31, 631 S.E.2d at 257-58. Work performed that is "necessary for the proper performance of his contract" and done in good faith at the request of the owner or "for the purpose of fully complete the contract" will start the lien period. *Id.* Here, Moats Construction's demobilization was part of the scope of its contract and therefore its completion on April 29, 2024 was within the scope of work and there did not need to be a separate request from the owner for Moats Construction to return to the property like there was in *Butler* when the owner requested the special delivery of the extra box of tile. The Court erred in ruling otherwise.

CONCLUSION

For these reasons, Plaintiffs request the Court to vacate its order granting summary judgment to the APB Defendants on Moats Construction's foreclosure causes of action and vacate

the discharge of Moats Constructions' mechanic's liens and allow the parties to move forward with discovery on these issues.

KENISON, DUDLEY & CRAWFORD, LLC

s/ David L. Paavola

Brian A. Autry (SC Bar No. 69401)

David L. Paavola (SC Bar No. 100714)

Caitlin S. Cameron (SC Bar No. 106286)

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Attorneys for Plaintiffs

June 27, 2025

Columbia, South Carolina

EXHIBIT 3



**KENISON, DUDLEY
& CRAWFORD, LLC**
ATTORNEYS AT LAW

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July 16, 2025

E-Filing SC Courts

The Honorable R. Lawton McIntosh
Circuit Court Chief Admin Judge
P.O. Box 8002
Anderson, SC 29622

The Honorable C. Reena Thomason
Clerk of Court
100 South Main Street
Anderson, SC 29624

**RE: Moats Construction, Inc. and The Green Man, LLC v. APB Partnership, LLC, et al
C/A No.: 2024-CP-04-02229**

Dear Judge McIntosh and Ms. Thomason:

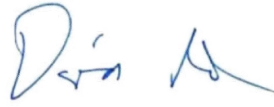
We represent Plaintiffs Moats Construction, Inc. and The Green Man, LLC in the above-referenced matter, which is currently pending in Anderson County Circuit Court.

It has come to our attention that the Lis Pendens filed in this matter was prematurely cancelled on June 16, 2025, following an Order issued by the Court discharging Plaintiff's Mechanic's Liens, releasing Lis Pendens, and Dismissing Plaintiffs' Causes of Action for Lien Foreclosure. Plaintiff is still within the timeframe to file its Notice of Appeal should it choose to do so.

Accordingly, we respectfully request that the Lis Pendens be reinstated and restored until after the appeal deadline expires on August 4, 2025, or if an appeal is filed until the conclusion of the appeal. This is to preserve the status quo and protect our clients' interest pending the outcome of any potential appeal.

Thank you for your time and consideration.

With kind regards,

A handwritten signature in blue ink, appearing to read "David L. Paavola". The signature is stylized with a large initial "D" and a long horizontal stroke.

David L. Paavola

cc: Daniel L. Draisen, Esq.
Dana W. Lang, Esq.
Paul H. Hoefler, Esq.
Christopher B. Major, Esq.
Clara E. Weston, Esq.

**EXHIBIT 4
FORM 4**

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

JUDGMENT IN A CIVIL CASE
CASE NO. 2024CP0402229

Moats Construction Inc. et al
PLAINTIFF(S)

APB Partnership LLC et al
DEFENDANT(S)

Submitted by: R. Lawton McIntosh	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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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. See Page 2 for additional information.
- 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:

ORDER INFORMATION

PLAINTIFFS' MOTION TO RECONSIDER ORDER DISCHARGING MECHANIC'S LIENS, RELEASING LIS PENDENS, AND DISMISSING PLAINTIFFS' CAUSES OF ACTION FOR LIEN FORECLOSURE IS DENIED WITHOUT NECESSITY OF A HEARING. NO FORMAL ORDER REQUESTED.

This order ends does not end the case.

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.



