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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Appellate Case No. 2025-001046

Civil Action No. 2024-CP-07-02002

Cambridge Building, Inc. (License No. 117526),

v.

Robert S. Lotstein, Kristin Huffman, Robert S.
Lotstein, Trustee of the Robert S. Lotstein Family
Trust dated September 4, 2002, as Amended and
Restated, and Kristin S. Huffman, Trustee of the
Kristin S. Huffman Family Trust dated September
4, 2002, as Amended and Restated

Appellant,

Respondents.

RECORD ON APPEAL

INDEX

Orders

Form 4 Order filed February 25, 2025.....	1
(partially granting Motion to Dismiss and directing attorney Finger to prepare order)	
Form 4 Order of the Honorable B. Alex Hyman filed April 17, 2025	4
Order of the Honorable Benjamin Culbertson filed April 24, 2025	7
(partially granting Motion to Dismiss)	
Form 4 Order of the Honorable Benjamin Culbertson filed April 24, 2025	12
Form 4 Order of the Honorable Benjamin Culbertson filed May 28, 2025	15
Form 4 Order of the Honorable Lawton McIntosh filed July 10, 2025.....	18
Order of the Honorable Lawton McIntosh filed October 21, 2025	21

Pleadings

Summons and Complaint (filed September 18, 2024).....	25
Exhibit A	35
Exhibit B	38
Exhibit C	40
Exhibit D	47
Exhibit E.....	49
Respondents' Answer, Counterclaim and Third-Party Complaint (filed May 5, 2025)	51
Appellant's Answer to Counterclaims	71
Guidobono Answer to Third-Party Complaint	85

Transcripts

Transcript of Hearing on Motion to Dismiss (held February 21, 2025).....	96
--	----

Motions, Exhibits, Other Materials

Respondent's Motion to Dismiss (filed October 18, 2024).....	116
Exhibit A.....	121
Affidavit of Joanna "Nicky" Gleason	138
Appellant's Motion to Amend Complaint (filed February 18, 2025)	140
Memorandum in Opposition to Motion to Dismiss (filed February 20, 2025) with exhibits.....	142
Email sending proposed order February 27, 2025.....	158
Proposed order	159
Email and Letter to Judge Culbertson March 3, 2025	163
Appellant's Motion to Alter or Amend (filed March 7, 2025).....	169
Email and Letter to Judge Culbertson (March 11, 2025)	204
Appellant's Motion to Reconsider (Alter or Amend) (May 5, 2025)	206
Exhibit 1.....	218
Email and Letter to Judge Culbertson (May 12, 2025)	234
Notice of Appeal	238
Amended Notice of Appeal	253

Cambridge Building Inc
PLAINTIFF(S)

Robert Lotstein et al
DEFENDANT(S)

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.
- 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:

The defendant's Motion to Dismiss filed 10/18/2024 is PARTIALLY GRANTED. Attorney Terry A. Finger is to prepare an order.

ORDER INFORMATION

This order ends does not end the case.

See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 02/25/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Beaufort Common Pleas

Case Caption: Cambridge Building Inc VS Robert Lotstein , defendant, et al

Case Number: 2024CP0702002

Type: Order/Electronic Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

Electronically signed on 2025-02-25 10:54:14 page 3 of 3

Cambridge Building Inc
PLAINTIFF(S)

Robert Lotstein et al
DEFENDANT(S)

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.
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 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:

Plaintiff's Motion to Amend Complaint is continued for 60 days.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 04/16/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Beaufort Common Pleas

Case Caption: Cambridge Building Inc VS Robert Lotstein , defendant, et al

Case Number: 2024CP0702002

Type: Order/Electronic Form 4

15th Circuit Resident Judge

s/ B. Alex Hyman

Electronically signed on 2025-04-16 09:39:12 page 3 of 3

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 Cambridge Building, Inc.)
 (License No. 117526),)
)
 Plaintiff,)
)
 vs.)
)
 Robert S. Lotstein, Kristin Huffman,)
 Robert S. Lotstein, Trustee of the Robert)
 S. Lotstein Family Trust dated)
 September 4, 2022, as Amended and)
 Restated, and Kristin S. Huffman,)
 Trustee of the Kristin S. Huffman)
 Family Trust dated September 4, 2022,)
 as Amended and Restated,)
)
 Defendants.)
 _____)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2024-CP-07-02002

ORDER

Defendants’ Motion to Dismiss dated October 18, 2024 came before me on February 21, 2024. Present was Robert Lotstein and Terry A. Finger, attorney for the Defendants and Lee Anne Walters, attorney for the Plaintiff.

Plaintiff sued Robert S. Lotstein and Kristin Huffman both individually and as Trustee of the two trusts set out in the caption. Plaintiff sued (1) to foreclose a Mechanic’s Lien, (2) for a breach of contract, and (3) for unjust enrichment. Plaintiff’s compliant had five (5) exhibits.

Defendants’ Motion to Dismiss essentially asserted the following grounds: (1) the Mechanic’s Lien was not timely properly served within 90 days of the last work, (2) the Plaintiff’s contract was only with Robert Lotstein, and (3) the contract has a binding arbitration clause.

After reviewing the Pleadings, Exhibits, Memorandum of Plaintiff, and hearing the arguments of counsel, I make the following

FINDINGS OF FACT

1. The Mechanic's Lien states the last day of work was May 1, 2024.
2. The Mechanic's Lien was filed with the Register of Deeds on July 3, 2024.
3. Exhibit A to the Complaint indicates the real property subject to the Mechanic's Lien is owned by the Robert S. Lotstein Family Trust dated September 4, 2002 and the Kristin S. Huffman Trust dated September 4, 2002.
4. Exhibit D to the Complaint is an "Affidavit of Nonservice" dated July 26, 2024.
5. Paragraph 25 of the Complaint states:

To satisfy the statute, the Beaufort County Sheriff's Office served the Mechanic's Lien (*sic*) upon the property manager, Luxury Rentals of Hilton Head, LLC, as the "person in possession" pursuant to S.C. Code Ann. § 29-5-90.
6. Exhibit E to the Complaint is an Affidavit of Service of the Mechanic's Lien on Joanna "Nicky" Gleason.
7. The contract is referenced in Plaintiff's Complaint and is attached as an Exhibit to the Defendants' Motion to Dismiss (hereinafter referred to as the "Contract"). No objection was made to the Contract being considered by the Court.
8. The Contract is between Cambridge Building, Inc., and Frank Guidobono and Robert Lotstein. No other parties signed the Contract.
9. The Contract has an Arbitration provision in Paragraph 10.2. This is a material provision to the Contract.

NOW THEREFORE, based upon the above Findings of Fact, I make the following

CONCLUSION OF LAW

1. Plaintiff did not serve the Mechanic’s Lien on a “person in possession” as required by S.C. Code Ann. § 29-5-90. Exhibit E to the Complaint, which Plaintiff asserts shows service on the “person in possession” is defective, for among other reason, the following:
 - a) The Exhibit E does not reference any Defendant other than “PMIC Luxury Rentals.” PMIC Luxury Rentals is not a party to this lawsuit and there is no reference to this lawsuit whatsoever.
 - b) The service was not made at the subject property.
 - c) The Affidavit of Joanna “Nicky” Gleason was not objected to by Plaintiff. This Affidavit shows Nicky Gleason was not affiliated with the Defendants or the property in any way. She told the Deputy Sheriff that she did not work for Luxury Rentals, she had never been to the property, and she did not know Robert Lotstein or Kristin Huffman. Joanna “Nicky” Gleason could not be considered a “person in possession.” See, *Stovall Building Supplies, Inc. v. Mottett*, 305 S.C. 28, 406 S.E.2d 176 (App. 1990) (Security guard at entrance to community not a responsible person living at the home and not a person in possession); *Reid v. Carr*, opinion No. 2008-UP-541 (S.C. App. 2008) (painting subcontractor at property not a “person in possession.”)
2. Plaintiff attempted to switch and move away from the allegation that a “person in possession” was served and instead argued that Exhibit D complied with S.C. Code Ann. § 29-5-90 for a person that could not be located.
3. Exhibit D does not comply with the required language of the statute if a person cannot be located. In fact, Exhibit D states the Deputy Sheriff located Robert Lotstein, they talked on

the phone, and Defendants were on vacation. Exhibit D states the Sheriff's Department did locate Robert Lotstein, but he was traveling.

4. The Contract was between Cambridge Building, Inc., and Frank Guidobono and Robert Lotstein. Kristin Huffman and the respective trusts were not signatories or parties to the Contract.
5. The Contract contains an enforceable and binding arbitration provision.

NOW THEREFORE, IT IS ORDERED:

1. The Mechanic's Lien and Lis pendens on the subject property are hereby dismissed with prejudice and the First Cause of Action in the Complaint is dismissed.
2. Kristin Huffman, individually, and the Robert S. Lotstein Family Trust dated September 4, 2002 and the Kristin S. Huffman Trust dated September 4, 2002 are dismissed from this case with prejudice.
3. The Breach of Contract and Unjust Enrichment causes of action continue against Robert Lotstein individually. He has 15 days from the date of this Order to file responsive pleadings.
4. Once Robert Lotstein files his responsive pleadings, this case is stayed and the case is ORDERED to binding Arbitration. The parties are free to jointly agree on an arbitrator or go through the process of the American Arbitration Association.

IT IS SO ORDERED.

February _____, 2025

Honorable Benjamin Culbertson



Beaufort Common Pleas

Case Caption: Cambridge Building Inc VS Robert Lotstein , defendant, et al

Case Number: 2024CP0702002

Type: Order/Dismissal

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

Electronically signed on 2025-04-24 12:11:46 page 5 of 5

Cambridge Building Inc
PLAINTIFF(S)

Robert Lotstein et al
DEFENDANT(S)

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.
- 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:

Plaintiff's Motion to Alter or Amend filed 3/7/2025 is DENIED.

Pursuant to Rule 59(f), SCRPC, this motion is decided on the contents of plaintiff's motion (as a brief in support of the motion) without oral arguments.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 04/24/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Beaufort Common Pleas

Case Caption: Cambridge Building Inc VS Robert Lotstein , defendant, et al

Case Number: 2024CP0702002

Type: Order/Electronic Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

Electronically signed on 2025-04-24 12:16:32 page 3 of 3

Cambridge Building Inc
PLAINTIFF(S)

Robert Lotstein et al
DEFENDANT(S)

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.
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- 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:

Plaintiff's second Motion to Alter or Amend (entitled "Motion to Reconsider Order Granting, In Part, Defendant's Motion to Dismiss") filed 5/5/2025 is DENIED.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 05/28/2025 .

Frank Guidobono

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Beaufort Common Pleas

Case Caption: Cambridge Building Inc VS Robert Lotstein , defendant, et al

Case Number: 2024CP0702002

Type: Order/Electronic Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

Electronically signed on 2025-05-28 12:50:45 page 3 of 3

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS**

JUDGMENT IN A CIVIL CASE

CASE NO. 2024CP0702002

Cambridge Building Inc.
PLAINTIFF(S)

Robert Lotstein 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
---	---

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

PLAINTIFF’S MOTION TO AMEND COMPLAINT IS STAYED PENDING APPEAL WITHOUT WAIVER FROM PLAINTIFF. MR. FINGER TO PREPARE A FORMAL ORDER.

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.

Circuit Court Judge

2155

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

ELECTRONICALLY FILED - 2025 Jul 10 2:30 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002



Beaufort Common Pleas

Case Caption: Cambridge Building Inc VS Robert Lotstein , defendant, et al

Case Number: 2024CP0702002

Type: Order/Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Electronically signed on 2025-07-09 15:44:24 page 3 of 3

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 Cambridge Building, Inc.)
 (License No. 117526),)
)
 Plaintiff,)
)
 vs.)
)
 Robert S. Lotstein, Kristin Huffman,)
 Robert S. Lotstein, Trustee of the Robert)
 S. Lotstein Family Trust dated)
 September 4, 2022, as Amended and)
 Restated, and Kristin S. Huffman,)
 Trustee of the Kristin S. Huffman)
 Family Trust dated September 4, 2022,)
 as Amended and Restated,)
)
 Defendants,)
)
 and.)
)
 Robert S. Lotstein,)
)
 Third Party Plaintiff)
)
 vs.)
)
 Frank Guidobono,)
)
 Third Party Defendant.)
 _____)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2024-CP-07-02002

ORDER

This matter is before the Court on Plaintiff's Motion for Leave to Amend the Complaint filed February 18, 2025.

On September 18, 2024, Plaintiff initiated this action, alleging claims for foreclosure of a mechanic's lien, breach of contract, and unjust enrichment. On October 18, 2024, Defendants filed a Motion to Dismiss, which was argued on February 21, 2025, before the Honorable Benjamin

Culbertson. Plaintiff's Motion to Amend the Complaint was filed after the filing of the Defendant's Motion to Dismiss but before its hearing. Judge Culbertson partially granted the motion to dismiss by Form 4 Order dated February 25, 2025, which stated a formal order would follow. In the interim, Plaintiff's Motion to Amend was scheduled for a hearing on April 8, 2025. Judge Hyman continued the Motion to Amend for 60 days to allow time for Judge Culbertson to issue a formal order on the motion to dismiss. The formal order on Defendants' Motion to Dismiss, filed on April 24, 2025, dismissed the Mechanic's lien cause of action, dismissed the breach of contract and unjust enrichment claims against all Defendants except Robert Lotstein, and ordered the two remaining claims against Lotstein to binding arbitration. On May 5, 2025, Defendant Lotstein filed an Answer, Counterclaim and Third-Party Complaint against Frank Guidobono. Plaintiff and Mr. Guidobono responded. After denial of motions for reconsideration, on May 27, 2025, Plaintiff filed an Appeal of the Orders on Defendants' Motion to Dismiss.

Defendants argue that the Plaintiff's Notice of Appeal of the Orders on Defendants' Motion to Dismiss, prevents this Court from proceeding with a hearing on Plaintiff's Motion to Amend the Complaint.

As explained in *Tillman v. Oakes*, 398 S.C. 245, 728 S.E.2d 45 (S.C. App. 2012),

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 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.

The second question is whether the lower court may proceed with the action during the pendency of the appeal, and its answer is governed by Rule 205, SCACR. The

rule provides: “Upon the service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal....” Under Rule 205, the lower court is deprived of the power to proceed with matters that are affected by the appeal, but is specifically allowed to proceed with matters not affected by the appeal. The rule states: “Nothing in these Rules shall prohibit the lower court ... from proceeding with matters not affected by the appeal.” Rule 205, SCACR; see also Rule 241(a), SCACR (“The lower court ... retains jurisdiction over matters not affected by the appeal....”). Thus, the existence or nonexistence of a stay under Rule 241 does not control the family court's power to proceed with the action and address matters not affected by the appeal. Rather, the lower court's power to proceed is determined by whether the issue sought to be litigated in the lower court during the appeal is a “matter[] affected by the appeal” under Rules 205 and 241(a). See *Arnal v. Fraser*, 371 S.C. 512, 518–19, 641 S.E.2d 419, 422 (2007) (per curiam) (explaining that Rules 205 and 241(a) permit the family court's action on matters not affected by the appeal and prohibit action on matters that are affected by the appeal).

Tillman v. Oakes, 398 S.C. 245, 255, 728 S.E.2d 45, 51 (S.C. App. 2012); See Rule 205, SCACR (“Nothing in these Rules shall prohibit the [circuit] court, commission[,] or tribunal from proceeding with matters not affected by the appeal.”); *Metts v. Mims*, 384 S.C. 491, 498, 682 S.E.2d 813, 817 (2009) (holding when a matter before the circuit court is unaffected by an issue on appeal, the circuit court may proceed).

In this case, the Court finds that the Plaintiff's Motion to Amend is affected by an issue on appeal, and therefore the trial court's action is prohibited.

IT IS ORDERED that Plaintiff's Motion for Leave to Amend the Complaint is STAYED pending the appeal of this Court's April 24, 2025 Order (Order Granting Motion to Dismiss). This Order is without prejudice to the Plaintiff's right to be heard on its Motion to Amend the Complaint following the appeal, and the Court further finds there has been no waiver by the Plaintiff.

IT IS SO ORDERED.

[JUDGE'S SIGNATURE PAGE TO FOLLOW]



Beaufort Common Pleas

Case Caption: Cambridge Building Inc VS Robert Lotstein , defendant, et al

Case Number: 2024CP0702002

Type: Order/Other

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Electronically signed on 2025-10-17 15:52:13 page 4 of 4

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

Cambridge Building, Inc.
(License No. 117526)

PLAINTIFF,

v.

Robert S. Lotstein, Kristin Huffman, Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2022, as Amended and Restated, and Kristin S. Huffman Trustee of the Kristin S. Huffman Family Trust dated September 4, 2022, as Amended and Restated

DEFENDANTS.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Civil Action No. 2024-CP-07-_____

SUMMONS

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint on the below subscribed attorney at Post Office Box 1214, Beaufort, SC 29901 within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the complaint within the time stated, the Plaintiff in this action will apply to the Court for judgment by default against you for the relief demanded in the complaint.

WALTERS LAW

s/Lee Anne Walters

Lee Anne Walters (S.C. Bar No. 74984)

leeanne@walterslawsc.com

Post Office Box 1214

Beaufort, SC 29901

Ph: (843) 379- 0973

Attorney for the Plaintiffs

September 18, 2024

Beaufort, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

Cambridge Building, Inc.
(License No. 117526)

PLAINTIFF,

v.

Robert S. Lotstein, Kristin Huffman, Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2022, as Amended and Restated, and Kristin S. Huffman Trustee of the Kristin S. Huffman Family Trust dated September 4, 2022, as Amended and Restated

DEFENDANTS.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Civil Action No. 2024-CP-07-_____

**COMPLAINT and PETITION FOR
FORECLOSURE OF MECHANIC'S
LIEN
(Jury Trial Demanded)**

Plaintiff, through undersigned counsel, complaining of the Defendants above named hereby alleges and states as follows:

1. Cambridge Building, Inc. ("Cambridge") is a South Carolina limited liability company with its principal place of business in Beaufort County, South Carolina. Cambridge is qualified and licensed by the South Carolina Department of Labor, Licensing, and Regulation, License No. 117526 as a General Contractor. Frank Guidobono ("Guidobono") is the Qualifying Party for Cambridge and is also licensed in South Carolina as a Residential Builder, License No. 5623.
2. Upon information and belief, Robert Lotstein ("Lotstein") is a citizen and resident of either Beaufort County, South Carolina or the District of Columbia or both. Lotstein is sued in both his individual capacity and in his capacity as trustee of the Robert S. Lotstein Family Trust dated September 4, 2022, as Amended and Restated.

3. Upon information and belief, Kristin Huffman (“Huffman”) is a citizen and resident of either Beaufort County, South Carolina or the District of Columbia or both. Huffman is sued in both her individual capacity and in her capacity as trustee of the Kristin S. Huffman Family Trust dated September 4, 2022, as Amended and Restated.

4. Lotstein and Huffman, as trustees of their respective family trusts, own the property located in Palmetto Dunes (Lot 1) with an address of 8 Iron Clad, Hilton Head Island, SC 29928, which is the subject of this action (the “Property”). The Property is described as follows:

ALL that certain piece, parcel or lot of land situate, lying and being in Palmetto Dunes on Hilton Head Island, Beaufort County, South Carolina, shown and described as Lot One (1), Tee Road 8, Block A on a plat thereof prepared by J. Hearst Coleman Company, Inc. Engineers, which plat is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 17 at Page 1. For a more detailed description as to courses and distances, metes and bounds of the above-described parcel, reference is made to the above-mentioned plat of record.

Being the same property conveyed to Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2002, as Amended and Restated, and Kristin S. Huffman, Trustee of the Kristin S. Huffman Family Trust dated September 4, 2002, as Amended and Restated, by Deed of Petal & Twoey, LLC executed by its members Robert S. Lotstein and Kristin S. Huffman on January 24, 2022, and recorded on February 2, 2022, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 4111 at Pages 1553-1555.

Tax Map No.: R520 012 00A 0066 0000

Property Address: 8 Iron Clad, Hilton Head Island, SC 29928

5. Venue and Jurisdiction are appropriate in this Court as the Property is located in Beaufort County and most acts related to this action took place in Beaufort County, South Carolina.

6. In 2021, the Property was owned by Lotstein and Huffman as members of the limited liability company Petal & Twoey, LLC. On or about January 24, 2022, Lotstein and Huffman, as members of Petal & Twoey, LLC transferred ownership of the Property to Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2022, as Amended and Restated,

and Kristin S. Huffman Trustee of the Kristin S. Huffman Family Trust dated September 4, 2022, as Amended and Restated. See Deed, Exhibit A.

7. Lotstein and Huffman, as owners or on the owners' behalf, entered into an agreement with Cambridge pursuant to which Cambridge agreed to act as general contractor and provide labor and materials for construction and improvement on the Property.

8. Cambridge filed an application for and obtained permit number BLDR-000654-2022 from the Town of Hilton Head Island.

9. Lotstein and Huffman, as owners, agreed for Cambridge to act as general contractor and provide labor and materials for construction in exchange for a stipulated sum of \$2,246,078.00.

10. Cambridge furnished labor and materials used in the erection, construction, and improvement of the Property at the request of and by virtue of its agreement with Lotstein and Huffman, as owners of the Property or on behalf of the owners.

11. Lotstein and Huffman were required to make progress payments based on submitted applications for payment and based on the draw schedule.

12. As a net result of change orders, the contract sum was reduced by \$168,767.24, resulting in a total contract sum of \$2,077,310.76.

13. Lotstein and Huffman made payments to Cambridge in the total amount of \$1,711,996.00.

14. Plaintiff has performed all requirements associated with the agreement and completed its contractual obligations.

15. Defendants owe an outstanding balance of \$365,314.76 for labor performed and materials provided, plus interest from the date payment was due, pursuant to the agreement in the amount of 1 ½ % per month.

16. Upon information and belief, 8 Iron Clad is or was marketed for rent as a six-bedroom Hilton Head Island luxury oceanfront vacation rental home suitable for 18 guests, with Luxury Rentals of Hilton Head, LLC as the property manager.

17. 8 Iron Clad is described as a “Stunning BRAND-NEW Oceanfront Home!” and a “Stunning Brand-New Oceanfront Palmetto Dunes Luxury Home.”

18. The listing includes the following: “Welcome to 8 Iron Clad: A BRAND-NEW BUILT Oceanfront luxury home resides along the 3 miles of white sandy shoreline of Palmetto Dunes. This home was constructed with exceptional quality and designed for the needs of a luxury oceanfront vacation rental home.” See **Exhibit B**.



The photo above is a picture of 8 Iron Clad from the website vrbo.com (September 11, 2024).





The photos above are from luxuryrentalsofhiltonhead.com (September 11, 2024).

**FOR A FIRST CAUSE OF ACTION
(Petition for Foreclosure of Mechanic's Lien)**

19. Plaintiff repeats and reiterates the foregoing paragraphs as if fully stated herein.
20. At the request of Lotstein and Huffman and with their consent, Cambridge furnished labor and materials used in the erection of improvements on the Property.
21. At all times during Cambridge's performance, the Property was owned by Lotstein and Huffman, either individually or as trustees of their respective family trusts.
22. Defendants wrongfully failed and refused to pay Cambridge \$365,314.76 for labor and materials furnished in accordance with their agreement.
23. On July 3, 2024, Cambridge, within 90 days of the last date upon which it supplied the labor, materials and services to the Property, filed a Notice and Certificate of Mechanic's Lien, which included a just and true account of the amount due and a description of the property, in the

Office of the Register of Deeds for Beaufort County, at Book 161, Page 1949-1955, (the “Mechanic’s Lien”), a copy of which is attached as **Exhibit C**.

24. The Beaufort County Sheriff’s Office diligently searched for Lotstein and Huffman, as verified by affidavit, and was unable to locate them. See **Exhibit D**.

25. To satisfy the statute, the Beaufort County Sheriff’s Office served the Mechanic’s Lien upon the property manager, Luxury Rentals of Hilton Head, LLC, as the “person in possession” pursuant to S.C. Code Ann. § 29-5-90. See **Exhibit E**.¹

26. Plaintiff is entitled to an order of foreclosure of its Mechanic’s Lien on the Property for the amount due on its account and costs including reasonable attorney’s fees in accordance with the laws of the State of South Carolina.

**FOR A SECOND CAUSE OF ACTION
(Breach of Contract)**

27. Plaintiff repeats and reiterates the foregoing paragraphs as if fully stated herein.

28. Lotstein and Huffman, as owners, and Cambridge, as contractor, agreed for Cambridge to act as general contractor and provide labor and materials for the construction and erection of a

¹ Filed with the Beaufort County Register of Deeds at Book 161, Page 2211. S.C. Code Ann. § 29-5-90, states in pertinent part:

Such a lien shall be dissolved unless the person desiring to avail himself thereof, within ninety days after he ceases to labor on or furnish labor or materials for such building or structure, serves upon the owner or, in the event the owner cannot be found, upon the person in possession and files in the office of the register of deeds or clerk of court of the county in which the building or structure is situated a statement of a just and true account of the amount due him, with all just credits given, together with a description of the property intended to be covered by the lien sufficiently accurate for identification, with the name of the owner of the property, if known, which certificate shall be subscribed and sworn to by the person claiming the lien or by someone in his behalf and shall be recorded in a book kept for the purpose by the register or clerk who shall be entitled to the same fees therefor as for recording mortgages of equal length. Provided, that in the event neither the owner nor the person in possession can be located after diligent search, and this fact is verified by affidavit of the sheriff or his deputy, the lien may be preserved by filing the statement together with the affidavit.

residence on the Property in exchange for the payment of a stipulated sum by Lotstein and Huffman.

29. Cambridge performed its obligations under the agreement, which was a valid and binding contract for the construction of a structure on the Property.

30. Defendants failed to remit full payment to Cambridge.

31. Defendants' failure to pay constitutes a material breach of the contract.

32. Plaintiff is therefore entitled to a judgment against Defendants for damages due to Defendants' breach of contract, in an amount to be determined at trial, including the outstanding payment of \$365,314.76, plus interest at the agreed upon rate of 1 ½ % per month.

**FOR A THIRD CAUSE OF ACTION
(Unjust Enrichment)**

33. Plaintiff repeats and reiterate the foregoing paragraphs as if fully stated herein.

34. Plaintiff conferred a benefit on the Defendants by constructing a new residence on the Property owned by the Defendants with Defendants' knowledge and consent as described herein. The benefit was not conferred gratuitously but was conferred with an expectation of compensation and reimbursement.

35. Defendants received value from the benefit conferred by the Plaintiff because property they own includes a new luxury oceanfront residence with six bedrooms of "exceptional quality" and Defendants have not paid Plaintiff in full or paid interest, and they have caused Cambridge to incur costs and fees as they are receiving rental income.

36. It would be inequitable for the Defendants to retain the benefit without paying the Plaintiff for its value, and the Plaintiff is entitled, in equity, to Defendants' unjustly gained benefit, in an amount to be proven at trial, and as otherwise discussed herein.

WHEREFORE, Plaintiff demands foreclosure of its mechanic's lien and the proceeds of the sale applied to the debt owed Cambridge including interest and reasonable attorneys' fees as allowed, and requests a judgment against Defendants as set forth herein, as well as any additional, different, and/or further relief as this Court deems just and proper.

s/Lee Anne Walters
Lee Anne Walters (S.C. Bar No. 74984)
WALTERS LAW
Post Office Box 1214
Beaufort, SC 29901
Ph: (843) 379- 0973
leeanne@walterslawsc.com

September 18, 2024

IN WITNESS WHEREOF the undersigned Hand and Seal this 24th day of January, 2022.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Camie Jo Hart
First Witness

[Signature]
Second Witness/Notary Public

PETAL & TWOEY, LLC

By: [Signature]
Robert S. Lotstein, Member

By: [Signature]
Kristin S. Huffman, Member

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT
under S.C. Code § 30-5-30(c)

I, Robert L. Going the undersigned Notary Public, do hereby certify that the within Robert S. Lotstein and Kristin S. Huffman, Member and the authorized representatives of Petal & Twoey, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness to before me this
24th day of January, 2022.

[Signature]
Notary Public for South Carolina
My Commission Expires: May 28 2029



(SEAL)

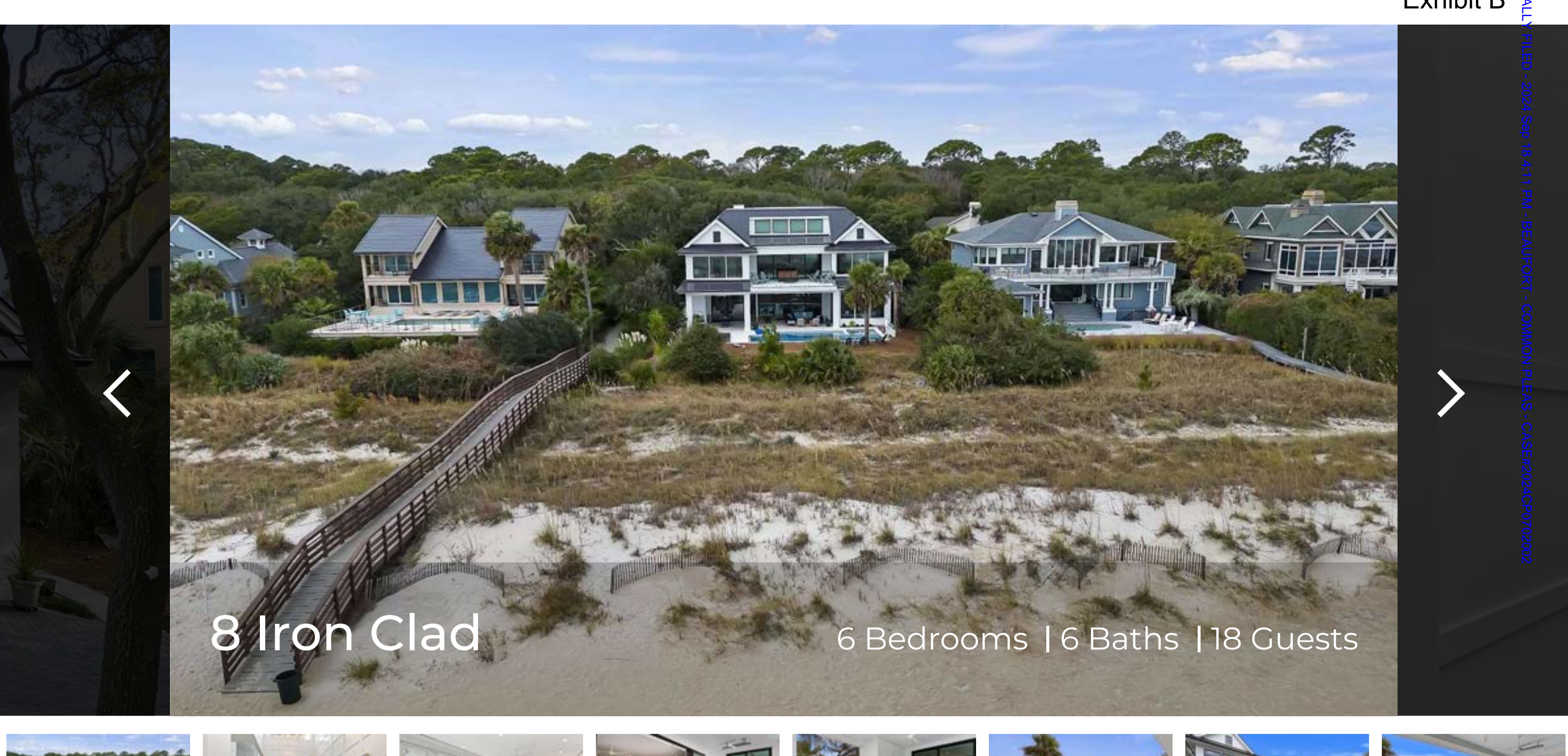
File # 2181.02

Exhibit A

ALL that certain piece, parcel or lot of land situate, lying and being in Palmetto Dunes on Hilton Head Island, Beaufort County, South Carolina, shown and described as Lot One (1), Tee Road 8, Block A on a plat thereof prepared by J. Hearst Coleman Company, Inc. Engineers, which plat is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 17 at Page 1. For a more detailed description as to courses and distances, metes and bounds of the above described parcel, reference is made to the above-mentioned plat of record.

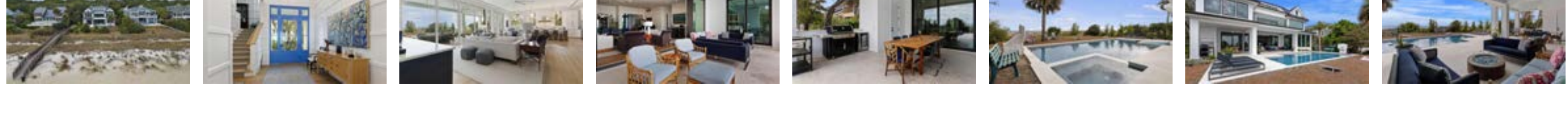
Said conveyance is made subject to all applicable covenants, restrictions, easements, etc. of record in the Office of the Register of Deeds for Beaufort County, South Carolina.

THIS BEING the same property conveyed to Petal & Twoey, LLC by Deed of Barbara Friedman, Susan F. Morgan and Mary M. Friedman N/K/A Mary Friedman Bellino, dated August 18, 2005, and recorded on September 16, 2005, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 2231 at Page 0343.



8 Iron Clad

6 Bedrooms | 6 Baths | 18 Guests



8 Iron Clad

Stunning Brand-New Oceanfront Palmetto Dunes Luxury Home

Pricing is based on paying by check. If you prefer to pay by credit card, there will be a 3% processing fee

Welcome to 8 Iron Clad: A **BRAND-NEW BUILT** Oceanfront luxury home resides along the 3 miles of white sandy shoreline of Palmetto Dunes. This home was constructed with exceptional quality and designed for the needs of a **luxury oceanfront vacation rental home**.

Quick Facts about this incredible home:

- 6 Bedrooms – all with ocean views except the bunk room!
- 6 full + two 1/2 baths
- Sleeps 16
- Approx.. 6,000 sq.ft.
- \$250 Beach Gear Credit Included – More Credits When You Stay Longer* – [Click Here For More Info](#)

Main and Mid-Level Bedrooms:

- Oceanfront Primary ensuite with King Bed on main floor with zero entry steam shower, soaking tub, 75" smart TV and 10' slider to the pool deck
- Mid-Level Bonus/Kids Bunk Room with connected bunks each Twin over Full room can sleep 6. Double vanity bath with walk-in shower and 75" smart TV

2nd Floor Bedrooms:

- King Oceanfront Bedroom with ensuite bathroom with double vanities, zero entry walk-in shower, soaking tub and 75" smart TV
- King Oceanfront Bedroom with ensuite bathroom with double vanities, zero entry walk-in shower, soaking tub and 75" smart TV
- King Oceanview Bedroom with ensuite bathroom with walk-in shower and 50" smart TV
- 2 Queen Oceanview Bedroom with ensuite bathroom with walk-in shower and 50" smart TV

8 Iron Clad Living Space:

- 2 Half Baths – one off main living area, the other on pool deck
- 1st Floor Living Area has 10' large sliders; it's a wonderful gathering place with an amazing gourmet kitchen /dining space, bar with a beverage and a wine refrigerator, nugget ice maker, comfortable seating with ocean/pool views and a large, covered patio
- Large Open Gourmet Kitchen with 2 full size refrigerators, 2 sinks & 2 dishwashers. Combination microwave/air fryer, trash compactor & filtered cold and instant hot water
- 2nd Floor Living Area with incredible ocean views that has a large sectional sofa and chairs, 75" smart TV, table and chairs, kitchenette (refrigerator/freezer, microwave, dishwasher, and instant hot water) and ping pong table
- 2 laundry rooms – one on each floor
- Regular coffee pot, Keurig coffee machine, Nespresso machine
- Large Covered Patio overlooking Pool out to Ocean with a gas grill

Home comes stocked with VIP Amenity Package:

- 18 Beach Towels
- Full Size Dish, Dishwasher, Laundry and Hand Soaps and Full-Size Shower Gel
- Trash Bags, Cling Wrap and Tin Foil for your convenience

ETC:

- Parking for 6 Cars maximum per Palmetto Dunes regulations (no garage access)
- NO Pets Allowed
- Absolutely NO SMOKING/VAPING ON PREMISES
- No Events Permitted
- Mid-Island Palmetto Dunes

Description	Room Details	Amenities	Location/Map
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8 Iron Clad is an oceanfront luxury home designed to entertain, relax, and enjoy with pool basketball, cornhole, ping pong and much more! This beautifully designed home is going to deliver an epic family vacation for everyone!

From the time you enter this home your stresses from everyday life just melt away. The high ceilings and massive display of windows draw in the sunlight and the views of the Atlantic Ocean. The wonderful open floor plan gives you the feeling of freedom and relaxation.

The kitchen is filled with top-of-the-line designer appliances including a 48inch AGA induction cook top with 5 burners, All-Clad cookware, a full-size food prep sink, 2 dishwashers, tons of storage and comes fully equipped to make inspirational meals. The kitchen, bar and kitchenette all are equipped with instant hot and filtered water.

The 1st floor living area includes incredibly comfortable seating, a dining table for 8, 5 bar stools and a large prep counter along the 12ft island as well as a corner table for 6. There is also a bar with wine and beverage refrigeration and pellet ice maker all overlooking the incredible view. Just off the kitchen is a butler pantry for your coffee station and just beyond the first of two laundry rooms with a shower.

The unhindered direct ocean and pool views from inside continue through the 10' quadruple sliding glass doors to the covered patio that has great seating and a Weber Genesis 4 burner gas grill for burger night! Imagine relaxing here after a long day in the sun on the beach. Such a great place to reconnect and spend time with friends and family.

The pool area will be the place of epic fun times and ranges from approximately 3' to 5' in depth, perfect for the basketball hoop. There is also a large sunning/toddler shallow water shelf. This is an incredible pool and comes with an 8-person hot tub.

Steps away is the wide-open Hilton Head Island beach which is accessed via a boardwalk just beside the home – nothing could be easier or finer!

Back in the house and still on the main floor is the Oceanfront Primary King Suite with an opulent bathroom. From the bidet to the steam shower to the body sprays, nothing is overlooked to offer you a spa-like experience. Let this be your oasis away from it all. Bask in the luxurious steam shower or kick back and take a relaxing bath in the oversized tub. This bedroom also has a 70" Smart TV as well as lots of drawers for clothes and an armoire for hanging items.

Take a few steps up to the perfect vacation area for the kids. This large room includes a large 75" TV flat screen and a regulation size basketball hoop for nerf basketballs. Besides comfortable seating there are 2 bunk beds, each having a twin top bunk over a full bed. This will be the ultimate hangout spot for the little ones in the group.

A few more steps and you are on the open 2nd floor living area with breathtaking ocean views. Designed with glass panels to shield the ocean breeze but bring in the 180-degree views of the Atlantic, this is an incredible spot to watch the sunrise with a coffee or enjoy the sunset with a cocktail. This will be the centerpiece of your stay.

Once the sun sets, family ping pong tournaments begin to bring the whole family together. There's also a kitchenette, huge flat screen TV, table and chairs and comfortable seating. Puzzles, games, and books are available as well.

Two upstairs bedrooms are junior primary suites on either side of the living area, each with their own stunning oceanfront views, king beds and amazing bathrooms. Showers are equipped with body sprays and handhelds and also have oversized bathtubs. The last 2 bedrooms each have their own private bathroom, one with 2 Queens and the other with a King. Whether you bring your multigenerational family or your best friends, this home has something for everyone.

Some furniture from the photos will be changed as the owners are still outfitting this beautiful masterpiece.

*For reservations of 3-13 days you will receive a \$250 VayKLife Beach Gear Credit that will go toward items such as bikes, beach chairs and more. Stay 14-20 days receive \$500 Credits and 21-day stays get \$750 in credits. Stays longer than 22 nights do not receive gear credits, but we can give you a link so you can book directly with VayKLife. Any unused credits do not convert to cash and do not apply to your rental rate or final cost. No packing required, making your vacation a breeze! You will receive details once the reservation is confirmed.

Specials	Reviews	Availability	Rental Policies
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OUR BEST RATE GUARANTEE

Always Book Direct with Luxury Rentals of Hilton Head and Receive the Lowest Rate on Your Accommodations and **Save at Least 15%!**

PAY BY CHECK AND WE WILL FORFEIT THE RESERVATION/CONVENIENCE FEE.**

Use Promo Code **PAYBYCHECK** Upon Booking and **You'll SAVE another Five Percent!**

**This option is available only for reservations made 28 days or more prior to arrival.



Quick Links

- Find Your Beach Property
- Rental Guest Experience
- Beach Gear Credit Included
- Island Events Calendar
- Owner Login
- List My Property

Helpful Links

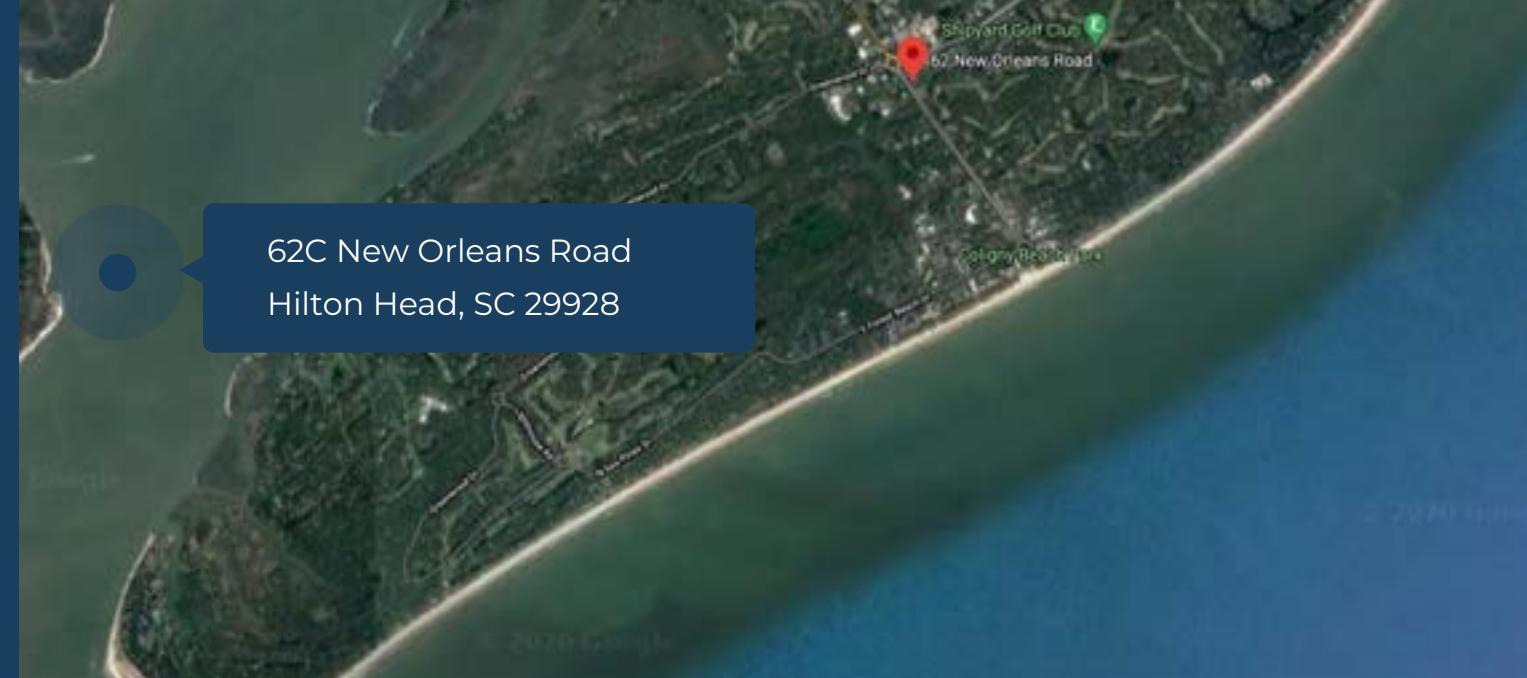
- Frequently Asked Questions
- Rental Agreement
- Travel Insurance
- Guest and Rental Owner Testimonials
- Contact US

Luxury Rentals of Hilton Head

62C New Orleans Road
Hilton Head Island, SC 29928
(843) 384-9955



Map



See all properties

Save

Entire home

8 Iron Clad - Stunning BRAND-NEW Oceanfront Home

Going to Hilton Head Island, South Carolina, United States Dates Travelers 2 travelers Search



Overview Amenities Policies Location Host

6 bedrooms 6 bathrooms Start date End date 6000 sq ft 1 room, 2 travelers Check availability

Popular amenities Beach view Washer Pool Hot Tub Barbecue grill Kitchen

Check-in time 4:00 PM Check-out time 10:00 AM

Explore the area Coligny Beach 5 min walk Palmetto Dunes Club 4 min drive Shelter Cove Harbour 9 min drive Hilton Head Island, SC (HHI) 16 min drive

Rooms & beds 6 bedrooms (sleeps 18)

6 bathrooms Bathroom 1 Bathroom 2 Bathroom 3 Bathroom 4 Bathroom 5 Bathroom 6

Spaces Kitchen Dining Area Balcony Separate dining area

About this property

8 Iron Clad - Stunning BRAND-NEW Oceanfront Home

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>Home comes stocked with VIP Amenity Package: >18 Beach Towels >Full Size Dish, Dishwasher, Laundry and Hand Soaps and Full-Size Shower Gel >Trash Bags, Cling Wrap and Tin Foil for your convenience

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PLEASE NOTE > Resort and Reservation Fee Non-Refundable > All Reservations Subject to Review Prior to Full Commitment > All Reservations Subject to Applicable Local and State Sales Tax, Resort, Cleaning and Reservation Fee Added to All Bookings. You may Save the Reservation Fee by Paying By Check. CC Required for All Bookings > Pool and Spa heat may have an additional fee > 25% Deposit Required to Reserve > Any Promotional Advertising Subject to Terms and Conditions > Must be 28yrs or Older to Rent > Properties are for Vacations or Business Trips Only. No Events, Weddings, or Parties Allowed > All Properties are Equipped with Wi-Fi > Parking for 6 Cars MAX - per Palmetto Dunes > No Pets Allowed > All Linens and Starter Soaps and Bath Tissues Provided >Pricing is based on paying by check. If you prefer to pay by credit card, there will be a 3% convenience fee.

Property manager

LUXURY BEACHES OF HILTON HEAD BECKY WALKER, PMIC LUXURY RENTALS OF HILTON HEAD Premier Host

Languages English

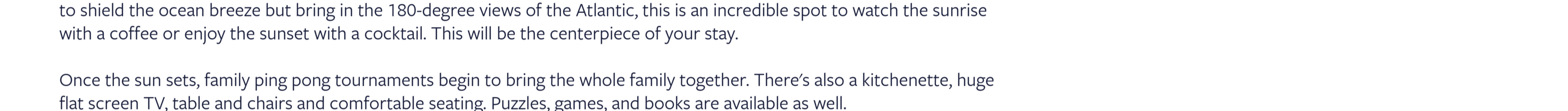
Amenities

Pool Kitchen Dryer Hot Tub Washer Free WiFi

See all 49 amenities

Have a question?

Search in general property info and reviews. Example: When is check-in?



Oceanfront stunner w/ private pool & spa, game rooms, outdoor kitchen & more! Hilton Head Island 8.8/10 (18 reviews)

Breathtaking views at this stunning oceanfront home with private pool & spa Hilton Head Island 9.2/10 (12 reviews)

New Oceanfront Oasis in Palmetto Dunes with a private pool and EV plug Hilton Head Island 10.0/10 (1 review)

Luxurious oceanfront home with private pool with spa Sea Pines 9.2/10 (9 reviews)

House Rules

Check in after 4:00 PM Check out before 10:00 AM Minimum age to rent: 28

Children Children allowed: ages 0-17 Events No events allowed

Pets No pets allowed Smoking Smoking is not permitted At the Home which includes E-cigarettes

See more

Important information

You need to know

Extra-person charges may apply and vary depending on property policy Government-issued photo identification and a credit card, debit card, or cash deposit may be required at check-in for incidental charges Special requests are subject to availability upon check-in and may incur additional charges; special requests cannot be guaranteed Onsite parties or group events are strictly prohibited Host has indicated there is a carbon monoxide detector on the property Host has indicated there is a smoke detector on the property Safety features at this property include a fire extinguisher

About the neighborhood

Hilton Head Island

Located in Hilton Head Island, this vacation home is on the beach. Palmetto Dunes Club and Robert Trent Jones Golf Course are worth checking out if an activity is on the agenda, while those wishing to experience the area's natural beauty can explore Coligny Beach and Newhall Audubon Nature Preserve. Traveling with kids? Consider Pirate's Island Adventure Golf and Adventure Cove. With jet skiing, kayaking, and sailing nearby, you'll find plenty of activities in the water.

View more Vacation Homes in Hilton Head Island



What's nearby Coligny Beach - 5 min walk Palmetto Dunes Tennis & Pickleball Center - 4 min drive Palmetto Dunes Club - 4 min drive Shelter Cove Harbour - 9 min drive Singleton Beach - 10 min drive

Restaurants Giuseppe's Pizza & Pasta House Shelter Cove - 8 min drive Hilton Coastal Cuisine - 8 min drive Poseidon Diner Restaurant - 7 min drive Sea Salts Beverage Company Pool Bar & Grill - 10 min drive Old Oyster Factory - 13 min drive

Frequently asked questions

Is 8 Iron Clad - Stunning BRAND-NEW Oceanfront Home pet-friendly? What time is check-in at 8 Iron Clad - Stunning BRAND-NEW Oceanfront Home? What time is check-out at 8 Iron Clad - Stunning BRAND-NEW Oceanfront Home? Where is 8 Iron Clad - Stunning BRAND-NEW Oceanfront Home located?

10 - Excellent 0 No reviews yet Be the first to leave a review for this property after your stay.

8 - Good 0

6 - Okay 0

4 - Fair 0

2 - Terrible 0

About the host

Hosted by Becky Walker, PMIC Luxury Rentals of Hilton Head

Languages: English Premier Host They consistently provide great experiences for their guests

Let us know we can improve our site Share feedback

More Vacation Rentals ideas Houston (and vicinity) Vacation Rentals New Braunfels Vacation Rentals Sedona Vacation Rentals

Washington Vacation Rentals Lake of the Ozarks Vacation Rentals Pigeon Forge Vacation Rentals Myrtle Beach Vacation Rentals

Oceanside Vacation Rentals Beech Mountain Vacation Rentals St. John Vacation Rentals Sanibel/Captiva Island Vacation Rentals

Smith Mountain Lake Vacation Rentals Paris (and vicinity) Vacation Rentals Charleston Vacation Rentals Fort Walton Beach Vacation Rentals

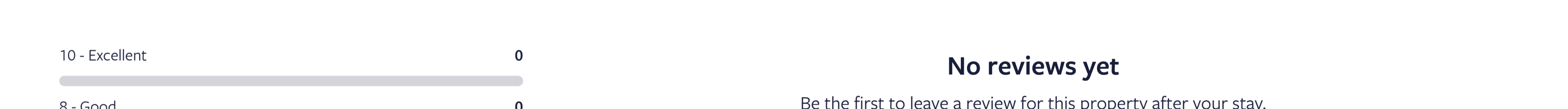
South Scottsdale Vacation Rentals Hawaii Vacation Rentals Las Vegas (and vicinity) Vacation Rentals Savannah Vacation Rentals

Florida Vacation Rentals Hochatown Vacation Rentals Lake Tahoe Vacation Rentals St. George Island Vacation Rentals

Durango Vacation Rentals Sevierville Vacation Rentals Avalon Vacation Rentals Long Beach Island Vacation Rentals

Scottsdale Vacation Rentals Scottsdale Vacation Rentals

People also search for Guntersburg Cabin Rentals



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7
25 TB
Walters
1108

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

Cambridge Building, Inc.,
Petitioner,
v.

Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2022, as amended and restated, and Kristin S. Huffman Trustee of the Kristin S. Huffman Family Trust dated September 4, 2022, as Amended and Restated

Owners/Respondents.

IN THE OFFICE OF THE REGISTER OF DEEDS

029627
BEAUFORT COUNTY SC - ROD
BK 161 Pgs 1949-1955
2024029627 MECH
07/03/2024 11:29:15 AM
REC'D BY rbing RCPT# 1173975

NOTICE AND CERTIFICATE OF MECHANIC'S LIEN
(License No. 117526)

TO: THE OWNERS/RESPONDENTS ABOVE NAMED AND ALL OTHERS CONCERNED:

PERSONALLY appeared before me, Lee Anne Walters, who states as follows:

She is the attorney for Petitioner Cambridge Building, Inc. (License No. 117526) and Frank Guidobono (Residential Builder License No. 5623) and acting on behalf of the Petitioner and Mechanic's Lien Claimant herein, and the annexed statement is a verified account of the amount due to the Petitioner with all just credits given for labor and/or materials furnished and used in the construction, alteration, or repair of buildings or structures situated on the after-described real property, by virtue of an agreement with Kristin Huffman and Robert Lotstein, the owners, individually or as trustees, of the subject property.

Cambridge Building, Inc., a duly licensed contractor, is due the sum of Three Hundred Sixty-Five Thousand Three Hundred Fourteen and 76/100 US Dollars (\$365,314.76), along with accrued interest pursuant to an agreement and attorneys' fees and costs to date, from Robert S. Lotstein and Kristin S. Huffman, as verified. Pursuant to S.C. Code Section 29-5-10 *et seq.* Cambridge Building, Inc. does hereby claim a lien on the real property described herein and in **Exhibit A** (the "Property") by virtue of the verified statement of just and true account of said

indebtedness, with all just credits given, attached as **Exhibit B**, incorporated and made a part of this notice. Said debt is due for labor and/or materials furnished and used in the erection, alteration, improvements or repair of buildings or structures situated on or in otherwise improving the Property. Ninety (90) days have not elapsed since labor and/or materials were last furnished to the Property. Cambridge Building, Inc. is licensed as a general contractor with license number 117526, and Frank Guidobono is the Qualifying Party. Frank Guidobono is also licensed in South Carolina as a Residential Builder (License No. 5623).

By the service and filing of this Notice and Certificate, and pursuant to the laws of South Carolina, the Lienor/Petitioner has and claims a lien to secure the payment of the debt so due and the cost of enforcing the lien (including reasonable attorney's fees) upon the structure and upon the following described real property located in Beaufort County, South Carolina:

ALL that certain piece, parcel or lot of land situate, lying and being in Palmetto Dunes on Hilton Head Island, Beaufort County, South Carolina, shown and described as Lot One (1), Tee Road 8, Block A on a plat thereof prepared by J. Hearst Coleman Company, Inc. Engineers, which plat is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 17 at Page 1. For a more detailed description as to courses and distances, metes and bounds of the above-described parcel, reference is made to the above-mentioned plat of record.

Being the same property conveyed to Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2002, as Amended and Restated, and Kristin S. Huffman, Trustee of the Kristin S. Huffman Family Trust dated September 4, 2002, as Amended and Restated, by Deed of Petal & Twoey, LLC dated January 24, 2022, and recorded on February 2, 2022, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 4111 at Pages 1553-1555.

Tax Map No.: R520 012 00A 0066 0000

Property Address: 8 Iron Clad, Hilton Head Island, SC 29928

WHEREFORE, upon service, Petitioner claims a Mechanic's Lien in the sum of Three Hundred Sixty-Five Thousand Three Hundred Fourteen and 76/100 US Dollars (\$365,314.76), plus reasonable attorneys' fees and for the costs and disbursements of this action.



Lee Anne Walters (SC Bar No. 74984)
WALTERS LAW
Post Office Box 1214
Beaufort, South Carolina 29901-1214
Phone: (843) 379-0973
Email: leeanne@walterslawsc.com
Attorney for Petitioner

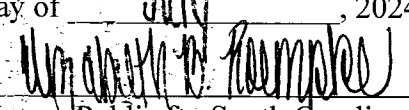
Sworn to before me the 3rd
day of July, 2024

Notary Public for South Carolina
Commission Expires: 7/15/26

EXHIBIT A

ALL that certain piece, parcel or lot of land situate, lying and being in Palmetto Dunes on Hilton Head Island, Beaufort County, South Carolina, shown and described as Lot One (1), Tee Road 8, Block A on a plat thereof prepared by J. Hearst Coleman Company, Inc. Engineers, which plat is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 17 at Page 1. For a more detailed description as to courses and distances, metes and bounds of the above-described parcel, reference is made to the above-mentioned plat of record.

This is the same property conveyed to Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2002, as Amended and Restated, and Kristin S. Huffman, Trustee of the Kristin S. Huffman Family Trust dated September 4, 2002, as Amended and Restated, by Deed of Petal & Twoey, LLC dated January 24, 2022, and recorded on February 2, 2022, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 4111 at Pages 1553-1555.

Tax Map No.: R520 012 00A 0066 0000

Property Address: 8 Iron Clad, Hilton Head Island, SC 29928

EXHIBIT B

STATE OF SOUTH CAROLINA) VERIFIED STATEMENT OF ACCOUNT
COUNTY OF BEAUFORT)

Personally appeared before me is Dennis Duren, who, being duly sworn, deposes and says:

- 1. He is the CFO/Controller and a representative of Cambridge Building, Inc., has personal knowledge of the facts set forth herein, and has been duly authorized to make this affidavit.
2. Cambridge Building, Inc. furnished labor and materials for the erection and improvement of the residence situated on the real property, described in Exhibit A (the "Property") at the request of and by virtue of its contract with Robert Lotstein and Kristin Huffman, as owners of the Property.
3. Cambridge Building, Inc., Frank E. Guidobono holds South Carolina General Contractor's License No. 117526.
4. The last day of labor was May 1, 2024. Ninety days has not lapsed since labor and/or materials were last furnished to the Property.
5. This is a true and accurate statement of the account, with all just credits applied and there is now past due and owing to Cambridge Building, Inc. the principal sum of \$365,314.76, plus interest pursuant to the agreement, plus such additional interest that has and may accrue, attorneys' fees and costs.

Table with 2 columns: Description and Amount. Rows include ORIGINAL CONTRACT SUM (\$2,246,078.00), NET CHANGE BY CHANGE ORDERS (\$168,767.24), LESS ALL PAYMENTS AND CREDITS (\$1,711,996.00), and TOTAL PRINCIPAL AMOUNT DUE (\$365,314.76).

Cambridge Building, Inc.

Signature of Dennis Duren
By: Dennis Duren
Its CFO/Controller

Sworn to before me the 1st day of July, 2024
Notary Public for South Carolina
Commission Expires: 04/13/26

CCB 1074865

SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION
CONTRACTOR'S LICENSING BOARD

LICENSE#: CLG.117526

LICENSE#: CLG.117526

CAMBRIDGE BUILDING INC
19-B BOW CIRCLE
HILTON HEAD SC 29928

Has been qualified by the laws of the State of South Carolina and is duly entitled to practice as a:

GENERAL CONTRACTOR

for each Classification and Group Limitation listed below:

Building-BD5

(If this license has a "Limited Building" classification, licensee is limited to 3 stories in height)

LICENSE NUMBER:CLG.117526
Initial License Date:.....10/12/2012
EXPIRATION DATE:.....10/31/2024


Administrator

Group Limitations/\$ Amounts Per Job:
Group #1 - \$50,000 Group #2 - \$200,000
Group #3 - \$500,000 Group #4 - \$1,500,000
Group #5 - \$Unlimited

Qualifying Party(s): FRANK E GUIDOBONO

[It is at the discretion of this licensee to designate whomever they choose to pull permits and conduct business in their behalf.]

[Print this page](#)

Board: Commercial Contractors

CAMBRIDGE BUILDING INC
19-B BOW CIRCLE
HILTON HEAD, SC 29928
(843)341-2444

License number: 117526
License type: GENERAL CONTRACTOR
Status: ACTIVE
Expiration: 10/31/2024
First Issuance Date: 10/12/2012
Classification:
Building-BD5

Qualified By: Financial Statement
President / Owner: FRANK E GUIDOBONO

[Click here for Classification definitions and licensee's contract dollar limit](#)

Supervised By
GUIDOBONO FRANK (CQG)

[File a Complaint against this licensee](#)

Board Public Action History:

[View Orders](#) [View Other License for this Person](#)

No Orders Found

Exhibit D

BEAUFORT COUNTY SHERIFF'S OFFICE
PJ TANNER, SHERIFF
PO Box 1758
Beaufort, SC 29901

STATE OF SOUTH CAROLINA
BEAUFORT COUNTY

Process Number: 243248

Court Number:

KRISTIN S HUFFMAN (Defendant)

AFFIDAVIT OF NONSERVICE

=====
KRISTIN S HUFFMAN (Defendant)
8 IRON CLAD; PALMETTO DUNES
HILTON HEAD ISL, SC 29928

I have made due search and inquiry and exercised due diligence, but I am returning the NOTICE AND CERT OF MECH LIEN, STATEMENT OF ACCOUNT UNSERVED after making the following service attempts:

Service attempted on 25th day of July, 2024 at 09:26:34 Korinek, K
per ssgt king return law suit

Service attempted on 22nd day of July, 2024 at 16:50:00 Korinek, K
def lotstein called he was adv of the nature of the civil action/adv him i needed to meet with him huffman or his atty representing him in this action/he was adv of pl atty information/he adv he was on vacation

Service attempted on 19th day of July, 2024 at 13:06:03 Korinek, K
att ph cont 202-255-3800 lft msg/202-280-6620 non working

Service attempted on 18th day of July, 2024 at 11:23:53 Korinek, K
address is the beach park/att ph cont luxury rentals hh becky walker
843-384-9955 lft msg

Service attempted on 16th day of July, 2024 at 15:57:48 Korinek, K
cambridge builders def live in the washington dc area and are attorneys

Service attempted on 16th day of July, 2024 at 13:02:06 Korinek, K
neg cont/short term rental/luxury rentals becky walker 843-384-9955/walker adv def lists address as primary residence only lives on hilton head 6-8 mths due back 8/4 or 8/5 ph
202-255-3800

NOTARY STATEMENT
SWORN to me on this the 26th day of July, 2024.

Notary Public For The State of South Carolina)
My Commission Expires 11/2/25)



Cpt Korinek
KORINEK

ELECTRONICALLY FILED - 2024 Sep 18 4:11 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002

BEAUFORT COUNTY SHERIFF'S OFFICE
PJ TANNER, SHERIFF
PO Box 1758
Beaufort, SC 29901

STATE OF SOUTH CAROLINA
BEAUFORT COUNTY

Process Number: 243248

Court Number:

ROBERT S LOTSTEIN (Defendant)

AFFIDAVIT OF NONSERVICE

ROBERT S LOTSTEIN (Defendant)
8 IRON CLAD; PALMETTO DUNES
HILTON HEAD ISL, SC 29928

I have made due search and inquiry and exercised due diligence, but I am returning the NOTICE AND CERT OF MECH LIEN, STATEMENT OF ACCOUNT UNSERVED after making the following service attempts:

Service attempted on 25th day of July, 2024 at 09:26:34 Korinek, K
per ssgt king return law suit

Service attempted on 22nd day of July, 2024 at 16:50:00 Korinek, K
received ph call from def/def was adv of nature of civil action and was adv i needed to meet with him def huffman or an attorney representing him in the civil action/def was issued pl atty info/def adv he was on vacation

Service attempted on 19th day of July, 2024 at 13:06:03 Korinek, K
att ph cont 202-255-3800 lft msg/202-280-6620 non working

Service attempted on 18th day of July, 2024 at 11:23:53 Korinek, K
address is the beach park/att ph cont luxury rentals of hh becky walker 843-389-9955 lft msg

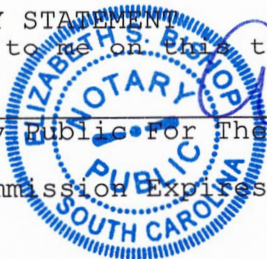
Service attempted on 17th day of July, 2024 at 15:57:49 Korinek, K
cambridge builders def lives in dc area/attorney

Service attempted on 17th day of July, 2024 at 13:02:06 Korinek, K
neg cont/short term rental/luxury rentals becky walker 843-384-9955. walker adv def lists resid as primary lives on hilton head6-8 mths due back 8/4 or 8/5 202-255-3800.

NOTARY STATEMENT
SWORN to before me on the 26th day of July, 2024.

Notary Public for The State of South Carolina)

My Commission Expires 11/2/30)



Cpl Korinek
Korinek, K

ELECTRONICALLY FILED - 2024 Sep 18 4:11 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002

Exhibit E

BEAUFORT COUNTY SHERIFF'S OFFICE
PJ TANNER, SHERIFF
PO Box 1758
Beaufort, SC 29901

STATE OF SOUTH CAROLINA
BEAUFORT COUNTY

Process Number: 243387

Court Number:

PMIC LUXURY RENTALS (Defendant)

AFFIDAVIT OF SERVICE

Service of: PMIC LUXURY RENTALS (Defendant)
62 NEW ORLEANS RD
Hilton Head Isl, SC 29928

Deputy SERONKA says on oath that on the 25th day of July, 2024 at 13:00:00 he/she served the NOTICE AND CERT OF MECH LIEN, STATEMENT OF ACCOUNT on PMIC LUXURY RENTALS (Defendant) by delivering unto NICKY GLEASON, at 62 NEW ORLEANS RD, HILTON HEAD ISL, SC 29928 personally copy(ies) thereof. Service of process was made in accordance with applicable statutes and the Rules of Civil Procedures in effect at the time of service.

I also certify that I endorsed on the said copy the date of service, signed my name, and added my official title thereto.

NOTARY STATEMENT
SWORN to me on this the 29th day of July, 2024.

Notary Public For the State of South Carolina)

My Commission Expires 1/12/30)



Seronka, Chad

BEAUFORT COUNTY SHERIFF'S OFFICE
PJ TANNER, SHERIFF
PO Box 1758
Beaufort, SC 29901

STATE OF SOUTH CAROLINA
BEAUFORT COUNTY

Process Number: 243387

Court Number:

PMIC LUXURY RENTALS (Defendant)

AFFIDAVIT OF SERVICE

Service of: PMIC LUXURY RENTALS (Defendant)
62 NEW ORLEANS RD
Hilton Head Isl, SC 29928


Deputy SERONKA says on oath that on the 25th day of July, 2024 at 13:00:00 he/she served the NOTICE AND CERT OF MECH LIEN, STATEMENT OF ACCOUNT on PMIC LUXURY RENTALS (Defendant) by delivering unto NICKY GLEASON, at 62 NEW ORLEANS RD, HILTON HEAD ISL, SC 29928 personally copy(ies) thereof. Service of process was made in accordance with applicable statutes and the Rules of Civil Procedures in effect at the time of service.

I also certify that I endorsed on the said copy the date of service, signed my name, and added my official title thereto.

NOTARY STATEMENT
SWORN to me on this the 14th day of August, 2024.

Notary Public For The State of South Carolina)

My Commission Expires 11/21/20)


Seronka, Chad



ELECTRONICALLY FILED - 2024 Sep 18 4:11 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO.: 2024-CP-07-02002

Cambridge Building, Inc.)
(License No. 117526),)
)
Plaintiff,)

vs.)

**SUMMONS
FOR THIRD-PARTY COMPLAINT**

Robert S. Lotstein, Kristin Huffman,)
Robert S. Lotstein, Trustee of the Robert)
S. Lotstein Family Trust dated)
September 4, 2022, as Amended and)
Restated, and Kristin S. Huffman,)
Trustee of the Kristin S. Huffman)
Family Trust dated September 4, 2022,)
as Amended and Restated,)

Defendants.)

and.)

Robert S. Lotstein,)
)
Third Party Plaintiff)

vs.)

Frank Guidobono,)
)
Third Party Defendant.)

TO: FRANK GUIDOBONO:

YOU ARE HEREBY SUMMONED and required to answer the Third-Party Complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your answer to the said Third-Party Complaint on the subscriber at their office at 35 Hospital Center Common, Suite 200, Hilton Head Island, South Carolina 29925 within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Third-Party Complaint within the time

aforesaid, judgment by default will be rendered against you for the relief demanded in the Third-Party Complaint.

FINGER, MELNICK, BROOKS
& LaBRUCE, P.A.

s/Terry A. Finger

Terry A. Finger, S.C. Bar No.: 2012
Attorney for the Defendant and
Third-Party Plaintiff
Post Office Box 24005
Hilton Head, South Carolina 29925-4005
(843) 681-7000
tfinger@fingerlaw.com

Hilton Head, South Carolina
May 7, 2025

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 Cambridge Building, Inc.)
 (License No. 117526),)
)
 Plaintiff,)
)
 vs.)
)
 Robert S. Lotstein, Kristin Huffman,)
 Robert S. Lotstein, Trustee of the Robert)
 S. Lotstein Family Trust dated)
 September 4, 2022, as Amended and)
 Restated, and Kristin S. Huffman,)
 Trustee of the Kristin S. Huffman)
 Family Trust dated September 4, 2022,)
 as Amended and Restated,)
)
 Defendants.)
)
 and.)
)
 Robert S. Lotstein,)
)
 Third Party Plaintiff)
 vs.)
)
 Frank Guidobono,)
)
 Third Party Defendant.)
)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2024-CP-07-02002

ANSWER TO COMPLAINT,
 COUNTERCLAIM, AND
 THIRD PARTY COMPLAINT

The Defendant, Robert S. Lotstein, by way of Answer, Counterclaim, and Third Party Complaint would allege that:

FOR A FIRST DEFENSE

1. Each and every allegation of the Complaint not hereinafter admitted, qualified, or explained is denied.

2. As to the allegations contained in Paragraph 1 of the Complaint, the details and status of Plaintiff's entity are contained in South Carolina's Secretary of State business records and the licensing of Plaintiff can be found in South Carolina's Department of Labor, Licensing, and Regulation. Those records speak for themselves.

3. Defendant admits the allegations of Paragraph 2 and 3 of the Complaint.

4. As to the allegations of Paragraph 4 of the Complaint, the ownership of the real property is reflected in the Register of Deeds.

5. Defendant denies the allegations of Paragraphs 5 of the Complaint given the clear agreement of the parties to resolve disputes through arbitration.

6. As to the allegations contained in Paragraph 6 of the Complaint, the ownership of the real property is reflected in the Register of Deeds and those records speak for themselves.

7. Defendant denies the allegations of Paragraph 7 of the Complaint.

8. Defendant admits the allegations of Paragraph 8 of the Complaint.

9. Defendant denies the allegations of Paragraph 9 of the Complaint.

10. As to the allegations of Paragraph 10 of the Complaint, Defendant admits only so much as alleges that labor, materials, and services were performed by Plaintiff.

11. Defendant denies the allegations of Paragraph 11 of the Complaint.

12. As to the allegations of Paragraph 12 of the Complaint, the Defendant admits the contract sum was reduced, the exact amount to be determined by discovery.

13. As to the allegations of Paragraph 13 of the Complaint, Defendant would admit only so much thereof as alleges that payments were made to Cambridge, subcontractors, material suppliers and vendors.

14. Defendant denies the allegations of Paragraphs 14 and 15 of the Complaint.

15. Defendant admits the allegations of Paragraphs 16, 17, and 18 of the Complaint and would allege that advertising and marketing was done by a third party for short term rental purposes.

16. The allegations of Paragraph 19 need no further response.

17. Defendant denies the allegations of Paragraphs 20 of the Complaint.

18. As to the allegations contained in Paragraph 21 of the Complaint, the ownership of the real property is reflected in the Register of Deeds and those records speak for themselves.

19. Defendant denies the allegations of Paragraph 22 of the Complaint.

20. As to the allegations of Paragraph 23, Defendant admits only so much as alleges a mechanic's lien was filed.

21. Defendant denies the allegations of Paragraphs 24, 25, and 26 of the Complaint.

22. The allegations of Paragraph 27 need no further response.

23. Defendant denies the allegations of Paragraphs 28, 29, 30, 31, and 32 of the Complaint.

24. The allegations of Paragraph 33 need no further response.

25. Defendant denies the allegations of Paragraphs 34, 35, and 36 of the Complaint and would allege that in accordance with the defenses and counterclaims raised herein, no money is owed to Plaintiff and Defendant is entitled to recover on his counterclaims.

FOR A SECOND DEFENSE
(Failure to Fulfill Conditions Precedent)

26. Each and every allegation set for above is incorporated herein.

27. Plaintiff has not satisfied conditions precedent to bring this action and any claims of Plaintiff.

FOR A THIRD DEFENSE
(Breach of Contract)

28. Each and every allegation set for above is incorporated herein.

29. Plaintiff breached its contract with Defendant and said breach constitutes a full defense to any claims of Plaintiff.

FOR A FIFTH DEFENSE
(Improper Venue & Jurisdiction)

30. Each and every allegation set for above is incorporated herein.

31. The Plaintiff and Defendant entered into a Contract (the “Contract”), drafted by Plaintiff, dated April 23, 2022 for Plaintiff to provide construction services and build a home located at 8 Iron Clad, Hilton Head Island, South Carolina (the “Home”).

32. Paragraph 10.2 of the Contract states that “All Claims or disputes between the Contractor and the Owner arising out of or relating to the Contract, or the breach thereof, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association...”

33. Plaintiff incorrectly filed the instant action when arbitration is the correct vehicle for dispute resolution between the parties under the Contract.

FOR A SIXTH DEFENSE
(Waiver, Estoppel & Unclean Hands)

34. Each and every allegation set forth above is incorporated herein.

35. Plaintiff is barred by the doctrines of waiver, estoppel and unclean hands.

FOR A THIRD DEFENSE AND BY
WAY OF COUNTERCLAIM
(Negligence and Gross Negligence)

36. Each and every allegation set forth above is incorporated herein.

37. The Contract drafted by Plaintiff dated April 23, 2022 is for Plaintiff to perform the work described in the contract documents to build a single family residence. The Contract was for a stipulated sum, to-wit:

- a) The stipulated sum was \$2,246,078.00.
- b) The Home was to be substantially completed no later than 350 calendar days from when the Contract was signed.
- c) The Contract has specifications and allowances.
- d) The change orders were required to be in writing signed by Defendant.
- f) The Contract required Plaintiff to "...supervise and direct the Work, using the Contractor's best skill and attention."
- (g) The Contact requires Plaintiff "...to perform work at the highest level of craftsmanship, as well as in a good and workmanlike manner, and ensure the same of subcontractors."

38. Plaintiff was responsible for coordination and supervision of all aspects of construction, including, but not limited to, ordering materials, hiring qualified subcontractors, and the supervision of subcontractors.

39. Plaintiff breached its duty given that the Home contains numerous design and construction defects committed by Plaintiff.

40. Plaintiff breached its duty given that he failed to supervise and direct the work using Plaintiff's best skill and attention.

41. Plaintiff breached its duty given that the Plaintiff's work was not, as required under the Contract, at the highest level of craftsmanship.

42. Plaintiff breached its duty given that the subcontractors' work was not, as required

under the Contract, at the highest level of craftsmanship.

43. Plaintiff breach its duty by utilizing and allowing inferior materials and by utilizing and allowing materials to be used inferior to those called for in the Contract and specifications.

44. Plaintiff breached it duty by having Plaintiff's sister entity, Cambridge Homes, Inc. and Third Party Defendant, perform design services for the House for which Cambridge Homes, Inc. is not authorized, licensed, entitled and does not have the proper training and licensing to perform.

45. Plaintiff owed duties and breached those duties to Defendant since Plaintiff failed to exercise that degree of skill necessary to construct, supervise, and review the design and otherwise deliver the Home free of construction and design defects and in conformity with the standard of the highest level of craftsmanship and customary and ordinary standards of the building and construction industry.

46. The deficiencies and defects which exist at the Home are the proximate and direct result of the negligence and/or gross negligence of Plaintiff as general contractor, in one or more of the following particulars:

- a) failure to act as a reasonably prudent general contractor or subcontractor would act under similar circumstances;
- b) failure to investigate the subcontractors to determine if they were competent and capable of performing their work in accordance with the highest levels of construction practices;
- c) failure to properly supervise the subcontractors, its employees and/or other trades in order to ensure that all work proceeded in accordance with the plans and specifications and also in conformity with the Contract and

- customary and ordinary standards of the construction industry;
- d) failure to discover defects in the work performed by subcontractors, trades and its employees;
 - e) failure to insure that Plaintiff complied with the standards set out in Contract;
 - f) failure to properly investigate and correct deficient, inconsistent, improper and/or defective work and resulting damages;
 - g) failure to notice deficient, inconsistent, improper and/or defective work of other trades prior to performing or allowing others to perform subsequent work;
 - h) failure to correct deficient, inconsistent, improper and/or defective work of other trades prior to performing or allowing others to perform subsequent work;
 - i) failure to construct the Home in accordance with plans, specifications, the standards called for in the Contract, including performing work at the highest level of craftsmanship, applicable building codes, and industry standards;
 - j) failure to promptly notify the architect and Defendant when the construction of the Home varied from the drawings and specifications.
 - k) constructing the Home in violation of applicable building codes;
 - l) by prohibiting Plaintiff's employees from discussing defects with Defendant;
 - m) failing to properly sequence the work;

- n) failing to comply with conditions precedent in the Contract;
- o) failure to properly or timely order goods, materials, and items to be installed in the Home;
- p) failure to assist Defendant in ordering and selecting materials for the Home;
- q) failure to protect materials delivered to the Home or those stored for Defendant from damage, theft, or misappropriation;
- r) continually refusing to provide a financial reconciliations to comply with the common industry practices and the Contract;
- s) failure to properly segregate goods and materials paid for by Defendant thereby enabling goods and materials to be wrongfully diverted, lost and used on other projects of Plaintiff;
- t) purposely concealing defective construction;
- u) failure to maintain the job site and the property of the Home;
- v) failure to protect existing trees, shrubs and other plantings at the Home;
- w) refusing to store materials purchased for the construction of the Home;
- x) failure to correctly update the community's architectural review board of required information;
- y) abandoning the construction of the Home;
- z) improper billing practices;
- aa) failure to construct the Home in accordance with the plans and specifications;
- bb) by failing to use high-end quality subcontractors and materials, and
- cc) such other failures as will be shown through the discovery and arbitration

of this matter.

47. Due to the design and construction deficiencies, continuous and repeated exposure to harmful conditions has occurred, including water intrusion, resulting in physical and consequential damages. Further, the negligence/gross negligence of Plaintiff herein has resulted in damages to the Defendant.

48. Defendant repeatedly demanded and requested that Plaintiff cure defects. Defendant listed the defects and Plaintiff refused to cure same.

49. Plaintiff failed to use slight care and breached its duties in a reckless manner such that a general contractor of ordinary reason or prudence under such circumstances would have been conscious of it as an invasion of Defendant's rights.

50. As a direct and proximate result, Defendant has suffered injuries and continues to suffer injuries and is entitled to the recovery of damages in the amount of the cost to repair the Home, consequential damages, including loss of use, loss of value, punitive damages where applicable, plus costs, prejudgment interest, and post judgment interest.

FOR A SECOND COUNTERCLAIM
(Breach of Contract)

51. Each and every allegation set forth above is incorporated here.

52. Plaintiff contracted to construct the Home for Defendant in accordance with the standards established in the Contract, plans and specifications and in accordance with required enhanced industry standards and all applicable building codes.

53. Plaintiff breached its obligation to construct the Home in accordance with the plans and specifications and in accordance with the standards set out in the Contract and established industry standards and all applicable building codes.

54. Plaintiff breached its obligations by filing this action prior to satisfying condition

precedents required in the Contract.

55. Plaintiff breached its obligations under the Contract by abandoning the construction of the Home.

56. Plaintiff breached its obligations under the Contract by not timely completing the Home.

57. Plaintiff breached its obligations under the Contract by not obtaining substantial completion within 350 days.

58. Plaintiff breached its obligations under the Contract by not completing the Home within 547 days.

59. As a result of Plaintiff breaching its Contract with Defendant, Plaintiff is responsible for payment of liquidated damages of \$500 per day.

60. As a direct and proximate result, Defendant has suffered injuries and continues to suffer injuries and is entitled to the recovery of damages in the amount of the cost to finish and repair the Home, liquidated damages, consequential damages, including loss of use, loss of value, punitive damages where applicable, plus costs and expenses, and prejudgment and post judgment interest.

FOR A THIRD COUNTERCLAIM
(Breach of Express & Implied Warranties)

61. Each and every allegation set forth above is incorporated here.

62. Plaintiff held themselves out to the public and to Defendant as specifically qualified to perform custom residential construction in Beaufort County, South Carolina.

63. Plaintiff claim it is a luxury home builder.

64. Frank Gudiobono, Cambridge's President (and Third Party Defendant) stated that "Our mission is to custom-build our clients' dream homes from top quality materials and the

highest construction standards in the industry.”

65. Plaintiff provided construction services to the Home that were accompanied by warranties that said construction would conform to the requirements of the agreements and any applicable building code requirements, laws, ordinances, rules, and regulations.

66. Certain implied warranties arose from the work performed by Plaintiff, including, but not limited to, a warranty of workmanlike construction and habitability.

67. Plaintiff further expressly and/or impliedly warranted that the materials, components, and services were consistent with the Contract’s standards and suitable and fit for use in constructing the Home and would be free of defects.

68. As set forth above, Plaintiff breached its express and implied warranties.

69. As a direct and proximate result, Defendant has suffered injuries and continue to suffer injuries and is entitled to the recovery of damages in the amount of the cost to finish and repair the Home, liquidated damages, consequential damages, including loss of use, loss of value, punitive damages where applicable, plus costs, prejudgment interest and post judgment interest.

FOR A FOURTH COUNTERCLAIM
(Negligent Misrepresentation)

70. Each and every allegation set forth above is incorporated here.

71. Plaintiff’s by way of having a standard of the quality of the construction in the Contract, through marketing materials provided to Defendant, and by Plaintiff’s statements and actions, made numerous misrepresentations to Defendant regarding the quality and finish level that would be used in building the Home for Defendant.

72. The representations made by Plaintiff were untrue and were misrepresentations of material facts.

73. Plaintiff had a pecuniary interest in making such false representations to Defendant

in that the representations were made for the purpose of misleading Defendant.

74. Plaintiff misrepresented Plaintiff's sister entity, Cambridge Homes, Inc. and Third Party Defendant, as having the authority, training and licensing to perform design services for the House for which Cambridge Homes, Inc. is not authorized, licensed, entitled and does not have the proper training to perform.

75. Plaintiff owed a duty to Defendant to use due care in ensuring that its representations concerning the construction of the Home were accurate and truthful.

76. Defendant reasonably and justifiably relied upon the representations of Plaintiff.

77. In the exercise of reasonable care, Plaintiff knew or should have known their representations were false and that Defendant would rely on the representations.

78. Plaintiff failed to exercise reasonable care in making the representations.

79. As a direct and proximate result, Defendant has suffered injuries and continues to suffer injuries and is entitled to the recovery of damages in the amount of the cost to repair the Subject Property, including loss of use, consequential damages, liquidated damages, punitive damages, plus costs and prejudgment and post judgment interest.

FOR A FIFTH COUNTERCLAIM
(Slander of Title)

80. Each and every allegation set forth above is incorporated here.

81. Plaintiff unlawfully and illegally filed a mechanic's lien and lis pendens on the Home.

82. Plaintiff has slandered the title to the property.

83. Plaintiff has suffered actual and consequential damages due to this Slander of Title.

FOR A SIXTH COUNTERCLAIM
(Unlicensed Activity, Unfair Trade Practice)

84. Each and every allegation set forth above is incorporated here.

85. Plaintiff through its related sister entity, Cambridge Homes, Inc. entered into a design contract with Defendant to prepare working drawings for the construction of the Home.

86. Cambridge Homes, Inc. is not licensed nor authorized to provide architectural drawings or design services.

87. The practice of architecture includes designing a home.

88. The agreement to provide unlicensed services is an unfair and deceptive trade practice that adversely affects the public interest and is capable of repetition.

89. The unfair and deceptive conduct of Plaintiff proximately caused actual ascertainable damages to Defendant.

90. Pursuant to the Unfair Trade Practices Act, Defendant is entitled to recover, among other relief, treble damages and attorney fees.

FOR A SEVENTH COUNTERCLAIM
(Defamation)

91. Each and every allegation set forth above is incorporated here.

92. Plaintiff, through its authorized agents, by filing the illegal and improper mechanic's lien.

93. Plaintiff has told third parties that Defendant has not paid his bills.

94. Plaintiff, through its authorized agents, filed this action and continue to litigate this matter even though the Contract between the parties calls for arbitration as the proper forum for dispute resolution.

95. Plaintiff, through its authorized agents, continues to pursue a mechanic's lien even

though Plaintiff's own pleadings in this matter show that service is fatally defective and that a mechanic's lien is improper.

96. These comments that Defendant does not pay his bills are untrue and are defamatory.

97. These comments were intentionally made to damage Defendant's reputation.

98. The comments have damaged Defendant's reputation and are defamatory per se.

99. Defendant has suffered actual and consequential damages.

100. Plaintiff's intentional false defamatory statement subjects Plaintiff to, among other relief, punitive damages.

FOR A EIGHTH COUNTERCLAIM
(Conversion)

101. Each and every allegation set forth above is incorporated here.

102. The Defendant converted property and materials ordered and paid for by Defendant, including but not limited to a sauna and stone.

103. Despite demand, Plaintiff has failed to return the converted goods and has not paid Defendant for the converted goods.

104. Plaintiff's conversion of materials that Defendant ordered and paid for that Plaintiff has refused to return subjects Plaintiff to damages owned to Defendant for actual and consequential damages including the cost of the materials, loss of use, consequential damages and such other and further relief that is just and proper.

FOR A NINETH COUNTERCLAIM
(Fraud and Misrepresentation)

105. Each and every allegation set forth above is incorporated here.

106. Plaintiff deliberately chose inferior products, materials, processes and subcontractors for Plaintiff to improperly increase Plaintiff's profit.

107. Plaintiff deliberately used inferior products, materials, processes and subcontractors in violation of the express standard of construction called for in the Contract.

108. Plaintiff allowed and agreed for subcontractors and trades to use inferior products, material and processes for Plaintiff to improperly increase Plaintiff's profit.

109. Plaintiff knowingly and purposely selected subcontractors with inferior skills that performed services below the standards required in the Contract to improperly increase Plaintiff's profit.

110. Plaintiff knowingly and purposefully selected subcontractors with insufficient manpower to improperly increase Plaintiff's profit.

111. Plaintiff represented to Defendant that it had extensive experience building luxury ocean front homes. Plaintiff misrepresented that the work would be done at the "highest level of craftsmanship", as required by the Contract.

112. Plaintiff's made continual and deliberate misrepresentations regarding billing and Plaintiff's refused to perform a reconciliation to credit Defendant for monies spent for materials purchased by Defendant and monies directly paid to subcontractors, materials suppliers and vendors.

113. Plaintiff deliberately misrepresented Plaintiff's sister entity, Cambridge Homes, Inc. and Third Party Defendant, as having the authority, training and licensing to perform design services for the House for which Cambridge Homes, Inc. is not authorized, licensed, entitled and does not have the proper training to perform.

114. Plaintiff misrepresented to Defendant that supervision would take place and quality materials would be utilized.

115. During the course of the construction, agents of Plaintiff, including the Plaintiff's Owner/President, Frank Guidobono, and Third Party Defendant Frank Guidobono became aware of various construction defects at the Home.

116. Plaintiff's superintendents, and other of Plaintiff's employees, were instructed by Plaintiff's President, Frank Guidobono, and Third Party Defendant Frank Guidobono not to inform Defendant about the defects.

117. Plaintiff and Third Party Defendant attempted to hide, mask, and cover up the defects to hide same from Defendant.

118. Plaintiff and Third Party Defendant diverted materials purchased for the construction of the Home, that Plaintiff charged Defendant, to Plaintiff's other projects.

119. Plaintiff and Third Party Defendant used facilities and materials paid for by Defendant for the benefit of Plaintiff's other projects.

120. Plaintiff knowingly used improper billing practices.

121. Plaintiff knowingly sent invoices and requests for payment to Defendant for monies not yet due.

122. These representations were:

- a) false;
- b) material;
- c) Plaintiff knew the representations were false;
- d) Plaintiff intended that the representations be acted upon;
- e) Defendant was unaware the representations were false;
- f) the Defendant had the right to and did in fact rely on the representations; and
- g) the misrepresentations caused Defendant consequential and proximate

injury and damage.

123. The fraudulent conduct of Plaintiff and Third Party Defendant have caused Defendant actual and consequential damages and furthermore subjects Plaintiff and Third Party Defendant to punitive damages.

FOR A THIRD PARTY COMPLAINT

124. Each and every allegation set forth above is incorporated here.

125. Third Party Defendant, Frank Guidobono (hereinafter Guidobono) is a resident and citizen of Beaufort County, South Carolina.

126. Guidobono is the Owner and President of Plaintiff.

127. The Contract at issue was drafted by Plaintiff and Guidobono.

128. The Contract lists Guidobono as a party to the Contract and he is in privity of Contract with Defendant.

129. Counsel for Plaintiff acknowledges that Guidobono is a party to the Contract between the parties in her Memorandum in Opposition to Defendants' Motion to Dismiss when she states that "...they entered a contract with Cambridge Building, Inc. **and Frank Guidobono...**". (Emphasis added).

130. Guidobono is jointly liable to Defendant for each of the counterclaims asserted above.

WHEREFORE, Defendant prays that the Court or designated Arbitrator inquire fully into this matter, dismiss the Complaint of Plaintiff, grant Defendant the relief sought in the Counterclaims and Third Party Complaint, grant Defendant his reasonable attorney fees, and for such other and further relief as is just and proper.