Anderson Common Pleas

Case Caption: Moats Construction Inc , plaintiff, et al VS Apb Partnership Llc ,
defendant, et al
Case Number: 2024CP0402229
Type: Order/Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

EXHIBIT 5

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

The Honorable R. Lawton McIntosh

Case No. 2024-CP-04-02229

Moats Construction, Inc. and The Green Man, LLC,

Appellants,

v.

APB Partnership, LLC, Wesley Edwards, 2916 N. Main, LLC,
W.H. Bass, Inc., Whataburger Restaurants, LLC, and United
Community Bank,

Respondents.

NOTICE OF APPEAL

Moats Construction, Inc. and The Green Man, LLC (“Appellants”) appeal the Honorable R. Lawton McIntosh’s Order Discharging Mechanic’s Liens, Releasing Lis Pendens, and Dismissing Plaintiffs’ Causes of Action for Lien Foreclosure (Form 4 Order filed June 5, 2025), entered June 17, 2025, attached as **Exhibit A**. Appellants moved for reconsideration and received notice of the Court’s denial of Appellants’ Motion to Reconsider, Alter, or Amend the Order on June 3, 2024, attached as **Exhibit B**.

[Signature page to follow]

s/ David L. Paavola

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Attorneys for Appellants

August 1, 2025

Other counsel of record:

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Counsel for Whataburger Restaurants, LLC

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

The Honorable R. Lawton McIntosh

Case No. 2024-CP-04-02229

Moats Construction, Inc. and The Green Man, LLC,

Appellants,

v.

APB Partnership, LLC, Wesley Edwards, 2916 N. Main, LLC,
W.H. Bass, Inc., Whataburger Restaurants, LLC, and United
Community Bank,

Respondents.

PROOF OF SERVICE

I certify that the Notice of Appeal has been served on Daniel L. Draisen, counsel for Respondents APB Partnership, LLC, Wesley Edwards, and 2916 N. Main, LLC, by email sent to his primary e-mail address listed in the Attorney Information System, daniel@injuredsc.com, Paul H. Hoefler and C. Elizabeth Weston, counsel for Respondent United Community Bank, by email sent to their primary e-mail addresses listed in the Attorney Information System, phoefler@robinsongray.com and lweston@robinsongray.com, and Christopher B. Major, counsel for Whataburger Restaurants, LLC, by email sent to his primary e-mail address listed in the Attorney Information System, cmajor@hsblawfirm.com.

The undersigned also certifies that I have filed the Notice of Appeal with the Clerk of Court for Anderson County Common Pleas via electronic filing.

[Signature page to follow]

s/ David L. Paavola

David L. Paavola, SC Bar No.: 100714
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Attorneys for Appellants

August 1, 2025

EXHIBIT A

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

IN THE COURT OF COMMON PLEAS

**MOATS CONSTRUCTION, INC. and THE
GREEN MAN, LLC,**

Plaintiffs,

v.

**APB PARTNERSHIP, LLC, WESLEY
EDWARDS, 2916 N. MAIN, LLC, W.H.
BASS, INC., WHATABURGER
RESTAURANTS, LLC, and UNITED
COMMUNITY BANK,**

Defendants.

C/A No. 2024-CP-04-02229

**ORDER DISCHARGING MECHANIC'S
LIENS, RELEASING LIS PENDENS,
AND DISMISSING PLAINTIFFS'
CAUSES OF ACTION FOR LIEN
FORECLOSURE**

This matter came on for hearing before the Court on the 5th day of June, 2025 pursuant to Defendants APB Partnership, LLC, Wesley Edwards, and 2916 N. Main, LLC's Motion to Dissolve Mechanic's Liens, Dismiss Plaintiffs' Claims for Foreclosure of Mechanic's Liens, and to Dismiss Defendants APB Partnership, LLC, Wesley Edwards and 2916 N. Main, LLC. In attendance at the hearing were the Plaintiffs, Moats Construction, Inc. and The Green Man, LLC, and their attorney David L. Paavola, Esq., of Kenison, Dudley & Crawford, LLC, and Daniel L. Draisen, Esq. of The Injury Law Firm, P.C., attorney for Defendants APB Partnership, LLC, Wesley Edwards, and 2196 N. Main, LLC. Christopher B. Major, Esq., attorney for Defendant Whataburger Restaurants, LLC, and C. Elisabeth Weston, Esq., attorney for United Community Bank, were also present