Respectfully submitted,

FINGER, MELNICK, BROOKS
& LaBRUCE, P.A.

s/Terry A. Finger

Terry A. Finger
S.C. Bar No.: 2012
Attorney for Defendant Robert S. Lotstein
35 Hospital Center Common, Suite 200
Post Office Box 24005
Hilton Head, South Carolina 29925-4005
(843) 681-7000
tfinger@fingerlaw.com

May 7, 2025
Hilton Head Island, SC

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF BEAUFORT) THE FOURTEENTH JUDICIAL CIRCUIT
)

Cambridge Building, Inc.) Civil Action No.: 2024CP0702002
License No. 117526)
)

Plaintiff,)
)

v.)
)

Robert S. Lotstein, Kristin Huffman,)
Robert S. Lotstein, Trustee of the)
Robert S. Lotstein Family Trust dated)
September 4, 2022, as Amended and)
Restated, and Kristin S. Huffman,)
Trustee of the Kristin S. Huffman)
Family Trust dated September 4, 2022,)
as Amended and Restated,)

PLAINTIFF CAMBRIDGE BUILDING,)
INC.'S (LICENSE NO. 117526) ANSWER TO)
DEFENDANT'S COUNTERCLAIMS)

Defendants.)
)

Robert S. Lotstein)
)
)

Third Party Plaintiff,)
)

v.)
)

Frank Guidobono)
)
)

Third Party Defendant.)
)

COMES NOW, the Plaintiff, Cambridge Building, Inc. (License No. 117526), by and through its undersigned attorneys, answering the Counterclaims of the Defendant, would allege and show unto the Court:

FOR A FIRST DEFENSE

1. Each and every allegation of the Counterclaims not specifically admitted herein is denied.
2. Plaintiff incorporates the allegations of its Complaint as if restated and reiterated herein verbatim.
3. Paragraph 1 through 35 appear to be Defendant's Answer to Plaintiff's Complaint and no response is necessary. To the extent a response is deemed necessary, the same paragraphs are denied and strict proof thereof is demanded.
4. Plaintiff realleges and reasserts its responses to Paragraphs 1 through 35 in response to Paragraph 36 of Defendant's counterclaims as if fully reiterated herein verbatim.
5. Paragraph 37, including all subparagraphs, is denied and strict proof thereof is demanded.
6. Paragraph 38 is denied.
7. Paragraph 39 is denied.
8. Paragraph 40 is denied.
9. Paragraph 41 is denied.
10. Paragraph 42 is denied.
11. Paragraph 43 is denied.
12. Paragraph 44 is denied.
13. Paragraph 45 is denied.
14. Paragraph 46, including all subparagraphs, is denied and strict proof thereof is demanded.
15. Paragraph 47 is denied.

16. Paragraph 48 is denied.
17. Paragraph 49 is denied.
18. Paragraph 50 is denied.
19. Plaintiff realleges and reasserts its responses to Paragraphs 1 through 50 in response to Paragraph 51 of Defendant's counterclaims as if fully reiterated herein verbatim.
20. Paragraph 52 is denied, and strict proof thereof is demanded.
21. Paragraph 53 is denied.
22. Paragraph 54 is denied.
23. Paragraph 55 is denied.
24. Paragraph 56 is denied.
25. Paragraph 57 is denied.
26. Paragraph 58 is denied.
27. Paragraph 59 is denied.
28. Paragraph 60 is denied.
29. Plaintiff realleges and reasserts its responses to Paragraphs 1 through 60 in response to Paragraph 61 of Defendant's counterclaims as if fully reiterated herein verbatim.
30. Paragraph 62 is denied.
31. Paragraph 63 is denied.
32. Paragraph 64 is denied.
33. Paragraph 65 denied.
34. Paragraph 66 is denied.
35. Paragraph 67 is denied.
36. Paragraph 68 is denied.

37. Paragraph 69 is denied.

38. Plaintiff realleges and reasserts its responses to Paragraphs 1 through 69 in response to Paragraph 70 of Defendant's counterclaims as if fully reiterated herein verbatim.

39. Paragraph 71 is denied.

40. Paragraph 72 is denied.

41. Paragraph 73 is denied.

42. Paragraph 74 is denied.

43. Paragraph 75 is denied.

44. Paragraph 76 is denied.

45. Paragraph 77 is denied.

46. Paragraph 78 is denied.

47. Paragraph 79 is denied.

48. Plaintiff realleges and reasserts its responses to Paragraphs 1 through 79 in response to Paragraph 80 of Defendant's counterclaims as if fully reiterated herein verbatim.

49. Paragraph 81 is denied, and strict proof thereof is demanded.

50. Paragraph 82 is denied.

51. Paragraph 83 is denied.

52. Plaintiff realleges and reasserts its responses to Paragraphs 1 through 83 in response to Paragraph 84 of Defendant's counterclaims as if fully reiterated herein verbatim.

53. Paragraph 85 is denied, and strict proof thereof is demanded.

54. Paragraph 86 is denied.

55. Paragraph 87 is denied.

56. Paragraph 88 is denied.

57. Paragraph 89 is denied.

58. Paragraph 90 is denied.

59. Plaintiff realleges and reasserts its responses to Paragraphs 1 through 90 in response to Paragraph 91 of Defendant's counterclaims as if fully reiterated herein verbatim.

60. Paragraph 92 is denied.

61. Paragraph 93 is denied.

62. Paragraph 94 is denied.

63. Paragraph 95 is denied.

64. Paragraph 96 is denied.

65. Paragraph 97 is denied.

66. Paragraph 98 is denied.

67. Paragraph 99 is denied.

68. Paragraph 100 is denied.

69. Plaintiff realleges and reasserts its responses to Paragraphs 1 through 100 in response to Paragraph 101 of Defendant's counterclaims as if fully reiterated herein verbatim.

70. Paragraph 102 is denied.

71. Paragraph 103 is denied.

72. Paragraph 104 is denied.

73. Plaintiff realleges and reasserts its responses to Paragraphs 1 through 104 in response to Paragraph 105 of Defendant's counterclaims as if fully reiterated herein verbatim.

74. Paragraph 106 is denied.

75. Paragraph 107 is denied.

76. Paragraph 108 is denied.

77. Paragraph 109 is denied.
78. Paragraph 110 is denied.
79. Paragraph 111 is denied.
80. Paragraph 112 is denied.
81. Paragraph 113 is denied.
82. Paragraph 114 is denied.
83. Paragraph 115 is denied.
84. Paragraph 116 is denied.
85. Paragraph 117 is denied.
86. Paragraph 118 is denied.
87. Paragraph 119 is denied.
88. Paragraph 120 is denied.
89. Paragraph 121 is denied.
90. Paragraph 122, including all subparagraphs, is denied and strict proof thereof is demanded.
91. Paragraph 123 is denied.
92. Paragraphs 124 through 130 appear to set forth Defendant's Third-Party Complaint and no response from Plaintiff is necessary. To the extent a response is deemed necessary, the same paragraphs are denied and strict proof thereof is demanded.
93. To the extent there are any allegations in the Defendant's "WHEREFORE" prayer for relief, the same paragraph is denied and strict proof therefor is demanded.

FOR A SECOND DEFENSE

94. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby alleged as if set forth here verbatim.

95. Plaintiff would show that the Defendant Counterclaims should be dismissed under Rule 12(b)(6) for failure to state facts sufficient to constitute a cause of action.

FOR A THIRD DEFENSE

96. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

97. Plaintiff would show that such injuries or losses sustained by Defendant, if any, were due to and caused by his or her negligence, willfulness, wantonness, or recklessness, which exceeded that of Plaintiff, so Defendant's recovery is barred by the doctrine of comparative negligence.

FOR A FOURTH DEFENSE

98. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

99. Plaintiff would show that such injuries or losses that Defendant sustained, if any, were not caused by any negligence on the part of Plaintiff, but were rather due to and caused by the intervening and superseding fault, breach of warranty or act or omission of a third party, over which Plaintiff had no control.

FOR A FIFTH DEFENSE

100. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

101. Plaintiff would show that such injuries or losses that Defendant sustained, if any, were not caused by any negligence on the part of Plaintiff, but were rather due to and caused by the intervening and superseding fault, breach of warranty or act or omission of a third party, over which Plaintiff had no control.

FOR A SIXTH DEFENSE

102. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

103. Plaintiff would show that Defendant's counterclaims are barred by the doctrine of waiver.

FOR A SEVENTH DEFENSE

104. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

105. Plaintiff would show, upon information and belief, that Defendant's claims are barred by the doctrine of estoppel, inasmuch as Plaintiff relied on representation by Defendant, and such reliance has proved to be detrimental.

FOR AN EIGHTH DEFENSE

106. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

107. Plaintiff would show, upon information and belief, that Defendant's claims are barred by the doctrine of laches.

FOR A NINTH DEFENSE

108. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

109. Plaintiff would show that this action is barred by the applicable Statute of Limitations, enforcement of which is a matter of public policy in South Carolina.

FOR A TENTH DEFENSE

110. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

111. Plaintiff would show that this action is barred by the applicable Statute of Repose, South Carolina Code Ann. §15-3-640, et seq.

FOR AN ELEVENTH DEFENSE

112. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

113. Defendant failed to satisfy the conditions precedent to commencing this action, including, but not limited to, complying with the provisions of the South Carolina Notice and Opportunity to Cure Act, SC Code §40-59-810.

FOR A TWELFTH DEFENSE

114. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

115. Plaintiff would show, upon information and belief, that Defendant failed to mitigate damages, if any, as required by law.

FOR A THIRTEENTH DEFENSE

116. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

117. Plaintiff alleges that Defendant's claim for punitive damages violates both the Fourteenth Amendment to the United States Constitution and Article I, Section 3 of the South

Carolina Constitution in that the jury's unfettered power to award punitive damages in any amount it chooses is wholly devoid of any meaningful standard and is inconsistent with due process guarantees.

FOR A FOURTEENTH DEFENSE

118. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

119. Plaintiff alleges that Defendant's claim for punitive damages violates the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and Article I, Section 3 of the South Carolina Constitution because, even if it could be argued the standard governing the imposition of punitive damages exists, the standard would be void due to vagueness.

FOR A FIFTEENTH DEFENSE

120. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

121. Plaintiff alleges that Defendant's claim for punitive damages violates the equal protection clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 3 of the South Carolina Constitution in that the amount of punitive damages is based upon the wealth of Plaintiff.

FOR A SIXTEENTH DEFENSE

122. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

123. Plaintiff alleges that Defendant's claim of punitive damages violates the doctrine of separation of powers and Article I, Section 3 of the South Carolina Constitution because punitive

damages are a creation of the Judicial Branch of government which invades the province of the Legislative Branch of government.

FOR A SEVENTEENTH DEFENSE

124. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

125. Plaintiff would show, upon information and belief, that Defendant's claim for punitive damages violates the Fifth, Sixth, Seventh, Eighth and Fourteenth Amendments to the Constitution of the United States of America in that it violates the double jeopardy clause in that Defendant could be subjected to multiple awards of punitive damages for the same set of facts; the self-incrimination clause is violated because Defendant can be compelled to give testimony against itself in a penalty situation such as punitive damages; the assessment of punitive damages by a burden of proof less than beyond a reasonable doubt is violative of the Sixth and Fourteenth Amendments in that punitive damages are a fine or penalty and are, therefore, quasi-criminal in nature; violates Defendant's right to access the courts as guaranteed by the Seventh and Fourteenth Amendments because the threat of an award of punitive damages chills Defendant's exercise of that right; violates the Eighth Amendment's guarantee that excessive fines shall not be imposed; and violates both the due process and equal protection clauses of the Fourteenth Amendment in that the standard for awarding either punitive damages is unduly vague and, therefore, violates both procedural and substantive due process safeguards.

FOR AN EIGHTEENTH DEFENSE

126. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

127. Plaintiff pleads the applicable statutory caps on punitive damages, including but not limited to the caps described in S.C. Code Ann. 15-32-530, et seq., as amended.

FOR A NINETEENTH DEFENSE

128. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

129. Plaintiff demands bifurcation of the actual and punitive damages phases of the trial.

FOR A TWENTIETH DEFENSE

130. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

131. Although Plaintiff denies any liability or that it is responsible for any damages to Defendant, should Plaintiff or any other party be found liable, then the liability and damages should be apportioned among all responsible parties and non-parties pursuant to South Carolina Code §15-38-10.

FOR A TWENTY-FIRST DEFENSE

132. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

133. Plaintiff would show that Defendant's Counterclaims are barred by the doctrine of spoliation.

FOR A TWENTY-SECOND DEFENSE

134. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

135. Defendant's claims are barred because the design of the residence was approved by Defendant and any defects were incorporated into the subject property because of errors or omissions in the preparing of the design of the plans and specifications, if any.

FOR A TWENTY-THIRD DEFENSE

136. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

137. The Plaintiff would assert that the Defendant's claims are barred by the doctrine of acceptance, including all applicable case law and statutes.

FOR A TWENTY-FOURTH DEFENSE

138. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

139. Defendant lacks standing to bring some or all of his claims.

FOR A TWENTY-FIFTH DEFENSE

140. Plaintiff incorporates all allegations of the preceding paragraphs as if restated herein verbatim.

141. Plaintiff would show, upon information and belief, that Defendant's claims are barred by the doctrine of unclean hands.

FOR A TWENTY-SIXTH DEFENSE

142. Plaintiff incorporates all allegations of the preceding paragraphs as if restated herein verbatim.

143. Plaintiff reserves the right to assert and does not waive any additional further defenses which may be revealed by additional information that may be acquired in discovery or otherwise.

FOR A TWENTY-SEVENTH DEFENSE

144. Plaintiff incorporates all allegations of the preceding paragraphs as if restated herein verbatim.

145. The Plaintiff asserts that, while denying any liability to Defendant whatsoever, that with respect to any judgment, settlement, or other resolution, it is entitled to a set-off of any funds received by Defendant.

WHEREFORE, having fully answered, Plaintiff prays for judgment on its claims, that Defendants' Counterclaims be dismissed, and for such other relief as this Court deems just and proper.

The Plaintiff demands a jury trial.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.

s/J. Ryan Oates
Mark S. Barrow
J. Ryan Oates
1515 Lady Street
Post Office Box 12129
Columbia, South Carolina 29211
(803) 256-2233

ATTORNEYS FOR PLAINTIFF

Columbia, South Carolina

May 28, 2025

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF BEAUFORT) THE FOURTEENTH JUDICIAL CIRCUIT
)

Cambridge Building, Inc.) Civil Action No.: 2024CP0702002
License No. 117526)
)

Plaintiff,)
)

v.)
)

Robert S. Lotstein, Kristin Huffman,)
Robert S. Lotstein, Trustee of the)
Robert S. Lotstein Family Trust dated)
September 4, 2022, as Amended and)
Restated, and Kristin S. Huffman,)
Trustee of the Kristin S. Huffman)
Family Trust dated September 4, 2022,)
as Amended and Restated,)

DEFENDANT FRANK GUIDOBONO'S
ANSWER TO THIRD-PARTY COMPLAINT

Defendants.)
)

Robert S. Lotstein)
)
)

Third Party Plaintiff,)
)

v.)
)

Frank Guidobono)
)
)

Third Party Defendant.)
)

COMES NOW, Defendant, Frank Guidobono (“this Defendant”), by and through its undersigned attorneys, answering the Third-Party Complaint of the Third-Party Defendant, would allege and show unto the Court:

FOR A FIRST DEFENSE

1. Each and every allegation of the Defendants' Third-Party Complaint not specifically admitted herein is denied and strict proof thereof is demanded.

2. Paragraph 1 through 123 of Defendants' Answer, Counterclaims, and Third-Party Complaint appear to set forth Defendants' answer to Plaintiff's Complaint and Defendants' crossclaims against Plaintiff and do not appear to contain any allegations regarding this Defendant. To the extent there are any allegations regarding this Defendant in paragraphs 1 through 123, the same are denied and strict proof thereof is demanded.

3. Paragraph 124 is denied and strict proof thereof is demanded.

4. Paragraph 125 is admitted upon information and belief.

5. Paragraph 126 is admitted upon information and belief.

6. Paragraph 127 is denied, and strict proof thereof is demanded.

7. Paragraph 128 is denied, and strict proof thereof is demanded.

8. Paragraph 129 is denied and strict proof thereof is demanded.

9. Paragraph 130 is denied and strict proof thereof is demanded.

10. To the extent there are any allegations in Defendants' "WHEREFORE" prayer for relief, the same are denied and strict proof thereof is demanded.

FOR A SECOND DEFENSE

11. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby alleged as if set forth here verbatim.

12. This Defendant would show that the Third-Party Complaint should be dismissed under Rule 12(b)(6) for failure to state facts sufficient to constitute a cause of action.

FOR A THIRD DEFENSE

13. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

14. Any defamatory communications by this Defendant, which are strictly denied are not actionable because they were true or substantially true.

FOR A FOURTH DEFENSE

15. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

16. Defendants' prior breach is a subsequent bar to its counterclaims and third-party claims.

FOR A FIFTH DEFENSE

17. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

18. This Defendant would show that such injuries or losses sustained by Third-Party Defendant, if any, were due to and caused by his or her negligence, willfulness, wantonness, or recklessness, which exceeded that of Defendant, so Third-Party Defendant's recovery is barred by the doctrine of comparative negligence.

FOR A SIXTH DEFENSE

19. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

20. This Defendant would show that such injuries or losses that Defendants sustained, if any, were not caused by any negligence on the part of this Defendant, but were rather due to and

caused by the intervening and superseding fault, breach of warranty or act or omission of a third party, over which this Defendant had no control.

FOR A SEVENTH DEFENSE

21. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

22. This Defendant would show that such injuries or losses that Defendants sustained, if any, were not caused by any negligence on the part of Defendant but were rather due to and caused by the intervening and superseding fault, breach of warranty or act or omission of a third party, over which this Defendant had no control.

FOR AN EIGHTH DEFENSE

23. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

24. This Defendant would show that the Third-Party Complaint is barred by the doctrine of waiver.

FOR A NINTH DEFENSE

25. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

26. This Defendant would show, upon information and belief, that the Third-Party Complaint is barred by the doctrine of estoppel, inasmuch as this Defendant relied on representations by Defendants, and such reliance has proved to be detrimental.

FOR A TENTH DEFENSE

27. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

28. This Defendant would show, upon information and belief, that Defendants' claims are barred by the doctrine of laches.

FOR AN ELEVENTH DEFENSE

29. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

30. This Defendant would show that this action is barred by the applicable Statute of Limitations, enforcement of which is a matter of public policy in South Carolina.

FOR A TWELFTH DEFENSE

31. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

32. This Defendant would show that this action is barred by the applicable Statute of Repose, South Carolina Code Ann. §15-3-640, et seq.

FOR A THIRTEENTH DEFENSE

33. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

34. Defendants failed to satisfy the conditions precedent to commencing this action, including, but not limited to, complying with the provisions of the South Carolina Notice and Opportunity to Cure Act, SC Code §40-59-810.

FOR A FOURTEENTH DEFENSE

35. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

36. This Defendant would show, upon information and belief, that Defendants failed to mitigate damages, if any, as required by law.

FOR A FIFTEENTH DEFENSE

37. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

38. This Defendant alleges that Defendants' claim for punitive damages violates both the Fourteenth Amendment to the United States Constitution and Article I, Section 3 of the South Carolina Constitution in that the jury's unfettered power to award punitive damages in any amount it chooses is wholly devoid of any meaningful standard and is inconsistent with due process guarantees.

FOR A SIXTEENTH DEFENSE

39. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

40. This Defendant alleges that Defendants' claim for punitive damages violates the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and Article I, Section 3 of the South Carolina Constitution because, even if it could be argued the standard governing the imposition of punitive damages exists, the standard would be void due to vagueness.

FOR A SEVENTEENTH DEFENSE

41. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

42. This Defendant alleges that Defendants' claim for punitive damages violates the equal protection clause of the Fourteenth Amendment to the United States Constitution and Article

I, Section 3 of the South Carolina Constitution in that the amount of punitive damages is based upon the wealth of this Defendant.

FOR AN EIGHTEENTH DEFENSE

43. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

44. This Defendant alleges that Defendants' claim of punitive damages violates the doctrine of separation of powers and Article I, Section 3 of the South Carolina Constitution because punitive damages are a creation of the Judicial Branch of government which invades the province of the Legislative Branch of government.

FOR A NINETEENTH DEFENSE

45. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

46. This Defendant would show, upon information and belief, that Defendants' claim for punitive damages violates the Fifth, Sixth, Seventh, Eighth and Fourteenth Amendments to the Constitution of the United States of America in that it violates the double jeopardy clause in that Defendant could be subjected to multiple awards of punitive damages for the same set of facts; the self-incrimination clause is violated because this Defendant can be compelled to give testimony against itself in a penalty situation such as punitive damages; the assessment of punitive damages by a burden of proof less than beyond a reasonable doubt is violative of the Sixth and Fourteenth Amendments in that punitive damages are a fine or penalty and are, therefore, quasi-criminal in nature; violates this Defendant's right to access the courts as guaranteed by the Seventh and Fourteenth Amendments because the threat of an award of punitive damages chills this Defendant's exercise of that right; violates the Eighth Amendment's guarantee that excessive fines shall not be

imposed; and violates both the due process and equal protection clauses of the Fourteenth Amendment in that the standard for awarding either punitive damages is unduly vague and, therefore, violates both procedural and substantive due process safeguards.

FOR A TWENTIETH DEFENSE

47. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

48. This Defendant pleads the applicable statutory caps on punitive damages, including but not limited to the caps described in S.C. Code Ann. 15-32-530, et seq., as amended.

FOR A TWENTY-FIRST DEFENSE

49. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

50. This Defendant demands bifurcation of the actual and punitive damages phases of the trial.

FOR A TWENTY-SECOND DEFENSE

51. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

52. Although this Defendant denies any liability or that it is responsible for any damages to Defendants, should this Defendant or any other party be found liable, then the liability and damages should be apportioned among all responsible parties and non-parties pursuant to South Carolina Code §15-38-10.

FOR A TWENTY-THIRD DEFENSE

53. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

54. This Defendant would show that the Third-Party Complaint is barred by the doctrine of spoliation.

FOR A TWENTY-FOURTH DEFENSE

55. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

56. Defendants' claims are barred because the design of the residence was approved by Defendants and any defects were incorporated into the subject property because of errors or omissions in the preparing of the design of the plans and specifications, if any.

FOR A TWENTY-FIFTH DEFENSE

57. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

58. This Defendant would assert that the Third-Party claims are barred by the doctrine of acceptance, including all applicable case law and statutes.

FOR A TWENTY-SIXTH DEFENSE

59. The allegations contained in the preceding paragraphs, not inconsistent herewith, are hereby re-alleged as if set forth herein verbatim.

60. Defendants lacks standing to bring some or all of their claims.

FOR A TWENTY-SEVENTH DEFENSE

61. Defendant incorporates all allegations of the preceding paragraphs as if restated herein verbatim.

62. This Defendant would show, upon information and belief, that Defendants' claims are barred by the doctrine of unclean hands.

FOR A TWENTY-EIGHTH DEFENSE

63. Defendant incorporates all allegations of the preceding paragraphs as if restated herein verbatim.

64. This Defendant reserves the right to assert and does not waive any additional further defenses which may be revealed by additional information that may be acquired in discovery or otherwise.

FOR A TWENTY-NINTH DEFENSE

65. Defendant incorporates all allegations of the preceding paragraphs as if restated herein verbatim.

66. This Defendant asserts that, while denying any liability to Defendants whatsoever, that with respect to any judgment, settlement, or other resolution, it is entitled to a set-off of any funds received by Defendants.

FOR A THIRTIETH DEFENSE

67. Defendant incorporates all allegations of the preceding paragraphs as if restated herein verbatim.

68. This Defendant would show that the Third-Party Complaint is barred because no privity of contract existed between Defendant and Defendants.

FOR A THIRTY-FIRST DEFENSE

69. Defendant incorporates all allegations of the preceding paragraphs as if restated herein verbatim.

70. This Defendant pleads no special damages as a complete bar to Defendants' cause of action for slander of title.

FOR A THIRTY-SECOND DEFENSE

71. Defendant incorporates all allegations of the preceding paragraphs as if restated herein verbatim.

72. This Defendant pleads the defense of consent, authorization or privilege as a complete bar to Defendants' claims.

WHEREFORE, having fully answered, This Defendant prays for judgment on its claims, that the Third-Party Complaint be dismissed, and for such other relief as this Court deems just and proper.

The Defendant demands a jury trial.

Respectfully submitted,

SWEENEY, WINGATE & BARROW, P.A.

s/J. Ryan Oates

Mark S. Barrow

J. Ryan Oates

1515 Lady Street

Post Office Box 12129

Columbia, South Carolina 29211

**ATTORNEYS FOR THIRD PARTY
DEFENDANT FRANK GUIDOBONO**

Columbia, South Carolina

May 30, 2025

1 STATE OF SOUTH CAROLINA SOUTH CAROLINA CIRCUIT COURT 14

2 COUNTY OF BEAUFORT DOCKET NO. 2024-CP-07-02002

3

4 CAMBRIDGE BUILDING INC.,

5 Plaintiff,

6 v.

7 ROBERT S. LOTSTEIN, ET AL.,

8 Defendants.

9

10

H E A R I N G
BEFORE THE HONORABLE BENJAMIN CULBERTSON

11

DATE: February 21, 2025

12

TIME: 02:33:44

LOCATION: SOUTH CAROLINA CIRCUIT COURT 14

13

TRANSCRIBED BY: LYNETTE L. CHASE

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LEGAL EAGLE

Post Office Box 5682

16

Greenville, South Carolina 29606

864-467-1373

17

depos@legaleagleinc.com

18

19

20

21

22

23

24

25

1 APPEARANCES:

2

3 FOR THE PLAINTIFF:

4 LEE ANN WALTERS, ESQUIRE

5 WALTERS LAW

6 PO BOX 1214

7 BEAUFORT, SC 29901

8

9 FOR THE DEFENDANTS:

10 TERRY FINGER, ESQUIRE

11 FINGER, MELNICK, BROOKS & LABRUCE, P.A.

12 PO BOX 24005

13 HILTON HEAD ISLAND, SC 29925

14

15 ALSO PRESENT:

16 ROBERT LOTSTEIN

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INDEX

Proceedings.....4
Certificate of Transcriber.....20

NO EXHIBITS

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL
IS REPRODUCED AS READ OR QUITED BY THE SPEAKER.)

1 THE COURT: Next is 2024-CP-07-02002. Cambridge
2 Building Inc., versus Robert Lotstein or Lotstein and
3 others.

4 If you're involved in that, please raise your
5 hand.

6 MR. FINGER: Good morning, Your Honor.

7 THE COURT: Good morning.

8 Is this everyone?

9 MR. FINGER: Yes, sir.

10 THE COURT: All right. As I said, this is
11 2024-CP-07-02002. Cambridge Building Inc., versus Robert --
12 Is it Lotstein or Lotstein?

13 MR. LOTSTEIN: Lotstein.

14 THE COURT: Lotstein. I apologize.

15 -- and others. According to my roster, this is a
16 motion to dismiss.

17 Please state your name and who you represent.

18 MR. FINGER: Your Honor, this is Terry Finger. I
19 represent the defendants in this matter.

20 THE COURT: Okay.

21 MS. WALTERS: Your Honor, Lee Ann Walters. I
22 represent the plaintiff Cambridge Building.

23 THE COURT: Thank you.

24 This is the defendants' motion; is that correct?

25 MS. WALTERS: Yes, Your Honor.

1 MR. FINGER: Yes, Your Honor.

2 THE COURT: All right. Mr. Finger, let me hear
3 from you.

4 MR. FINGER: Thank you, Your Honor.

5 May it please the Court. This is a complaint
6 that has three causes of action. I represent the defendants
7 in this matter.

8 The complaint is -- cause of action one is a
9 petition to foreclose a mechanic's lien.

10 The second cause of action is an alleged breach
11 of contract. I would note that the contract in this matter
12 is attached to our motion to dismiss. It was not attached
13 to the complaint. The complaint had Exhibits A through E,
14 but did not have the complaint so I've attached that for the
15 Court. The contract is mentioned in the body of the
16 complaint.

17 I would just note for the Court that the contract
18 is dated April 23, 2022. And the CO on this house, the
19 house was built on Hilton Head, the certificate of occupancy
20 was June 12, 2023.

21 And then back to the causes of action in the
22 complaint. The third cause of action is unjust enrichment.

23 My motion to dismiss has a number of grounds on
24 it, Your Honor.

25 The first one is under the statutory (inaudible)

1 for mechanic's liens have to be filed specifically and
2 completely. In this matter I would draw --

3 Your Honor, you are able to draw up the complaint
4 and the exhibits on your computer in front of you I believe?

5 THE COURT: Well, yeah. They don't do a binder
6 for me, but I have to go in through the -- let me go in
7 through the --

8 MR. FINGER: Through the roster?

9 THE COURT: -- roster and bring it up that way.
10 Hold for one second.

11 MR. FINGER: Thank you, sir.

12 THE COURT: All right. And where is it?

13 MR. FINGER: If you would look at the complaint
14 please, Your Honor, and the first -- the first document I'd
15 like you to look at is Exhibit D to the complaint. This is
16 a question about whether service was properly done within
17 90 days of the last work.

18 THE COURT: Okay. Hold for a second.

19 MR. FINGER: Thank you, sir.

20 THE COURT: Okay. Exhibit D?

21 MR. FINGER: Exhibit D. Yes, Your Honor.

22 And, Your Honor, I apologize to the Court. I
23 have my client sitting here with me. So that's who that is
24 who gave you the correct pronunciation of his name. So he
25 is sitting here with me today.

1 THE COURT: All right.

2 MR. FINGER: Thank you, sir.

3 THE COURT: All right. I've got Exhibit D.

4 MR. FINGER: Exhibit D attempts to show that
5 various attempts for service were made upon Kristin Huffman.
6 And then the second page of Exhibit D is service on
7 Mr. Lotstein. Exact same affidavit.

8 You will note if you would, please, Your Honor,
9 that service was not perfected under this Exhibit D.
10 Although interestingly on the second item there the
11 second -- 22nd day of July it shows that my client called
12 the deputy sheriff back and told them, listen, I'm traveling
13 on vacation. So there was no effort by my client to avoid
14 service of process. And the allegation in the memorandum
15 and opposition that we received this week which alleges that
16 it was some type of game to avoid service is not factually
17 supported -- we believe supported in any fashion.

18 My client was traveling across country -- my
19 clients were traveling cross country. They got a phone
20 call, they returned the phone call to the deputy sheriff and
21 said, listen. I'm traveling cross country.

22 If you then would go to the next exhibit, please,
23 Your Honor, which is Exhibit E.

24 THE COURT: All right.

25 MR. FINGER: And Exhibit E is entitled affidavit

1 of service. This is the document that they claim
2 effectuates service on my clients within the 90 days.

3 It is interesting to note that, if you look at
4 the four corners of this Exhibit E, it says that the
5 defendant is PMIC Luxury Rentals. It doesn't say it's my
6 client. It didn't say what the case number is. There's no
7 way to tell what this affidavit of service purportedly
8 served on -- on -- other than Nicky Gleason. It doesn't say
9 what the case is. And I'll be back in Ms. Gleason in just a
10 moment if I could.

11 But this is the attempt -- and Paragraph 25 of
12 the complaint says, this was the service on the person in
13 possession of the property.

14 Now, Your Honor, in your -- in your documentation
15 you should find a contract -- I'm sorry. An affidavit from
16 Nicky Gleason who was the person that was served in
17 Exhibit A. We filed this last week.

18 THE COURT: Is it attached to your memorandum?

19 MR. FINGER: No. It was a separate filing, Your
20 Honor.

21 THE COURT: I see it. Yeah.

22 MR. FINGER: Thank you.

23 THE COURT: All right. I've got it.

24 MR. FINGER: Last Friday.

25 This is the person that, under Exhibit E, they

1 claim is the person in possession of my client's property.

2 And you can see by -- I'll let you do a quick
3 skim of the affidavit if you would please, Your Honor. It
4 hits all the high parts. It will save me some -- it will
5 save me from boring you even more.

6 THE COURT: All right. I've got it.

7 MR. FINGER: Thank you.

8 Under South Carolina case law the cases are clear
9 that the mechanic's lien statute must be followed strictly.

10 And in order -- under Section 29-5-90 of the code
11 the mechanic's lien statute says you have to serve upon the
12 owner. And if you can't find the owner, upon the person in
13 possession. That's the precise language from the statute.
14 There are a number of cases that are directly on point.

15 One of the ones that's used a great deal of time
16 is Stovall Building Supply versus Mottet which is a 1991
17 case. In that case a mechanic's lien claimant served a
18 security guard, nobody at the house, and the court said that
19 person is not a person to be in possession.

20 A case that I'm a little more familiar with --
21 there's a case called Reid versus Carr -- because our firm
22 took that up to the court of appeals. And in that case in
23 Reid versus Carr, a gentleman who was a painting
24 subcontractor that was on-site at the time was the person
25 that was served. The court said that is not a person in

1 possession either.

2 They served somebody at an office that isn't
3 affiliated with the rental of this property. She said I
4 don't own the property. I've never met my clients. I've
5 never been there. And more importantly she indicates in her
6 -- in her affidavit that she told the process server deputy
7 that she got -- they got the wrong person.

8 So we are asking for the mechanic's lien to be
9 dismissed because it was not filed within the required
10 statutory 90 days.

11 I would also note for the Court that this week
12 within the last -- on the 18th we received a motion to amend
13 the complaint from the plaintiff. The motion to amend the
14 complaint indicates -- it doesn't have an attached pleading
15 with it, but it indicates they want to drop Paragraph 25
16 from their complaint. Paragraph 25 is the allegation that
17 says we served the person in possession.

18 They are now attempting to apparently have it
19 both ways by going to the second portion of Section 29-5-90.
20 And I do not believe that they are entitled to -- to change
21 their mind once they have alleged we picked this person as
22 the person in possession and that's who we served.

23 So that is the basis of our request that the
24 mechanic's lien be dismissed along with the lis pendens.

25 Your Honor, our motion also addresses the

1 contract that I've attached to our motion to dismiss.

2 You will note that the contract does not include
3 the trust that owns the property and it does not include
4 Kristin Huffman who is my client's wife. It is signed only
5 by Mr. Lotstein, it's not signed by the trust. So would we
6 ask that Ms. Huffman and the trust, not in privity of contract
7 at all, be dismissed from this complaint.

8 Lastly -- maybe not lastly, but close to lastly,
9 Paragraph 10.2 of the contract -- and this contract was
10 drafted -- it's an AI contract, it is drafted by the
11 contractor. Section 10.02 has a mandatory arbitration
12 provision. And rarely is it the owner who says that they
13 want the arbitration. It's almost always the contractor.

14 In this case, the owner, in our motion to
15 dismiss, says this matter should be dismissed -- sent to --
16 mainly for arbitration as the plaintiff's contract sets
17 forth.

18 There are a number of other things in the
19 contract that are required which were not done.

20 No final certificate of payment ever requested.

21 The contract requires the plaintiff to make a
22 preliminary claim to the architect before they can even file
23 suit. They didn't do that.

24 And it also says they have to (inaudible) a final
25 lien before they get paid (inaudible) do that.

1 So just to sum it up, Your Honor.

2 We are asking that the first cause of action, the
3 mechanic's lien, be dismissed because they did not serve it
4 properly within the 90 days. Also the lis pendens would go
5 along with it.

6 We are asking that the breach of contract action
7 be dismissed against Ms. Huffman and the trust.

8 And we are asking that whatever may be left --
9 and the only thing that could be left was a breach of
10 contract claim and perhaps unjust enrichment (inaudible),
11 that those most go to arbitration (inaudible).

12 Thank you. I appreciate your attention.

13 THE COURT: All right. Ms. Walters, let me hear
14 from you.

15 Wait a minute. You're muted.

16 MS. WALTERS: Sorry.

17 THE COURT: All right. There we go.

18 MS. WALTERS: Okay. I apologize for that.

19 As Mr. Finger mentioned, this is our -- I
20 represent Cambridge Building Inc., and this is a complaint
21 for foreclosure of a mechanic's lien, breach of contract,
22 and unjust enrichment.

23 My client, Your Honor, is a general contractor.
24 As a contractor he entered into an agreement with
25 Mr. Lotstein and his wife Ms. Huffman to construct a large,

1 ocean-front home in Palmetto Dunes for a price of
2 \$2,246,078.

3 My client alleges that after change orders and
4 reduction for the payments that have been received, it's
5 owed the principal amount -- the principal amount of
6 \$365,314.76 plus interests and attorneys' fees.

7 The mechanic's lien statute requires you to file
8 the lien and serve it within 90 days. An issue arises when
9 you're unable to serve it on the owner. And in the statute
10 it says that there is a substitute service provision that
11 says that if the sheriff's office, after due diligence, is
12 unable to serve the owner or the person in possession, which
13 is an undefined term in the statute, that the substitute
14 service is to -- for the sheriff's office and it must be the
15 sheriff's office to sign an affidavit that, after due
16 diligence, they were unable to serve the owner in person in
17 possession.

18 In this situation --

19 And, Your Honor, I filed a memo -- memorandum and
20 I also -- I sent that to your law clerk. If you don't have
21 it, it's in the filing that addresses both -- all of these
22 issues.

23 But in any event, in this case the -- after a
24 proper -- after a process server was unable to serve
25 Mr. Lotstein, who -- they're listed as the owners and it is

1 listed as their primary residence in this case. After the
2 process server -- private process server was unable to serve
3 them, the sheriff's office made attempts at service on --
4 and I can pull up the date here.

5 So the sheriff's office attempted to serve
6 Mr. Lotstein and Ms. Huffman on July 17th, July 18th,
7 July 19th, July 22nd, July 25th, and July 26th.

8 At some point doing their due diligence they
9 became aware that there was -- that it was potentially --
10 there was short-term rentals and that the agency was a
11 company called Luxury Rentals of Hilton Head where -- and
12 the registered address for that entity was the place where
13 the officer went.

14 So the registered -- the registered office for
15 Luxury Rentals of Hilton Head was 62C New Orleans Road,
16 Hilton Head. So the officer went to that address and served
17 the person, Ms. Gleason, who Mr. Finger now has an affidavit
18 from.

19 She -- the affidavit -- first of all, it's my
20 position that it shouldn't be considered on a motion to
21 dismiss.

22 Second of all, it's not -- you know, on the
23 website for Luxury Rentals of Hilton Head, Nicky Gleason is
24 listed -- is shown as -- identified as the real estate sales
25 office administrator.

1 And so my point in filing a motion to amend was
2 to address that in the event that the Court found, one way
3 or the other, related to it.

4 But the first argument that is made is basically
5 that this is not the person in possession under the statute.

6 And then the second argument is that the -- if
7 they are the person in possession, they weren't properly
8 served as I understand the argument.

9 And so -- and my position on that is that either
10 way, if it's not the person in possession, there's still an
11 affidavit from the Beaufort County Sheriff's Office that
12 says that they made attempt to serve the owner and they
13 attempted to serve a -- what they define as a person in
14 possession. I'm not sure what else could have been done
15 here to attempt to serve Mr. Lotstein and Ms. Huffman.

16 And so I believe that the statute has been
17 complied with because even if Mr. Finger is correct, there
18 is a Beaufort County Sheriff's affidavit that says I -- we
19 exercised due diligence and attempted to serve, all these
20 number of times, the owners and we tried to serve a person
21 in possession. Either there is one or there isn't a person
22 in possession, and we're unable to.

23 So for those reasons, Your Honor, it's my
24 position that the mechanic's lien is not defective and
25 should not be dismissed on the motion to dismiss.

1 The second argument is related to the -- the
2 dismissal -- or the motion to compel arbitration. And it's
3 my position that it's a motion to dismiss because
4 arbitration should be heard.

5 And my position on that is that the motion to
6 dismiss is not proper. That issue should be raised on a
7 motion to compel arbitration. And that even if you compel
8 arbitration, the -- the complaint -- or the action should
9 not be dismissed, it should be stayed.

10 And I've cited case law for that in the
11 memorandum that I submitted to you.

12 And, Your Honor, the other issues that were
13 raised by Mr. Finger, those are all factual issues that are
14 not properly resolved on a motion to dismiss.

15 THE COURT: All right. Anything else?

16 MS. WALTERS: That's all, Your Honor. Thank you.

17 THE COURT: All right. Anything in reply?

18 MR. FINGER: Yes. Just briefly, Your Honor.

19 I am (inaudible) if I can get -- Your Honor, I
20 know you looked at Exhibit D. If you could pull Exhibit D
21 up to the complaint one more time for me, please.

22 THE COURT: All right. I've got it.

23 MR. FINGER: If, in fact, the plaintiff is now
24 conceding that Nicky Gleason is not a person in possession
25 and attempting to change the position they have espoused so

1 far, particularly Paragraph 25 of the complaint,
2 Section 29-5-90 states that, in the event that either the
3 owner nor the person in possession can be located after
4 diligent search, and this fact is verified by affidavit of
5 the sheriff (inaudible) preserved.

6 All we have in this Exhibit D is that I made
7 diligent search and inquired and exercised due diligence.
8 It does not state in there that the person cannot be
9 located. All it says -- we tried a couple times. It does
10 say we talked to him on the phone. So they, in fact, did
11 locate my client. They talked on the phone.

12 They have a statutory burden to serve within
13 90 days, they didn't do it, and this affidavit, Exhibit D,
14 is directly contradicted by Exhibit E which is -- this -- we
15 did serve the person. So they can't have it both ways, Your
16 Honor.

17 And even if they want it now changed and say we
18 are trying to fall under the second portion of
19 Section 29-5-90, the affidavit that they're trying to use to
20 justify that switch is -- is not proper because it did not
21 comply with Section 29-5-90.

22 We would ask that the Court dismiss the
23 mechanic's lien, dismiss the -- the lis pendens.

24 And just to further elaborate a little bit, Your
25 Honor.

1 Paragraph 25 of the complaint specifically says,
2 to satisfy the statute. The Beaufort County Sheriff's
3 Office served the mechanic's lien upon the property manager,
4 Luxury Rentals of Hilton Head, LLC, as the, quote, person in
5 possession pursuant to South Carolina Code 29-5-90.

6 And -- so they have said this service, Exhibit E,
7 is the person in possession. Of course, that affidavit by
8 Ms. Gleason specifically says that she was not the person in
9 possession. And they cannot get a person in possession
10 under the case law by serving somebody who's not even
11 affiliated with the rental property.

12 I'm sorry to go on so long, Your Honor. I know
13 you've been at it for a long time this morning, but I
14 appreciate your consideration on the arbitration provision.
15 I think the Court is perfectly able to say this matter,
16 under this motion to dismiss, based upon the contract,
17 arbitration is the correct way to resolve this matter, that
18 the only parties left, that the contract is not signed by
19 Ms. Huffman or by the trust.

20 The only way to do it is to dismiss the
21 mechanic's lien and send the arbitration -- send it to
22 arbitration for what's left between Cambridge and
23 Mr. Lotstein.

24 Thank you, Your Honor.

25 THE COURT: All right. I am going to grant the

1 motion to dismiss the mechanic's lien and the lis pendens,
2 the breach of contract, and the unjust enrichment. I'm
3 going to stay this action pending arbitration. We'll send
4 those two to arbitration.

5 MR. FINGER: Thank you, Your Honor. I'll be
6 happy to submit a proposed order (inaudible). I'll share it
7 with counsel. Thank you.

8 THE COURT: Thank you.

9 MS. WALTERS: Thank you.

10 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED AT
11 02:58:21.)

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CERTIFICATE OF TRANSCRIBER

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I, LYNETTE L. CHASE, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 14 of Beaufort County, South Carolina, on the 21st Day of February, 2025.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

July 27, 2025



Lynette L. Chase

Transcriber

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 Cambridge Building, Inc.)
 (License No. 117526),)
)
 Plaintiff,)
)
 vs.)
)
 Robert S. Lotstein, Kristin Huffman,)
 Robert S. Lotstein, Trustee of the Robert)
 S. Lotstein Family Trust dated)
 September 4, 2022, as Amended and)
 Restated, and Kristin S. Huffman,)
 Trustee of the Kristin S. Huffman)
 Family Trust dated September 4, 2022,)
 as Amended and Restated,)
)
 Defendants.)
 _____)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2024-CP-07-02002

**NOTICE OF MOTION
 AND MOTION TO DISMISS**

TO: THE PLAINTIFF HEREIN AND ITS ATTORNEY, LEE ANNE WALTERS:

YOU WILL PLEASE TAKE NOTICE that the undersigned, by and on behalf of the Defendants, will move before the Court on the Tenth day after service hereof, or as soon thereafter as is convenient to Court and Counsel, for an Order Pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure dismissing the Complaint in this action on the following grounds:

I. Background

1. Plaintiff filed a Complaint and Petition for Foreclosure of Mechanic’s Lien on September 18, 2024.
2. In conjunction with this case, the Plaintiff previously filed a Mechanic’s Lien on Beaufort County Register of Deeds Deed Book 161, Page 1949 and, thereafter, a Lis Pendens with the filing of this action.