ELECTRONICALLY FILED - 2025 Jun 17 9:53 AM - ANDERSON - COMMON PLEAS - CASE#2024CP0402229
ELECTRONICALLY FILED - 2025 Aug 01 2:11 PM - ANDERSON - COMMON PLEAS - CASE#2024CP0402229

but did not participate and took no position on Defendants' Motion. All parties were properly notified of the date, time, and location of the hearing.

Having reviewed the pleadings, Affidavits, and exhibits, and heard fully the arguments of counsel, Defendants APB Partnership, LLC, Wesley Edwards, and 2916 N. Main, LLC's Motion is **GRANTED**. I make the following findings of fact and conclusions of law:

FINDINGS OF FACT:

1. Even if the Court, when viewing the facts in a light most favorable to the Plaintiffs, were to find that the Plaintiffs timely filed and served their Mechanic's Liens upon the APB Defendants *within ninety (90) days* after Plaintiffs ceased to labor on or furnish labor or materials to the Property as is required by S.C. Code of Laws § 29-5-90 (which is disputed), I find that the Plaintiffs failed to foreclose the liens within the statutory six (6) month timeframe in which to do so.

2. Based on an e-mail from Moats, Moats states on April 4, 2024 at 12:57 pm:

“we told everyone that if you didn't pay . . . we would be demobilizing from the sight [sic], which means, as I'm sure you know, **removing all of our equipment from the project sight [sic]. Which we did.**” “we did not want to leave an un-safe sight [sic] **as we had also removed our traffic control.**”

3. Mr. Moats, by his own statement, admits that Moats demobilized from the job site on April 3, 2024.

4. In his Affidavit, Mr. Moats asserts that Moats still had traffic control devices (i.e., orange road cones) on the job site after April 3, 2024, that Moats only partially demobilized on April 3, 2024, and that Moats did incidental work to remove the cones and some materials from the job site on April 29, 2024 which extended the time within which it had to file its Mechanic's Lien.
5. Assuming that the traffic cones belonged to Moats, and that it either intentionally or accidentally failed to remove its traffic cones and materials from the job site when it took everything else off the site, I find that it would be unreasonable (based on the alleged scope of incidental work done) to allow Moats a lien time extension until April 29, 2024, some twenty-six (26) additional days after pulling off the job site, to return to the site to remove easily movable cones or materials.
6. I find that the incidental work done by Moats in removing the remaining traffic cones on April 29, 2024 was not done to a) complete construction, or b) done at the owner or General Contractor's request.
7. Even if the Court extended the date of demobilization to April 13 (the date Moats claims it met with City officials on the jobsite), the Summons and Complaint would have had to have been filed on or before October 13, 2024.
8. The Summons and Complaint in this matter were filed on October 28, 2024, well beyond the statutory six (6) month timeframe in which to do so.
9. During the hearing, counsel for The Green Man, LLC acknowledged to the Court that The Green Man, LLC did not file an action to foreclose its Mechanic's Liens within the statutory six (6) month timeframe, and that its foreclosure actions were not timely filed.

10. As a result of Plaintiffs' failure to foreclose its Mechanic's Liens within the statutory timeframe, Plaintiffs' Mechanic's Liens, and each of them, dissolved by operation of law and are of no force and effect.

11. Viewing the undisputed facts in a light most favorable to the Plaintiffs, Defendants APB Partnership, LLC, Wesley Edwards, and 2916 N. Main, LLC are entitled to judgment as a matter of law and are entitled to (partial) Summary Judgment in this matter as to Plaintiffs' Fifth and Sixth causes of action for Foreclosure of Mechanic's Lien.

CONCLUSIONS OF LAW:

While Defendants' Motion was filed as a Motion to Dismiss, matters outside the pleadings were presented by the parties and allowed by the Court in the form of Affidavits and exhibits. Pursuant to SCRCP, Rule 12(b):

If, on a motion asserting the defense numbered (6) to dismiss for failure of the pleading to state facts sufficient to constitute a cause of action, matters outside the pleading are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.

As such, the Court treats Defendants' Motion as one for Summary Judgment pursuant to SCRCP, Rule 56, having given the parties reasonable opportunity to present all materials made pertinent to such a motion by Rule 56.

Incidental work extends the time for a lien only when performed to complete the scope of work or at the behest of the owner or General Contractor. Removing easily moveable traffic cones, even if they belong to Moats (which is disputed) were not done to complete the work and Moats does not even allege that this was done at the behest

of the owner or General Contractor. Additionally, such work must be in good faith and not merely to extend the lien.

In Wood v. Hardy, 110 S.E.2d 157, 235 S.C. 131 (S.C. 1959), the South Carolina Supreme Court held:

The only requirement of the law is that the account be filed within ninety (90) days after he ceases to labor on or furnish labor or materials for such building or structure.'

In 57 C.J.S. Mechanics' Liens § 125, at page 632, it is said:

'* * * The statute runs from the date of the last item, even though the doing of the last item of work is somewhat delayed, provided the delay is not for the purpose of extending the period for giving notice. * * *'

In the case of Breeding v. Melson, 4 W.W.Harr. 9, 34 Del. 9, 143 A. 23, 25, 60 A.L.R. 1252, it appeared that certain labor and material were furnished by the plaintiff from March, 1921, to October, 1921, after which time nothing further was furnished by him until April, 1922, when labor and material of the value of \$3.40 were furnished. The record discloses that the building constructed was a moving picture theater and was temporarily opened in September, 1921, the windows being closed with metal, and that the defendant waited until April, 1922, for the plaintiff to get the necessary material for him to complete the building as he had contracted to do. **The Court held that in order to extend the time for filing of a mechanic's lien, the work performed or materials furnished must be required by the contract, and what is done must be done in good faith for the purpose of fully performing the obligation of the contract, and not for the mere purpose of extending the time for filing the lien.** The Court said, in upholding the validity of the filing of the lien within 30 days after the expiration of 90 days from the completion of the building, pursuant to statute, that the lien was valid. We quote from the Opinion the following:

'* * * It is quite true that very little material was supplied by the plaintiff, and that the value of the same was insignificant, but that fact cannot have any bearing on his status as a contractor, as the statute does not specify that any particular amount of labor or material shall be furnished.'

In District Heights Apartments, Section D-E v. Noland Company, Inc., 202 Md. 43, 95 A.2d 90, 94, 39 A.L.R.2d 387, it was said:

* * * But where a claimant, after a contract is substantially completed, does additional work or furnishes additional material which is necessary for the proper performance of his contract, and which is done in good faith at the request of the owner or for the purpose of fully completing the contract, and not merely as a gratuity or act of friendly accommodation, the period for filing the lien will run from the doing of such work or the furnishing of such materials, irrespective of the value thereof. *Harrison v. Stouffer*, 193 Md. 46, 65 A.2d 895. * * *

In *Butler Contracting v. Court Street*, 631 S.E.2d 252, 369 S.C. 121 (S.C. 2006),

the South Carolina Supreme Court states:

The position adopted in *Wood*, as reflected in foreign precedent cited in that 1959 opinion, has not changed substantially in more recent cases from other courts. "[W]hen an unreasonable period of time has elapsed since substantial completion of the work, the performance of trivial services or the furnishing of trivial materials generally will not extend the time for filing the certificate past the date of substantial completion.... If, however, subsequent to the date of substantial completion, trivial services or materials are provided at the request of the owner, rather than at the initiative of the contractor for the purpose of saving a lien, the furnishing of such work or material will extend the commencement of the period for filing a certificate of mechanic's lien." *F.B. Mattson Co. v. Tarte*, 247 Conn. 234, 719 A.2d 1158, 1161 (1998) (holding that, although roofing project had been substantially completed more than a month earlier, deadline to file mechanic's lien began to run upon removal of scaffolding and roofing brackets from property at request of owner); accord *Franklin Bldg. Supply Co. v. Sumpter*, 139 Idaho 846, 87 P.3d 955, 959-61 (2004) (deadline to file mechanic's lien began to run when builder purchased a sheet of cedar and locking door handle for house, not when certificate of occupancy was issued several weeks earlier; although dollar value of items was minimal, they were actually used in constructing and repairing the home, were reasonably necessary to complete construction and punch list according to terms of contract, were not merely trivial or insubstantial, and purchases were not intended to extend time for filing lien); *Interstate Elec. Servs. Corp. v. Cummings Props., LLC*, 63 Mass.App.Ct. 295, 825 N.E.2d 1059, 1063-64 (2005) (mere delay in completing contract and performance of trifling items of work have never been held under Massachusetts statute fatal to maintenance of a mechanic's lien when work was done in good faith and was necessary to a complete performance of the contract); *Security Ben. Life Ins. Corp. v.*

Fleming Companies, 21 Kan.App.2d 833, 908 P.2d 1315, 1321-22 (1995) (for purposes of mechanic's lien filing deadline, store checkout system installer last performed work on date it set up direct store delivery system and trained employees on its use; although other work was completed earlier, work performed on that date was necessary to comply with terms of contract); 53 Am.Jur.2d Mechanics' Liens § 211 (1996).

In the instant case, Moats would have the Court believe that it reasonably took Moats some *twenty-six (26) additional days* after pulling off the jobsite to return to the site to remove its easily movable traffic cones and remaining materials. The Court declines to do so.

Based upon the pleadings in this case, the Affidavits and exhibits attached to Defendants' Motion, and the Affidavit and exhibits filed by Moats, Defendants APB Partnership, LLC, Wesley Edwards, and 2916 N. Main, LLC are entitled to the discharge Plaintiffs' Mechanic's Liens, to release of the Lis Pendens, and to dismissal of the Plaintiffs' causes of action for Foreclosure of Mechanic's Liens with prejudice.

To the extent that Plaintiffs asserted other causes of action based on contract or equity against Defendants APB Partnership, LLC, Wesley Edwards, and 2916 N. Main, LLC, Defendants' Motion as to those causes of action is denied at this time.

Pursuant to SC Code, Ann., Section 29-5-20, et seq., Defendants APB Partnership, LLC, Wesley Edwards, and 2916 N. Main, LLC are hereby determined and declared to be the prevailing party in the within matter with regard to Plaintiffs' Mechanic's Lien causes of action. As such, Defendants are entitled to an award of attorney's fees and costs incurred in defending the matter. If Defendants seek an award of attorney's fees and costs, Defendants APB Partnership, LLC, Wesley Edwards, and 2916 N. Main, LLC shall

submit to the Court, with copies to opposing counsel, an appropriate Affidavit of Attorney's Fees and costs. Any party wishing to contest the amount requested may request a hearing on Defendants' request for an award of attorney's fees and costs within ten (10) days of submission, and upon filing a hearing request the Clerk of Court is directed to set such hearing at the next available term of court.