II. Plaintiff's Mechanic's Lien is Fatally Defective: Plaintiff Served an Entity that has No Relationship with Defendants and is Not a "Person in Possession"

1. Plaintiff incorrectly states that service was effectuated by serving Luxury Rentals of Hilton Head, LLC.¹ See paragraph 25 of Plaintiff's Complaint. In fact, the mechanic's lien was not timely served.
2. The Affidavit of Service relied upon is fatally defective for the following reasons:
 - a. Nicky Gleason, the person served, is an independent contractor for Luxury **Homes** of Hilton Head, LLC, not Luxury **Rentals** of Hilton Head, LLC. Plaintiff did not serve the entity that it intended to serve.
 - b. In fact, Nicky Gleason is not employed and never has been employed with Luxury **Rentals** of Hilton Head, LLC.
 - c. Nicky Gleason and Luxury **Homes** of Hilton Head, LLC, has no relationship whatsoever with the Defendants in this matter. Nicky Gleason has never visited the property at issue in this dispute.
 - d. Further, the Affidavit of Service is incorrect. It states that "Deputy Seronka ...served Luxury Rentals (Defendant) by delivering unto Nicky Gleason, at 62 New Orleans Road, Hilton Head Island, SC 29928 personally copy(ies) thereof." See Plaintiff's Exhibit E. In fact, Luxury Rentals of Hilton Head, LLC was never served.
 - e. Given that Nicky Gleason of Luxury Homes of Hilton Head, LLC has no relationship with Defendants or the subject property, she did not have the authority to accept service in this matter and could not be a "person in possession" as required under S.C. Code Ann. § 29-5-90.
 - f. Additionally, the Affidavit of Service incorrectly states that Luxury Rentals is the Defendant. The Affidavit of Service does not state any of the names of the parties in this action, only that Luxury Rentals was served as the Defendant. See Exhibit E to Plaintiff's Complaint.
3. Mechanics' liens are purely statutory as such, the requirements must be strictly followed. See Ferguson Fire & Fabrication, Inc. v. Preferred Fire Prot., L.L.C., 409 S.C. 331, 762 S.E. 2d 561 (SC 2014).
4. In Ferguson, the Supreme Court of South Carolina stated:

In South Carolina, mechanics' liens are purely statutory and may be acquired and enforced only in accordance with the terms and conditions set forth in the statutes

¹ Luxury Rentals of Hilton Head, LLC arranges short term rentals at the subject property. Luxury Homes of Hilton Head, LLC and Luxury Rentals of Hilton Head, LLC share office space.

creating them. *Multiplex Bldg. Corp. v. Lyles*, 268 S.C. 577, 235 S.E.2d 133 (1977); accord *Skiba v. Gessner*, 374 S.C. 208, 212, 648 S.E.2d 605, 606 (2007) (stating “one's right to a mechanic's lien is wholly dependent upon the language of the statute creating it”); *Butler Contracting, Inc. v. Court St., L.L.C.*, 369 S.C. 121, 130, 631 S.E.2d 252, 257 (2006) (observing mechanics' lien statutes “must be strictly followed”). The statutory process encompasses several steps, including the (1) creation, (2) perfection, and (3) enforcement of the lien.

5. South Carolina courts have been clear that service must be upon a responsible person living at the property. See *Stovall Building Supplies, Inc. v. Mottet*, 305 S.C. 28 406 S.E. 2d 176 (1990). *Reid v. Carr*, Opinion No. 208-UP-541 CS.C.App.Sept17, 2008.
6. According to the Plaintiff's pleadings, more than 90 days have passed since the last work was performed at the subject property.
7. As stated above, Nicky Gleason of Luxury Homes of Hilton Head, LLC is not a person in possession” as required. Therefore, given that the statutory time as passed, Plaintiff's attempt to foreclose the mechanic's lien should be dismissed with prejudice.

III. Plaintiff's Complaint Should be Dismissed: The Contract States that Disputes Shall be Resolved Through Arbitration

1. Plaintiff references the agreement between the party, but surprisingly fails to attach the contract to its pleading. The Contract (the “Contract”) states in Section 10.2 the following:

All claims or disputes between the Contractor and the Owner arising out of or relating to the Contract, shall be decided by arbitration in accordance with ...

See the Contract attached as Exhibit A.

2. Further, Plaintiff's breach of contract claims should be dismissed against the Defendants who are not a party to the Contract. See Exhibit A.

For the reasons stated above, the Complaint in this action should be dismissed with prejudice because the parties clearly agreed to arbitrate all claims and disputes.

IV. Plaintiff's Complaint Should be Dismissed: Plaintiff Has Not Performed Requirements Making this Action Premature

In addition to the agreement of the parties to arbitrate their disputes (see Section III. above), below are condition precedents to filing a claim that have not been satisfied:

1. Plaintiff Failed to Issue a Final Certificate of Payment under the Contract

a. Paragraph 5.1 of the Contract states the following (See Exhibit A):

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be paid by the Owner to the Contractor when the Work has been completed, walk-thru inspection has been completed, Substantial Completion, and a final Certificate of Payment has been issued by Cambridge Building Corporation. (Emphasis added).

b. Plaintiff has not satisfied a condition in the Contract prior to filing a claim since Plaintiff did not issue a final Certificate of Payment as required in paragraph 5.1. Accordingly, Plaintiff's action is premature and should be dismissed.

2. Plaintiff Failed to make an Initial Presentation of the Claim or Dispute to the Architect Before Filing an Action

a. Paragraph 10.2 of the Contract states as follows (See Exhibit A):

All claims or disputes between the Contractor and the Owner arising out of or relating to the Contract, or the breach thereof, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect unless the parties mutually agree otherwise and subject to an initial presentation of the claim or dispute to the Architect. (Emphasis added).

b. As a condition precedent to filing a claim against a party to the Contract, a presentation of the claim or dispute must be made to the architect for the project. Since Plaintiff has not done so, this action is premature and should be dismissed.

3. Plaintiff Has Failed to Provide Owner a Complete Release of Lien or other Satisfactory Protection Prior to Filing an Action

a. Finally, paragraph 14.3 of the Contract states that "Final Payment shall not become due until the Contractor has delivered to the Owner a complete release of all liens arising out of this Contract or receipt in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to the Owner to indemnify the Owner against such lien." See Exhibit A. (Emphasis added).

b. Final payment is not due since Plaintiff has not provided a complete release of all liens, a receipt in full covering all labor, materials and equipment for which a lien could be filed, or a satisfactory bond to indemnify the Owner against a lien. Given that final payment is not due since Plaintiff has not satisfied its requirements under the Contract, this action is premature and should be dismissed.

THEREFORE, Defendants request this Court for an Order granting Defendants the following relief:

- a. That the Recorded Notice and Certificate of Mechanic's Lien be dismissed with prejudice, and as such, the dismissal be recorded in the Office of the Register of Deeds for Beaufort County;
- b. That the Lis Pendens be dismissed with prejudice;
- c. That the Plaintiff's Complaint be dismissed; and
- d. And such other and further relief that this Court deems just and proper.

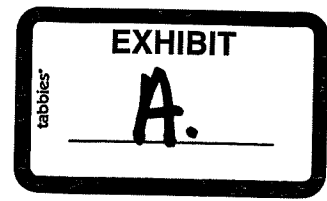
Respectfully submitted,

FINGER, MELNICK, BROOKS
& LaBRUCE, P.A.

s/Terry A. Finger

Terry A. Finger
S.C. Bar No.: 2012
Attorney for Defendants
35 Hospital Center Common, Suite 200
Post Office Box 24005
Hilton Head, South Carolina 29925-4005
(843) 681-7000
tfinger@fingerlaw.com

October 18, 2024
Hilton Head Island, SC



THE AMERICAN INSTITUTE OF ARCHITECTS

Abbreviated Form of Agreement between Owner and Contractor

*For CONSTRUCTION PROJECTS OF LIMITED SCOPE where
the Basis of Payment is a STIPULATED SUM*

*THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH
AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION.*

THIS AGREEMENT

made the **Twenty-Third** day of **April** in the year of
Two Thousand Twenty-Two

BETWEEN the Owner:
(Name and address)

Kristin Huffman and Robert Lotstein
8 Iron Clad
Hilton Head, SC 29928

and the Contractor:
(Name and address)

Cambridge Building, Inc. and
Frank Guidobono
P.O. Box 7259
Hilton Head, SC 29938

The project is:
(Name and location)

Lot 1 Iron Clad
Palmetto Dunes Plantation

The Architect is:
(Name and address)

Stone by Stone
386 Spanish Wells Rd, Suite 13
Hilton Head, SC 29926

The Owner and Contractor agree as set forth below.

ELECTRONICALLY FILED - 2024 Oct 18 2:26 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002

**ARTICLE 1
THE WORK OF THIS CONTRACT**

1.1 The Contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others, or as follows:

A single family residence per plans and specifications by Stone by Stone. Pool, landscaping and bath accessories (other than installation) shall be handled by Owner.

**Article 2
DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

2.1 The date of commencement is the date from which the Contract Time of Paragraph 2.2 is measured, and shall be the date of this Agreement.

Contractor and Owner agree that the Commencement of the Work shall be 4-22-2022 ("Commencement").

2.2 The contractor shall achieve Substantial Completion of the entire Work not later than 350 Days, subject to adjustments of the Contract Time as provided in the Contract Documents from the Commencement. Substantial Completion shall be defined as the time that the occupancy permit has been obtained by the Contractor from the Town of Hilton ("Substantial Completion").

**ARTICLE 3
CONTRACT SUM**

3.1 The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract sum of Two million, two hundred forty-six thousand, and seventy-eight Dollars (\$ 2,246,078.00), subject to additions and deductions as provided in the Contract Documents

3.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

N/A

3.2a Change Orders are to be calculated at a rate of cost plus 0%. Payment to be 50% upon approval and 50% upon completion. Allowance overages to be calculated at cost plus 0%. There will be no mark-up credits for materials purchased by owner.

3.3 Unit prices, if any, are as follows: **ALLOWANCES:**

Surveying	\$	2,975.00
Trash Hauling		8,000.00
Excavation/Backfill/Compaction		43,800.00
Gas Service		5,400.00
Driveway & Entry Walk		34,927.00

Stucco Block Piers at Entry	4,250.00
Brick Entry Porch & Steps	3,550.00
Stucco piers with lighting at street	3,500.00
Entry gates & side gate	3,000.00
Framing Materials	302,000.00
Gutters & Downspouts	12,898.00
Front Entry Door	11,823.00
Interior Doors	18,000.00
Garage Doors	17,500.00
Finish Hardware	12,000.00
Mirrors	2,880.00
Tile Labor & Materials	44,918.00
Fireplace Surround	2,500.00
Wood Flooring	43,213.00
Carpeting	8,000.00
Garage Floors	3,000.00
Shower Enclosures	9,600.00
Fireplace (both inc. gas logs)	9,595.00
Appliances	35,000.00
Cabinets, Vanities	74,700.00
Cabinet Tops	26,000.00
Built-in Cabinets	10,000.00
Roof Hatch	1,800
Pool Deck & Coping	21,565.00
Dog Wash	3,000.00
Elevator	24,750.00
Plumbing Fixtures	5,000.00
Scale & carbon filter	3,000.00
Ceiling Slot Reveal	4,290.00
Heated Master Bath Floor	3,575.00
Outside Ceiling Heaters Installed	2,000.00
Standard Electrical Fixtures	14,165.00
Decorative Electrical Fixtures	8,800.00
Audio/Video/Data Prewire	4,812.00
Landscaping, Pool and Bath Accessories by Owner	

4.1 Based upon Applications for Payment submitted to the Owner by the Contractor and Certificates for Payment issued by the Contractor, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents. Payment to be made within 15 days of submission of the application for payment by the Contractor. The period covered by each Application for Payment shall be as follows:

See attached Schedule A - Draw Schedule

4.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

1 ½ % late charge per month

ARTICLE 5
FINAL PAYMENT

5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be paid by the Owner to the Contractor when the Work has been completed, walk-thru inspection has been completed, Substantial Completion, and a final Certificate of Payment has been issued by Cambridge Building Corporation.

Payment settlement is required prior to occupancy with the only exception being for items not installed on premises and/or special back ordered materials. Completion of miscellaneous items listed on client completion list prepared during walk through inspection are not retainage items at Contract closing unless agreed upon by both parties. Without any exception, \$10,000 or 3x actual cost (whichever is greater) is the maximum allowable retainage for items listed on final walk through Inspection Document.

ARTICLE 6
ENUMERATION OF CONTRACT DOCUMENTS

6.1 The Contract Documents are listed in Article 7 and, except for Modifications issued after execution of this Agreement, are enumerated as follows:

6.1.1 The Agreement is this executed Abbreviated Form of Agreement Between Owner and Contractor, AIA Document A107, 1987 Edition.

6.1.2 The Specifications are those titled Cambridge Building Client Specifications date April 23, 2022 as well as the documents listed in Section 6.1.3.

Title	Pages
Cambridge Building Client Specifications	6

6.1.3 The Drawings are as follows, and are dated March 11, 2022 unless a different date is shown below:

(Either list the Drawings here or refer to an exhibit attached to this Agreement)

Number	Title	Date
1	Site Plan	3-11-22
2	1 st Floor Plan	2-22-22
3	1 st Floor Electrical Plan	2-22-22
4	2 nd Floor Plan	2-22-22
5	2 nd Floor Electrical Plan	2-22-22
6	Roof Plan	2-22-22
7	Front & Left Side Elevation	2-22-22
8	Rear & Right Side Elevation	2-22-22
9	3D's	2-22-22
10	Wall Sections	2-22-22
11	Details	2-22-22
12	Details	3-11-22
13	Expanded "Bunk Room", Expanded bathroom in the "Bunk Room", and Attic plans)	4-22-22

6.1.4 The Addenda, if any, are as follows:

Number	Date	Pages
--------	------	-------

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 6.

6.1.5 Other documents, if any, forming part of the Contract Documents are as follows:

(List any additional which are intended to form part of the Contract Documents.)

Draw Schedule A

GENERAL CONDITIONS

ARTICLE 7
CONTRACT DOCUMENTS

7.1 The Contract Documents consist of this Agreement with Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, addenda issued prior to the execution of the Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

7.2 The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and Contractor, (2) between the Owner and a Subcontractor or Sub-subcontractor or (3) between any persons or entities other than the Owner and Contractor.

7.3 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site and become familiar with the local conditions under which the Work is to be performed.

7.4 The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

ARTICLE 8
CONTRACTOR

8.1 The Owner shall furnish surveys and a legal description of the site.

8.2 Except for permits and fees which are the responsibility of the Contractor under the Contract Documents, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or permanent changes in existing facilities.

8.3 If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner, by a written order, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

Article 9

9.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless Contract Documents give other specific instructions concerning these matters.

9.2 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

9.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons not skilled in tasks assigned to them.

9.4 The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty

9.8 The Contractor shall review, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness. The Work shall be in accordance with approved submittals. When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the Architect shall be entitled to rely upon the accuracy and completeness of such certifications.

9.9 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials.

9.10 The Contractor shall provide the Owner access to the Work in preparation and progress wherever located.

9.11 The Contractor shall pay all royalties and license fees; shall defend suits or claims for infringement of patent rights and shall hold the Owner harmless from loss on account thereof, but shall not be responsible for such defense or less when a particular design, process or product of a particular manufacturer or manufactures is required by the Contract Documents unless the Contractor has reason to believe that there is an infringement of patent.

9.12 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such

excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

9.5 Unless otherwise provided in the Contract Documents, the Contractor shall pay sales, consumer, use and other similar taxes which are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect, and shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work.

9.6 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulation, and lawful orders of public authorities bearing on performance of the Work. The Contractor shall promptly notify the Architect and Owner if the Drawings and Specifications are observed by the Contractor to be at variance therewith.

9.7 The Contractor shall be responsible to the Owner for the acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons performing portions of the Work under a contract with the Contractor.

claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting therefrom, but only to the extent caused in whole or in part by negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in the Paragraph 9.12.

9.12.1 In claims against any person or entity indemnified under this Paragraph 9.12 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 9.12 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' or workmens' compensation acts, disability benefit acts or other employee benefit acts.

9.12.2 The obligations of the Contractor under this Paragraph 9.12 shall not extend to the liability of the Architect, the Architect's consultants, and agents and employees of any of them arising out of (1) the preparation of approval of maps, drawings, opinions, reports, surveys, Change Orders, Construction Change Directives, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the Architect, the Architect's consultants, and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.

ADMINISTRATION OF THE CONTRACT

10.1 The Architect will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility as provided in Paragraphs 9.1 and 16.1. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

10.2 All claims or disputes between the Contractor and the Owner arising out or relating to the Contract, or the breach thereof, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect unless the parties mutually agree otherwise and subject to an initial presentation of the claim or dispute to the Architect. Notice of the demand for arbitration shall be filed in writing with the other party to this Agreement and with the American Arbitration Association. The award rendered by the arbitrator or arbitrators shall be final, and judgement may be entered upon it in accordance with applicable law in any court giving jurisdiction thereof. Except by written consent of the person or entity sought to be joined, no arbitration arising out of or relating to the Contract Documents shall include, by consolidation, joinder or in any other manner, any person or entity not a party to the Agreement under which such arbitration arises, unless it is shown at the time the demand for arbitration is filed that (1) such person or entity is substantially involved in a common question of fact or law, (2) the presence of such person or entity is required if complete relief is to be accorded in the arbitration, (3) the interest or responsibility of such person or entity in the matter is not insubstantial, and (4) such

ARTICLE 12 **CHANGES IN THE WORK**

12.1 The Owner, without invalidating the Contract, may order changes in the Work consisting of additions, deletions or modifications, the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized by written Change Order signed by the Owner, And Contractor.

12.2 The Contract Sum and Contract Time shall be changed only by Change Order. Deletions by Owner do not require a Change Order and Contractor shall not charge a fee for such deletions. If Owner pays a third party for allowance services or materials directly, Contractor shall deduct such payment that was made to the third party from the Contract Sum and draw schedule (Attachment A). Changes to Allowances may be offset by Owner with a credit or debit as appropriate.

12.3 The cost or credit to the Owner from a change in the Work shall be determined by mutual agreement.

ARTICLE 13 **TIME**

13.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

13.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, by labor disputes, fire, unusual delay in deliveries for items that cannot be substituted or cancelled, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties of any causes beyond the Contractor's control, then the Contract Time shall be extended by Change Order for a reasonable time

person or entity is not the Architect or any of the Architect's employees or consultants. The agreement herein among the parties to the Agreement and any other written agreement to arbitrate referred to herein shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

ARTICLE 11 **SUBCONTRACTORS**

11.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site.

11.2 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner the names of the Sub-Contractors for each of the principal portions of the Work. The Contractor shall not contract with any Subcontractor to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection. Contracts between the Contractor and Subcontractor shall (1) require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by the Contract Documents, assumes toward the Owner and Architect, and (2) allow the Subcontractor the benefit of all rights, remedies and redress afforded to the Contractor by these Contract Documents.

ARTICLE 14 **PAYMENTS AND COMPLETION**

14.1 Payments shall be made as provided in Articles 4 and 5 of this Agreement.

14.2 Payments may be withheld on account of (1) defective Work not remedied, (2) claims filed by third parties, (3) failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment, (4) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum, (5) damage to the Owner or another contractor, (6) reasonable evidence that the Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual liquidated damages for the anticipated delay, or (7) persistent failure to carry out the Work in accordance with the Contract Documents.

14.3 Final payment shall not become due until the Contractor has delivered to the Owner a complete release of all liens arising out of this Contract or receipt in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

14.4 - Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

**PROTECTION OF PERSONS AND
PROPERTY**

15.1 The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

1. employees on the Work and other persons who may be affected thereby;
2. the Work and materials and equipment to be incorporated therein; and
3. other property at the site or adjacent thereto.

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. The Contractor shall promptly remedy damage and loss to property at the site caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Subparagraphs 15.1.2 and 15.1.3, except for damage or loss attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 9.12.

15.2 The Contractor shall not be required to perform without consent any Work relating to asbestos or polychlorinated biphenyl (PCB).

ARTICLE 16

16.3, The Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, builder's risk insurance.

16.4 A loss insured under Owner's property insurance shall be adjusted with the Owner and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgagee clause.

ARTICLE 17

CORRECTION OF WORK

17.1 The Contractor shall promptly correct the Work rejected by the Owner or failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed, and shall correct any work found to be not in accordance with the requirements of the Contract Documents within a period of one year from the date of Substantial Completion of the Contract or by terms of an applicable special warranty required by the Contract Documents. The provisions of this Article 17 apply to Work done by Subcontractors as well as to Work done by direct employees of the Contractor.

17.2 Nothing contained in this Article 17 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the time period of one year as described in Paragraph 17.1 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced,

INSURANCE

16.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located insurance for protection from claims under workers' or workmen's compensation acts and other employee benefit acts which are applicable, claims for damages because of bodily injury, including death, and from claims for damages, other than to the Work itself, to property which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by the Contractor or by a Subcontractor or any - one directly or indirectly employed by any of them. This insurance shall be written for not less than limits of liability specified in the Contract Documents or required by law, which ever coverage is greater, and shall include contractual liability insurance applicable to the Contractor's obligations under Paragraph 9.12. Certificates of such insurance shall be filed with the Owner prior to the commencement of the Work.

16.2 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance. Optionally, the Owner may purchase and maintain other insurance for self-protection against claims which may arise from operations under the Contract. The Contractor shall not be responsible for purchasing and maintaining this optional Owner's liability insurance unless specifically required by the Contract Documents.

nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

ARTICLE 18

MISCELLANEOUS PROVISIONS

18.1 The Contract shall be governed by the law of the place where the Project is located.

ARTICLE 19

TERMINATION OF THE CONTRACT

19.1 If the Owner fails to make payment thereon for a period of 30 days, the Contractor may, upon seven additional days' written notice to the Owner terminate the Contract and recover from the Owner payment for all Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead profit and damages applicable to the Project.

19.2 If the Contractor defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents or fails to perform a provision of the Contract, the Owner, after seven days' written notice to the Contractor and without prejudice to any other remedy the Owner may have may make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor. Alternatively., at the Owner's option, the Owner may terminate the Contract and take possession of the site and of all materials, equipment, tools and construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever method the Owner may deem expedient. If the unpaid balance of the Contract Sum exceeds

costs of finishing the Work, such excess shall be paid to the Contractor, but if such costs exceed such unpaid balance, the Contractor shall pay the difference to the Owner.

ARTICLE 20
ATTORNEY FEES – deleted

ARTICLE 21
OTHER CONDITIONS OR PROVISIONS

Utilities will remain in Contractor's name until issuance of Certificate of Occupancy or occupancy by Owner.

It is agreed that this contractor is not responsible for unforeseen defects in the Owner's lot or land, such as, but not limited to, high water table, swamp, muck, quicksand or insufficient soil bearing capability. The contractor, upon discovery of such, shall notify the owner(s) as to the extent of the problem and the cost of the remedy.

It is also agreed to be the owner's responsibility for extension of electrical power over the one hundred foot allowance. This to be billed by electric company on a per foot basis.

If the corners of the lot to be constructed upon cannot be located or need to be reset, the owner(s) agrees to an additional cost of \$250.00.

ARTICLE 22: WARRANTY

The Contractor hereby provides a 1 year warranty, except for manufacturers' warranties, for the Work that includes both labor and materials ("Warranty"). Such Warranty shall be extended to the maximum required by law, regulation, ordinance or otherwise. Contractor agrees to timely inspect items identified by Owner and correct items covered as expeditiously as possible as needed by Owner.

ARTICLE 23: CORRECTION OF WORK

The Contractor shall promptly correct the Work rejected by the Owner, in Owner's sole discretion, or failing to conform to the requirements of the Contract Documents, whether observed before or after completion of the Work and whether or not fabricated, installed or completed, and shall correct any work found to be not in accordance with the requirements of the Contract Documents within a period of one year from the date of completion of the Agreement or longer if required by law. The provisions of this Article apply to Work done by subcontractors as well as to Work done by direct employees of the Contractor.

ARTICLE 24: RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Owner and exercise the Contractor's skill, due diligence and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to continuously furnish at all times an adequate supply of workers, materials and subcontractors; to continuously supervise the Work, and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents. Contractor agrees to regularly and properly supervise subcontractors and its materials, have subcontractors timely correct deficient and/or substandard work and/or materials, at no additional cost or expense to Owner, as determined by the Contractor and/or Owner in the Owner's sole discretion. Contractor agrees to regularly and properly inspect materials for deficiencies or defects and/or not consistent with those ordered and/or specified. Contractor agrees to perform work at the highest level of

craftsmanship, as well as in a good and workmanlike manner, and ensure the same of subcontractors. Contractor agrees to regularly update Owner of the progress and issues arising in the Work.

The Contractor recognizes that time is of the essence and the Owner desires to use the property as soon as possible as the Owner's primary residence. Contractor understands that any delays shall expose Owner to additional expenses and lost revenue. Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the contract time is a reasonable period for performing the Work. Completion is defined when the occupancy permit is approved by the Town of Hilton Head.

ARTICLE 25: INCENTIVE:

If Completion of the entire Work occurs within 334 days from Commencement of the Work, Owner shall pay Contractor an additional \$25,000. If Completion of the entire Work occurs after 335 days from Commencement of the Work as defined in Section 4.1 but within 365 days from Commencement of the Work, Owner shall pay Contractor an additional \$10,000.

ARTICLE 26: PROGRESS RELEASES AND FINAL RELEASES:

The Contractor represents and warrants that it will have subcontractors sign a Conditional Waiver and Release before each payment as well as upon final payment is made to them that states the following: "This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the owner of 8 Iron Clad, Palmetto Dunes, SC. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment.

Article 27: Miscellaneous

This contract is prepared by the Contractor.

The term "day" shall mean calendar days.

In the event that Owner selects a combination of open and closed cell insulation resulting in a savings from the closed cell price, the savings shall be passed on to Owner and Contractor shall discount the Contract Sum and Draw Schedule accordingly.

Wrong section

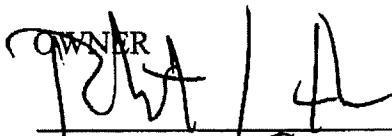
It is acknowledged that the Contractor's failure to achieve Completion of the Work within 547 days from commencement of the Work as defined in Section 4.1 of this Agreement shall cause the Owner to incur substantial economic damages and losses of types and in amounts which are impossible to compute and ascertain with certainty as a basis for recovery by the Owner of actual damages, and that liquidated damages represent a fair, reasonable and appropriate estimate. Accordingly, in lieu of actual damages for such delay, the Contractor agrees that liquidated damages may be assessed and recovered by the Owner as against Contractor and its Surety, in the event of delayed completion and without the Owner being required to present any evidence of the amount or character of actual damages sustained by reason thereof; therefore Contractor shall be liable to the Owner for payment of liquidated damages in the amount of \$500 for each day that Completion is delayed beyond the Contract Time as adjusted for time extensions provided by the Contract Documents. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty, and Contractor shall pay them to Owner without limiting Owner's right to terminate this Agreement for default as provided elsewhere herein.

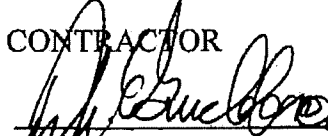
Statute of limitations commences upon Substantial Completion.

Contractor warrants that the work shall be compliant with all codes, laws, ordinances, etc.

In the event of a conflict between this Agreement and other document, this Agreement shall control.

This Agreement entered into as of the day and year first written above.

OWNER

(Signature)

CONTRACTOR

(Signature)

DRAW SCHEDULE A

Upon Contract	\$200,000	
Upon Completion of Foundation	\$225,000	
Upon Completion of Framing	\$420,000	
Upon Completion of Rough Electric, Plumbing & HVAC	\$ 350,000	
Upon Completion of Roofing, Insulation & Sheetrock	\$ 350,000	
Upon Completion of Cabinetry & Trim	\$225,000	
Upon Completion of Hardware & Paint	\$220,000	
Upon Substantial Completion	\$206,078	
Upon Completion of Punch List & Delivery of CO (or 3x value of uncompleted work whichever is greater)		50,000.00

CAMBRIDGE BUILDING, INC.

Client Specifications

Date March 27/April 23, 2022

Name Lotstein / Huffman Residence

Lot Address Lot 1 (#8) Iron Clad

Plantation Palmetto Dunes Plantation

1. General:

Plantation Review Board Fees By Owner
Plantation Compliance and Landscape Deposit By Owner
Plans By Owner Building Permit X
Tree & Topographical Survey By Owner
As-built Survey, Foundation Survey, Elevation Certificate Total allowance for surveys & elevation certificate \$2,975
Soil Poison Letter X Builders Risk Insurance By Owner

2. Sitework:

Sewer System: Public X Water System: Water Service X
Gas Service Allowance \$5,400 Electric Service X
Locations for Gas: BBQ X Pool/Spa Heater X
Cook Top X Fireplace X water heater X
Firepit X Cut existing tree well 6" above finished grade
Reinforce with poured concrete & rods, stucco the exposed surface

Site Clearing and Rough Grading BO
Demo Existing remaining drive, neighbors cut drive, existing concrete road, existing asphalt road, & repave road with asphalt per plan X
Excavation/Backfill/Compaction Allowance \$34,927
Tree Moving X Tree Pruning BO
Site Drainage Site drainage to include work on drainage plan, tie in gutter downspouts, pool backwash, pool bath drain, upper deck drains, pool deck drains and garage drains
Landscaping Allowance BO
Includes tree pruning, clean-up, fine grading, irrigation
Notes: Timber retaining wall to right side of home is not included in this contract

3. Driveway:

Finish: Concrete Pavers Driveway to 1st step
Asphalt Demo remaining drive, street & asphalt per attachment #1, Patch asphalt at street allowance \$2,800

Notes: Allowance drive & walk \$27,612

4. Exterior Flatwork finishes: Entry Sidewalk Pavers to 1st step

Landings Bordered herringbone
Entry Steps Brick Entry Porch Brick Herringbone
Patios Travertine pavers Pool Deck Loose laid travertine
Service Yard Broomed Concrete
Garage Paint chip epoxy \$3,000 allowance

Notes: Piers to be stucco with brick top. Side walkway from garage to pool is broomed concrete Entry steps & porch brick allowance \$3,550

5. Fireplace: Type: Masonry _____ Prefab X Isokern _____
 Size: 36" _____ 42" X 60" TB Selected
 Face Surround Allowance: Stucco/outside
 Hearth: Flush with Floor X Mantel Allowance \$500.00
 Chimney: Stucco X Brick _____
 Notes: Two fireplaces and logs allowance inc \$9,595

6. Exterior Materials: Conventional Hardcoat Stucco X
 Soffit: Stucco Fascia: Stucco
 Exterior Ceilings: Front Entry Porch 1x6 v groove
 Rear Porch 1x6 v groove, 2nd floor porch stucco

7. Misc. Exterior: Railings: Glass 2nd floor, talon system with 1/2" glass
allowance \$9,900, inc. installation. Beachwalk and entry gates
installed \$3,000. Entry piers at street inc electric \$3,500

8. Interior Trim: Stain grade _____ Paint Grade X
 Door Type: 4 panel _____ 6 Panel _____ Other _____
 Size: 6'8" _____, 8'0" X, 1 3/8" thick _____ 1 3/4" thick X;
 Door Material: SC Masonite X
 Trim Material: MDF X Poplar X Finger Joint primed pine X
 Paneled Walls: Location Per wainscot/panel plan, wainscot up first
two flights of stairs and landing, full wall to left side foyer & hidden
door end of hallway
 Ceiling trim/Beams reflected ceiling plan included
 Wainscot Stairwell & hall per Cambridge plan
 Base (size & style) 9 1/4 1st floor and 7 1/4 2nd floor
 Casing (Doors style) 2 1/2 Window Stools X - no casing
 Door butts: Oil-rub Brnze _____ Chrome _____ Other _____
 Closet Shelving: Wood X MDF _____
 Shelving includes (Linen Closet five shelves), (Reg. Closet
 one rod & one shelf), (Master Walk in Closets-one side
 double rod & one shelf, other side one rod & one shelf, with
 Shoe Rack at end), (All Other Walk in Closets one side, double
 rod & one shelf, other side one rod & one shelf).
 Built in master closet Inc BI cabinetry
 Notes: interior door allowance \$18,000 including ant attic doors

9. Stairways: MAIN STAIR
 Treads: White oak X Other Wood _____ Ready for Carpet _____
 Handrail material: White oak X
 Handrail size: Standard X Other size _____
 Picket materials: Paint Grade X Stain Grade _____
 White oak _____ Other wood _____ Wrought Iron _____ Other _____
 Picket size: Standard size X Other size _____
 Stringers: Oak _____ Paint Grade X Other _____
 Riser Type: Open _____ Closed X
 Risers: Oak _____ Paint Grade X Other _____
 Notes: Stair from second floor to attic to have sheetrock knee walls
& carpeted tred, and wall mounted handrail

10. Insulation: Closed-cell Foam: X To code
3" Sound Ins. in all public bedroom/ bath/laundry walls X
3" Sound Insulation between floors X
Notes: Can reduce cost if insulation change to open cell

11. Roofing: Manufacturer: .032 Aluminum Kynar 50 finish
Materials:
Aluminum Standing Seam Metal X
Flat Roof TPO on flat roof & tpo on 2nd floor deck for wa
Decks & tpo on 2nd floor deck & sy deck
Gutters/Downspouts: Prefinished Alum X Copper
Gutter Guard: X
Locations: Per Gutter quote \$12,898 allowance
Metal Drip Edge X
Notes: Roof hatch included \$1,800 allowance

12. Entry Doors: Front Entry Door per quote
Front Entry Allowance \$ \$11,823
Service doors allowance \$7,126
Garage into Service Yard Fiberglass
Yard to Pool Equipment & Trash Area Job built
Notes: Service doors to include, 1. Garage/house door, 2. garage /elevator door, 3. garage/ storage door, 4. Back kitchen/ service door, 5. Pool bath door

13. Garage Door: Style Raynor shaker doors, \$17,500 allowance inc install & openers
Stock X Material: Metal X
Finish: Paint X Stain
Glass Lights in Door: Yes X No
Size of Garage Door per plans Door Insulated X
Electric Opener with 2 controls X
Keypad X
Notes:

14. Windows/Patio Doors: Manufacturer: Andersen 400 series inc. some A series
Other PGT sliders, white interior, bronze exterior
Material: Clad X Window Type: Casements X
Double Hung X Per plan X Muntins: Per plan
Glass: Insulated impact X
Clear X Grey Tint
Low-E X Turtle glass at ocean N/A
Screens & Hardware Color: White Standard
Notes: Windows sheetrock return with sill, Window interiors to be painted white by manufacturer, inc 4 -56" x 48" transom across rear of upper family room

16. Finish Hardware: Hardware Allowance \$ 12,000.00
(Includes door hardware, door stops, thresholds, cabinet hardware, closet rod, service yard hardware & any miscellaneous hardware.)

17. Mirrors: 48" Mirrors to extent of Vanities: Allowance \$ 2,880

18. Interior Finishes: Walls: Sheetrock X Smooth X
Knock Down _____ Other _____
Corner Beads: Square X Round _____
Drywall ceiling finish: Smooth & Painted X
HVAC Deco slot on FF great room ceiling per attachment X
Trim Finish: Flat _____ Semi-gloss X
High-gloss _____ Stained _____

(Special process required and extra cost if Trim Finish selection is high gloss or stain. Must be clear trim for high gloss paint or stain.)

Wall Finish: Flat X Semi-gloss _____
High-gloss _____ Egg Shell _____ Faux Finish _____

(Special process required and extra cost if Wall Finish selection is eggshell, semi- or high-gloss, or faux finish).

NOTE: Paint two coats all walls. Includes 5 colors walls & one-color trim throughout house. For additional colors AND/OR deep base colors there will be extra charge.

Notes: Duration inside and out.
Paint Chip garage floor
Finished sheetrock on walls

Interior Flooring: C-Carpet, W-Wood, T-Tile, M-Marble,

VINYL EXCEPT BATHROOMS & POWDER ROOM

ALLOWANCES:

Carpet attic: \$8,000
Lux vinyl inc., bonus add & carpeted attic stair: \$ 43,213
Wood Type: stain interior oak treads \$2,500 (1st & second floor, 2nd to attic is carpeted on plywood)

Interior Tile/Stone material to include showers, floors, & 2nd floor deck \$ 11,276

Interior tile labor, Inc 2nd floor deck \$33,642 To include all floors, bath/shower surrounds and pans, back splashes, linear drains and ceiling of master steam shower height of Height to be to ceiling on second floor, 9', 10' in master shower, ceiling to be sloped, backsplashes, etc.

Notes: Tile allowance includes stone for exterior 2nd floor deck

19. Exterior Finishes: Paint: 2 coat(s): Heavy Body X On all exposed wood
Stucco 100% except service yard
Garage: Densglass walls with hardie plank battons & trim X
Finish painted X
Notes: _____

20. Shower Enclosures/Doors: Allowance \$7,350
Type TBD

21. Bath Accessories: Allowance BO.
22. Appliances: Allowance \$ 35,000.00
 Included are BBQ, outdoor kitchens, bar appliances
 Notes 1. Installation included (Grill counter inc in countertops)
23. Cabinets: Cabinet & Vanity Allowance \$ 76,044
 Countertops Allowance \$ 35,136
 Built-ins including finishing \$ 10,000 His/her dressers 7 banquette.
(Builtin desk BO)
 Notes: Includes material labor, installation & painting
24. Pool: Allowance BO.
 Pool Size per plan Depth _____
 Pool Deck Finish Loose laid travertine Coping Travertine
 Notes: Pool deck, covered deck, & coping allowance inc labor & material \$21,565
25. Plumbing: Plumbing Fixture Allowance \$5,000 Balance by owner
 Hot Water Heater; Tankless 2 Conventional: _____
 Tie in water X Tie in Sewer X Hose bibs 6 (1 upper deck)
 Scale & Carbon X \$3,000 allowance installed
 Loop X PEX X
 Exterior Foot wash/shower at Pool bath w/ heated / backside pool bath
 Scale & Carbon filter X \$3,000 allowance install
 Notes 1. There may be additional cost for labor-intensive items such as wall-hung toilets, pedestal sinks, body sprays, etc. Price includes 3 - 2 valve showers. Utility sink to be added in attic at cost
26. HVAC: Manufacturer Carrier S.E.E.R. Rating 14
 Zones 6 total thermostats Tonnage 12.5
 Zone 1 Mian living Tonnage 3
 Zone 2 Master wing Tonnage 2
 Zone 3 Rec room, bedrooms 3 & 4 Tonnage 5
 Zone 4 Bunk room Tonnage 2.5
 Zone 5 Bedrooms 2&5 Tonnage inc bunk room
 Zone 6 Attic Tonnage inc zone 3 system
 Grills: Standard X Aluminum _____
 Notes: Slot reveal supplies in great room (Included value \$4,290) which includes installation & slot material by contractor

27. Electrical:

Decorative Fixture Allowance \$ 8,800
Service Size: 400 AMP Amps
Built in fixture allowance \$14,165
Master bath floor heat \$3,575 Switch Type Decora
Electricity to Pool & Lights X Electricity to Spa X
Circuit & switch to Landscape X
heaters on rear porch \$2,000 allowance installed
Electric car circuit X
Notes 1. There will be additional charge for labor-intensive
items such as antique fixtures, etc. The electrical plan is
defined by Cooney electric quote # 1341 dated 1/31.2022

29. Specialties:

Elevator X Lighting control system N/A
Audio/Video/Data Prewire Allowance \$ 4,812
Security System Allowance BO
Notes: _____

30. Miscellaneous Notes:

Framing material allowance; \$302,000, 2 floor drains to be installed to upper deck & tied into drainage system,

Owner: _____

Contractor: _____

Date: _____

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 Cambridge Building, Inc.)
 (License No. 117526),)
)
 Plaintiff,)
)
 vs.)
)
 Robert S. Lotstein, Kristin Huffman,)
 Robert S. Lotstein, Trustee of the Robert)
 S. Lotstein Family Trust dated)
 September 4, 2022, as Amended and)
 Restated, and Kristin S. Huffman,)
 Trustee of the Kristin S. Huffman)
 Family Trust dated September 4, 2022,)
 as Amended and Restated,)
)
 Defendants.)
)


IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2024-CP-07-02002

AFFIDAVIT OF JOANNA "NICKY"
 GLEASON

1. I give this affidavit based upon my own personal knowledge.
2. My legal name is Joanna Gleason but I go by Nicky Gleason in my professional life as a real estate agent.
3. I am an independent contractor for Luxury Homes of Hilton Head, LLC ("Luxury Homes").
4. I am not and have never been employed with Luxury Rentals of Hilton Head, LLC ("Luxury Rentals").
5. On July 25, 2024, Beaufort County Deputy Seronka came to the Luxury Homes office located at 62 New Orleans Road, Hilton Head Island, SC. I was the only person in the office at that time.
6. Deputy Seronka asked for Becky Walker, and I told him that she was not in the office.

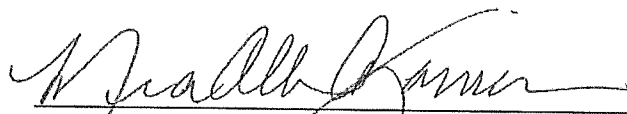
- 7. I told him I was an agent for Luxury Homes and did not work for Luxury Rentals, and that I and did not have the authority to accept legal documents.
- 8. Deputy Seronka told to me that Becky Walker was the registered agent for service of process for Luxury Rentals.
- 9. Deputy Seronka served me with the Notice and Certificate of Mechanic's Lien relative to property owned by Robert Lotstein and Kristin Huffman located at 8 Iron Clad, Hilton Head Island, SC.
- 10. I have never visited 8 Iron Clad, the property at issue, and have no personal or professional relationship with Defendants in this matter.
- 11. I have never met Robert S. Lotstein or Kristin S. Huffman and never have spoken with them, either personally or professionally.

FURTHER AFFIANT SAYETH NAUGHT.

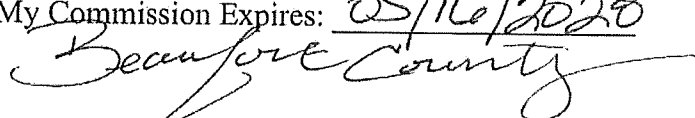


 Joanna "Nicky" Gleason

Sworn to and subscribed before me
This 8th day of October, 2024



 Notary Public, Commonwealth of South Carolina

My Commission Expires: 05/16/2028


**MIA ALLEN-AYANIAN
 NOTARY PUBLIC
 SOUTH CAROLINA
 MY COMMISSION EXPIRES 05-16-2028**

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

Cambridge Building, Inc.
(License No. 117526)

PLAINTIFF,

v.

Robert S. Lotstein, Kristin Huffman, Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2022, as Amended and Restated, and Kristin S. Huffman Trustee of the Kristin S. Huffman Family Trust dated September 4, 2022, as Amended and Restated

DEFENDANTS.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Civil Action No. 2024-CP-07-02002

**MOTION TO AMEND THE
COMPLAINT**

COMES NOW, Plaintiff, Cambridge Building, Inc. by and through undersigned counsel, and respectfully moves this Honorable Court for leave to amend the Complaint pursuant to Rule 15(a) of the South Carolina Rules of Civil Procedure. In support of this Motion, Plaintiff states as follows:

1. Rule 15(a) provides that when a party seeks to amend his pleading “leave shall be freely given when justice so requires and does not prejudice any other party.” Rule 15(a), SCRC. Rule 15(a) is substantially the same as the Federal Rule. Rule 15(a), SCRC. “[T]he Supreme Court of the United States has referred to the Rule’s ‘freely given’ provision as a ‘mandate’ that ‘is to be heeded.’” *Patton v. Miller*, 420 S.C. 471, 490, 804 S.E.2d 252, 262 (2017) (quoting *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 230, 9 L.Ed.2d 222, 226 (1962)).
2. Before filing an order of dismissal pursuant to Rule 12(b)(6), the trial court should provide the party an opportunity to amend pursuant to Rule 15(a). *See Skydive Myrtle Beach, Inc. v. Horry Cty.*, 426 S.C. 175, 179, 826 S.E.2d 585, 587 (2019) (“When a trial court finds a complaint fails

“to state facts sufficient to constitute a cause of action” under Rule 12(b)(6), the court should give the plaintiff an opportunity to amend the complaint pursuant to Rule 15(a) before filing the final order of dismissal.”).

3. Plaintiff seeks leave to amend the Complaint 1) to delete Paragraph 25 and referenced exhibit, if the court determines that the property manager was not a “person in possession,” or properly served as such; and/or 2) to address any deficiencies the Court may determine exist in its ruling on Defendant’s Motion pursuant to Rule 12(b)(6), SCRPC, as reflected in a Proposed Amended Complaint to be submitted to the Court.

s/Lee Anne Walters
Lee Anne Walters (S.C. Bar No. 74984)
WALTERS LAW
Post Office Box 1214
Beaufort, SC 29901
Ph: (843) 379- 0973
leeanne@walterslawsc.com

February 18, 2025

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

Cambridge Building, Inc.
(License No. 117526)

PLAINTIFF,

v.

Robert S. Lotstein, Kristin Huffman, Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2002, as Amended and Restated, and Kristin S. Huffman Trustee of the Kristin S. Huffman Family Trust dated September 4, 2002, as Amended and Restated

DEFENDANTS.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Civil Action No. 2024-CP-07-02002

**PLAINTIFF'S MEMORANDUM IN
OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS**

COMES NOW, Plaintiff, Cambridge Building, Inc., by and through undersigned counsel, and respectfully submits this Memorandum in Opposition to Defendants' Motion to Dismiss pursuant to Rule 12(b)(6), filed on October 18, 2024.

Plaintiff asks the Court to deny Defendants' motion to dismiss Plaintiff's claims for foreclosure of a mechanic's lien and breach of contract. The Defendants appear to be making a game out of avoiding service of a proper mechanic's lien, which should not be permitted. In any event, Plaintiff's motion to dismiss the mechanic's lien should be denied because although the Owner was not served, there is compliance with the statute's alternative service provision. Defendants' arguments regarding arbitration are not proper on a motion to dismiss and must be raised in a motion to compel arbitration. If the Court determines there is an arbitrable dispute, the

case should be stayed, rather than dismissed¹. Defendants' remaining arguments involve factual disputes outside the pleadings.

I. BACKGROUND

Robert Lotstein² and Kristin Huffman, as trustees of their respective family trusts, own beachfront property in Palmetto Dunes on Hilton Head Island with an address of 8 Iron Clad, Hilton Head Island, (the "Property"), and in 2022 they entered a contract with Cambridge Building, Inc. and Frank Guidobono for construction of a large oceanfront residence on the Property. The stipulated contract sum was \$2,246,078.00 subject to additions and deductions. Lotstein and Huffman were required to make progress payments, which were not timely made. After change orders and payments received in the amount of \$1,711,996.00, Cambridge asserts that Lotstein and Huffman owe \$365,314.76, plus interest from the dates that the payments were due. See Complaint.

On July 3, 2024, Cambridge filed a mechanic's lien.³ Cambridge attempted to serve the mechanic's lien on the owners, Lotstein and Huffman. Beaufort County Sheriff's Office attempted to serve Lotstein and Huffman in 2024 on July 17, July 18, July 19, July 22, July 25, and July 26.⁴ Private process servers made attempts — either in Washington, DC or Hilton Head⁵ — on June 30, July 10, July 11, July 24, July 30, and July 3. The officer left a message for Lotstein and upon return call advised Lotstein of the nature of the civil action and asked to meet him for service. According to the affidavit, the officer was informed that Lotstein was on vacation. The Beaufort

¹ *Fitzgerald v. Faucette*, Civil Action No. 9:24-cv-00908-BHH, 2024 U.S. Dist. LEXIS 225125, at *2 (D.S.C. Dec. 11, 2024).

² Upon information and belief, Robert Lotstein is an attorney or former attorney licensed to practice in Maryland and DC.

³ See Exhibit 1, Exhibit C to the Complaint

⁴ See Exhibit 2, Exhibit D to the Complaint

⁵ Upon information and belief, Robert Lotstein is an attorney or former attorney licensed to practice in Maryland and DC and owns a home in DC.

County Sheriff's Office's investigation also revealed 8 Iron Clad was identified as the primary residence of Lotstein and Huffman and that Luxury Rentals of Hilton Head handled short term rentals, if any. Sergeant Chad Seronka attempted to serve Luxury Rentals of Hilton Head at the address listed on its website and identified as the registered office with the South Carolina Secretary of State — 62C New Orleans Rd., Hilton Head Island. The Mechanic's Lien was served on Nikki Gleason who is identified on Luxury Rentals of Hilton Head's website as the real estate sales office administrator.⁶

II. STANDARD OF REVIEW

"On appeal from the dismissal of a case pursuant to Rule 12(b)(6), an appellate court applies the same standard of review as the trial court." *Grimsley v. S.C. Law Enft Div.*, 396 S.C. 276, 281, 721 S.E.2d 423, 426 (2012). "That standard requires the [c]ourt to construe the complaint in a light most favorable to the nonmovant and determine if the facts alleged and the inferences reasonably deducible from the pleadings would entitle the plaintiff to relief on any theory of the case." *Id.* (quoting *Rydde*, 381 S.C. at 646, 675 S.E.2d at 433). "If the facts alleged and inferences deducible therefrom would entitle the plaintiff to any relief, then dismissal under Rule 12(b)(6) is improper." *Id.* The Court may not consider facts outside of the Four Corners of the Complaint. *See Spence v. Spence*, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006) ("In considering . . . a [Rule 12(b)(6)] motion, the trial court must base its ruling solely on allegations set forth in the complaint.")

A party requesting enforcement of an arbitration clause should file a motion to stay the case and compel arbitration. If the Court determines there is an arbitrable dispute, the case should be stayed, rather than dismissed without prejudice. *Fitzgerald v. Faucette*, Civil Action No. 9:24-

⁶ Exhibit E to the Complaint.

cv-00908-BHH, 2024 U.S. Dist. LEXIS 225125, at *2 (D.S.C. Dec. 11, 2024); *Petersen v. DCTCL, L.P.*, No. 2024-UP-324, 2024 S.C. App. Unpub. LEXIS 337, at *4 (Ct. App. Oct. 2, 2024).

III. ARGUMENT

a. Plaintiff's mechanic's lien is not defective.

In order to perfect and enforce a mechanic's lien, the person asserting the lien (1) must serve upon the owner or person in possession and file with the register of deeds or clerk of court a notice or certificate of lien containing the lien amount, a description of the real property, and other required information "within ninety days after he ceases to labor on or furnish labor or materials for such building or structure"; (2) must commence a lawsuit seeking to enforce the lien within six months after ceasing to provide labor or materials for such real property; and (3) must file a notice of the pending action (lis pendens) within six months after ceasing to provide labor or materials for such real property. *Butler Contracting, Inc. v. Court St., LLC*, 369 S.C. 121, 129, 631 S.E.2d 252, 256 (2006). An issue arises when the owner or person in possession, if any, cannot be located. The statute provides an alternative: "...in the event neither the owner nor the person in possession can be located after diligent search, and this fact is verified by affidavit of the sheriff or his deputy, the lien may be preserved by filing the statement together with the affidavit. S.C. Code Ann. § 29-5-90.

Defendants argue that the Plaintiff has not served the "person in possession" as referenced in the statute on the grounds that service must be on a "responsible person living at the property".⁷ If accurate, then BCSO, upon diligent search, could not locate the owner or a "person in possession" and this has been verified by affidavit. Exhibit D and E to the Complaint.

⁷ See Motion to Dismiss at page 3, paragraph II(5).

The Defendants filed the Affidavit of Joanna “Nicky” Gleason. As an initial matter, this affidavit should not be considered. Ms. Gleason states that she works for Luxury *Homes* of Hilton Head and not Luxury *Rentals* of Hilton Head. If the Court considers Ms. Gleason’s affidavit, then the Court may take notice of the web page for Luxury *Rentals* of Hilton Head⁸, which includes a photograph of Nicky Gleason identifying her as the Real Estate Sales Office Administrator. Nicky Gleason received a copy of the lien at 62 New Orleans Road, Hilton Head, which is the registered address for Luxury *Rentals* of Hilton Head, LLC. It is not the registered address for Luxury *Homes* of Hilton Head, LLC, although Chris Walker is the registered agent for both entities. Finally, as argued above, even if Defendants are correct that Luxury *Rentals* of Hilton Head, LLC was not properly served, then the Beaufort County Sheriff’s Office exercised diligence and did not locate the owner or a “person in possession,” which has been verified by affidavit.

b. A motion to dismiss is not proper to compel arbitration.

If the Court determines there is an arbitrable dispute, the case should be stayed, rather than dismissed without prejudice. *Fitzgerald v. Faucette*, Civil Action No. 9:24-cv-00908-BHH, 2024 U.S. Dist. LEXIS 225125, at *2 (D.S.C. Dec. 11, 2024). Pursuant to the *Prima Paint* doctrine, the FAA requires courts to separate the validity of an arbitration clause from the validity of the contract in which it is embedded. *Damico v. Lennar Carolinas, LLC*, 437 S.C. 596, 608-09, 879 S.E.2d 746, 753 (2022). The validity of the arbitration clause is a matter for the courts, whereas the validity of the contract as a whole is a matter for the arbitrator. *Damico v. Lennar Carolinas, LLC*, 437 S.C. 596, 609, 879 S.E.2d 746, 753 (2022).

Plaintiff filed suit in this action against Robert Lotstein and Kristin Huffman, both individually and as trustees of their respective trusts. In their motion, Defendants ask the Court to

⁸ <https://luxuryrentalsofhiltonhead.com/about-us/>

dismiss the breach of contract claims against the defendants who are not parties to the contract. This is impermissible for several reasons. First, if the defendants seek arbitration, the appropriate motion is a motion to stay and to compel arbitration. Second, the Agreement states that it is between the Owner and the Contractor. The Owner is identified as Kristin Huffman and Robert Lotstein. However, at the time Robert Lotstein and Kristin Huffman entered into this Agreement, the Owners of the Property as reflected in the Deed were Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2002, as Amended and Restated, and Kristin S. Huffman Trustee of the Kristin S. Huffman Family Trust dated September 4, 2002, as Amended and Restated. As the arbitration clause seeks to limit the parties, Plaintiff is entitled to assert such grounds “as exist at law or in equity for the revocation of any contract”, including “generally applicable contract defenses, such as fraud, duress, or unconscionability”, which may be applied to invalidate arbitration agreements without contravening the FAA.

c. Any alleged deficiencies can be cured by amendment

Before filing an order of dismissal pursuant to Rule 12(b)(6), the trial court should provide the party an opportunity to amend pursuant to Rule 15(a). *See Skydive Myrtle Beach, Inc. v. Horry Cty.*, 426 S.C. 175, 179, 826 S.E.2d 585, 587 (2019) (“When a trial court finds a complaint fails “to state facts sufficient to constitute a cause of action” under Rule 12(b)(6), the court should give the plaintiff an opportunity to amend the complaint pursuant to Rule 15(a) before filing the final order of dismissal.”).

IV. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court deny Defendants' Motion to Dismiss in its entirety.

Respectfully submitted,

s/Lee Anne Walters
Lee Anne Walters (S.C. Bar No. 74984)
WALTERS LAW
Post Office Box 1214
Beaufort, SC 29901
Ph: (843) 379- 0973
leeanne@walterslawsc.com

February 19, 2025

7
25 TB
Walters
1108

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

Cambridge Building, Inc.,
Petitioner,
v.

Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2022, as amended and restated, and Kristin S. Huffman Trustee of the Kristin S. Huffman Family Trust dated September 4, 2022, as Amended and Restated

Owners/Respondents.

IN THE OFFICE OF THE REGISTER OF DEEDS

029627
BEAUFORT COUNTY SC - ROD
BK 161 Pgs 1949-1955
2024029627 MECH
07/03/2024 11:29:15 AM
REC'D BY rbing RCPT# 1173975

NOTICE AND CERTIFICATE OF MECHANIC'S LIEN
(License No. 117526)

TO: THE OWNERS/RESPONDENTS ABOVE NAMED AND ALL OTHERS CONCERNED:

PERSONALLY appeared before me, Lee Anne Walters, who states as follows:

She is the attorney for Petitioner Cambridge Building, Inc. (License No. 117526) and Frank Guidobono (Residential Builder License No. 5623) and acting on behalf of the Petitioner and Mechanic's Lien Claimant herein, and the annexed statement is a verified account of the amount due to the Petitioner with all just credits given for labor and/or materials furnished and used in the construction, alteration, or repair of buildings or structures situated on the after-described real property, by virtue of an agreement with Kristin Huffman and Robert Lotstein, the owners, individually or as trustees, of the subject property.

Cambridge Building, Inc., a duly licensed contractor, is due the sum of Three Hundred Sixty-Five Thousand Three Hundred Fourteen and 76/100 US Dollars (\$365,314.76), along with accrued interest pursuant to an agreement and attorneys' fees and costs to date, from Robert S. Lotstein and Kristin S. Huffman, as verified. Pursuant to S.C. Code Section 29-5-10 *et seq.* Cambridge Building, Inc. does hereby claim a lien on the real property described herein and in **Exhibit A** (the "Property") by virtue of the verified statement of just and true account of said

indebtedness, with all just credits given, attached as **Exhibit B**, incorporated and made a part of this notice. Said debt is due for labor and/or materials furnished and used in the erection, alteration, improvements or repair of buildings or structures situated on or in otherwise improving the Property. Ninety (90) days have not elapsed since labor and/or materials were last furnished to the Property. Cambridge Building, Inc. is licensed as a general contractor with license number 117526, and Frank Guidobono is the Qualifying Party. Frank Guidobono is also licensed in South Carolina as a Residential Builder (License No. 5623).

By the service and filing of this Notice and Certificate, and pursuant to the laws of South Carolina, the Lienor/Petitioner has and claims a lien to secure the payment of the debt so due and the cost of enforcing the lien (including reasonable attorney's fees) upon the structure and upon the following described real property located in Beaufort County, South Carolina:


ALL that certain piece, parcel or lot of land situate, lying and being in Palmetto Dunes on Hilton Head Island, Beaufort County, South Carolina, shown and described as Lot One (1), Tee Road 8, Block A on a plat thereof prepared by J. Hearst Coleman Company, Inc. Engineers, which plat is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 17 at Page 1. For a more detailed description as to courses and distances, metes and bounds of the above-described parcel, reference is made to the above-mentioned plat of record.

Being the same property conveyed to Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2002, as Amended and Restated, and Kristin S. Huffman, Trustee of the Kristin S. Huffman Family Trust dated September 4, 2002, as Amended and Restated, by Deed of Petal & Twoey, LLC dated January 24, 2022, and recorded on February 2, 2022, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 4111 at Pages 1553-1555.

Tax Map No.: R520 012 00A 0066 0000

Property Address: 8 Iron Clad, Hilton Head Island, SC 29928

WHEREFORE, upon service, Petitioner claims a Mechanic's Lien in the sum of Three Hundred Sixty-Five Thousand Three Hundred Fourteen and 76/100 US Dollars (\$365,314.76), plus reasonable attorneys' fees and for the costs and disbursements of this action.



Lee Anne Walters (SC Bar No. 74984)
WALTERS LAW
Post Office Box 1214
Beaufort, South Carolina 29901-1214
Phone: (843) 379-0973
Email: leeanne@walterslawsc.com
Attorney for Petitioner

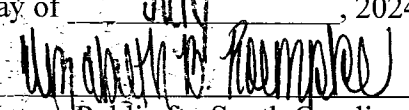
Sworn to before me the 3rd
day of July, 2024

Notary Public for South Carolina
Commission Expires: 7/15/26

EXHIBIT A

ALL that certain piece, parcel or lot of land situate, lying and being in Palmetto Dunes on Hilton Head Island, Beaufort County, South Carolina, shown and described as Lot One (1), Tee Road 8, Block A on a plat thereof prepared by J. Hearst Coleman Company, Inc. Engineers, which plat is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 17 at Page 1. For a more detailed description as to courses and distances, metes and bounds of the above-described parcel, reference is made to the above-mentioned plat of record.

This is the same property conveyed to Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2002, as Amended and Restated, and Kristin S. Huffman, Trustee of the Kristin S. Huffman Family Trust dated September 4, 2002, as Amended and Restated, by Deed of Petal & Twoey, LLC dated January 24, 2022, and recorded on February 2, 2022, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 4111 at Pages 1553-1555.

Tax Map No.: R520 012 00A 0066 0000

Property Address: 8 Iron Clad, Hilton Head Island, SC 29928

EXHIBIT B


STATE OF SOUTH CAROLINA) **VERIFIED STATEMENT OF ACCOUNT**
)
COUNTY OF BEAUFORT)

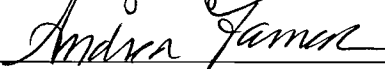
Personally appeared before me is Dennis Duren, who, being duly sworn, deposes and says:

1. He is the CFO/Controller and a representative of Cambridge Building, Inc., has personal knowledge of the facts set forth herein, and has been duly authorized to make this affidavit.
2. Cambridge Building, Inc. furnished labor and materials for the erection and improvement of the residence situated on the real property, described in Exhibit A (the "Property") at the request of and by virtue of its contract with Robert Lotstein and Kristin Huffman, as owners of the Property.
3. Cambridge Building, Inc., Frank E. Guidobono holds South Carolina General Contractor's License No. 117526.
4. The last day of labor was May 1, 2024. Ninety days has not lapsed since labor and/or materials were last furnished to the Property.
5. This is a true and accurate statement of the account, with all just credits applied and there is now past due and owing to Cambridge Building, Inc. the principal sum of \$365,314.76, plus interest pursuant to the agreement, plus such additional interest that has and may accrue, attorneys' fees and costs.

ORIGINAL CONTRACT SUM:	\$2,246,078.00
NET CHANGE BY CHANGE ORDERS:	(\$168,767.24)
LESS ALL PAYMENTS AND CREDITS:	\$1,711,996.00
TOTAL PRINCIPAL AMOUNT DUE:	\$365,314.76

Cambridge Building, Inc.


By: Dennis Duren
Its CFO/Controller

Sworn to before me the 1st
day of July, 20 24

Notary Public for South Carolina
Commission Expires: 04/13/26

CCB 1074865

SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION
CONTRACTOR'S LICENSING BOARD

LICENSE#: CLG.117526

LICENSE#: CLG.117526

CAMBRIDGE BUILDING INC
19-B BOW CIRCLE
HILTON HEAD SC 29928

Has been qualified by the laws of the State of South Carolina and is duly entitled to practice as a:

GENERAL CONTRACTOR

for each Classification and Group Limitation listed below:

Building-BD5

(If this license has a "Limited Building" classification, licensee is limited to 3 stories in height)

LICENSE NUMBER:CLG.117526
Initial License Date:.....10/12/2012
EXPIRATION DATE:.....10/31/2024


Administrator

Group Limitations/\$ Amounts Per Job:
Group #1 - \$50,000 Group #2 - \$200,000
Group #3 - \$500,000 Group #4 - \$1,500,000
Group #5 - \$Unlimited

Qualifying Party(s): FRANK E GUIDOBONO

[It is at the discretion of this licensee to designate whomever they choose to pull permits and conduct business in their behalf.]

[Print this page](#)

Board: Commercial Contractors

CAMBRIDGE BUILDING INC
19-B BOW CIRCLE
HILTON HEAD, SC 29928
(843)341-2444

License number: 117526
License type: GENERAL CONTRACTOR
Status: ACTIVE
Expiration: 10/31/2024
First Issuance Date: 10/12/2012
Classification:
Building-BD5

Qualified By: Financial Statement
President / Owner: FRANK E GUIDOBONO

[Click here for Classification definitions and licensee's contract dollar limit](#)

Supervised By
GUIDOBONO FRANK (CQG)

[File a Complaint against this licensee](#)

Board Public Action History:

[View Orders](#) [View Other License for this Person](#)

No Orders Found

Exhibit D

BEAUFORT COUNTY SHERIFF'S OFFICE
PJ TANNER, SHERIFF
PO Box 1758
Beaufort, SC 29901

STATE OF SOUTH CAROLINA
BEAUFORT COUNTY

Process Number: 243248

Court Number:

KRISTIN S HUFFMAN (Defendant)

AFFIDAVIT OF NONSERVICE

KRISTIN S HUFFMAN (Defendant)
8 IRON CLAD; PALMETTO DUNES
HILTON HEAD ISL, SC 29928

I have made due search and inquiry and exercised due diligence, but I am returning the NOTICE AND CERT OF MECH LIEN, STATEMENT OF ACCOUNT UNSERVED after making the following service attempts:

Service attempted on 25th day of July, 2024 at 09:26:34 Korinek, K
per ssgt king return law suit

Service attempted on 22nd day of July, 2024 at 16:50:00 Korinek, K
def lotstein called he was adv of the nature of the civil action/adv him i needed to meet with him huffman or his atty representing him in this action/he was adv of pl atty information/he adv he was on vacation

Service attempted on 19th day of July, 2024 at 13:06:03 Korinek, K
att ph cont 202-255-3800 lft msg/202-280-6620 non working

Service attempted on 18th day of July, 2024 at 11:23:53 Korinek, K
address is the beach park/att ph cont luxury rentals hh becky walker
843-384-9955 lft msg

Service attempted on 16th day of July, 2024 at 15:57:48 Korinek, K
cambridge builders def live in the washington dc area and are attorneys

Service attempted on 16th day of July, 2024 at 13:02:06 Korinek, K
neg cont/short term rental/luxury rentals becky walker 843-384-9955/walker adv def lists address as primary residence only lives on hilton head 6-8 mths due back 8/4 or 8/5 ph
202-255-3800

NOTARY STATEMENT
SWORN to me on this the 26th day of July, 2024.

_____)
Notary Public For The State of South Carolina)

My Commission Expires 11/2/25)

Cpt Korinek
KORINEK

ELECTRONICALLY FILED - 2024 Sep 18 4:11 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002
ELECTRONICALLY FILED - 2025 Feb 20 10:21 AM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002

BEAUFORT COUNTY SHERIFF'S OFFICE
PJ TANNER, SHERIFF
PO Box 1758
Beaufort, SC 29901

STATE OF SOUTH CAROLINA
BEAUFORT COUNTY

Process Number: 243248

Court Number:

ROBERT S LOTSTEIN (Defendant)

AFFIDAVIT OF NONSERVICE

ROBERT S LOTSTEIN (Defendant)
8 IRON CLAD; PALMETTO DUNES
HILTON HEAD ISL, SC 29928

I have made due search and inquiry and exercised due diligence, but I am returning the NOTICE AND CERT OF MECH LIEN, STATEMENT OF ACCOUNT UNSERVED after making the following service attempts:

Service attempted on 25th day of July, 2024 at 09:26:34 Korinek, K
per ssgt king return law suit

Service attempted on 22nd day of July, 2024 at 16:50:00 Korinek, K
received ph call from def/def was adv of nature of civil action and was adv i needed to meet with him def huffman or an attorney representing him in the civil action/def was issued pl atty info/def adv he was on vacation

Service attempted on 19th day of July, 2024 at 13:06:03 Korinek, K
att ph cont 202-255-3800 lft msg/202-280-6620 non working

Service attempted on 18th day of July, 2024 at 11:23:53 Korinek, K
address is the beach park/att ph cont luxury rentals of hh becky walker 843-389-9955 lft msg

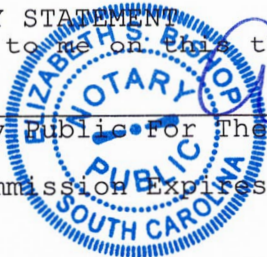
Service attempted on 17th day of July, 2024 at 15:57:49 Korinek, K
cambridge builders def lives in dc area/attorney

Service attempted on 17th day of July, 2024 at 13:02:06 Korinek, K
neg cont/short term rental/luxury rentals becky walker 843-384-9955. walker adv def lists resid as primary lives on hilton head6-8 mths due back 8/4 or 8/5 202-255-3800.

NOTARY STATEMENT
SWORN to before me on the 26th day of July, 2024.

Notary Public for The State of South Carolina)

My Commission Expires 11/2/30)



Cpl Korinek
Korinek, K

ELECTRONICALLY FILED - 2024 Sep 18 4:11 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002
ELECTRONICALLY FILED - 2025 Feb 20 10:21 AM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002

Subject: Cambridge Building, Inc. v. Robert S. Lotstein, et al CV - 2024-CP-07-02002
Date: Thursday, February 27, 2025 at 2:15:33 PM Eastern Standard Time
From: Amy Ostrom
To: BCulbertsonSC@sccourts.org
CC: Terry Finger, Lee Anne Walters
Attachments: image001.png, ORDER 2.27.2025.docx

Good Afternoon Judge Culbertson – Attached is a proposed Order in Word from our hearing before you last week. Please let me know if you require any changes or modifications. I have copied opposing counsel.

Thank you.

Terry A. Finger



Amy Ostrom | Paralegal to Terry A. Finger
FINGER, MELNICK, BROOKS & LABRUCE, P.A.

[35 Hospital Center Common, Suite 200 | Post Office Box 24005](#)
Hilton Head Island, South Carolina 29925-4005
D: [\(843\) 681-7024](tel:8436817024) | F: [\(843\) 681-8802](tel:8436818802)

CONFIDENTIALITY NOTICE: This e-mail transmission, including any attachments, may contain confidential or privileged information and is intended only for the recipient named above. Receipt of this transmission by any person other than the intended recipient does not constitute permission to examine, copy, or distribute the accompanying material. If you receive this e-mail in error, please notify the sender by reply e-mail and destroy all copies of the original message.

FDCPA: This firm is a debt collector attempting to collect a debt. Any information will be used for that purpose.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 Cambridge Building, Inc.)
 (License No. 117526),)
)
 Plaintiff,)
)
 vs.)
)
 Robert S. Lotstein, Kristin Huffman,)
 Robert S. Lotstein, Trustee of the Robert)
 S. Lotstein Family Trust dated)
 September 4, 2022, as Amended and)
 Restated, and Kristin S. Huffman,)
 Trustee of the Kristin S. Huffman)
 Family Trust dated September 4, 2022,)
 as Amended and Restated,)
)
 Defendants.)
 _____)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2024-CP-07-02002

ORDER

Defendants’ Motion to Dismiss dated October 18, 2024 came before me on February 21, 2024. Present was Robert Lotstein and Terry A. Finger, attorney for the Defendants and Lee Anne Walters, attorney for the Plaintiff.

Plaintiff sued Robert S. Lotstein and Kristin Huffman both individually and as Trustee of the two trusts set out in the caption. Plaintiff sued (1) to foreclose a Mechanic’s Lien, (2) for a breach of contract, and (3) for unjust enrichment. Plaintiff’s compliant had five (5) exhibits.

Defendants’ Motion to Dismiss essentially asserted the following grounds: (1) the Mechanic’s Lien was not timely properly served within 90 days of the last work, (2) the Plaintiff’s contract was only with Robert Lotstein, and (3) the contract has a binding arbitration clause.

After reviewing the Pleadings, Exhibits, Memorandum of Plaintiff, and hearing the arguments of counsel, I make the following

FINDINGS OF FACT

1. The Mechanic's Lien states the last day of work was May 1, 2024.
2. The Mechanic's Lien was filed with the Register of Deeds on July 3, 2024.
3. Exhibit A to the Complaint indicates the real property subject to the Mechanic's Lien is owned by the Robert S. Lotstein Family Trust dated September 4, 2002 and the Kristin S. Huffman Trust dated September 4, 2002.
4. Exhibit D to the Complaint is an "Affidavit of Nonservice" dated July 26, 2024.
5. Paragraph 25 of the Complaint states:

To satisfy the statute, the Beaufort County Sheriff's Office served the Mechanic's Lien (*sic*) upon the property manager, Luxury Rentals of Hilton Head, LLC, as the "person in possession" pursuant to S.C. Code Ann. § 29-5-90.
6. Exhibit E to the Complaint is an Affidavit of Service of the Mechanic's Lien on Joanna "Nicky" Gleason.
7. The contract is referenced in Plaintiff's Complaint and is attached as an Exhibit to the Defendants' Motion to Dismiss (hereinafter referred to as the "Contract"). No objection was made to the Contract being considered by the Court.
8. The Contract is between Cambridge Building, Inc., and Frank Guidobono and Robert Lotstein. No other parties signed the Contract.
9. The Contract has an Arbitration provision in Paragraph 10.2. This is a material provision to the Contract.

NOW THEREFORE, based upon the above Findings of Fact, I make the following

CONCLUSION OF LAW

1. Plaintiff did not serve the Mechanic’s Lien on a “person in possession” as required by S.C. Code Ann. § 29-5-90. Exhibit E to the Complaint, which Plaintiff asserts shows service on the “person in possession” is defective, for among other reason, the following:
 - a) The Exhibit E does not reference any Defendant other than “PMIC Luxury Rentals.” PMIC Luxury Rentals is not a party to this lawsuit and there is no reference to this lawsuit whatsoever.
 - b) The service was not made at the subject property.
 - c) The Affidavit of Joanna “Nicky” Gleason was not objected to by Plaintiff. This Affidavit shows Nicky Gleason was not affiliated with the Defendants or the property in any way. She told the Deputy Sheriff that she did not work for Luxury Rentals, she had never been to the property, and she did not know Robert Lotstein or Kristin Huffman. Joanna “Nicky” Gleason could not be considered a “person in possession.” See, *Stovall Building Supplies, Inc. v. Mottett*, 305 S.C. 28, 406 S.E.2d 176 (App. 1990) (Security guard at entrance to community not a responsible person living at the home and not a person in possession); *Reid v. Carr*, opinion No. 2008-UP-541 (S.C. App. 2008) (painting subcontractor at property not a “person in possession.”)
2. Plaintiff attempted to switch and move away from the allegation that a “person in possession” was served and instead argued that Exhibit D complied with S.C. Code Ann. § 29-5-90 for a person that could not be located.
3. Exhibit D does not comply with the required language of the statute if a person cannot be located. In fact, Exhibit D states the Deputy Sheriff located Robert Lotstein, they talked on

the phone, and Defendants were on vacation. Exhibit D states the Sheriff's Department did locate Robert Lotstein, but he was traveling.

4. The Contract was between Cambridge Building, Inc., and Frank Guidobono and Robert Lotstein. Kristin Huffman and the respective trusts were not signatories or parties to the Contract.
5. The Contract contains an enforceable and binding arbitration provision.

NOW THEREFORE, IT IS ORDERED:

1. The Mechanic's Lien and Lis pendens on the subject property are hereby dismissed with prejudice and the First Cause of Action in the Complaint is dismissed.
2. Kristin Huffman, individually, and the Robert S. Lotstein Family Trust dated September 4, 2002 and the Kristin S. Huffman Trust dated September 4, 2002 are dismissed from this case with prejudice.
3. The Breach of Contract and Unjust Enrichment causes of action continue against Robert Lotstein individually. He has 15 days from the date of this Order to file responsive pleadings.
4. Once Robert Lotstein files his responsive pleadings, this case is stayed and the case is ORDERED to binding Arbitration. The parties are free to jointly agree on an arbitrator or go through the process of the American Arbitration Association.

IT IS SO ORDERED.

February _____, 2025

Honorable Benjamin Culbertson

Subject: Re: Cambridge Building, Inc. v. Robert S. Lotstein, et al CV - 2024-CP-07-02002
Date: Monday, March 3, 2025 at 10:53:13 AM Eastern Standard Time
From: Lee Anne Walters
To: BCulbertsonSC@sccourts.org, Law Clerk The Hon. Benjamin H. Culbertson
CC: Terry Finger, Amy Ostrom
Attachments: image001.png, 250303 Ltr to Judge Culbertson.pdf

Judge Culbertson:

Attached is a letter in response to the defendants' proposed order. Terry Finger is copied here.

Respectfully,

Lee Anne Walters | Attorney at Law
Walters Law | Post Office Box 1214 | Beaufort, SC 29901
o. 843.379.0973 | d. 843.670.0909 | leeanne@walterslawsc.com

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From: Amy Ostrom <aostrom@fingerlaw.com>
Date: Thursday, February 27, 2025 at 2:15 PM
To: BCulbertsonSC@sccourts.org <BCulbertsonSC@sccourts.org>
Cc: Terry Finger <tfinger@Fingerlaw.com>, Lee Anne Walters <leeanne@walterslawsc.com>
Subject: Cambridge Building, Inc. v. Robert S. Lotstein, et al CV - 2024-CP-07-02002

Good Afternoon Judge Culbertson – Attached is a proposed Order in Word from our hearing before you last week. Please let me know if you require any changes or modifications. I have copied opposing counsel.

Thank you.

Terry A. Finger



Amy Ostrom | Paralegal to Terry A. Finger
FINGER, MELNICK, BROOKS & LABRUCE, P.A.

[35 Hospital Center Common, Suite 200 | Post Office Box 24005](#)
Hilton Head Island, South Carolina 29925-4005

D: [\(843\) 681-7024](tel:(843)681-7024) | F: [\(843\) 681-8802](tel:(843)681-8802)

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FDCPA: This firm is a debt collector attempting to collect a debt. Any information will be used for that purpose.

March 1, 2025

VIA US MAIL AND EMAIL

The Honorable Benjamin H. Culbertson
P.O. Box 479
401 Cleland Street
Georgetown, SC 29442
BCulbertsonSC@sccourts.org

RE: Cambridge Building, Inc. v. Robert S. Lotstein, et al.
Civil Action No.: 2024-CP-07-02002, pending in Beaufort County
Objections to Defendants' Proposed Order

Dear Judge Culbertson:

I am writing on behalf of the Plaintiff, Cambridge Building, Inc., to respectfully note our objections to the proposed order submitted by Defendants' counsel following the hearing on February 21, 2025 (via Web Ex) regarding Defendants' Motion to Dismiss.

While we acknowledge Your Honor's ruling from the bench, we believe the proposed order prepared by defense counsel contains several inaccuracies that should be addressed before the order is finalized. We also again ask that Plaintiff be granted leave to amend:

1. **Inconsistent Findings Regarding Unjust Enrichment:** The order dismisses Kristin Huffman and the trusts (or legally the trustees on behalf of the trusts) while simultaneously acknowledging the continuation of the unjust enrichment claim. This is inconsistent and improper, as the unjust enrichment claim inherently involves benefits conferred upon the property owners (Lotstein and Huffman in their capacity as trustees of their trusts). The Plaintiff has stated valid unjust enrichment claims against each of the defendants including the trusts, which own the property, and Huffman and Lotstein who hold legal title as trustees. There is no basis for dismissing Huffman and the trusts from the lawsuit because even if the Court dismisses certain defendants from the breach of contract cause of action, there are pending unjust enrichment claims against all defendants.
2. **Improper Consideration of Affidavits at Dismissal Stage:** The proposed order improperly relies upon the affidavit of Joanna "Nicky" Gleason to make factual determinations at the Rule 12(b)(6) dismissal stage. The proposed order incorrectly states that Plaintiff did not raise this issue (conclusion of law 1(c)). As clearly demonstrated in our Memorandum in Opposition to Defendants' Motion to Dismiss filed on February 19, 2025, we specifically argued: "The Defendants filed the Affidavit of Joanna 'Nicky' Gleason. As an initial matter, this affidavit should not be considered." Our memorandum further cited *Spence v. Spence*, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006), expressly

noting that "In considering... a [Rule 12(b)(6)] motion, the trial court must base its ruling solely on allegations set forth in the complaint." The South Carolina Supreme Court has clearly established that in considering a 12(b)(6) motion, the court must base its decision solely on the allegations set forth on the face of the complaint, and the motion cannot be supported by affidavits or other evidence outside the pleadings. By relying on Ms. Gleason's affidavit to determine service issues, rather than converting the motion to one for summary judgment with proper notice, the proposed order reflects a procedural error that substantially prejudices Plaintiff.

3. **Premature Dismissal with Prejudice:** The dismissal of claims "with prejudice" against Kristin Huffman and the trusts is overly harsh given the early procedural posture of this case and because the Court has not given the Plaintiff an opportunity to amend. *See Skydive Myrtle Beach v. Horry Cty.*, 426 S.C. 175, 179, 826 S.E.2d 585, 587 (2019) ("When a trial court finds a complaint fails "to state facts sufficient to constitute a cause of action" under Rule 12(b)(6), the court should give the plaintiff an opportunity to amend the complaint pursuant to Rule 15(a) before filing the final order of dismissal."). Here, Plaintiff has not been given any opportunity to amend its complaint to address the Court's concerns, and it is far from certain that Cambridge Building cannot establish valid claims against these defendants with appropriate amendments. Plaintiff has a pending motion to amend.
4. **Incorrect and Omitted Findings of Fact:** The proposed order (Findings of Fact No. 3) does not properly identify the property owner. Exhibit A includes the Deed showing a grant to *Robert S. Lotstein, trustee of the Robert S. Lotstein Family Trust dated September 4, 2002 as amended and restated* and *Kristen Huffman, trustee of the Kristen S. Huffman family trust September 4, 2002 as amended and restated*. No. 7 states that Plaintiff did not object to consideration of the contract. Plaintiff did in fact object: Plaintiff's memorandum cites South Carolina law holding that "In considering... a [Rule 12(b)(6)] motion, the trial court must base its ruling *solely* on allegations set forth in the complaint."
5. **In the Light Most Favorable to the Plaintiff:** The standard on a motion to dismiss requires the trial court to construe the complaint *in the light most favorable to the Plaintiff* as the non-moving party. *Spence* (above), *Grimsley v. S.C. Law Enf Div.*, 396 SC 276, 281. In the proposed order, the facts in the complaint are construed in favor of the defendants.
6. **As to the Ruling Regarding Service:** The statute states that the plaintiff must serve the lien on the owner or a "person in possession," and if the Sheriff's office is unable to serve the lien on the owner or person in possession, this must be noted by affidavit. In the Complaint, Plaintiff alleges it served the property manager as a person in possession. Defendant made three arguments: 1) the sheriff's office's service of Luxury Rentals of Hilton Head was made on someone not an agent authorized for service 2) there is some other error in the sheriff's affidavit attached to the complaint 3) Luxury Rentals of Hilton Head, the property manager, was not a "person in possession" and so the complaint was not served.
 1. As to arguments 1 and 2: These are factual issues that should not be determined on a motion to dismiss and should be viewed in the light most favorable to the Plaintiff. Plaintiff alleges in the complaint that the Beaufort County Sheriff's Office served the Mechanic's Lien on Luxury Rentals of Hilton Head, LLC as a person in possession. Complaint paragraph 25. Attached to the complaint is an affidavit of service from the Beaufort County Sheriff's Office showing service of a Mechanic's Lien on PMIC Luxury Rentals (this is a typo because it includes a cut of the PMIC

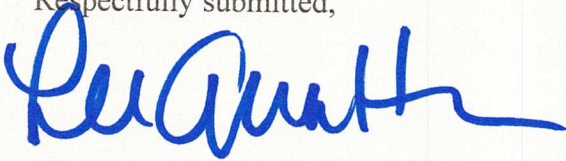
(property manager in charge) title of the specific property manager in front of the Luxury Rentals name) by service on Nicky Gleason. The affidavit also states that the service was made in accordance with applicable statutes and SCRCF. If there are questions of fact regarding the Sheriff's Affidavit that may need to be resolved by questioning of the deputy or its records, it is not appropriate for a motion to dismiss where the complaint is "viewed in the light most favorable to the plaintiff" and should not be dismissed if the Plaintiff states "any valid claim." In this regard, the motion is being treated like a summary judgment motion, which is improper. "An agent's high level of actual or apparent responsibility suffices to permit service to be effective as against the principal." *Graham Law Firm, P.A. v. Makawi*, 396 S.C. 290, 295-96, 721 S.E.2d 430, 433 (2012) citing *Richardson v. P.V., Inc.*, 383 S.C. 610, 682 S.E.2d 263 (2009) (holding that hotel receptionist had authority to receive service of process where she was only employee present in office, which represented to third parties that she was in charge). Also see above (improper consideration of the affidavit) and below (defects not prejudicial).

2. As to No. 3: One of the cases cited, *Stovall Building Supplies v. Mottett*, 305 S.C. 28 (Ct.App.1990) addresses a different code section —S.C. Code Section 29-5-40 — and the concept of notice to an owner and is not at all referring to the "person in possession" term used in S.C. Code Ann. § 29-5-90 (copy attached). For this reason, it has no relevance to a determination of whether the property manager was a "person in possession" under § 29-5-90. The other case cited is an unpublished case (states it should not be relied on or cited and was not found in the Lexis database we use), addresses summary judgment and improperly relies on *Stovall*. Even if the Court considers *Stovall*, a security guard and a property manager are entirely different. The property manager, at least based on the facts, has a key, manages the rentals, goes to the property, is responsible for maintaining, cleaning. In fact, the
 3. As to the proposed order's statement that Exhibit D (the Beaufort County Sheriff's Office Affidavit of Non-Service) does not comply with the statute's reference to not being able to "locate" the owner because the Sheriff's office "located" Mr. Lotstein by telephone: 1. This is obviously not how the language should be interpreted or what was intended by the statute, which is contemplating service of the owner. Mr. Lotstein could not be located for service because he was on vacation and did not meet the Sheriff. 2. This was not raised by the motion to dismiss or in the hearing.
7. **Liberal Construction Mechanic's Lien:** Although there is law that refers to the mechanic's lien as purely statutory, there is also law stating that as the mechanic's lien statutes are remedial, they are to be given a liberal construction. See e.g. *Walls v. Reed Porter & RAF, LLC*, No. 2006-UP-089, 2006 S.C. App. Unpub. LEXIS 30, at *4 (unpublished Ct. App. Feb. 10, 2006) citing *Clo-Car Trucking Co. v. Cliffhug Estates of S.C.*, 282 S.C. 573, 575-76, 320 S.E.2d 51, 53 (Ct. App. 1984). ("Even though a claim contains some defect or error it will be upheld where the owner is informed of the claim and not misled by it or prejudiced."). In this case, it is undisputed that the defendants were aware of the lien and the claims.
 8. **Mischaracterization of Contract Relationships:** The proposed order oversimplifies the contractual relationships between the parties. The property owner is Robert Lotstein,

trustee of the Robert Lotstein Family Trust, and Robert Lotstein likely signed the contract in his capacity as trustee of the Robert Lotstein Family Trust.

We respectfully request that Your Honor consider these objections before finalizing the order and allow Plaintiff an opportunity to amend.

Respectfully submitted,



Lee Anne Walters

cc: Terry A. Finger, Esq. (via email)

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

Cambridge Building, Inc.
(License No. 117526)

PLAINTIFF,

v.

Robert S. Lotstein, Kristin Huffman, Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2022, as Amended and Restated, and Kristin S. Huffman Trustee of the Kristin S. Huffman Family Trust dated September 4, 2022, as Amended and Restated

DEFENDANTS.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Civil Action No. 2024-CP-07-02002

MOTION TO ALTER OR AMEND

Pursuant to Rule 59(e), SCRCP, Cambridge Building, Inc., hereby respectfully moves for reconsideration of the Court's Form 4 Order filed February 25, 2025 *partially* granting Defendants' Motion to Dismiss in the above-captioned matter ("Form 4 Order") directing Attorney Finger to prepare an order and Mr. Finger's proposed order whereby Plaintiffs' three causes of action (for foreclosure of a mechanic's lien, breach of contract and unjust enrichment) against defendant Kristin Huffman in her individual capacity and as trustee of her family trust were all dismissed *with prejudice* and *without leave to amend*, as were all claims against Robert Lotstein as trustee of his family trust. According to the proposed order, only two claims (breach of contract and unjust enrichment) against Robert Lotstein individually remain, and those are referred to arbitration. Plaintiff respectfully requests this Court reconsider the same.

Plaintiff requests this motion be scheduled for hearing before the Honorable Benjamin H. Culbertson.

I. BACKGROUND

This matter arises out of an agreement between Plaintiff Cambridge Building, Inc. ("Cambridge"), a South Carolina licensed general contractor and Defendants Robert S. Lotstein and Kristin Huffman, both individually and as trustees of their respective family trusts (collectively,

"Defendants") for construction of an oceanfront residence on their property on Hilton Head Island (the "Property"). (Complaint ¶¶ 1-17.) In January of 2022, the Property was transferred to Defendants in their capacities as trustees of the Robert S. Lotstein Family Trust and the Kristin S. Huffman Family Trust, both dated September 4, 2002. (Complaint ¶ 6.)¹ After construction, Cambridge contends Defendants failed to pay outstanding payments due and wrongfully withheld payment while simultaneously benefiting from the completed construction, including through the rental of the Property as a luxury vacation home.

On July 3, 2024, within 90 days of the last labor and materials furnished, Cambridge filed a Notice and Certificate of Mechanic's Lien, which included a just and true account of the amount due and a description of the property. The Beaufort County Sheriff's Office attempted to serve Robert Lotstein and Kristin Huffman but was not able to locate them for service as verified by affidavit (Complaint ¶ 24.) The Beaufort County Sheriff's Office served the Mechanic's Lien on the property manager, Luxury Rentals of Hilton Head, LLC as "person in possession" at 62 New Orleans Rd., Hilton Head, (Complaint ¶¶ 16-18, Ex. B, 25.). On September 18, 2024, Cambridge initiated this action, alleging causes of action for foreclosure of a mechanic's lien, breach of contract, and unjust enrichment. The Complaint including exhibits are attached as **Exhibit 1**.

Defendants filed a Motion to Dismiss. A hearing took place on February 21, 2025, before the Honorable Benjamin Culbertson. On February 25, 2025, Judge Culbertson filed a Form 4 Order (attached as **Exhibit 2**), which states the motion to dismiss is partially granted and Attorney Finger is to prepare an order. As directed, Attorney Finger submitted a proposed order by email on February 27, 2025 (attached as **Exhibit 3**). Plaintiff wrote a letter with objections to the proposed order on March 1, 2025 (emailed March 3, 2025) (attached as **Exhibit 4**). Plaintiff files this motion to alter or amend on March 7, 2025, —before the proposed order has been filed— for compliance with Rule 59(e), SCRC².

II. STANDARD FOR RECONSIDERATION

The purpose of Rule 59(e), SCRC², to alter or amend the judgment, is to request the trial judge to "reconsider matters properly encompassed in a decision on the merits." *Arnold v. State*

¹ Exhibit A includes the Deed showing a grant to Robert S. Lotstein, trustee of the Robert S. Lotstein Family Trust dated September 4, 2002 as amended and restated and Kristen Huffman, trustee of the Kristen S. Huffman family trust September 4, 2002 as amended and restated.

² Plaintiff requests leave to amend or supplement the motion following entry of the order.

309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). A Rule 59(e) motion is not only the proper vehicle to request a court to alter or amend a judgment, but also to seek reconsideration of issues and arguments previously presented. *Elam v. South Carolina Dept. of Transp.* 361 S.C. 9, 21 602 S.E.2d 772, 778 (S.C. 2004). A party may wish to file a 59(e) motion when the 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. *Elam*, 361 S.C. at 24, 602 S.E.2d at 780. “There is nothing inherently unfair in allowing a party one final chance not only to call the court’s attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument. It is inherently unfair to disallow such an opportunity.” *Elam v. S.C. DOT*, 361 S.C. at 22, 602 S.E.2d at 779.