IT IS THEREFORE ORDERED, ADJUDGE AND DECREED that:

1. The Mechanic's Lien dated July 2, 2024 and filed by Moats Construction, Inc. on real estate owned by 2916 N. Main, LLC on July 3, 2024 in the Office of the Register of Deeds for Anderson County, South Carolina in Book 65 at Page 112 is hereby dissolved and the Register of Deeds is directed to mark same discharged and released of record.
2. The Mechanic's Lien dated July 2, 2024 and filed by Moats Construction, Inc. on real estate owned by APB Partnership, LLC on July 3, 2024 in the Office of the Register of Deeds for Anderson County, South Carolina in Book 65 at Page 121 is hereby dissolved and the Register of Deeds is directed to mark same discharged and released of record.
3. The Mechanic's Lien dated July 2, 2024 and filed by The Green Man, LLC on real estate owned by 2916 N. Main, LLC on July 3, 2024 in the Office of the Register of Deeds for Anderson County, South Carolina in Book 65 at Page 129 is hereby dissolved and the Register of Deeds is directed to mark same discharged and released of record.
4. The Mechanic's Lien dated July 2, 2024 and filed by The Green Man, LLC on real estate owned by APB Partnership, LLC on July 3, 2024 in the Office of the Register of Deeds for Anderson County, South Carolina in Book 65 at Page 136 is hereby dissolved and the Register of Deeds is directed to mark same discharged and released of record.

5. The Amended Mechanic's Lien dated February 19, 2025 and filed by Moats Construction, Inc. on real estate owned by APB Partnership, LLC on February 20, 2025 in the Office of the Register of Deeds for Anderson County, South Carolina in Book 67 at Page 29 is hereby dissolved and the Register of Deeds is directed to mark same discharged and released of record.

6. The Lis Pendens filed in the within case, C/A No. 2024-CP-04-02229, on the property of the Defendants, 2900 N. Main Street, Anderson, SC 29621, **TMS# 122-12-02-005**, 2902 N. Main Street, Anderson, SC 29621, **TMS# 122-12-02-003**, and 2916 N. Main Street, Anderson, SC 29621, **TMS# 122-12-02-002**, is hereby cancelled and the Clerk of Court is directed to mark same cancelled of record.

7. Plaintiffs' Fifth and Sixth causes action for Foreclosure of Mechanic's Lien are hereby dismissed with prejudice.

8. As the prevailing party with regard to Plaintiffs' Mechanic's Lien causes of action, pursuant to SC Code, Ann., Section 29-5-20, et seq., Defendants are entitled to an award of attorney's fees and costs incurred in defending the matter. If Defendants seek an award of attorney's fees and costs, Defendants APB Partnership, LLC, Wesley Edwards, and 2916 N. Main, LLC, by and through its attorney, shall submit to the Court, with copies to opposing counsel, an appropriate Affidavit of Attorney's Fees and costs. Any party wishing to contest the amount requested may request a hearing on Defendants' request for an award of attorney's fees and costs within ten (10) days of submission and, upon filing a hearing request, the Clerk of Court is directed to set such hearing at the next available term of court.

IT IS SO ORDERED.

(e-signature affixed hereto)
R. Lawton McIntosh,
Circuit Court Judge

Date: _____



Anderson Common Pleas

Case Caption: Moats Construction Inc , plaintiff, et al VS Apb Partnership Llc ,
defendant, et al
Case Number: 2024CP0402229
Type: Order/Summary Judgment

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Electronically signed on 2025-06-17 09:23:07 page 11 of 11

**EXHIBIT B
FORM 4**

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

JUDGMENT IN A CIVIL CASE
CASE NO. 2024CP0402229

Moats Construction Inc. et al
PLAINTIFF(S)

APB Partnership LLC et al
DEFENDANT(S)

Submitted by: R. Lawton McIntosh	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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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. See Page 2 for additional information.
- 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:

ORDER INFORMATION

PLAINTIFFS' MOTION TO RECONSIDER ORDER DISCHARGING MECHANIC'S LIENS, RELEASING LIS PENDENS, AND DISMISSING PLAINTIFFS' CAUSES OF ACTION FOR LIEN FORECLOSURE IS DENIED WITHOUT NECESSITY OF A HEARING. NO FORMAL ORDER REQUESTED.

This order ends does not end the case.

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

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Anderson Common Pleas

Case Caption: Moats Construction Inc , plaintiff, et al VS Apb Partnership Llc ,
defendant, et al
Case Number: 2024CP0402229
Type: Order/Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

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