III. ARGUMENT

Rule 12(b)(6) allows the trial court to address the sufficiency of a pleading; it is not a vehicle for addressing the underlying merits of the claim. *Skydive Myrtle Beach, Inc. v. Horry Cnty.*, 426 S.C. 175, 826 S.E.2d 585, 587 (2019); *see also Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556, (2007) (allowing a complaint to proceed “even if it strikes a savvy judge that actual proof of those facts is improbable, and that a recovery is very remote and unlikely.”) A motion to dismiss under Rule 12(b)(6) should not be granted if the “facts alleged and reasonable inferences deducible therefrom, ***viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory.***” *Marion*, 373 S.C. at 395, 645 S.E.2d at 247. A motion to dismiss under Rule 12(b)(6) must be decided solely on the allegations in the complaint, which must be accepted as true and construed in the light most favorable to the plaintiff. *See Doe v. Marion*, 373 S.C. 390, 645 S.E.2d 245 (2007); *Carnival Corp. v. Hist. Ansonborough Neighborhood Ass’n*, 407 S.C. 67, 74, 753 S.E.2d 846, 850 (2014) (“In considering a motion to dismiss under Rule 12(b)(6), a court must base its ruling solely on the allegations set forth in the complaint.”); *Skydive Myrtle Beach, Inc. v. Horry Cty.*, 426 S.C. 175, 180, 826 S.E.2d 585, 588 (2019) (“[A]ny plaintiff is...entitled to litigate the validity of its original pleading without having to convince the trial court of the merits of its underlying claim.”).

a. The proposed order improperly dismisses Kristen Huffman and the named trustees on behalf of the respective trusts with prejudice.

Defendants’ Rule 12(b)(6) motion did not challenge the unjust enrichment claims but the proposed order dismisses them anyway. The proposed order improperly dismisses the unjust

enrichment claims against 1) Kristin Huffman 2) Kristin S. Huffman as Trustee of the Kristin S. Huffman Family Trust dated September 4, 2002, as Amended and Restated, and 3) Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2002 (Huffman and the trustees of the family trusts) with prejudice, finding they were not parties to the contract. However, Plaintiff's claims extend beyond the breach of contract claim to include unjust enrichment. Thus, these Defendants should not have been dismissed at this stage without further development of the record.

Again, the Defendants' Motion to Dismiss filed October 18, 2024 *did not challenge* the unjust enrichment claims, although those claims were sufficiently well-pled to survive a Rule 12(b)(6) challenge. Yet, Defendants' proposed order dismisses Huffman and the trustees of the family trusts *entirely with prejudice*. This is wholly improper. First, the Plaintiff had no notice of or opportunity to address dismissal of these claims. Second, the unjust enrichment claims were well-pled against these defendants as the claim inherently involves benefits conferred upon the property owners, Lotstein and Huffman in their capacity as trustees of their trusts, and against Huffman individually. The Plaintiff has stated valid unjust enrichment claims against each of the defendants including the trusts, which own the property, and Huffman and Lotstein who hold legal title as trustees. *See Gignilliat v. Gignilliat, Savitz & Bettis, L.L.P.*, 385 S.C. 452, 466, 684 S.E.2d 756, 764 (2009) ("The South Carolina Supreme Court has recognized quantum meruit as an equitable doctrine to allow recovery for unjust enrichment. To prevail under this theory, a plaintiff must show the following elements: "(1) [a] benefit conferred by [the] plaintiff upon the defendant; (2) realization of that benefit by the defendant; and (3) retention of the benefit by the defendant under circumstances that make it inequitable for him to retain it without paying its value.")

There is simply no basis for dismissing Huffman and the trustees of the family trusts from the lawsuit because even if the Court dismisses certain defendants from the breach of contract cause of action, there are pending unjust enrichment claims against all defendants³, which were

³ "Unjust enrichment is somewhat self-defining: A person is unjustly enriched if the retention of [a] benefit would be unjust." *Rose v. PSA Airlines, Inc.*, 80 F.4th 488, 499 (4th Cir. 2023). "Sometimes that benefit was money, and courts of equity could award equitable restitution by ordering the unjustly enriched to give that "wrongfully obtained" money to its rightful owner either via a constructive trust or an equitable lien." *Id.* The elements to recover for unjust enrichment based on quantum meruit, quasi-contract, or implied by law contract, which are equivalent terms for equitable relief are the plaintiff must show: (1) he conferred a non-gratuitous benefit on the defendant; (2) the defendant realized some value from the benefit; and (3) it would be inequitable for the defendant to retain the benefit without paying the plaintiff for its value.

never raised in the motion to dismiss and in any event were well-pled and should remain as viable claims.

b. The Court did not rule on Plaintiff's argument that consideration of materials outside the complaint – such as an affidavit submitted by the Defendant – was improper.

The Court was presented with and considered matters outside the complaint, and the Plaintiff had no notice the motion would be essentially converted to a motion for summary judgment. Matters outside of the complaint should not be considered at the Rule 12(b)(6) stage, and if converted, Plaintiff was not provided notice or a reasonable opportunity to submit evidence to challenge Defendants' affidavits. Contrary to what is stated in the proposed order (see conclusion of law 1(c)), Plaintiff *did object* to consideration of the Gleason Affidavit. As demonstrated in Plaintiff's Memorandum in Opposition to Defendants' Motion to Dismiss filed on February 19, 2025, (attached as **Exhibit 5**), Plaintiff specifically argued: "The Defendants filed the Affidavit of Joanna 'Nicky' Gleason. As an initial matter, *this affidavit should not be considered.*" (emphasis added). The memorandum further cited *Spence v. Spence*, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006), expressly noting that "In considering... a [Rule 12(b)(6)] motion, the trial court must base its ruling solely on allegations set forth in the complaint." See Rule 12(b), SCRPC ("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." (emphasis added); *see also Brown v. Leverette*, 291 S.C. 364, 367, 353 S.E.2d 697, 698-99 (1987) ("... The notice provisions in Rule 56 are incorporated into Rule 12(b)(6)."); *id.* at 367, 353 S.E.2d at 699 (holding the circuit court erred in considering the defendant's supporting affidavits in ruling on a 12(b)(6) motion).

Here, the Court referenced and relied on:

1. The Affidavit of Joanna 'Nicky' Gleason filed by the Defendants, which contained contested facts regarding service. The Court determined the mechanic's lien was not served on a "person in possession" based on the affidavit of Joanna "Nicky" Gleason.
2. The contract attached to Defendants' Motion to Dismiss.

The South Carolina Supreme Court has established that in considering a 12(b)(6) motion, the court must base its decision solely on the allegations set forth on the face of the complaint, and the motion cannot be supported by affidavits or other evidence outside the pleadings. By relying on Ms. Gleason's affidavit to determine service issues, rather than converting the motion to one for summary judgment with proper notice, the proposed order reflects a procedural error that substantially prejudices Plaintiff.

c. The Court failed to view the allegations of the complaint as true, in the light most favorable to the Plaintiff.

The standard on a motion to dismiss requires the trial court to construe the complaint in the light most favorable to the Plaintiff as the non-moving party. *Spence (above), Grimsley v. S.C. Law Enf Div.*, 396 SC 276, 281. The Court failed to view the allegations of the complaint as true, in the light most favorable to the Plaintiff, specifically including (but not limited to):

1. The proposed order finds that the mechanic's lien was not served on a "person in possession" based on the affidavit of Joanna "Nicky" Gleason. However, Rule 12(b)(6) does not permit courts to consider affidavits or weigh credibility at the dismissal stage.
2. The proposed order makes a factual finding that Exhibit E to the complaint is an "affidavit of service of the Mechanic's Lien on Joanna "Nicky" Gleason. The Complaint identifies Exhibit E as an affidavit of service on the entity Luxury Rentals of Hilton Head, the property manager, as alleged in Paragraphs 16-18 and Exhibit B. The affidavit shows service on the entity Luxury Rentals at 63 New Orleans Road, through an individual Nicky Gleason. The affidavit also states that the service was made in accordance with applicable statutes and SCRCF. Factual disputes, such as whether Nicky Gleason is a proper agent for service on the owner's property manager should not be resolved on a Rule 12(b) motion, and if resolved, on a motion to dismiss, it should be resolved in favor of the Plaintiff. Otherwise, Plaintiff would be allowed to submit evidence such as identified in its motion in opposition filed February 20, 2025. If there are questions of fact regarding the Sheriff's Affidavit that may need to be resolved by questioning of the deputy or its records, it is not appropriate for a motion to dismiss where the complaint is "viewed in the light most favorable to the plaintiff" and should not be dismissed if the Plaintiff states "any valid claim." In this regard, the motion is being treated like a summary judgment motion, which is improper. "An agent's high level of actual or apparent responsibility suffices to permit service to be effective as against the principal." *Graham Law Firm, P.A. v. Makawi*, 396 S.C. 290, 295-96, 721 S.E.2d 430, 433 (2012) citing *Richardson v. P.V., Inc.*, 383 S.C. 610, 682 S.E.2d 263 (2009) (holding that hotel receptionist had authority to receive service of

process where she was only employee present in office, which represented to third parties that she was in charge).

3. The proposed order makes a legal conclusion that Exhibit D (the Beaufort County Sheriff's Office Affidavit of Non-Service) does not comply with the statute's reference to not being able to "locate" the owner because the Sheriff's office "located" Mr. Lotstein by telephone. First, this is being raised for the first time *ever* in the proposed order. Second, this is not how the language should be interpreted or what was intended by the statute, which is contemplating service of the owner. Mr. Lotstein could not be located for service because he was on vacation and did not meet the Sheriff. The Sheriff's office was unable to serve him or Kristin Huffman.

d. The Court misunderstood or perhaps failed to rule on Plaintiff's arguments regarding alternative service under the statute.

Defendants essentially made three arguments: 1) BCSO's service of Luxury Rentals of Hilton Head was made on someone that was not an agent authorized for service 2) there is some other error in the Sheriff's affidavits attached to the complaint 3) Luxury Rentals of Hilton Head, the property manager, was not a "person in possession" and so the complaint was not served.

Section S.C. Code 29-5-90 states that the Plaintiff must serve the lien on the owner or "person in possession" — which is an undefined term —and if it cannot, such diligence must be shown by Sheriff's affidavit. See S.C. Code Section 29-5-90. In the Complaint, Plaintiff alleges BCSO served the property manager, Luxury Rentals of Hilton Head, as a "person in possession." See Complaint, pages 4-7. Plaintiff **did not abandon** the argument that the property manager is a "person in possession" and was properly served as the Defendants and the proposed order suggest.⁴ Instead, Plaintiff submits that *even if* Defendants' arguments are correct —that Luxury Rentals of Hilton Head, the property manager, is not a "person in possession" or was not properly served — then the Sheriff's Office still used diligent efforts in its attempts for the purpose of service, which is verified by the Sheriff's affidavits and alleged in the Complaint (which should be viewed in the light most favorable to the Plaintiff *See* Exhibit D and E to the Complaint⁵. See Memorandum in Opposition, page 4.

⁴ This is an allegation that on a Rule 12(b)(6) motion should be accepted as true and enough facts to support it are on pages 4-7 of the complaint and in Exhibit B.

⁵ As noted above: As to the proposed order's statement that Exhibit D (the Beaufort County Sheriff's Office Affidavit of Non-Service) does not comply with the statute's reference to not being able to "locate"

Nor has Plaintiff abandoned any legal arguments as to the statute or its meaning or the interpretation of “person in possession.” Along with its consideration of Gleason’s affidavit, which as stated above Plaintiff submits is improper, the proposed order references two cases. One of the cases cited, *Stovall Building Supplies v. Mottett*, 305 S.C. 28 (Ct.App.1990) addresses a different code section —S.C. Code Section 29-5-40 — and the concept of notice to an owner and is not at all referring to the “person in possession” term used in S.C. Code Ann. § 29-5-90. For this reason, it has no relevance to a determination of whether the property manager was a “person in possession” under § 29-5-90. The other case cited is an unpublished case, addresses summary judgment, improperly relies on *Stovall* and deals with service on a subcontractor. Even if the Court considers *Stovall*, a security guard and a property manager are entirely different. In any event, "a novel issue should not be summarily decided on a 12(b)(6) motion." *Keiger v. Citgo*, Coastal Petroleum Inc., 326 S.C. 369, 373, 482 S.E.2d 792, 794 (Ct. App. 1997).

e. The Court either did not rule on or failed to give the Plaintiff an opportunity to amend before dismissing claims with prejudice.

The dismissal of claims "with prejudice" is improper given the early procedural posture of this case and because the Court has not given the Plaintiff an opportunity to amend. *See Skydive Myrtle Beach v. Horry Cty.*, 426 S.C. 175, 179, 826 S.E.2d 585, 587 (2019) (“When a trial court finds a complaint fails "to state facts sufficient to constitute a cause of action" under Rule 12(b)(6), the court should give the plaintiff an opportunity to amend the complaint pursuant to Rule 15(a) before filing the final order of dismissal.”). Here, Plaintiff has not been given any opportunity to amend its complaint to address the Court's concerns, and it is far from certain that Cambridge Building has not or cannot establish valid claims against these defendants with appropriate amendments. Plaintiff filed a Motion to Amend, which is currently pending.

IV. CONCLUSION

Plaintiff respectfully requests that this Court:

1. Reconsider its order partially granting Defendants’ Motion to Dismiss.

the owner because the Sheriff’s office “located” Mr. Lotstein by telephone: 1. This is obviously not how the language should be interpreted or what was intended by the statute, which is contemplating service of the owner. Mr. Lotstein could not be located for service because he was on vacation and did not meet the Sheriff. 2. This was not raised by the motion to dismiss or in the hearing.

2. Clarify, modify or reconsider its dismissal of Kristin Huffman and the Trust Defendants to allow the unjust enrichment claims to proceed.
3. Reconsider its order dismissing the First Cause of Action (Mechanic's Lien Foreclosure) and the Lis pendens.
4. Reconsider its order compelling arbitration.
5. Grant the Plaintiff an opportunity to amend the Complaint.

Respectfully Submitted,

s/Lee Anne Walters
Lee Anne Walters (SC Bar No. 74984)
WALTERS LAW
Post Office Box 1214
Beaufort, South Carolina 29901-1214
(843) 379-0973
leeanne@walterslawsc.com

March 7, 2025

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

Cambridge Building, Inc.
(License No. 117526)

PLAINTIFF,

v.

Robert S. Lotstein, Kristin Huffman, Robert S.
Lotstein, Trustee of the Robert S. Lotstein
Family Trust dated September 4, 2022, as
Amended and Restated, and Kristin S.
Huffman Trustee of the Kristin S. Huffman
Family Trust dated September 4, 2022, as
Amended and Restated

DEFENDANTS.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Civil Action No. 2024-CP-07-_____

SUMMONS

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint on the below subscribed attorney at Post Office Box 1214, Beaufort, SC 29901 within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the complaint within the time stated, the Plaintiff in this action will apply to the Court for judgment by default against you for the relief demanded in the complaint.

WALTERS LAW

s/Lee Anne Walters
Lee Anne Walters (S.C. Bar No. 74984)
leeanne@walterslawsc.com
Post Office Box 1214
Beaufort, SC 29901
Ph: (843) 379- 0973
Attorney for the Plaintiffs

September 18, 2024
Beaufort, South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

Cambridge Building, Inc.
(License No. 117526)

PLAINTIFF,

v.

Robert S. Lotstein, Kristin Huffman, Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2022, as Amended and Restated, and Kristin S. Huffman Trustee of the Kristin S. Huffman Family Trust dated September 4, 2022, as Amended and Restated

DEFENDANTS.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Civil Action No. 2024-CP-07-_____

**COMPLAINT and PETITION FOR
FORECLOSURE OF MECHANIC'S
LIEN
(Jury Trial Demanded)**

Plaintiff, through undersigned counsel, complaining of the Defendants above named hereby alleges and states as follows:

1. Cambridge Building, Inc. ("Cambridge") is a South Carolina limited liability company with its principal place of business in Beaufort County, South Carolina. Cambridge is qualified and licensed by the South Carolina Department of Labor, Licensing, and Regulation, License No. 117526 as a General Contractor. Frank Guidobono ("Guidobono") is the Qualifying Party for Cambridge and is also licensed in South Carolina as a Residential Builder, License No. 5623.
2. Upon information and belief, Robert Lotstein ("Lotstein") is a citizen and resident of either Beaufort County, South Carolina or the District of Columbia or both. Lotstein is sued in both his individual capacity and in his capacity as trustee of the Robert S. Lotstein Family Trust dated September 4, 2022, as Amended and Restated.

3. Upon information and belief, Kristin Huffman (“Huffman”) is a citizen and resident of either Beaufort County, South Carolina or the District of Columbia or both. Huffman is sued in both her individual capacity and in her capacity as trustee of the Kristin S. Huffman Family Trust dated September 4, 2022, as Amended and Restated.

4. Lotstein and Huffman, as trustees of their respective family trusts, own the property located in Palmetto Dunes (Lot 1) with an address of 8 Iron Clad, Hilton Head Island, SC 29928, which is the subject of this action (the “Property”). The Property is described as follows:

ALL that certain piece, parcel or lot of land situate, lying and being in Palmetto Dunes on Hilton Head Island, Beaufort County, South Carolina, shown and described as Lot One (1), Tee Road 8, Block A on a plat thereof prepared by J. Hearst Coleman Company, Inc. Engineers, which plat is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 17 at Page 1. For a more detailed description as to courses and distances, metes and bounds of the above-described parcel, reference is made to the above-mentioned plat of record.

Being the same property conveyed to Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2002, as Amended and Restated, and Kristin S. Huffman, Trustee of the Kristin S. Huffman Family Trust dated September 4, 2002, as Amended and Restated, by Deed of Petal & Twoey, LLC executed by its members Robert S. Lotstein and Kristin S. Huffman on January 24, 2022, and recorded on February 2, 2022, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 4111 at Pages 1553-1555.

Tax Map No.: R520 012 00A 0066 0000

Property Address: 8 Iron Clad, Hilton Head Island, SC 29928

5. Venue and Jurisdiction are appropriate in this Court as the Property is located in Beaufort County and most acts related to this action took place in Beaufort County, South Carolina.

6. In 2021, the Property was owned by Lotstein and Huffman as members of the limited liability company Petal & Twoey, LLC. On or about January 24, 2022, Lotstein and Huffman, as members of Petal & Twoey, LLC transferred ownership of the Property to Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2022, as Amended and Restated,

and Kristin S. Huffman Trustee of the Kristin S. Huffman Family Trust dated September 4, 2022, as Amended and Restated. See Deed, Exhibit A.

7. Lotstein and Huffman, as owners or on the owners' behalf, entered into an agreement with Cambridge pursuant to which Cambridge agreed to act as general contractor and provide labor and materials for construction and improvement on the Property.

8. Cambridge filed an application for and obtained permit number BLDR-000654-2022 from the Town of Hilton Head Island.

9. Lotstein and Huffman, as owners, agreed for Cambridge to act as general contractor and provide labor and materials for construction in exchange for a stipulated sum of \$2,246,078.00.

10. Cambridge furnished labor and materials used in the erection, construction, and improvement of the Property at the request of and by virtue of its agreement with Lotstein and Huffman, as owners of the Property or on behalf of the owners.

11. Lotstein and Huffman were required to make progress payments based on submitted applications for payment and based on the draw schedule.

12. As a net result of change orders, the contract sum was reduced by \$168,767.24, resulting in a total contract sum of \$2,077,310.76.

13. Lotstein and Huffman made payments to Cambridge in the total amount of \$1,711,996.00.

14. Plaintiff has performed all requirements associated with the agreement and completed its contractual obligations.

15. Defendants owe an outstanding balance of \$365,314.76 for labor performed and materials provided, plus interest from the date payment was due, pursuant to the agreement in the amount of 1 ½ % per month.

16. Upon information and belief, 8 Iron Clad is or was marketed for rent as a six-bedroom Hilton Head Island luxury oceanfront vacation rental home suitable for 18 guests, with Luxury Rentals of Hilton Head, LLC as the property manager.

17. 8 Iron Clad is described as a “Stunning BRAND-NEW Oceanfront Home!” and a “Stunning Brand-New Oceanfront Palmetto Dunes Luxury Home.”

18. The listing includes the following: “Welcome to 8 Iron Clad: A BRAND-NEW BUILT Oceanfront luxury home resides along the 3 miles of white sandy shoreline of Palmetto Dunes. This home was constructed with exceptional quality and designed for the needs of a luxury oceanfront vacation rental home.” See **Exhibit B**.



The photo above is a picture of 8 Iron Clad from the website vrbo.com (September 11, 2024).





The photos above are from luxuryrentalsofhiltonhead.com (September 11, 2024).

**FOR A FIRST CAUSE OF ACTION
(Petition for Foreclosure of Mechanic's Lien)**

19. Plaintiff repeats and reiterates the foregoing paragraphs as if fully stated herein.
20. At the request of Lotstein and Huffman and with their consent, Cambridge furnished labor and materials used in the erection of improvements on the Property.
21. At all times during Cambridge's performance, the Property was owned by Lotstein and Huffman, either individually or as trustees of their respective family trusts.
22. Defendants wrongfully failed and refused to pay Cambridge \$365,314.76 for labor and materials furnished in accordance with their agreement.
23. On July 3, 2024, Cambridge, within 90 days of the last date upon which it supplied the labor, materials and services to the Property, filed a Notice and Certificate of Mechanic's Lien, which included a just and true account of the amount due and a description of the property, in the

Office of the Register of Deeds for Beaufort County, at Book 161, Page 1949-1955, (the “Mechanic’s Lien”), a copy of which is attached as **Exhibit C**.

24. The Beaufort County Sheriff’s Office diligently searched for Lotstein and Huffman, as verified by affidavit, and was unable to locate them. See **Exhibit D**.

25. To satisfy the statute, the Beaufort County Sheriff’s Office served the Mechanic’s Lien upon the property manager, Luxury Rentals of Hilton Head, LLC, as the “person in possession” pursuant to S.C. Code Ann. § 29-5-90. See **Exhibit E**.¹

26. Plaintiff is entitled to an order of foreclosure of its Mechanic’s Lien on the Property for the amount due on its account and costs including reasonable attorney’s fees in accordance with the laws of the State of South Carolina.

**FOR A SECOND CAUSE OF ACTION
(Breach of Contract)**

27. Plaintiff repeats and reiterates the foregoing paragraphs as if fully stated herein.

28. Lotstein and Huffman, as owners, and Cambridge, as contractor, agreed for Cambridge to act as general contractor and provide labor and materials for the construction and erection of a

¹ Filed with the Beaufort County Register of Deeds at Book 161, Page 2211. S.C. Code Ann. § 29-5-90, states in pertinent part:

Such a lien shall be dissolved unless the person desiring to avail himself thereof, within ninety days after he ceases to labor on or furnish labor or materials for such building or structure, serves upon the owner or, in the event the owner cannot be found, upon the person in possession and files in the office of the register of deeds or clerk of court of the county in which the building or structure is situated a statement of a just and true account of the amount due him, with all just credits given, together with a description of the property intended to be covered by the lien sufficiently accurate for identification, with the name of the owner of the property, if known, which certificate shall be subscribed and sworn to by the person claiming the lien or by someone in his behalf and shall be recorded in a book kept for the purpose by the register or clerk who shall be entitled to the same fees therefor as for recording mortgages of equal length. Provided, that in the event neither the owner nor the person in possession can be located after diligent search, and this fact is verified by affidavit of the sheriff or his deputy, the lien may be preserved by filing the statement together with the affidavit.

residence on the Property in exchange for the payment of a stipulated sum by Lotstein and Huffman.

29. Cambridge performed its obligations under the agreement, which was a valid and binding contract for the construction of a structure on the Property.

30. Defendants failed to remit full payment to Cambridge.

31. Defendants' failure to pay constitutes a material breach of the contract.

32. Plaintiff is therefore entitled to a judgment against Defendants for damages due to Defendants' breach of contract, in an amount to be determined at trial, including the outstanding payment of \$365,314.76, plus interest at the agreed upon rate of 1 ½ % per month.

**FOR A THIRD CAUSE OF ACTION
(Unjust Enrichment)**

33. Plaintiff repeats and reiterate the foregoing paragraphs as if fully stated herein.

34. Plaintiff conferred a benefit on the Defendants by constructing a new residence on the Property owned by the Defendants with Defendants' knowledge and consent as described herein. The benefit was not conferred gratuitously but was conferred with an expectation of compensation and reimbursement.

35. Defendants received value from the benefit conferred by the Plaintiff because property they own includes a new luxury oceanfront residence with six bedrooms of "exceptional quality" and Defendants have not paid Plaintiff in full or paid interest, and they have caused Cambridge to incur costs and fees as they are receiving rental income.

36. It would be inequitable for the Defendants to retain the benefit without paying the Plaintiff for its value, and the Plaintiff is entitled, in equity, to Defendants' unjustly gained benefit, in an amount to be proven at trial, and as otherwise discussed herein.

WHEREFORE, Plaintiff demands foreclosure of its mechanic's lien and the proceeds of the sale applied to the debt owed Cambridge including interest and reasonable attorneys' fees as allowed, and requests a judgment against Defendants as set forth herein, as well as any additional, different, and/or further relief as this Court deems just and proper.

s/Lee Anne Walters
Lee Anne Walters (S.C. Bar No. 74984)
WALTERS LAW
Post Office Box 1214
Beaufort, SC 29901
Ph: (843) 379- 0973
leeanne@walterslawsc.com

September 18, 2024

IN WITNESS WHEREOF the undersigned Hand and Seal this 24th day of January, 2022.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Camie Jo Hart
First Witness

[Signature]
Second Witness/Notary Public

PETAL & TWOEY, LLC

By: [Signature]
Robert S. Lotstein, Member

By: [Signature]
Kristin S. Huffman, Member

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT
under S.C. Code § 30-5-30(c)

I, Robert L. Going the undersigned Notary Public, do hereby certify that the within Robert S. Lotstein and Kristin S. Huffman, Member and the authorized representatives of Petal & Twoey, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness to before me this
24th day of January, 2022.

[Signature]
Notary Public for South Carolina
My Commission Expires: May 28 2029



(SEAL)

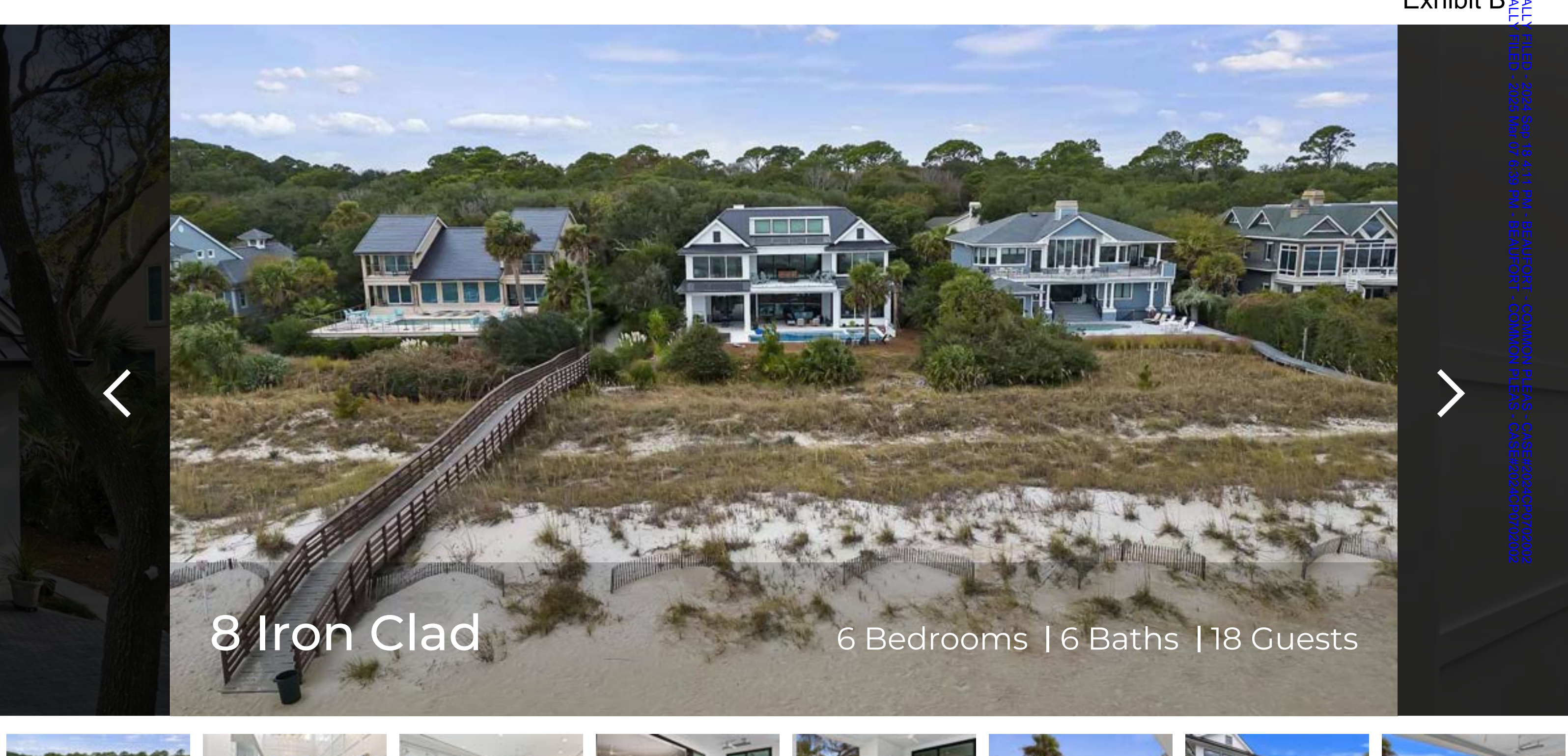
File # 2181.02

Exhibit A

ALL that certain piece, parcel or lot of land situate, lying and being in Palmetto Dunes on Hilton Head Island, Beaufort County, South Carolina, shown and described as Lot One (1), Tee Road 8, Block A on a plat thereof prepared by J. Hearst Coleman Company, Inc. Engineers, which plat is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 17 at Page 1. For a more detailed description as to courses and distances, metes and bounds of the above described parcel, reference is made to the above-mentioned plat of record.

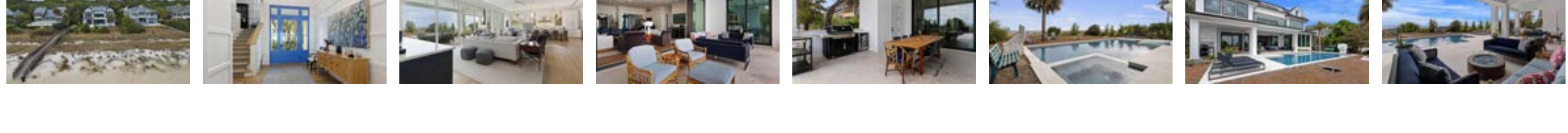
Said conveyance is made subject to all applicable covenants, restrictions, easements, etc. of record in the Office of the Register of Deeds for Beaufort County, South Carolina.

THIS BEING the same property conveyed to Petal & Twoey, LLC by Deed of Barbara Friedman, Susan F. Morgan and Mary M. Friedman N/K/A Mary Friedman Bellino, dated August 18, 2005, and recorded on September 16, 2005, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 2231 at Page 0343.



8 Iron Clad

6 Bedrooms | 6 Baths | 18 Guests



8 Iron Clad

Stunning Brand-New Oceanfront Palmetto Dunes Luxury Home

Pricing is based on paying by check. If you prefer to pay by credit card, there will be a 3% processing fee

Welcome to 8 Iron Clad: A **BRAND-NEW BUILT** Oceanfront luxury home resides along the 3 miles of white sandy shoreline of Palmetto Dunes. This home was constructed with exceptional quality and designed for the needs of a **luxury oceanfront vacation rental home**.

Quick Facts about this incredible home:

- 6 Bedrooms – all with ocean views except the bunk room!
- 6 full + two 1/2 baths
- Sleeps 16
- Approx.. 6,000 sq.ft.
- \$250 Beach Gear Credit Included – More Credits When You Stay Longer* – [Click Here For More Info](#)

Main and Mid-Level Bedrooms:

- Oceanfront Primary ensuite with King Bed on main floor with zero entry steam shower, soaking tub, 75" smart TV and 10' slider to the pool deck
- Mid-Level Bonus/Kids Bunk Room with connected bunks each Twin over Full room can sleep 6. Double vanity bath with walk-in shower and 75" smart TV

2nd Floor Bedrooms:

- King Oceanfront Bedroom with ensuite bathroom with double vanities, zero entry walk-in shower, soaking tub and 75" smart TV
- King Oceanfront Bedroom with ensuite bathroom with double vanities, zero entry walk-in shower, soaking tub and 75" smart TV
- King Oceanview Bedroom with ensuite bathroom with walk-in shower and 50" smart TV
- 2 Queen Oceanview Bedroom with ensuite bathroom with walk-in shower and 50" smart TV

8 Iron Clad Living Space:

- 2 Half Baths – one off main living area, the other on pool deck
- 1st Floor Living Area has 10' large sliders; it's a wonderful gathering place with an amazing gourmet kitchen /dining space, bar with a beverage and a wine refrigerator, nugget ice maker, comfortable seating with ocean/pool views and a large, covered patio
- Large Open Gourmet Kitchen with 2 full size refrigerators, 2 sinks & 2 dishwashers. Combination microwave/air fryer, trash compactor & filtered cold and instant hot water
- 2nd Floor Living Area with incredible ocean views that has a large sectional sofa and chairs, 75" smart TV, table and chairs, kitchenette (refrigerator/freezer, microwave, dishwasher, and instant hot water) and ping pong table
- 2 laundry rooms – one on each floor
- Regular coffee pot, Keurig coffee machine, Nespresso machine
- Large Covered Patio overlooking Pool out to Ocean with a gas grill

Home comes stocked with VIP Amenity Package:

- 18 Beach Towels
- Full Size Dish, Dishwasher, Laundry and Hand Soaps and Full-Size Shower Gel
- Trash Bags, Cling Wrap and Tin Foil for your convenience

ETC:

- Parking for 6 Cars maximum per Palmetto Dunes regulations (no garage access)
- NO Pets Allowed
- Absolutely NO SMOKING/VAPING ON PREMISES
- No Events Permitted
- Mid-Island Palmetto Dunes

8 Iron Clad

6 Bedrooms | 6 Baths | 18 Guests

Arrival

Departure

GET RATES

QUESTIONS?

Secure Booking Experience

Pay by check and SAVE the Reservation/Convenience Fee*. Use Promo Code **PAYBYCHECK** Upon Booking.

*This option is available only for reservations made 28 days or more prior to arrival.

Description	Room Details	Amenities	Location/Map
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8 Iron Clad is an oceanfront luxury home designed to entertain, relax, and enjoy with pool basketball, cornhole, ping pong and much more! This beautifully designed home is going to deliver an epic family vacation for everyone!

From the time you enter this home your stresses from everyday life just melt away. The high ceilings and massive display of windows draw in the sunlight and the views of the Atlantic Ocean. The wonderful open floor plan gives you the feeling of freedom and relaxation.

The kitchen is filled with top-of-the-line designer appliances including a 48inch AGA induction cook top with 5 burners, All-Clad cookware, a full-size food prep sink, 2 dishwashers, tons of storage and comes fully equipped to make inspirational meals. The kitchen, bar and kitchenette all are equipped with instant hot and filtered water.

The 1st floor living area includes incredibly comfortable seating, a dining table for 8, 5 bar stools and a large prep counter along the 12ft island as well as a corner table for 6. There is also a bar with wine and beverage refrigeration and pellet ice maker all overlooking the incredible view. Just off the kitchen is a butler pantry for your coffee station and just beyond the first of two laundry rooms with a shower.

The unhindered direct ocean and pool views from inside continue through the 10' quadruple sliding glass doors to the covered patio that has great seating and a Weber Genesis 4 burner gas grill for burger night! Imagine relaxing here after a long day in the sun on the beach. Such a great place to reconnect and spend time with friends and family.

The pool area will be the place of epic fun times and ranges from approximately 3' to 5' in depth, perfect for the basketball hoop. There is also a large sunning/toddler shallow water shelf. This is an incredible pool and comes with an 8-person hot tub.

Steps away is the wide-open Hilton Head Island beach which is accessed via a boardwalk just beside the home – nothing could be easier or finer!

Back in the house and still on the main floor is the Oceanfront Primary King Suite with an opulent bathroom. From the bidet to the steam shower to the body sprays, nothing is overlooked to offer you a spa-like experience. Let this be your oasis away from it all. Bask in the luxurious steam shower or kick back and take a relaxing bath in the oversized tub. This bedroom also has a 70" Smart TV as well as lots of drawers for clothes and an armoire for hanging items.

Take a few steps up to the perfect vacation area for the kids. This large room includes a large 75" TV flat screen and a regulation size basketball hoop for nerf basketballs. Besides comfortable seating there are 2 bunk beds, each having a twin top bunk over a full bed. This will be the ultimate hangout spot for the little ones in the group.

A few more steps and you are on the open 2nd floor living area with breathtaking ocean views. Designed with glass panels to shield the ocean breeze but bring in the 180-degree views of the Atlantic, this is an incredible spot to watch the sunrise with a coffee or enjoy the sunset with a cocktail. This will be the centerpiece of your stay.

Once the sun sets, family ping pong tournaments begin to bring the whole family together. There's also a kitchenette, huge flat screen TV, table and chairs and comfortable seating. Puzzles, games, and books are available as well.

Two upstairs bedrooms are junior primary suites on either side of the living area, each with their own stunning oceanfront views, king beds and amazing bathrooms. Showers are equipped with body sprays and handhelds and also have oversized bathtubs. The last 2 bedrooms each have their own private bathroom, one with 2 Queens and the other with a King. Whether you bring your multigenerational family or your best friends, this home has something for everyone.

Some furniture from the photos will be changed as the owners are still outfitting this beautiful masterpiece.

*For reservations of 3-13 days you will receive a \$250 VayKLife Beach Gear Credit that will go toward items such as bikes, beach chairs and more. Stay 14-20 days receive \$500 Credits and 21-day stays get \$750 in credits. Stays longer than 22 nights do not receive gear credits, but we can give you a link so you can book directly with VayKLife. Any unused credits do not convert to cash and do not apply to your rental rate or final cost. No packing required, making your vacation a breeze! You will receive details once the reservation is confirmed.

Specials	Reviews	Availability	Rental Policies
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OUR BEST RATE GUARANTEE

Always Book Direct with Luxury Rentals of Hilton Head and Receive the Lowest Rate on Your Accommodations and **Save at Least 15%!**

PAY BY CHECK AND WE WILL FORFEIT THE RESERVATION/CONVENIENCE FEE.**

Use Promo Code **PAYBYCHECK** Upon Booking and **You'll SAVE another Five Percent!**

****This option is available only for reservations made 28 days or more prior to arrival.**



Quick Links

- [Find Your Beach Property](#)
- [Rental Guest Experience](#)
- [Beach Gear Credit Included](#)
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- [Owner Login](#)
- [List My Property](#)

Helpful Links

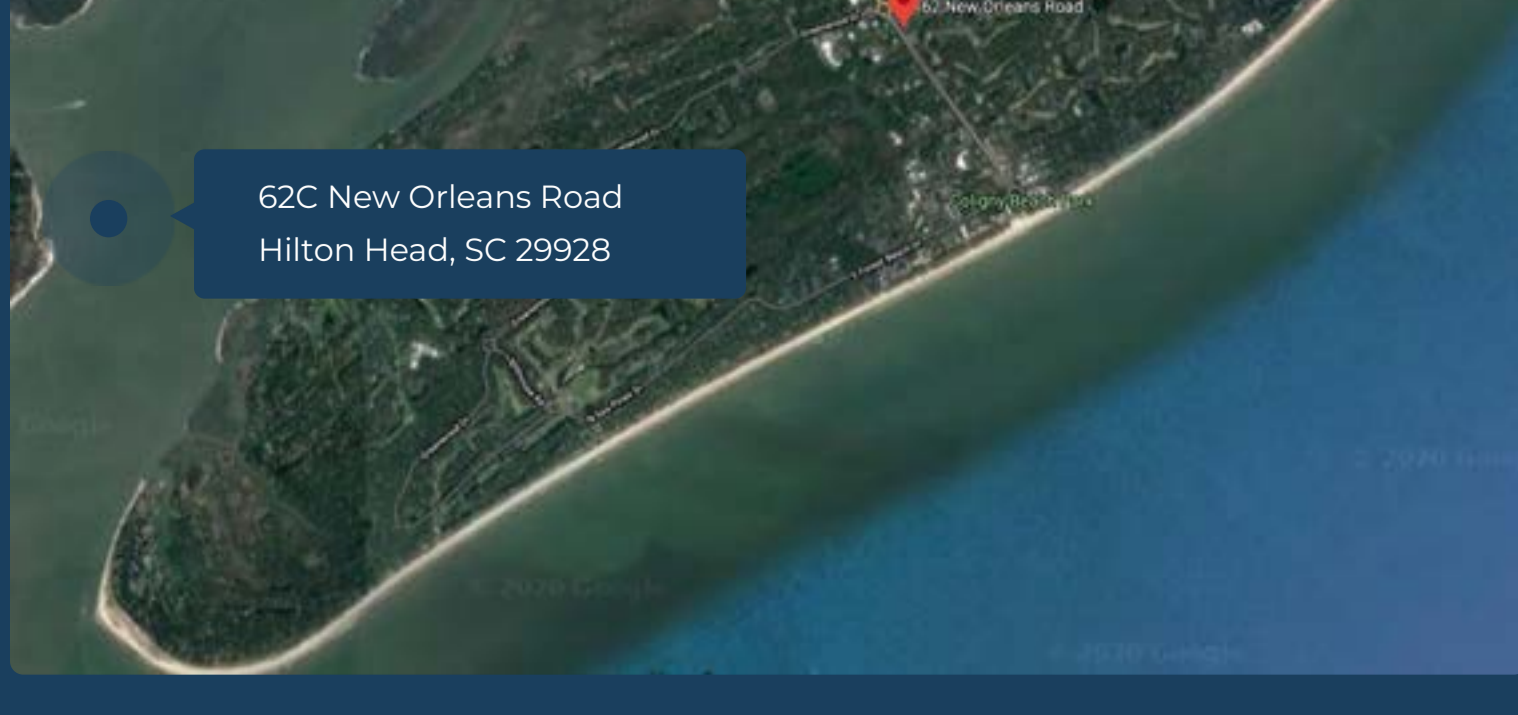
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- [Rental Agreement](#)
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Luxury Rentals of Hilton Head

62C New Orleans Road
Hilton Head Island, SC 29928
(843) 384-9955



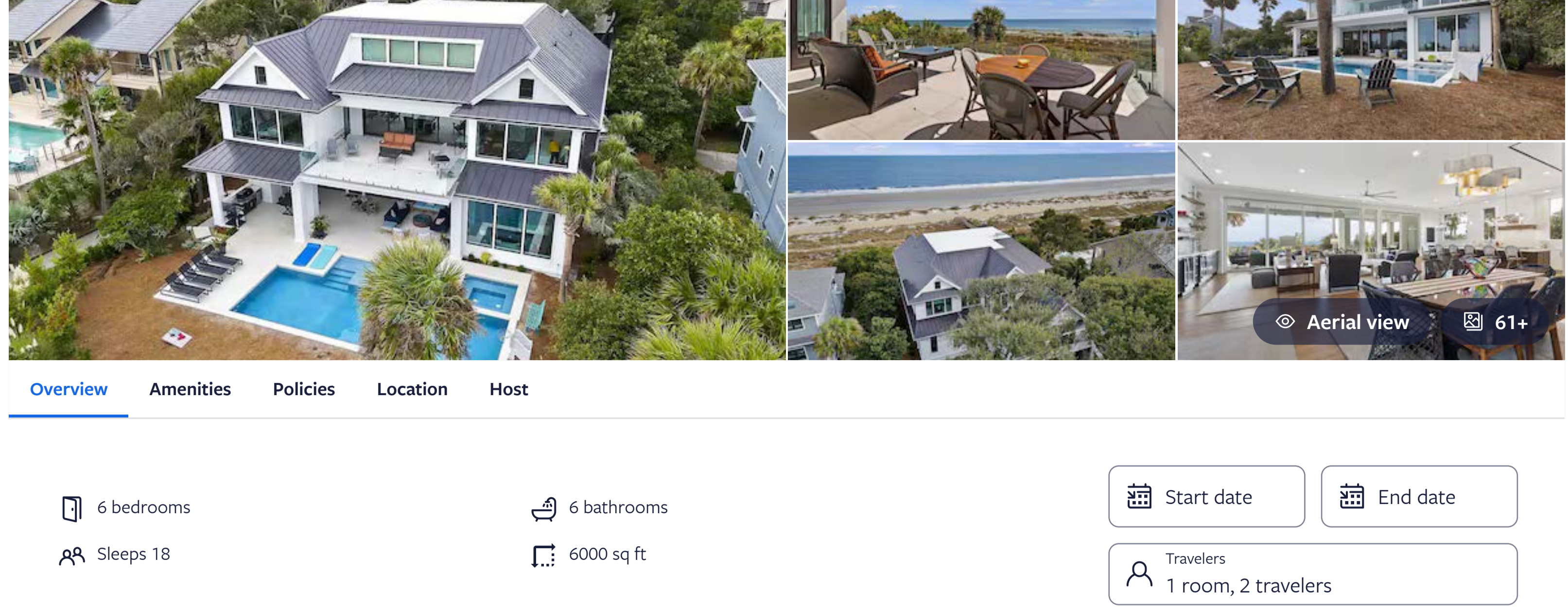
Map



See all properties Save

8 Iron Clad - Stunning BRAND-NEW Oceanfront Home

Going to Hilton Head Island, South Carolina, United States Dates Travelers 2 travelers Search



Overview Amenities Policies Location Host

6 bedrooms 6 bathrooms Start date End date 6000 sq ft 1 room, 2 travelers Check availability

Popular amenities: Beach view, Washer, Pool, Hot Tub, Barbecue grill, Kitchen

Check-in time 4:00 PM Check-out time 10:00 AM

Explore the area: Coligny Beach (5 min walk), Palmetto Dunes Club (4 min drive), Shelter Cove Harbour (9 min drive), Hilton Head Island, SC (HHH) (16 min drive)

Rooms & beds: 6 bedrooms (sleeps 18), 6 bathrooms (Bathroom 1-6)

Spaces: Kitchen, Dining Area, Balcony, Separate dining area

About this property

8 Iron Clad - Stunning BRAND-NEW Oceanfront Home

Pricing is based on paying by check. If you prefer to pay by credit card, there will be a 3% convenience fee.

Welcome to 8 Iron Clad. A BRAND-NEW Oceanfront luxury home resides along the 3 miles of white sandy shoreline of Palmetto Dunes. This home was constructed with exceptional quality and designed for the needs of a luxury oceanfront vacation rental home.

Quick Facts about this incredible home:

- >6 Bedrooms - all with ocean views except the bunk room!
>6 full + two 1/2 baths
>Sleeps 18
>Approx. 6,000 sq.ft.
>\$250 Beach Gear Credit Included - More Credits When You Stay Longer!
>Main and Mid-Level Bedrooms:
>Oceanfront Primary ensuite with King Bed on main floor with zero entry steam shower, soaking tub, 75" smart TV and 10' slider to the pool deck
>Mid-Level Bonus/Kids Bunk Room with connected bunks each Twin over Full room can sleep 6. Double vanity bath with walk-in shower and 75" smart TV
>2nd Floor Bedrooms:
>King Oceanfront Bedroom with ensuite bathroom with double vanities, zero entry walk-in shower, soaking tub and 75" smart TV
>King Oceanfront Bedroom with ensuite bathroom with double vanities, zero entry walk-in shower, soaking tub and 75" smart TV
>King Oceanview Bedroom with ensuite bathroom with walk-in shower and 50" smart TV
>2 Queen Oceanview Bedroom with ensuite bathroom with walk-in shower and 50" smart TV
>2 Half Baths - one off main living area, the other on pool deck
>1st Floor Living Area has 10" large sliders; it's a wonderful gathering place with an amazing gourmet kitchen/dining space, bar with a beverage and a wine refrigerator, rugged ice maker, comfortable seating with ocean/pool views and a large, covered patio
>Large Open Gourmet Kitchen with 2 full size refrigerators, 2 sinks & 2 dishwashers. Combination microwave/air fryer, trash compactor & filtered cold and instant hot water
>2nd Floor Living Area with incredible ocean views that has a large sectional sofa and chairs, 75" smart TV, table and chairs, kitchenette (refrigerator/freezer, microwave, dishwasher, and instant hot water) and ping pong table
>Oceanfront Kitchen with 2 full size refrigerators, 2 sinks & 2 dishwashers. Combination microwave/air fryer, trash compactor & filtered cold and instant hot water.
>2 laundry rooms - one on each floor
>Regular coffee pot, Keurig coffee machine, Nespresso machine
>Large Covered Patio overlooking Pool out to Ocean with a gas grill
>Private Pool with Hot Tub
>Home comes stocked with VIP Amenity Package:
>18 Beach Towels
>Full Size Dish, Dishwasher, Laundry and Hand Soaps and Full-Size Shower Gel
>Trash Bags, Cling Wrap and Tin Foil for your convenience
>Parking for 6 Cars maximum per Palmetto Dunes regulations (no garage access)
>Mid-Island Palmetto Dunes
>NO Pets Allowed
>Absolutely NO SMOKING/VAPING ON PREMISES
>No Events

8 Iron Clad is an oceanfront luxury home designed to entertain, relax, and enjoy with pool basketball, cornhole, ping pong and much more! This beautifully designed home is going to deliver an epic family vacation for everyone!

From the time you enter this home your stresses from everyday life just melt away. The high ceilings and massive display of windows draw in the sunlight and the views of the Atlantic Ocean. The wonderful open floor plan gives you the feeling of freedom and relaxation.

The kitchen is filled with top-of-the-line designer appliances including a 48inch AGA induction cook top with 5 burners, All-Clad cookware, a full-size food prep sink, 2 dishwashers, tons of storage and comes fully equipped to make inspirational meals. The kitchen, bar and kitchenette all are equipped with instant hot and filtered water.

The 1st floor living area includes incredibly comfortable seating, a dining table for 8, 5 bar stools and a large prep counter along the 12ft island as well as a corner table for 6. There is also a bar with wine and beverage refrigeration and pellet ice maker all overlooking the incredible view. Just off the kitchen is a butler pantry for your coffee station and just beyond the first of two laundry rooms with a shower.

The unhindered direct ocean and pool views from inside continue through the 10' quadruple sliding glass doors to the covered patio that has great seating and a Weber Genesis 4 burner gas grill for burger night! Imagine relaxing here after a long day in the sun on the beach. Such a great place to reconnect and spend time with Friends and family.

The pool area will be the place of epic fun times and ranges from approximately 3' to 5' in depth, perfect for the basketball hoop. There is also a large sunning/toddler shallow water shelf. This is an incredible pool and comes with an 8-person hot tub.

Steps away is the wide-open Hilton Head Island beach which is accessed via a boardwalk just beside the home - nothing could be easier or finer!

Back in the house and still on the main floor is the Oceanfront Primary King Suite with an opulent bathroom. From the bidet to the steam shower to the body sprays, nothing is overlooked to offer you a spa-like experience. Let this be your oasis away from it all. Back in the luxurious steam shower or kick back and take a relaxing bath in the oversized tub. This bedroom also has a 70" Smart TV as well as lots of drawers for clothes and an armoire for hanging items.

Take a few steps up to the perfect vacation area for the kids. This large room includes a large 75" TV flat screen and a regulation size basketball hoop for nerf basketballs. Besides comfortable seating there are 2 bunk beds, each having a twin top bunk over a full bed. This will be the ultimate hangout spot for the little ones in the group.

A few more steps and you are on the open 2nd floor living area with breathtaking ocean views. Designed with glass panels to shield the ocean breeze but bring in the 180-degree views of the Atlantic, this is an incredible spot to watch the sunrise with a coffee or enjoy the sunset with a cocktail. This will be the centerpiece of your stay.

Once the sun sets, family ping pong tournaments begin to bring the whole family together. There's also a kitchenette, huge flat screen TV, table and chairs and comfortable seating. Puzzles, games, and books are available as well.

*For reservations of 3-13 days you will receive a \$250 VaykLife Beach Gear Credit that will go toward items such as bikes, beach chairs and more. Stay 14-20 days receive \$500 Credits and 21-day stays get \$750 in credits. Stays longer than 22 nights do not receive gear credits, but we can give you a link so you can book directly with VaykLife. Any unused credits do not convert to cash and does not apply to your rental rate or final cost. No packing required, making your vacation a breeze! You will receive details once the reservation is confirmed.

PLEASE NOTE
> Resort and Reservation Fee Non-Refundable
> All Reservations Subject to Review Prior to Full Commitment
> All Reservations Subject to Applicable Local and State Sales Tax, Resort, Cleaning and Reservation Fee Added to All Bookings. You may Save the Reservation Fee by Paying By Check. CC Required for All Bookings
> Pool and Spa heat may have an additional fee
> 25% Deposit Required to Reserve
> Any Promotional Advertising Subject to Terms and Conditions
> Must be 28yrs or Older to Rent
> Properties are for Vacations or Business Trips Only. No Events, Weddings, or Parties Allowed
> All Properties are Equipped with Wi-Fi
> Parking for 6 Cars MAX - per Palmetto Dunes
> No Pets Allowed
> All Linens and Starter Soaps and Bath Tissues Provided
> Pricing is based on paying by check. If you prefer to pay by credit card, there will be a 3% convenience fee.

Property manager

LUXURY BEACHES OF THE WORLD Becky Walker, PMIC Luxury Rentals of Hilton Head Premier Host

Languages: English

Amenities

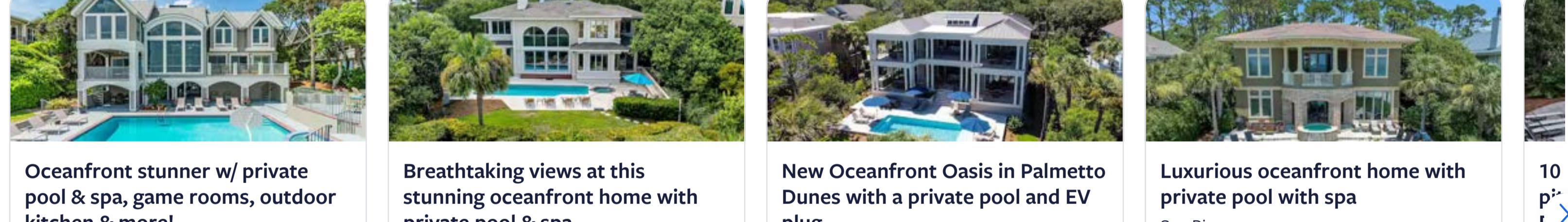
Pool, Kitchen, Dryer, Hot Tub, Washer, Free WiFi

See all 49 amenities

Have a question?

Search in general property info and reviews.

Example: When is check-in?



Property cards with titles like 'Oceanfront stunner w/ private pool & spa, game rooms, outdoor kitchen & more!' and ratings.

House Rules

Check in after 4:00 PM Check out before 10:00 AM Minimum age to rent: 28

Children: Children allowed: ages 0-17 Pets: No pets allowed Events: No events allowed Smoking: Smoking is not permitted At the Home which includes E-cigarettes

See more

Important information

You need to know

Extra-person charges may apply and vary depending on property policy

Government-issued photo identification and a credit card, debit card, or cash deposit may be required at check-in for incidental charges

Special requests are subject to availability upon check-in and may incur additional charges; special requests cannot be guaranteed

Onsite parties or group events are strictly prohibited

Host has indicated there is a carbon monoxide detector on the property

Host has indicated there is a smoke detector on the property

Safety features at this property include a fire extinguisher

About the neighborhood

Hilton Head Island

Located in Hilton Head Island, this vacation home is on the beach. Palmetto Dunes Club and Robert Trent Jones Golf Course are worth checking out if an activity is on the agenda, while those wishing to experience the area's natural beauty can explore Coligny Beach and Newhall Audubon Nature Preserve. Traveling with kids? Consider Pirate's Island Adventure Golf and Adventure Cove. With jet skiing, kayaking, and sailing nearby, you'll find plenty of activities in the water.

View more Vacation Homes in Hilton Head Island

Map showing nearby locations like Fishcamp on Broad Street, Burkes Beach, Kroger, Robert Trent Jones Golf Course, and Hilton Head Resort & Spa.

What's nearby: Coligny Beach - 5 min walk, Palmetto Dunes Tennis & Pickleball Center - 4 min drive, Shelter Cove Harbour - 9 min drive, Singleton Beach - 10 min drive

Restaurants: Giuseppe's Pizza & Pasta House Shelter Cove - 8 min drive, Hilton Coastal Cuisine - 8 min drive, Poseidon Diner Restaurant - 7 min drive, Sea Salts Beverage Company Pool Bar & Grill - 10 min drive, Old Oyster Factory - 13 min drive

Frequently asked questions

- > Is 8 Iron Clad - Stunning BRAND-NEW Oceanfront Home pet-friendly?
> What time is check-in at 8 Iron Clad - Stunning BRAND-NEW Oceanfront Home?
> What time is check-out at 8 Iron Clad - Stunning BRAND-NEW Oceanfront Home?
> Where is 8 Iron Clad - Stunning BRAND-NEW Oceanfront Home located?

Review rating scale from 10 - Excellent to 2 - Terrible. No reviews yet. Be the first to leave a review for this property after your stay.

About the host

Hosted by Becky Walker, PMIC Luxury Rentals of Hilton Head

Languages: English Premier Host They consistently provide great experiences for their guests

Tell us how we can improve our site Share feedback

More Vacation Rentals ideas: Houston (and vicinity) Vacation Rentals, New Braunfels Vacation Rentals, Sedona Vacation Rentals, etc.

People also search for

Georgetown Cabin Rentals



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List your property Book with Confidence Trust & Safety Partner resources Vacation rental guides

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7
25 TB
Walters
1108

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

Cambridge Building, Inc.,
Petitioner,
v.

Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2022, as amended and restated, and Kristin S. Huffman Trustee of the Kristin S. Huffman Family Trust dated September 4, 2022, as Amended and Restated

Owners/Respondents.

IN THE OFFICE OF THE REGISTER OF DEEDS

029627
BEAUFORT COUNTY SC - ROD
BK 161 Pgs 1949-1955
2024029627 MECH
07/03/2024 11:29:15 AM
REC'D BY rbing RCPT# 1173975

NOTICE AND CERTIFICATE OF MECHANIC'S LIEN
(License No. 117526)

TO: THE OWNERS/RESPONDENTS ABOVE NAMED AND ALL OTHERS CONCERNED:

PERSONALLY appeared before me, Lee Anne Walters, who states as follows:

She is the attorney for Petitioner Cambridge Building, Inc. (License No. 117526) and Frank Guidobono (Residential Builder License No. 5623) and acting on behalf of the Petitioner and Mechanic's Lien Claimant herein, and the annexed statement is a verified account of the amount due to the Petitioner with all just credits given for labor and/or materials furnished and used in the construction, alteration, or repair of buildings or structures situated on the after-described real property, by virtue of an agreement with Kristin Huffman and Robert Lotstein, the owners, individually or as trustees, of the subject property.

Cambridge Building, Inc., a duly licensed contractor, is due the sum of Three Hundred Sixty-Five Thousand Three Hundred Fourteen and 76/100 US Dollars (\$365,314.76), along with accrued interest pursuant to an agreement and attorneys' fees and costs to date, from Robert S. Lotstein and Kristin S. Huffman, as verified. Pursuant to S.C. Code Section 29-5-10 *et seq.* Cambridge Building, Inc. does hereby claim a lien on the real property described herein and in **Exhibit A** (the "Property") by virtue of the verified statement of just and true account of said

indebtedness, with all just credits given, attached as **Exhibit B**, incorporated and made a part of this notice. Said debt is due for labor and/or materials furnished and used in the erection, alteration, improvements or repair of buildings or structures situated on or in otherwise improving the Property. Ninety (90) days have not elapsed since labor and/or materials were last furnished to the Property. Cambridge Building, Inc. is licensed as a general contractor with license number 117526, and Frank Guidobono is the Qualifying Party. Frank Guidobono is also licensed in South Carolina as a Residential Builder (License No. 5623).

By the service and filing of this Notice and Certificate, and pursuant to the laws of South Carolina, the Lienor/Petitioner has and claims a lien to secure the payment of the debt so due and the cost of enforcing the lien (including reasonable attorney's fees) upon the structure and upon the following described real property located in Beaufort County, South Carolina:


ALL that certain piece, parcel or lot of land situate, lying and being in Palmetto Dunes on Hilton Head Island, Beaufort County, South Carolina, shown and described as Lot One (1), Tee Road 8, Block A on a plat thereof prepared by J. Hearst Coleman Company, Inc. Engineers, which plat is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 17 at Page 1. For a more detailed description as to courses and distances, metes and bounds of the above-described parcel, reference is made to the above-mentioned plat of record.

Being the same property conveyed to Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2002, as Amended and Restated, and Kristin S. Huffman, Trustee of the Kristin S. Huffman Family Trust dated September 4, 2002, as Amended and Restated, by Deed of Petal & Twoey, LLC dated January 24, 2022, and recorded on February 2, 2022, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 4111 at Pages 1553-1555.

Tax Map No.: R520 012 00A 0066 0000

Property Address: 8 Iron Clad, Hilton Head Island, SC 29928

WHEREFORE, upon service, Petitioner claims a Mechanic's Lien in the sum of Three Hundred Sixty-Five Thousand Three Hundred Fourteen and 76/100 US Dollars (\$365,314.76), plus reasonable attorneys' fees and for the costs and disbursements of this action.



Lee Anne Walters (SC Bar No. 74984)
WALTERS LAW
Post Office Box 1214
Beaufort, South Carolina 29901-1214
Phone: (843) 379-0973
Email: leeanne@walterslawsc.com
Attorney for Petitioner

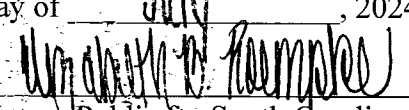
Sworn to before me the 3rd
day of July, 2024

Notary Public for South Carolina
Commission Expires: 7/15/26

EXHIBIT A

ALL that certain piece, parcel or lot of land situate, lying and being in Palmetto Dunes on Hilton Head Island, Beaufort County, South Carolina, shown and described as Lot One (1), Tee Road 8, Block A on a plat thereof prepared by J. Hearst Coleman Company, Inc. Engineers, which plat is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 17 at Page 1. For a more detailed description as to courses and distances, metes and bounds of the above-described parcel, reference is made to the above-mentioned plat of record.

This is the same property conveyed to Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2002, as Amended and Restated, and Kristin S. Huffman, Trustee of the Kristin S. Huffman Family Trust dated September 4, 2002, as Amended and Restated, by Deed of Petal & Twoey, LLC dated January 24, 2022, and recorded on February 2, 2022, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 4111 at Pages 1553-1555.

Tax Map No.: R520 012 00A 0066 0000

Property Address: 8 Iron Clad, Hilton Head Island, SC 29928

EXHIBIT B


STATE OF SOUTH CAROLINA) **VERIFIED STATEMENT OF ACCOUNT**
)
COUNTY OF BEAUFORT)

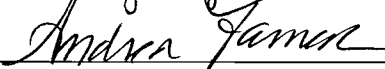
Personally appeared before me is Dennis Duren, who, being duly sworn, deposes and says:

1. He is the CFO/Controller and a representative of Cambridge Building, Inc., has personal knowledge of the facts set forth herein, and has been duly authorized to make this affidavit.
2. Cambridge Building, Inc. furnished labor and materials for the erection and improvement of the residence situated on the real property, described in Exhibit A (the "Property") at the request of and by virtue of its contract with Robert Lotstein and Kristin Huffman, as owners of the Property.
3. Cambridge Building, Inc., Frank E. Guidobono holds South Carolina General Contractor's License No. 117526.
4. The last day of labor was May 1, 2024. Ninety days has not lapsed since labor and/or materials were last furnished to the Property.
5. This is a true and accurate statement of the account, with all just credits applied and there is now past due and owing to Cambridge Building, Inc. the principal sum of \$365,314.76, plus interest pursuant to the agreement, plus such additional interest that has and may accrue, attorneys' fees and costs.

ORIGINAL CONTRACT SUM:	\$2,246,078.00
NET CHANGE BY CHANGE ORDERS:	(\$168,767.24)
LESS ALL PAYMENTS AND CREDITS:	\$1,711,996.00
TOTAL PRINCIPAL AMOUNT DUE:	\$365,314.76

Cambridge Building, Inc.


By: Dennis Duren
Its CFO/Controller

Sworn to before me the 1st
day of July, 2024

Notary Public for South Carolina
Commission Expires: 04/13/26

CCB 1074865

SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION
CONTRACTOR'S LICENSING BOARD

LICENSE#: CLG.117526

LICENSE#: CLG.117526

CAMBRIDGE BUILDING INC
19-B BOW CIRCLE
HILTON HEAD SC 29928

Has been qualified by the laws of the State of South Carolina and is duly entitled to practice as a:

GENERAL CONTRACTOR

for each Classification and Group Limitation listed below:

Building-BD5

(If this license has a "Limited Building" classification, licensee is limited to 3 stories in height)

LICENSE NUMBER:CLG.117526
Initial License Date:.....10/12/2012
EXPIRATION DATE:.....10/31/2024


Administrator

Group Limitations/\$ Amounts Per Job:
Group #1 - \$50,000 Group #2 - \$200,000
Group #3 - \$500,000 Group #4 - \$1,500,000
Group #5 - \$Unlimited

Qualifying Party(s): FRANK E GUIDOBONO

[It is at the discretion of this licensee to designate whomever they choose to pull permits and conduct business in their behalf.]

[Print this page](#)

Board: Commercial Contractors

CAMBRIDGE BUILDING INC
19-B BOW CIRCLE
HILTON HEAD, SC 29928
(843)341-2444

License number: 117526
License type: GENERAL CONTRACTOR
Status: ACTIVE
Expiration: 10/31/2024
First Issuance Date: 10/12/2012
Classification:
Building-BD5

Qualified By: Financial Statement
President / Owner: FRANK E GUIDOBONO

[Click here for Classification definitions and licensee's contract dollar limit](#)

Supervised By
GUIDOBONO FRANK (CQG)

[File a Complaint against this licensee](#)

Board Public Action History:

[View Orders](#) [View Other License for this Person](#)

No Orders Found

Exhibit D

BEAUFORT COUNTY SHERIFF'S OFFICE
PJ TANNER, SHERIFF
PO Box 1758
Beaufort, SC 29901

STATE OF SOUTH CAROLINA
BEAUFORT COUNTY

Process Number: 243248

Court Number:

KRISTIN S HUFFMAN (Defendant)

AFFIDAVIT OF NONSERVICE

KRISTIN S HUFFMAN (Defendant)
8 IRON CLAD; PALMETTO DUNES
HILTON HEAD ISL, SC 29928

I have made due search and inquiry and exercised due diligence, but I am returning the NOTICE AND CERT OF MECH LIEN, STATEMENT OF ACCOUNT UNSERVED after making the following service attempts:

Service attempted on 25th day of July, 2024 at 09:26:34 Korinek, K
per ssgt king return law suit

Service attempted on 22nd day of July, 2024 at 16:50:00 Korinek, K
def lotstein called he was adv of the nature of the civil action/adv him i needed to meet with him huffman or his atty representing him in this action/he was adv of pl atty information/he adv he was on vacation

Service attempted on 19th day of July, 2024 at 13:06:03 Korinek, K
att ph cont 202-255-3800 lft msg/202-280-6620 non working

Service attempted on 18th day of July, 2024 at 11:23:53 Korinek, K
address is the beach park/att ph cont luxury rentals hh becky walker
843-384-9955 lft msg

Service attempted on 16th day of July, 2024 at 15:57:48 Korinek, K
cambridge builders def live in the washington dc area and are attorneys

Service attempted on 16th day of July, 2024 at 13:02:06 Korinek, K
neg cont/short term rental/luxury rentals becky walker 843-384-9955/walker adv def lists address as primary residence only lives on hilton head 6-8 mths due back 8/4 or 8/5 ph
202-255-3800

NOTARY STATEMENT
SWORN to me on this the 26th day of July, 2024.

Notary Public For the State of South Carolina)

My Commission Expires 11/2/23)

Cpt Korinek
KORINEK

ELECTRONICALLY FILED - 2024 Sep 18 4:11 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002
ELECTRONICALLY FILED - 2025 Mar 07 6:39 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002

BEAUFORT COUNTY SHERIFF'S OFFICE
PJ TANNER, SHERIFF
PO Box 1758
Beaufort, SC 29901

STATE OF SOUTH CAROLINA
BEAUFORT COUNTY

Process Number: 243248

Court Number:

ROBERT S LOTSTEIN (Defendant)

AFFIDAVIT OF NONSERVICE

ROBERT S LOTSTEIN (Defendant)
8 IRON CLAD; PALMETTO DUNES
HILTON HEAD ISL, SC 29928

I have made due search and inquiry and exercised due diligence, but I am returning the NOTICE AND CERT OF MECH LIEN, STATEMENT OF ACCOUNT UNSERVED after making the following service attempts:

Service attempted on 25th day of July, 2024 at 09:26:34 Korinek, K
per ssgt king return law suit

Service attempted on 22nd day of July, 2024 at 16:50:00 Korinek, K
received ph call from def/def was adv of nature of civil action and was adv i needed to meet with him def huffman or an attorney representing him in the civil action/def was issued pl atty info/def adv he was on vacation

Service attempted on 19th day of July, 2024 at 13:06:03 Korinek, K
att ph cont 202-255-3800 lft msg/202-280-6620 non working

Service attempted on 18th day of July, 2024 at 11:23:53 Korinek, K
address is the beach park/att ph cont luxury rentals of hh becky walker 843-389-9955 lft msg

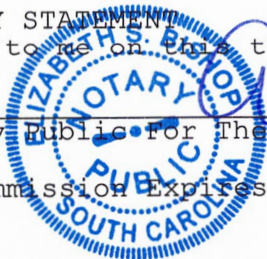
Service attempted on 17th day of July, 2024 at 15:57:49 Korinek, K
cambridge builders def lives in dc area/attorney

Service attempted on 17th day of July, 2024 at 13:02:06 Korinek, K
neg cont/short term rental/luxury rentals becky walker 843-384-9955. walker adv def lists resid as primary lives on hilton head6-8 mths due back 8/4 or 8/5 202-255-3800.

NOTARY STATEMENT
SWORN to before me on the 26th day of July, 2024.

Notary Public for The State of South Carolina)

My Commission Expires 11/2/30)



Cpl Korinek
Korinek, K

ELECTRONICALLY FILED - 2024 Sep 18 4:11 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002
ELECTRONICALLY FILED - 2025 Mar 07 6:39 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002

Exhibit E

BEAUFORT COUNTY SHERIFF'S OFFICE
PJ TANNER, SHERIFF
PO Box 1758
Beaufort, SC 29901

STATE OF SOUTH CAROLINA
BEAUFORT COUNTY

Process Number: 243387

Court Number:

PMIC LUXURY RENTALS (Defendant)

AFFIDAVIT OF SERVICE

Service of: PMIC LUXURY RENTALS (Defendant)
62 NEW ORLEANS RD
Hilton Head Isl, SC 29928

Deputy SERONKA says on oath that on the 25th day of July, 2024 at 13:00:00 he/she served the NOTICE AND CERT OF MECH LIEN, STATEMENT OF ACCOUNT on PMIC LUXURY RENTALS (Defendant) by delivering unto NICKY GLEASON, at 62 NEW ORLEANS RD, HILTON HEAD ISL, SC 29928 personally copy(ies) thereof. Service of process was made in accordance with applicable statutes and the Rules of Civil Procedures in effect at the time of service.

I also certify that I endorsed on the said copy the date of service, signed my name, and added my official title thereto.

NOTARY STATEMENT
SWORN to me on this the 29th day of July, 2024.

Notary Public For the State of South Carolina)
My Commission Expires 1/12/30)



Seronka, Chad

ELECTRONICALLY FILED - 2024 Sep 18 4:11 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002
ELECTRONICALLY FILED - 2025 Mar 07 6:39 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002

BEAUFORT COUNTY SHERIFF'S OFFICE
PJ TANNER, SHERIFF
PO Box 1758
Beaufort, SC 29901

STATE OF SOUTH CAROLINA
BEAUFORT COUNTY

Process Number: 243387

Court Number:

PMIC LUXURY RENTALS (Defendant)

AFFIDAVIT OF SERVICE

Service of: PMIC LUXURY RENTALS (Defendant)
62 NEW ORLEANS RD
Hilton Head Isl, SC 29928


Deputy SERONKA says on oath that on the 25th day of July, 2024 at 13:00:00 he/she served the NOTICE AND CERT OF MECH LIEN, STATEMENT OF ACCOUNT on PMIC LUXURY RENTALS (Defendant) by delivering unto NICKY GLEASON, at 62 NEW ORLEANS RD, HILTON HEAD ISL, SC 29928 personally copy(ies) thereof. Service of process was made in accordance with applicable statutes and the Rules of Civil Procedures in effect at the time of service.

I also certify that I endorsed on the said copy the date of service, signed my name, and added my official title thereto.

NOTARY STATEMENT
SWORN to me on this the 14th day of August, 2024.

Notary Public For The State of South Carolina)

My Commission Expires 11/21/20)


Seronka, Chad



ELECTRONICALLY FILED - 2024 Sep 18 4:11 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002
ELECTRONICALLY FILED - 2025 Mar 07 6:39 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002

March 11, 2025

VIA US MAIL AND EMAIL (BCulbertsonSC@sccourts.org)

The Honorable Benjamin H. Culbertson
P.O. Box 479
401 Cleland Street
Georgetown, SC 29442

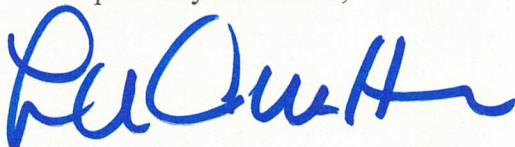
RE: Cambridge Building, Inc. v. Robert S. Lotstein, et al.
C/A No.: 2024-CP-07-02002, pending in Beaufort County

Dear Judge Culbertson:

As required by Rule 59(g), SCRPC, I enclose a copy of Plaintiff's Motion to Alter or Amend, including the exhibits, which was filed on March 7, 2025, in the matter above.

Please let me know if the Court requires any further information or briefing from my office. Counsel for the Defendants is copied here.

Respectfully submitted,



Lee Anne Walters

cc: Terry A. Finger, Esq. (via email)
Walker Patrick (bculbertsonlc@sccourts.org)

Subject: Re: 2024CP0702002 / Cambridge Building, Inc. -vs- Robert S. Lotstein, et al
Date: Friday, March 14, 2025 at 4:52:01 PM Eastern Daylight Time
From: Lee Anne Walters
To: Johnson, Karen, Culbertson, Benjamin H. Law Clerk (Walker Patrick), Culbertson, Benjamin Secretary (Ramona Moree)
CC: tfinger@fingerlaw.com
Attachments: 250312 letter to Judge Culbertson.pdf

Attached is an electronic copy of my letter to Judge Culbertson enclosing a copy of the filed Motion to Alter or Amend.

Lee Anne Walters | Attorney at Law
Walters Law | Post Office Box 1214 | Beaufort, SC 29901
o. 843.379.0973 | d. 843.670.0909 | leeanne@walterslawsc.com

Note: This electronic mail is intended to be received and read only by certain individuals. It may contain information that is attorney-client privileged or protected from disclosure by law. If it has been misdirected, or if you suspect you have received this in error, please notify me by replying and then delete both the message and reply. Thank you.

From: Johnson, Karen <kjohnson3@bcgov.net>
Date: Monday, March 10, 2025 at 8:33 AM
To: Culbertson, Benjamin H. Law Clerk (Walker Patrick) <BCulbertsonlc@sccourts.org>, Culbertson, Benjamin Secretary (Ramona Moree) <BCulbertsonsc@sccourts.org>
Cc: Lee Anne Walters <leeanne@walterslawsc.com>, tfinger@fingerlaw.com <tfinger@fingerlaw.com>
Subject: 2024CP0702002 / Cambridge Building, Inc. -vs- Robert S. Lotstein, et al

Good morning,

Attached is a Motion to Alter or Amend in the above case. Please advise as to how Judge Culbertson would like to proceed with this motion.

Respectfully,

Karen Johnson
Judicial Clerk
Beaufort County Clerk of Court
843-255-5051

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

Cambridge Building, Inc.
(License No. 117526)

PLAINTIFF,

v.

Robert S. Lotstein, Kristin Huffman, Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2022, as Amended and Restated, and Kristin S. Huffman Trustee of the Kristin S. Huffman Family Trust dated September 4, 2022, as Amended and Restated

DEFENDANTS.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Civil Action No. 2024-CP-07-02002

**MOTION TO RECONSIDER ORDER
GRANTING, IN PART, DEFENDANTS'
MOTION TO DISMISS**

Plaintiff Cambridge Building, Inc. (“Plaintiff” or “Cambridge Building”) respectfully moves this Court to reconsider its April 24, 2025 Order partially granting Defendants' Motion to Dismiss (the “April 24, 2025 Order”).

SUMMARY OF ARGUMENT

Plaintiff respectfully moves this Court to reconsider its April 24, 2025 Order partially granting Defendants' Motion to Dismiss for the following reasons:

1. **Dismissal of Claims not challenged in Defendant’s Motion:** The Order dismisses the unjust enrichment claims with prejudice, even though those claims *were never challenged* in Defendants’ Motion to Dismiss and were sufficiently well-pled to survive Rule 12(b)(6) scrutiny.
2. **False Statements in the Order:** Conclusion of Law 1(c) of the Order contains a false statement, namely that Plaintiff did not object to Defendants’ affidavit when the record reflects the opposite.
3. **No opportunity to amend:** The Court dismissed claims with prejudice without giving Plaintiff an opportunity to amend the complaint, contrary to South Carolina law requiring courts to provide an opportunity to amend when finding a complaint fails to state a cause of action under Rule 12(b)(6).

4. **Improper Consideration of Materials Outside the Complaint:** The Order improperly considered and relied upon the Affidavit of Gleason and other materials outside the complaint without converting the motion to one for summary judgment and without providing Plaintiff reasonable opportunity to present contradictory evidence, despite Plaintiff's specific objection to consideration of the affidavit.
5. **Failure to View Allegations in Light Most Favorable to Plaintiff:** The Order failed to construe the Complaint's allegations as true and in the light most favorable to Plaintiff as required under Rule 12(b)(6) standard, particularly regarding service of the mechanic's lien and the sufficiency of the Sheriff's affidavits.
6. **Misunderstanding of Alternative Service Arguments:** The Order misunderstood or failed to rule on Plaintiff's arguments regarding alternative service under S.C. Code 29-5-90.
7. **Arbitration:** The Order improperly ordered arbitration on a motion to dismiss, without giving Plaintiff notice and opportunity to be heard on issues related to arbitration including defenses and what claims and what parties should be compelled.

BACKGROUND

Cambridge Building, Inc., a South Carolina licensed general contractor, filed this lawsuit after it constructed an oceanfront residence on Hilton Head Island at 8 Iron Clad (the "Property") and was not paid by Robert S. Lotstein, Kristin Huffman, or their respective family trusts – which own the property through Lotstein and Huffman as trustees, (collectively, "Defendants") (Complaint ¶¶ 1-17)¹, although Defendants advertised and rented the Property as a luxury vacation home.

On July 3, 2024, within 90 days of the last labor and materials furnished, Cambridge filed a Notice and Certificate of Mechanic's Lien. The Beaufort County Sheriff's Office attempted to serve Robert Lotstein and Kristin Huffman but was not able to locate them for service as verified by affidavit. (Complaint ¶ 24). The Beaufort County Sheriff's Office served the Mechanic's Lien on the property manager, Luxury Rentals of Hilton Head, at 62 New Orleans Rd., Hilton Head.

¹ In January of 2022, the Property was transferred to Defendants in their capacities as trustees of the Robert S. Lotstein Family Trust and the Kristin S. Huffman Family Trust, both dated September 4, 2002. (Complaint ¶ 6). Exhibit A includes the Deed showing a grant to Robert S. Lotstein, trustee of the Robert S. Lotstein Family Trust dated September 4, 2002 as amended and restated and Kristen Huffman, trustee of the Kristen S. Huffman family trust September 4, 2002 as amended and restated.

(Complaint ¶¶ 16-18, Ex. B, 25). On September 18, 2024, Cambridge initiated this action, alleging causes of action for foreclosure of a mechanic's lien, breach of contract, and unjust enrichment against Robert S. Lotstein and Kristin S. Huffman, individually and in their capacities as trustees of the Robert S. Lotstein Family Trust and the Kristin S. Huffman Family Trust — the property owners.

On October 18, 2024, Defendants filed a Motion to Dismiss. A hearing on Defendants' Motion to Dismiss was not scheduled until four months later and took place on February 21, 2025, before the Honorable Benjamin Culbertson. On February 20, 2025, Plaintiff filed a Memorandum in Opposition to Defendants' Motion to Dismiss. **Attached as Exhibit 1.** On February 25, 2025, Judge Culbertson filed a Form 4 Order stating the motion to dismiss is partially granted and directing Attorney Finger to prepare a proposed order. Attorney Finger submitted a proposed order by email on February 27, 2025. The proposed order was never filed. Plaintiff wrote a letter with objections to the proposed order on March 1, 2025 (emailed March 3, 2025). Plaintiff filed a Motion to Alter or Amend/Reconsider on March 7, 2025, which included, as exhibits, copies of the proposed order that Mr. Finger submitted on behalf of the Defendants, Plaintiff's letter objecting to the proposed order, the Complaint and Plaintiff's opposition to the Motion to Dismiss (the "March 7, 2025 Motion to Alter or Amend"). Counsel requested a hearing before Judge Culbertson. On March 10, 2025, the Beaufort County Clerk's Office emailed a copy of the March 7, 2025 Motion to Alter or Amend/Reconsider including exhibits to Judge Culbertson's law clerk and administrative assistant. On March 11, 2025, counsel mailed a copy of the March 7, 2025 Motion to Reconsider to Judge Culbertson with an email copy of the letter to his law clerk and administrative assistant. Plaintiff filed a Motion to Amend on February 18, 2025, which was scheduled for a hearing on before Judge Hyman on April 8, 2025. Defendants' counsel argued it was improper to allow amendment without allowing Judge Culbertson to enter an Order. On April 17, 2025, Judge Hyman issued a Form 4 Order continuing the Motion to Amend for 60 days. On April 23, 2025, Mr. Finger emailed Judge Culbertson's law clerk about the order. The following day — April 24, 2025 — the proposed order was signed and filed.

STANDARD FOR RECONSIDERATION

The purpose of Rule 59(e), SCRPC, to alter or amend the judgment, is to request the trial judge to "reconsider matters properly encompassed in a decision on the merits." *Arnold v. State* 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). A Rule 59(e) motion is not only the proper vehicle

to request a court to alter or amend a judgment, but also to seek reconsideration of issues and arguments previously presented. *Elam v. South Carolina Dept. of Transp.* 361 S.C. 9, 21 602 S.E.2d 772, 778 (S.C. 2004). A party may wish to file a 59(e) motion when the 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. *Elam*, 361 S.C. at 24, 602 S.E.2d at 780. “There is nothing inherently unfair in allowing a party one final chance not only to call the court’s attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument. It is inherently unfair to disallow such an opportunity.” *Elam v. S.C. DOT*, 361 S.C. at 22, 602 S.E.2d at 779.

STANDARD FOR MOTION TO DISMISS

Rule 12(b)(6) allows the trial court to address the sufficiency of a pleading; it is not a vehicle for addressing the underlying merits of the claim. *Skydive Myrtle Beach, Inc. v. Horry Cnty.*, 426 S.C. 175, 826 S.E.2d 585, 587 (2019); *see also Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556, (2007) (allowing a complaint to proceed “even if it strikes a savvy judge that actual proof of those facts is improbable, and that a recovery is very remote and unlikely.”) A motion to dismiss under Rule 12(b)(6) should not be granted if the “facts alleged and reasonable inferences deducible therefrom, ***viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory.***” *Marion*, 373 S.C. at 395, 645 S.E.2d at 247. A motion to dismiss under Rule 12(b)(6) must be decided solely on the allegations in the complaint, which must be accepted as true and construed in the light most favorable to the plaintiff. *See Doe v. Marion*, 373 S.C. 390, 645 S.E.2d 245 (2007); *Carnival Corp. v. Hist. Ansonborough Neighborhood Ass’n*, 407 S.C. 67, 74, 753 S.E.2d 846, 850 (2014) (“In considering a motion to dismiss under Rule 12(b)(6), a court must base its ruling solely on the allegations set forth in the complaint.”); *Skydive Myrtle Beach, Inc. v. Horry Cty.*, 426 S.C. 175, 180, 826 S.E.2d 585, 588 (2019) (“[A]ny plaintiff is...entitled to litigate the validity of its original pleading without having to convince the trial court of the merits of its underlying claim.”).

ARGUMENT

I. The April 24, 2025 Order improperly dismisses Kristen Huffman and the named trustees on behalf of the respective trusts with prejudice.

Defendants’ Rule 12(b)(6) motion ***did not challenge the unjust enrichment claims*** but the April 24, 2025 Order dismisses the unjust enrichment claims and all claims against 1) Kristin

Huffman 2) Kristin S. Huffman as Trustee of the Kristin S. Huffman Family Trust dated September 4, 2002, as Amended and Restated, and 3) Robert S. Lotstein, as Trustee of the Robert S. Lotstein Family Trust dated September 4, 2002 (Huffman and the trustees of the family trusts) *entirely with prejudice*, finding they were not parties to the contract. This is improper —not only because Plaintiff had no notice of it —but also because the unjust enrichment claims are valid claims against all Defendants if (1) they are parties to the contract and (2) if they are not parties to the contract.

The Plaintiff has stated valid unjust enrichment claims against each of the defendants including the trusts, which own the property, and Huffman and Lotstein who hold legal title as trustees. *See Gignilliat v. Gignilliat, Savitz & Bettis, L.L.P.*, 385 S.C. 452, 466, 684 S.E.2d 756, 764 (2009) (“The South Carolina Supreme Court has recognized quantum meruit as an equitable doctrine to allow recovery for unjust enrichment. To prevail under this theory, a plaintiff must show the following elements: "(1) [a] benefit conferred by [the] plaintiff upon the defendant; (2) realization of that benefit by the defendant; and (3) retention of the benefit by the defendant under circumstances that make it inequitable for him to retain it without paying its value.""). A party may bring an unjust enrichment cause of action as an alternative claim to breach of contract. *See Beverly v. Grand Strand Reg'l Med. Ctr., LLC*, 429 S.C. 502, 515, 839 S.E.2d 468, 475 (Ct. App. 2020); *Williams Carpet Contractors, Inc. v. Skelly*, 400 S.C. 320, 327-28, 734 S.E.2d 177, 181 (Ct. App. 2012) (allowing a party to allege an unjust enrichment cause of action as an alternative claim for breach of contract). If Huffman and the trusts are not parties to the contract (Huffman is listed as an owner on the front page, and we do not know whether Lotstein signed as co-trustee of his trust, as this is a motion to dismiss on the pleadings), they no doubt benefitted from it under circumstances that, as alleged, are unjust.

Again, the Defendants’ Motion to Dismiss filed October 18, 2024 *did not challenge* the unjust enrichment claims, although those claims were sufficiently well-pled to survive a Rule 12(b)(6) challenge and the April 24, 2025 Order does not address the pleading of the unjust enrichment claims against Huffman and the trusts or refer those claims to arbitration (which Plaintiff argues is also improper), it dismisses all claims against Huffman and the family trusts, including the unjust enrichment claims, *entirely with prejudice*. There is no basis for dismissing Huffman and the family trusts through the trustees from the lawsuit because even if the Court dismisses certain defendants from the breach of contract cause of action, there are pending unjust

enrichment claims against all defendants², which were well-pled and should remain as viable claims.

In addition, Plaintiff again raises the argument – as stated in its Memorandum in Opposition (attached as Exhibit 1 at page 5) that if arbitration is ordered (and the case stayed)³, the validity of the contract as a whole is a matter for the arbitrator.

II. The statement in the Order that Plaintiff did not object to the affidavit that Defendants submitted is objectively inaccurate, and the Order did not rule on Plaintiff's argument that consideration of materials outside the complaint – such as the affidavit submitted the Defendant submitted – was improper.

Conclusion of Law 1(c) of the Order (page 3) contains a false statement, namely that Plaintiff did not object to the affidavit that the Defendant submitted when the record reflects the opposite. Contrary to what is stated in the Order, Plaintiff *did object* to consideration of the Gleason Affidavit. Specifically, the following statement set forth in the Order (at Page 3) is false:

- The Affidavit of Joanna Nicky Gleason was not objected to by Plaintiff.

As demonstrated in Plaintiff's Memorandum in Opposition to Defendants' Motion to Dismiss filed on February 19, 2025, Plaintiff specifically argued: "The Defendants filed the Affidavit of Joanna 'Nicky' Gleason. As an initial matter, *this affidavit should not be considered.*" (emphasis added). The memorandum further cited *Spence v. Spence*, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006), expressly noting that "In considering... a [Rule 12(b)(6)] motion, the trial court must base its ruling solely on allegations set forth in the complaint." See Rule 12(b), SCRPC ("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

² "Unjust enrichment is somewhat self-defining: A person is unjustly enriched if the retention of [a] benefit would be unjust." *Rose v. PSA Airlines, Inc.*, 80 F.4th 488, 499 (4th Cir. 2023). "Sometimes that benefit was money, and courts of equity could award equitable restitution by ordering the unjustly enriched to give that "wrongfully obtained" money to its rightful owner either via a constructive trust or an equitable lien." *Id.* The elements to recover for unjust enrichment based on quantum meruit, quasi-contract, or implied by law contract, which are equivalent terms for equitable relief are the plaintiff must show: (1) he conferred a non-gratuitous benefit on the defendant; (2) the defendant realized some value from the benefit; and (3) it would be inequitable for the defendant to retain the benefit without paying the plaintiff for its value.

³ Plaintiff does not waive its argument that arbitration should not have been ordered on a Rule 12(b)(6) motion to dismiss but should have been raised in a Motion to Stay/Compel Arbitration and Plaintiff given a full opportunity as to the claims to be arbitrated etc.

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." (emphasis added); *see also Brown v. Leverette*, 291 S.C. 364, 367, 353 S.E.2d 697, 698-99 (1987) (" . . . The notice provisions in Rule 56 are incorporated into Rule 12(b)(6)."); *id.* at 367, 353 S.E.2d at 699 (holding the circuit court erred in considering the defendant's supporting affidavits in ruling on a 12(b)(6) motion).

Here, the Order referenced and relied on:

1. The Affidavit of Joanna 'Nicky' Gleason filed by the Defendants, which contained contested facts regarding service. The Court made factual conclusions about service based on the affidavit of Joanna "Nicky" Gleason.
2. The contract attached to Defendants' Motion to Dismiss.

The Court was presented with and considered matters outside the complaint, and the Plaintiff had no notice the motion would be essentially converted to a motion for summary judgment. Matters outside of the complaint should not be considered at the Rule 12(b)(6) stage, and if converted, Plaintiff was not provided notice or a reasonable opportunity to submit evidence to challenge Defendants' affidavits. The South Carolina Supreme Court has established that in considering a 12(b)(6) motion, the court must base its decision solely on the allegations set forth on the face of the complaint, and the motion cannot be supported by affidavits or other evidence outside the pleadings. By relying on Ms. Gleason's affidavit to determine service issues, rather than converting the motion to one for summary judgment *with proper notice*, the Order contains a procedural error that substantially prejudices Plaintiff.

III. The Court failed to view the allegations of the Complaint as true, in the light most favorable to the Plaintiff.

The standard on a motion to dismiss requires the trial court to construe the complaint in the light most favorable to the Plaintiff as the non-moving party and consider all well-pled allegations as true. *Fabian v. Lindsay*, 410 S.C. 475, 481, 765 S.E.2d 132, 136 (2014) citing *Turner v. Daniels*, 404 S.C. 430, 431 n.1 (2013) (noting under the standard of review applicable to Rule 12(b)(6) motions, we construe all of the facts in the appellant's well-pled complaint in the light most favorable to the appellant and presume those facts to be true). *Grimsley v. S.C. Law Enft Div.*, 396 S.C. 276, 281, 721 S.E.2d 423, 426 (2012) ("If the facts alleged and inferences deducible therefrom would entitle the plaintiff to any relief, then dismissal under Rule 12(b)(6) is improper.")

The Court failed to view the allegations of the complaint as true, in the light most favorable to the Plaintiff, specifically including (but not limited to):

1. The Order finds that the mechanic's lien was not served on a "person in possession" based on the affidavit of Joanna "Nicky" Gleason. However, Rule 12(b)(6) does not permit courts to consider affidavits or weigh credibility at the dismissal stage. As noted above, the Plaintiff objected to the Court's consideration of this Affidavit as improper at this stage and without converting the motion to one for summary judgment with notice. In addition, the Order weighs the affidavits
2. The Order makes a factual finding that Exhibit E to the complaint is an "affidavit of service of the Mechanic's Lien on Joanna "Nicky" Gleason." The Complaint identifies Exhibit E as an affidavit of service on the entity Luxury Rentals of Hilton Head, the property manager, as alleged in Paragraphs 16-18 and Exhibit B. The Beaufort County Sheriff's Office affidavit attached to the complaint shows service on the entity Luxury Rentals at 63 New Orleans Road, through an individual identified as Nicky Gleason. The BCSO affidavit also states that the service was made in accordance with applicable statutes and the South Carolina Rules of Civil Procedure. Factual disputes, such as whether Nicky Gleason is a proper agent for service on the owner's property manager should not be resolved on a Rule 12(b) motion, and if resolved, on a motion to dismiss, it should be resolved in favor of the Plaintiff. The Order not only improperly considers the Gleason affidavit, it also weighs it as credible over the Plaintiff's allegations or the BCSO. If this is allowed, Plaintiff should be given notice and allowed to submit evidence. If there are questions of fact regarding the Sheriff's Affidavit that may need to be resolved by questioning of the deputy or its records, it is not appropriate for a motion to dismiss where the complaint is "viewed in the light most favorable to the plaintiff" and should not be dismissed if the Plaintiff states "any valid claim." In this regard, the motion is being treated like a summary judgment motion, which is improper.
3. The Order makes factual findings in considering the affidavits that lack any legal basis or support. For instance, Gleason's statements are not conclusive. "An agent's high level of actual or apparent responsibility suffices to permit service to be effective as against the principal." *Graham Law Firm, P.A. v. Makawi*, 396 S.C. 290, 295-96, 721 S.E.2d 430, 433 (2012) citing *Richardson v. P.V., Inc.*, 383 S.C. 610, 682 S.E.2d 263 (2009) (holding that hotel receptionist had authority to receive service of process where she was only employee present in office, which represented to third parties that she was in charge).
4. The Order makes a legal conclusion that Exhibit D (the Beaufort County Sheriff's Office Affidavit of Non-Service) does not comply with the statute's reference to not being able to "locate" the owner because the Sheriff's office "located" Mr. Lotstein by telephone. First,

this argument was raised for the first time *ever* in the Order. It was not raised in the Motion to Dismiss or in reply to Plaintiff's memorandum in opposition to the Motion to Dismiss. Second, this is not how the language should be interpreted or what was intended by the statute, which contemplates physical service of the owner. Mr. Lotstein could not be located for service because he was on vacation and did not meet the Sheriff. He was not "located" by phone. The Sheriff's office was unable to serve him or Kristin Huffman.

IV. The Court misunderstood or perhaps failed to rule on Plaintiff's arguments regarding alternative service under the statute.

Defendants essentially made three arguments: (1) BCSO's service of the property manager was a different entity in the same office or on someone that was not an agent authorized for service of that entity; (2) there is some other error in the Sheriff's affidavits attached to the Complaint; (3) The property manager was not a "person in possession."

The Order's conclusion (in Conclusions of Law No. 2 at page 3) that the Plaintiff "attempts to switch and move away" from one argument to another is a misapprehension of Plaintiff's argument. S.C. Code 29-5-90 states that the Plaintiff must serve the lien on the owner and if the owner cannot be found on the "person in possession" — which is an undefined term — and if it cannot, the lien may be preserved by Sheriff's affidavit of its diligence. See S.C. Code Section 29-5-90. In the Complaint, Plaintiff alleges BCSO served the owner's property manager as a "person in possession." See Complaint, pages 4-7. Plaintiff **did not abandon** the argument that the property manager is a "person in possession" and was properly served as the Defendants and the Order suggests.⁴ Instead, Plaintiff submits that *even if* Defendants' arguments are correct — the property manager, is not a "person in possession" or was not properly served — then the Sheriff's Office still used diligent efforts in its attempts for the purpose of service, which is verified by the Sheriff's affidavits and alleged in the Complaint (which should be viewed in the light most favorable to the Plaintiff). See Exhibit D and E to the Complaint and Plaintiff's Memorandum in Opposition, page 4.

Nor has Plaintiff abandoned any legal arguments as to the statute or its meaning or the Defendants' interpretation of "person in possession." Along with its consideration of Gleason's affidavit, which as stated above Plaintiff submits is improper, the Order references two cases. One

⁴ This is an allegation that on a Rule 12(b)(6) motion should be accepted as true and sufficient facts to support it are on pages 4-7 of the Complaint and in Exhibit B.

of the cases cited, *Stovall Building Supplies v. Mottett*, 305 S.C. 28 (Ct.App.1990) addresses a different code section —S.C. Code Section 29-5-40 — and the concept of notice to an owner and is not at all referring to the “person in possession” term used in S.C. Code Ann. § 29-5-90. For this reason, it has no relevance to a determination of whether the property manager was a “person in possession” under § 29-5-90. The other case cited is an unpublished case, addresses summary judgment, improperly relies on *Stovall* and deals with service on a subcontractor. Even if the Court considers *Stovall*, a security guard and a property manager are entirely different. In any event, "a novel issue should not be summarily decided on a 12(b)(6) motion." *Keiger v. Citgo*, Coastal Petroleum Inc., 326 S.C. 369, 373, 482 S.E.2d 792, 794 (Ct. App. 1997).

The Order’s conclusion (in Conclusions of Law No. 3 at page 3-4) that the BCSO Affidavit (attached to the Complaint as Exhibit D) does not comply with the language required by the statute because the Sheriff did “locate” Mr. Lotstein for service by talking to him on the phone is also unclear and not supported. If phone contact is the Order's interpretation of the term “locate” in S.C. Code § 29-5-90, then respectfully it warrants reconsideration, as it appears to misconstrue the statutory purpose. The Order appears to conclude that because the Sheriff’s Deputy spoke with Mr. Lotstein by telephone, he was “located” within the meaning of the statute. This interpretation misapprehends the legislative intent behind the service requirements.

The statute's reference to “locating” an owner contemplates physical location for the purpose of effectuating personal service, not merely establishing telephone contact. Reading the statute to require only telephone contact would render the provision allowing an alternative to service essentially meaningless, as nearly any absent owner could theoretically be “located” by electronic means and still remain unavailable for service by the Sheriff’s office. Such an interpretation frustrates the purpose of the alternative to service that the legislature deliberately included in the statute.

The Sheriff's affidavit establishes that despite diligent efforts, including telephone contact, Mr. Lotstein could not be physically located for the purpose of service.

V. The Order either did not rule on or failed to give the Plaintiff an opportunity to amend before dismissing claims with prejudice.

The dismissal of claims "with prejudice" is improper given the early procedural posture of this case and because the Court has not given the Plaintiff an opportunity to amend. *See Skydive*

Myrtle Beach v. Horry Cty., 426 S.C. 175, 179, 826 S.E.2d 585, 587 (2019) (“When a trial court finds a complaint fails "to state facts sufficient to constitute a cause of action" under Rule 12(b)(6), the court should give the plaintiff an opportunity to amend the complaint pursuant to Rule 15(a) before filing the final order of dismissal.”). Here, Plaintiff has not been given any opportunity to amend its Complaint to address the Court's concerns, and it is far from certain that Cambridge Building has not or cannot establish valid claims against these Defendants now or with appropriate amendments. Plaintiff filed a Motion to Amend on February 18, 2025, which was scheduled for a hearing on before Judge Hyman on April 8, 2025. Defendants’ counsel argued it was improper to allow amendment without allowing Judge Culbertson to enter an Order. On April 17, 2025, Judge Hyman issued a Form 4 Order continuing the Motion to Amend for 60 days.

VI. The Order improperly compels arbitration on a motion to dismiss.

As Plaintiff argued in its Memorandum in Opposition to Defendants’ Motion to Dismiss, a motion to dismiss is not proper to compel arbitration. The Order improperly dismisses defendants as not parties to the contract. Because the issue was decided on a motion to dismiss, Plaintiff has not been fair notice and opportunity to raise all issues related to arbitration including whether it should be ordered and what claims and parties, if any, should be referred, and what defenses can be raised to the Court.

CONCLUSION

To preserve all arguments, Plaintiff incorporates here those arguments in its Memorandum in Opposition to Defendant’s Motion to Dismiss filed February 20, 2025, and stated on the record during the hearing on Defendants’ motion, March 7, 2025 Motion to Reconsider, March 1, 2025 letter, Motion to Amend the Complaint and hearing on the motion to amend, along with the pleadings.

Plaintiff respectfully requests that this Court reconsider its Order partially granting Defendants’ Motion to Dismiss, which — in accepting Defendants’ proposed order in its entirety including findings not argued in Defendants’ motion — on a Rule 12(b) motion to dismiss, improperly dismisses Plaintiff’s claims and multiple defendants *with prejudice and without leave*

to amend, stays the case, and orders the two claims remaining, against Lotstein individually only, to binding arbitration.

Respectfully Submitted,

s/Lee Anne Walters
Lee Anne Walters (SC Bar No. 74984)
WALTERS LAW
Post Office Box 1214
Beaufort, South Carolina 29901-1214
(843) 379-0973
leeanne@walterslawsc.com

May 5, 2025

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

Cambridge Building, Inc.
(License No. 117526)

PLAINTIFF,

v.

Robert S. Lotstein, Kristin Huffman, Robert
S. Lotstein, Trustee of the Robert S. Lotstein
Family Trust dated September 4, 2002, as
Amended and Restated, and Kristin S.
Huffman Trustee of the Kristin S. Huffman
Family Trust dated September 4, 2002, as
Amended and Restated

DEFENDANTS.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Civil Action No. 2024-CP-07-02002

**PLAINTIFF'S MEMORANDUM IN
OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS**

COMES NOW, Plaintiff, Cambridge Building, Inc., by and through undersigned counsel, and respectfully submits this Memorandum in Opposition to Defendants' Motion to Dismiss pursuant to Rule 12(b)(6), filed on October 18, 2024.

Plaintiff asks the Court to deny Defendants' motion to dismiss Plaintiff's claims for foreclosure of a mechanic's lien and breach of contract. The Defendants appear to be making a game out of avoiding service of a proper mechanic's lien, which should not be permitted. In any event, Plaintiff's motion to dismiss the mechanic's lien should be denied because although the Owner was not served, there is compliance with the statute's alternative service provision. Defendants' arguments regarding arbitration are not proper on a motion to dismiss and must be raised in a motion to compel arbitration. If the Court determines there is an arbitrable dispute, the

case should be stayed, rather than dismissed¹. Defendants' remaining arguments involve factual disputes outside the pleadings.

I. BACKGROUND

Robert Lotstein² and Kristin Huffman, as trustees of their respective family trusts, own beachfront property in Palmetto Dunes on Hilton Head Island with an address of 8 Iron Clad, Hilton Head Island, (the "Property"), and in 2022 they entered a contract with Cambridge Building, Inc. and Frank Guidobono for construction of a large oceanfront residence on the Property. The stipulated contract sum was \$2,246,078.00 subject to additions and deductions. Lotstein and Huffman were required to make progress payments, which were not timely made. After change orders and payments received in the amount of \$1,711,996.00, Cambridge asserts that Lotstein and Huffman owe \$365,314.76, plus interest from the dates that the payments were due. See Complaint.

On July 3, 2024, Cambridge filed a mechanic's lien.³ Cambridge attempted to serve the mechanic's lien on the owners, Lotstein and Huffman. Beaufort County Sheriff's Office attempted to serve Lotstein and Huffman in 2024 on July 17, July 18, July 19, July 22, July 25, and July 26.⁴ Private process servers made attempts — either in Washington, DC or Hilton Head⁵ — on June 30, July 10, July 11, July 24, July 30, and July 3. The officer left a message for Lotstein and upon return call advised Lotstein of the nature of the civil action and asked to meet him for service. According to the affidavit, the officer was informed that Lotstein was on vacation. The Beaufort

¹ *Fitzgerald v. Faucette*, Civil Action No. 9:24-cv-00908-BHH, 2024 U.S. Dist. LEXIS 225125, at *2 (D.S.C. Dec. 11, 2024).

² Upon information and belief, Robert Lotstein is an attorney or former attorney licensed to practice in Maryland and DC.

³ See Exhibit 1, Exhibit C to the Complaint

⁴ See Exhibit 2, Exhibit D to the Complaint

⁵ Upon information and belief, Robert Lotstein is an attorney or former attorney licensed to practice in Maryland and DC and owns a home in DC.

County Sheriff's Office's investigation also revealed 8 Iron Clad was identified as the primary residence of Lotstein and Huffman and that Luxury Rentals of Hilton Head handled short term rentals, if any. Sergeant Chad Seronka attempted to serve Luxury Rentals of Hilton Head at the address listed on its website and identified as the registered office with the South Carolina Secretary of State — 62C New Orleans Rd., Hilton Head Island. The Mechanic's Lien was served on Nikki Gleason who is identified on Luxury Rentals of Hilton Head's website as the real estate sales office administrator.⁶

II. STANDARD OF REVIEW

"On appeal from the dismissal of a case pursuant to Rule 12(b)(6), an appellate court applies the same standard of review as the trial court." *Grimsley v. S.C. Law Enft Div.*, 396 S.C. 276, 281, 721 S.E.2d 423, 426 (2012). "That standard requires the [c]ourt to construe the complaint in a light most favorable to the nonmovant and determine if the facts alleged and the inferences reasonably deducible from the pleadings would entitle the plaintiff to relief on any theory of the case." *Id.* (quoting *Rydde*, 381 S.C. at 646, 675 S.E.2d at 433). "If the facts alleged and inferences deducible therefrom would entitle the plaintiff to any relief, then dismissal under Rule 12(b)(6) is improper." *Id.* The Court may not consider facts outside of the Four Corners of the Complaint. *See Spence v. Spence*, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006) ("In considering . . . a [Rule 12(b)(6)] motion, the trial court must base its ruling solely on allegations set forth in the complaint."

A party requesting enforcement of an arbitration clause should file a motion to stay the case and compel arbitration. If the Court determines there is an arbitrable dispute, the case should be stayed, rather than dismissed without prejudice. *Fitzgerald v. Faucette*, Civil Action No. 9:24-

⁶ Exhibit E to the Complaint.

cv-00908-BHH, 2024 U.S. Dist. LEXIS 225125, at *2 (D.S.C. Dec. 11, 2024); *Petersen v. DCTCL, L.P.*, No. 2024-UP-324, 2024 S.C. App. Unpub. LEXIS 337, at *4 (Ct. App. Oct. 2, 2024).

III. ARGUMENT

a. Plaintiff's mechanic's lien is not defective.

In order to perfect and enforce a mechanic's lien, the person asserting the lien (1) must serve upon the owner or person in possession and file with the register of deeds or clerk of court a notice or certificate of lien containing the lien amount, a description of the real property, and other required information "within ninety days after he ceases to labor on or furnish labor or materials for such building or structure"; (2) must commence a lawsuit seeking to enforce the lien within six months after ceasing to provide labor or materials for such real property; and (3) must file a notice of the pending action (*lis pendens*) within six months after ceasing to provide labor or materials for such real property. *Butler Contracting, Inc. v. Court St., LLC*, 369 S.C. 121, 129, 631 S.E.2d 252, 256 (2006). An issue arises when the owner or person in possession, if any, cannot be located. The statute provides an alternative: "...in the event neither the owner nor the person in possession can be located after diligent search, and this fact is verified by affidavit of the sheriff or his deputy, the lien may be preserved by filing the statement together with the affidavit. S.C. Code Ann. § 29-5-90.

Defendants argue that the Plaintiff has not served the "person in possession" as referenced in the statute on the grounds that service must be on a "responsible person living at the property".⁷ If accurate, then BCSO, upon diligent search, could not locate the owner or a "person in possession" and this has been verified by affidavit. Exhibit D and E to the Complaint.

⁷ See Motion to Dismiss at page 3, paragraph II(5).

The Defendants filed the Affidavit of Joanna “Nicky” Gleason. As an initial matter, this affidavit should not be considered. Ms. Gleason states that she works for Luxury *Homes* of Hilton Head and not Luxury *Rentals* of Hilton Head. If the Court considers Ms. Gleason’s affidavit, then the Court may take notice of the web page for Luxury *Rentals* of Hilton Head⁸, which includes a photograph of Nicky Gleason identifying her as the Real Estate Sales Office Administrator. Nicky Gleason received a copy of the lien at 62 New Orleans Road, Hilton Head, which is the registered address for Luxury *Rentals* of Hilton Head, LLC. It is not the registered address for Luxury *Homes* of Hilton Head, LLC, although Chris Walker is the registered agent for both entities. Finally, as argued above, even if Defendants are correct that Luxury *Rentals* of Hilton Head, LLC was not properly served, then the Beaufort County Sheriff’s Office exercised diligence and did not locate the owner or a “person in possession,” which has been verified by affidavit.

b. A motion to dismiss is not proper to compel arbitration.

If the Court determines there is an arbitrable dispute, the case should be stayed, rather than dismissed without prejudice. *Fitzgerald v. Faucette*, Civil Action No. 9:24-cv-00908-BHH, 2024 U.S. Dist. LEXIS 225125, at *2 (D.S.C. Dec. 11, 2024). Pursuant to the *Prima Paint* doctrine, the FAA requires courts to separate the validity of an arbitration clause from the validity of the contract in which it is embedded. *Damico v. Lennar Carolinas, LLC*, 437 S.C. 596, 608-09, 879 S.E.2d 746, 753 (2022). The validity of the arbitration clause is a matter for the courts, whereas the validity of the contract as a whole is a matter for the arbitrator. *Damico v. Lennar Carolinas, LLC*, 437 S.C. 596, 609, 879 S.E.2d 746, 753 (2022).

Plaintiff filed suit in this action against Robert Lotstein and Kristin Huffman, both individually and as trustees of their respective trusts. In their motion, Defendants ask the Court to

⁸ <https://luxuryrentalsofhiltonhead.com/about-us/>

dismiss the breach of contract claims against the defendants who are not parties to the contract. This is impermissible for several reasons. First, if the defendants seek arbitration, the appropriate motion is a motion to stay and to compel arbitration. Second, the Agreement states that it is between the Owner and the Contractor. The Owner is identified as Kristin Huffman and Robert Lotstein. However, at the time Robert Lotstein and Kristin Huffman entered into this Agreement, the Owners of the Property as reflected in the Deed were Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2002, as Amended and Restated, and Kristin S. Huffman Trustee of the Kristin S. Huffman Family Trust dated September 4, 2002, as Amended and Restated. As the arbitration clause seeks to limit the parties, Plaintiff is entitled to assert such grounds “as exist at law or in equity for the revocation of any contract”, including “generally applicable contract defenses, such as fraud, duress, or unconscionability”, which may be applied to invalidate arbitration agreements without contravening the FAA.

c. Any alleged deficiencies can be cured by amendment

Before filing an order of dismissal pursuant to Rule 12(b)(6), the trial court should provide the party an opportunity to amend pursuant to Rule 15(a). *See Skydive Myrtle Beach, Inc. v. Horry Cty.*, 426 S.C. 175, 179, 826 S.E.2d 585, 587 (2019) (“When a trial court finds a complaint fails “to state facts sufficient to constitute a cause of action” under Rule 12(b)(6), the court should give the plaintiff an opportunity to amend the complaint pursuant to Rule 15(a) before filing the final order of dismissal.”).

IV. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court deny Defendants' Motion to Dismiss in its entirety.

Respectfully submitted,

s/Lee Anne Walters
Lee Anne Walters (S.C. Bar No. 74984)
WALTERS LAW
Post Office Box 1214
Beaufort, SC 29901
Ph: (843) 379- 0973
leeanne@walterslawsc.com

February 19, 2025

7
25 TB
Walters
1108

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

Cambridge Building, Inc.,
Petitioner,
v.

Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2022, as amended and restated, and Kristin S. Huffman Trustee of the Kristin S. Huffman Family Trust dated September 4, 2022, as Amended and Restated

Owners/Respondents.

IN THE OFFICE OF THE REGISTER OF DEEDS

029627
BEAUFORT COUNTY SC - ROD
BK 161 Pgs 1949-1955
2024029627 MECH
07/03/2024 11:29:15 AM
REC'D BY rbing RCPT# 1173975

NOTICE AND CERTIFICATE OF MECHANIC'S LIEN
(License No. 117526)

TO: THE OWNERS/RESPONDENTS ABOVE NAMED AND ALL OTHERS CONCERNED:

PERSONALLY appeared before me, Lee Anne Walters, who states as follows:

She is the attorney for Petitioner Cambridge Building, Inc. (License No. 117526) and Frank Guidobono (Residential Builder License No. 5623) and acting on behalf of the Petitioner and Mechanic's Lien Claimant herein, and the annexed statement is a verified account of the amount due to the Petitioner with all just credits given for labor and/or materials furnished and used in the construction, alteration, or repair of buildings or structures situated on the after-described real property, by virtue of an agreement with Kristin Huffman and Robert Lotstein, the owners, individually or as trustees, of the subject property.

Cambridge Building, Inc., a duly licensed contractor, is due the sum of Three Hundred Sixty-Five Thousand Three Hundred Fourteen and 76/100 US Dollars (\$365,314.76), along with accrued interest pursuant to an agreement and attorneys' fees and costs to date, from Robert S. Lotstein and Kristin S. Huffman, as verified. Pursuant to S.C. Code Section 29-5-10 *et seq.* Cambridge Building, Inc. does hereby claim a lien on the real property described herein and in **Exhibit A** (the "Property") by virtue of the verified statement of just and true account of said

ELECTRONICALLY FILED - 2024 Sep 18 4:11 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002
ELECTRONICALLY FILED - 2024 Sep 18 4:11 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002

indebtedness, with all just credits given, attached as **Exhibit B**, incorporated and made a part of this notice. Said debt is due for labor and/or materials furnished and used in the erection, alteration, improvements or repair of buildings or structures situated on or in otherwise improving the Property. Ninety (90) days have not elapsed since labor and/or materials were last furnished to the Property. Cambridge Building, Inc. is licensed as a general contractor with license number 117526, and Frank Guidobono is the Qualifying Party. Frank Guidobono is also licensed in South Carolina as a Residential Builder (License No. 5623).

By the service and filing of this Notice and Certificate, and pursuant to the laws of South Carolina, the Lienor/Petitioner has and claims a lien to secure the payment of the debt so due and the cost of enforcing the lien (including reasonable attorney's fees) upon the structure and upon the following described real property located in Beaufort County, South Carolina:

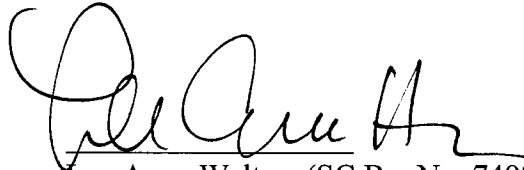
ALL that certain piece, parcel or lot of land situate, lying and being in Palmetto Dunes on Hilton Head Island, Beaufort County, South Carolina, shown and described as Lot One (1), Tee Road 8, Block A on a plat thereof prepared by J. Hearst Coleman Company, Inc. Engineers, which plat is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 17 at Page 1. For a more detailed description as to courses and distances, metes and bounds of the above-described parcel, reference is made to the above-mentioned plat of record.

Being the same property conveyed to Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2002, as Amended and Restated, and Kristin S. Huffman, Trustee of the Kristin S. Huffman Family Trust dated September 4, 2002, as Amended and Restated, by Deed of Petal & Twoey, LLC dated January 24, 2022, and recorded on February 2, 2022, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 4111 at Pages 1553-1555.

Tax Map No.: R520 012 00A 0066 0000

Property Address: 8 Iron Clad, Hilton Head Island, SC 29928

WHEREFORE, upon service, Petitioner claims a Mechanic's Lien in the sum of Three Hundred Sixty-Five Thousand Three Hundred Fourteen and 76/100 US Dollars (\$365,314.76), plus reasonable attorneys' fees and for the costs and disbursements of this action.


Lee Anne Walters (SC Bar No. 74984)
WALTERS LAW
Post Office Box 1214
Beaufort, South Carolina 29901-1214
Phone: (843) 379-0973
Email: leeanne@walterslawsc.com
Attorney for Petitioner

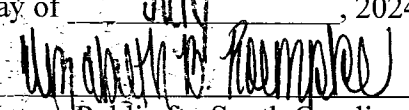
Sworn to before me the 3rd
day of July, 2024

Notary Public for South Carolina
Commission Expires: 7/15/26

EXHIBIT A

ALL that certain piece, parcel or lot of land situate, lying and being in Palmetto Dunes on Hilton Head Island, Beaufort County, South Carolina, shown and described as Lot One (1), Tee Road 8, Block A on a plat thereof prepared by J. Hearst Coleman Company, Inc. Engineers, which plat is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 17 at Page 1. For a more detailed description as to courses and distances, metes and bounds of the above-described parcel, reference is made to the above-mentioned plat of record.

This is the same property conveyed to Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2002, as Amended and Restated, and Kristin S. Huffman, Trustee of the Kristin S. Huffman Family Trust dated September 4, 2002, as Amended and Restated, by Deed of Petal & Twoey, LLC dated January 24, 2022, and recorded on February 2, 2022, in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 4111 at Pages 1553-1555.

Tax Map No.: R520 012 00A 0066 0000

Property Address: 8 Iron Clad, Hilton Head Island, SC 29928

EXHIBIT B


STATE OF SOUTH CAROLINA) VERIFIED STATEMENT OF ACCOUNT
)
COUNTY OF BEAUFORT)

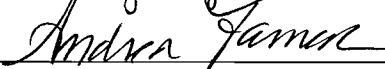
Personally appeared before me is Dennis Duren, who, being duly sworn, deposes and says:

1. He is the CFO/Controller and a representative of Cambridge Building, Inc., has personal knowledge of the facts set forth herein, and has been duly authorized to make this affidavit.
2. Cambridge Building, Inc. furnished labor and materials for the erection and improvement of the residence situated on the real property, described in Exhibit A (the "Property") at the request of and by virtue of its contract with Robert Lotstein and Kristin Huffman, as owners of the Property.
3. Cambridge Building, Inc., Frank E. Guidobono holds South Carolina General Contractor's License No. 117526.
4. The last day of labor was May 1, 2024. Ninety days has not lapsed since labor and/or materials were last furnished to the Property.
5. This is a true and accurate statement of the account, with all just credits applied and there is now past due and owing to Cambridge Building, Inc. the principal sum of \$365,314.76, plus interest pursuant to the agreement, plus such additional interest that has and may accrue, attorneys' fees and costs.

ORIGINAL CONTRACT SUM:	\$2,246,078.00
NET CHANGE BY CHANGE ORDERS:	(\$168,767.24)
LESS ALL PAYMENTS AND CREDITS:	\$1,711,996.00
TOTAL PRINCIPAL AMOUNT DUE:	\$365,314.76

Cambridge Building, Inc.


By: Dennis Duren
Its CFO/Controller

Sworn to before me the 1st
day of July, 2024

Notary Public for South Carolina
Commission Expires: 04/13/26

CCB 1074865

SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION
CONTRACTOR'S LICENSING BOARD

LICENSE#: CLG.117526

LICENSE#: CLG.117526

CAMBRIDGE BUILDING INC
19-B BOW CIRCLE
HILTON HEAD SC 29928

Has been qualified by the laws of the State of South Carolina and is duly entitled to practice as a:

GENERAL CONTRACTOR

for each Classification and Group Limitation listed below:

Building-BD5

(If this license has a "Limited Building" classification, licensee is limited to 3 stories in height)

LICENSE NUMBER:CLG.117526
Initial License Date:.....10/12/2012
EXPIRATION DATE:.....10/31/2024


Administrator

Group Limitations/\$ Amounts Per Job:
Group #1 - \$50,000 Group #2 - \$200,000
Group #3 - \$500,000 Group #4 - \$1,500,000
Group #5 - \$Unlimited

Qualifying Party(s): FRANK E GUIDOBONO

[It is at the discretion of this licensee to designate whomever they choose to pull permits and conduct business in their behalf.]

[Print this page](#)

Board: Commercial Contractors

CAMBRIDGE BUILDING INC
19-B BOW CIRCLE
HILTON HEAD, SC 29928
(843)341-2444

License number: 117526
License type: GENERAL CONTRACTOR
Status: ACTIVE
Expiration: 10/31/2024
First Issuance Date: 10/12/2012
Classification:
Building-BD5

Qualified By: Financial Statement
President / Owner: FRANK E GUIDOBONO

[Click here for Classification definitions and licensee's contract dollar limit](#)

Supervised By
GUIDOBONO FRANK (CQG)

[File a Complaint against this licensee](#)

Board Public Action History:

[View Orders](#) [View Other License for this Person](#)

No Orders Found

Exhibit D

BEAUFORT COUNTY SHERIFF'S OFFICE
PJ TANNER, SHERIFF
PO Box 1758
Beaufort, SC 29901

STATE OF SOUTH CAROLINA
BEAUFORT COUNTY

Process Number: 243248

Court Number:

KRISTIN S HUFFMAN (Defendant)

AFFIDAVIT OF NONSERVICE

KRISTIN S HUFFMAN (Defendant)
8 IRON CLAD; PALMETTO DUNES
HILTON HEAD ISL, SC 29928

I have made due search and inquiry and exercised due diligence, but I am returning the NOTICE AND CERT OF MECH LIEN, STATEMENT OF ACCOUNT UNSERVED after making the following service attempts:

Service attempted on 25th day of July, 2024 at 09:26:34 Korinek, K
per ssgt king return law suit

Service attempted on 22nd day of July, 2024 at 16:50:00 Korinek, K
def lotstein called he was adv of the nature of the civil action/adv him i needed to meet with him huffman or his atty representing him in this action/he was adv of pl atty information/he adv he was on vacation

Service attempted on 19th day of July, 2024 at 13:06:03 Korinek, K
att ph cont 202-255-3800 lft msg/202-280-6620 non working

Service attempted on 18th day of July, 2024 at 11:23:53 Korinek, K
address is the beach park/att ph cont luxury rentals hh becky walker
843-384-9955 lft msg

Service attempted on 16th day of July, 2024 at 15:57:48 Korinek, K
cambridge builders def live in the washington dc area and are attorneys

Service attempted on 16th day of July, 2024 at 13:02:06 Korinek, K
neg cont/short term rental/luxury rentals becky walker 843-384-9955/walker adv def lists address as primary residence only lives on hilton head 6-8 mths due back 8/4 or 8/5 ph
202-255-3800

NOTARY STATEMENT
SWORN to me on this the 26th day of July, 2024.

Notary Public For the State of South Carolina)
My Commission Expires 11/2/23)

Cpt Korinek
KORINEK

ELECTRONICALLY FILED - 2024 Sep 18 4:11 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002
ELECTRONICALLY FILED - 2025 Feb 20 5:19:57 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002

BEAUFORT COUNTY SHERIFF'S OFFICE
PJ TANNER, SHERIFF
PO Box 1758
Beaufort, SC 29901

STATE OF SOUTH CAROLINA
BEAUFORT COUNTY

Process Number: 243248

Court Number:

ROBERT S LOTSTEIN (Defendant)

AFFIDAVIT OF NONSERVICE

ROBERT S LOTSTEIN (Defendant)
8 IRON CLAD; PALMETTO DUNES
HILTON HEAD ISL, SC 29928

I have made due search and inquiry and exercised due diligence, but I am returning the NOTICE AND CERT OF MECH LIEN, STATEMENT OF ACCOUNT UNSERVED after making the following service attempts:

Service attempted on 25th day of July, 2024 at 09:26:34 Korinek, K
per ssgt king return law suit

Service attempted on 22nd day of July, 2024 at 16:50:00 Korinek, K
received ph call from def/def was adv of nature of civil action and was adv i needed to meet with him def huffman or an attorney representing him in the civil action/def was issued pl atty info/def adv he was on vacation

Service attempted on 19th day of July, 2024 at 13:06:03 Korinek, K
att ph cont 202-255-3800 lft msg/202-280-6620 non working

Service attempted on 18th day of July, 2024 at 11:23:53 Korinek, K
address is the beach park/att ph cont luxury rentals of hh becky walker 843-389-9955 lft msg

Service attempted on 17th day of July, 2024 at 15:57:49 Korinek, K
cambridge builders def lives in dc area/attorney

Service attempted on 17th day of July, 2024 at 13:02:06 Korinek, K
neg cont/short term rental/luxury rentals becky walker 843-384-9955. walker adv def lists resid as primary lives on hilton head6-8 mths due back 8/4 or 8/5 202-255-3800.

NOTARY STATEMENT
SWORN to me on this the 26th day of July, 2024.

Notary Public for The State of South Carolina)

My Commission Expires 11/2/30)

Cpl Korinek
Korinek, K

ELECTRONICALLY FILED - 2024 Sep 18 4:11 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002
ELECTRONICALLY FILED - 2024 Sep 18 4:11 PM - BEAUFORT - COMMON PLEAS - CASE#2024CP0702002

Subject: Re: Cambridge Building Inc., v. Robert Lotstein, et al. Case No. 2024CP0702002
Date: Monday, May 12, 2025 at 7:55:13 PM Eastern Daylight Time
From: Lee Anne Walters
To: Culbertson, Benjamin H. Law Clerk (Walker Patrick), bculbertsonsc@sccourts.org, tfinger@fingerlaw.com
CC: tfinger@fingerlaw.com
Attachments: 250512 Letter to Judge Culbertson.pdf, 250507 Filed MTR 2024CP0702002 Mot to Reconsider.PDF, 250425 Order Granting partial summary judgment.pdf

Attached is a copy of a letter to Judge Culbertson, enclosing Plaintiff's Motion to Reconsider, Alter or Amend Order Granting Defendants' Motion to Dismiss, which was placed in today's mail.

Thank you.

Best,

Lee Anne Walters | Attorney at Law
Walters Law | Post Office Box 1214 | Beaufort, SC 29901
o. 843.379.0973 | d. 843.670.0909 | leeanne@walterslawsc.com

Note: This electronic mail is intended to be received and read only by certain individuals. It may contain information that is attorney-client privileged or protected from disclosure by law. If it has been misdirected, or if you suspect you have received this in error, please notify me by replying and then delete both the message and reply. Thank you.

From: Nicolls, Margaret <margaret.nicolls@bcgov.net>
Date: Tuesday, May 6, 2025 at 9:39 AM
To: Culbertson, Benjamin H. Law Clerk (Walker Patrick) <Bculbertsonlc@sccourts.org>, bculbertsonsc@sccourts.org <bculbertsonsc@sccourts.org>, Lee Anne Walters <leeanne@walterslawsc.com>, tfinger@fingerlaw.com <tfinger@fingerlaw.com>
Cc: Johnson, Karen <kjohnson3@bcgov.net>
Subject: Cambridge Building Inc., v. Robert Lotstein, et al. Case No. 2024CP0702002

Good Morning:

Attached please find a Motion to Reconsider in the above-referenced matter. Please advise how Judge Culbertson wishes to proceed. Thank you!

Margaret Nicolls (Meg)

Judicial Clerk – Trial Roster Coordinator and ADR Coordinator
Beaufort County Clerk Of Court Office
Post Office Drawer 1128
Beaufort, SC 29901
Desk:(843) 255-5067

Fax:(843) 255-9412

Email: margaret.nicolls@bcgov.net

Home Page: [Clerk of Court Home](#)

** Beaufort County Now E-Files as of 12/6/16: <http://www.sccourts.org/efiling/>

WALTERS LAW

POST OFFICE BOX 1214
BEAUFORT, SC 29901
P: 843.379.0973
EM + WEB: LEEANNE@WALTERSLAWSC.COM

LEE ANNE WALTERS
ATTORNEY AT LAW

May 12, 2025

VIA US MAIL AND EMAIL (BCulbertsonSC@sccourts.org)

The Honorable Benjamin H. Culbertson
P.O. Box 479
401 Cleland Street
Georgetown, SC 29442

RE: Cambridge Building, Inc. v. Robert S. Lotstein, et al.
C/A No.: 2024-CP-07-02002, pending in Beaufort County

Dear Judge Culbertson:

Attached is a filed copy of Plaintiff's Motion to Reconsider, Alter or Amend Order Granting, in part Defendants Motion to Dismiss, which was filed on May 7, 2025, in the matter above.

Please let me know if the Court requires any further information from my office. Counsel for the Defendants is copied here.

Respectfully,



Lee Anne Walters

cc: Terry A. Finger, Esq. (via email)
Walker Patrick (bculbertsonlc@sccourts.org)

May 12, 2025

VIA US MAIL AND EMAIL (BCulbertsonSC@sccourts.org)

The Honorable Benjamin H. Culbertson
P.O. Box 479
401 Cleland Street
Georgetown, SC 29442

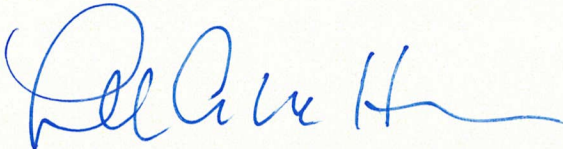
RE: Cambridge Building, Inc. v. Robert S. Lotstein, et al.
C/A No.: 2024-CP-07-02002, pending in Beaufort County

Dear Judge Culbertson:

Attached is a filed copy of Plaintiff's Motion to Reconsider, Alter or Amend Order Granting, in part Defendants Motion to Dismiss, which was filed on May 7, 2025, in the matter above.

Please let me know if the Court requires any further information from my office. Counsel for the Defendants is copied here.

Respectfully,



Lee Anne Walters

cc: Terry A. Finger, Esq. (via email)
Walker Patrick (bculbertsonlc@sccourts.org)

RECEIVED

May 27 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Case No.: 2024-CP-07-02002

Cambridge Building, Inc.

Appellant

v.

Robert S. Lotstein, Kristin Huffman, Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2022, as Amended and Restated, and Kristin S. Huffman, Trustee of the Kristin S. Huffman Family Trust dated September 4, 2022, as Amended and Restated

Respondents

NOTICE OF APPEAL

Cambridge Building, Inc. appeals the orders of the Honorable Benjamin H. Culbertson dated February 25, 2025 (*Form 4 Order Partially Granting the Defendants' Motion to Dismiss*) and April 24, 2025 (*Form 4 Order denying Plaintiff's Motion to Alter or Amend filed March 7, 2025 and Order on Defendants' Motion to Dismiss*). Appellant received written notice of entry of the last two orders on April 24, 2025. The orders are attached.

WALTERS LAW FIRM

s/Lee Anne Walters

Lee Anne Walters (SC Bar No. 74984)

Post Office Box 1214

Beaufort, South Carolina 29901-1214

(843) 379-0973

leeanne@walterslawsc.com

May 27, 2025

Other Counsel of Record:

Mr. Terry A. Finger
Finger, Melnick, Brooks & LaBruce, P.A.
PO Box 24005
Hilton Head Island, SC 29925-4005
tfinger@fingerlaw.com

RECEIVED

May 27 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Case No.: 2024-CP-07-02002

Cambridge Building, Inc.

Appellant

v.

Robert S. Lotstein, Kristin Huffman, Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2022, as Amended and Restated, and Kristin S. Huffman, Trustee of the Kristin S. Huffman Family Trust dated September 4, 2022, as Amended and Restated

Respondents

PROOF OF SERVICE

Pursuant to Rule 262(3), SCACR, I certify that I have served the Notice of Appeal on the following counsel of record at the email address listed in the Attorney Information System and by depositing a copy in the United States mail, postage prepaid on May 27, 2025.

Terry A. Finger
Post Office Box 24005
Hilton Head Island, SC 29925-4005
Email: tfinger@fingerlaw.com

WALTERS LAW FIRM

s/Lee Anne Walters

Lee Anne Walters (S.C. Bar No. 74984)

Post Office Box 1214

Beaufort, SC 29901

EMAIL: LEEANNE@WALTERSLAWSC.COM

MAY 27, 2025

Subject: Cambridge Building, Inc. v Lotstein et al. 2024CP072002
Date: Tuesday, May 27, 2025 at 2:18:49 PM Eastern Daylight Time
From: Lee Anne Walters
To: Terry Finger
Attachments: 250527 NOTICE OF APPEAL.pdf, Orders.pdf

Terry:

Please find for service the notice of appeal in *Cambridge Building Inc. v. Robert Lotstein*. I will file with the Court of Appeals and the Circuit Court shortly.

As always, I am happy to discuss any concerns.

Best,

Lee Anne Walters | Attorney at Law
Walters Law | Post Office Box 1214 | Beaufort, SC 29901
o. 843.379.0973 | d. 843.670.0909 | leeanne@walterslawsc.com

Note: This electronic mail is intended to be received and read only by certain individuals. It may contain information that is attorney-client privileged or protected from disclosure by law. If it has been misdirected, or if you suspect you have received this in error, please notify me by replying and then delete both the message and reply. Thank you.

Cambridge Building Inc
PLAINTIFF(S)

Robert Lotstein et al
DEFENDANT(S)

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.
- 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:

The defendant's Motion to Dismiss filed 10/18/2024 is PARTIALLY GRANTED. Attorney Terry A. Finger is to prepare an order.

ORDER INFORMATION

This order ends does not end the case.

See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 02/25/2025 .

RECEIVED
May 27 2025
SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Beaufort Common Pleas

Case Caption: Cambridge Building Inc VS Robert Lotstein , defendant, et al

Case Number: 2024CP0702002

Type: Order/Electronic Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

Electronically signed on 2025-02-25 10:54:14 page 3 of 3

Cambridge Building Inc
PLAINTIFF(S)

Robert Lotstein et al
DEFENDANT(S)

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.
- 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:

Plaintiff's Motion to Alter or Amend filed 3/7/2025 is DENIED.

Pursuant to Rule 59(f), SCRPC, this motion is decided on the contents of plaintiff's motion (as a brief in support of the motion) without oral arguments.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 04/24/2025 .

RECEIVED
May 27 2025
SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Beaufort Common Pleas

Case Caption: Cambridge Building Inc VS Robert Lotstein , defendant, et al

Case Number: 2024CP0702002

Type: Order/Electronic Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

Electronically signed on 2025-04-24 12:16:32 page 3 of 3

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 Cambridge Building, Inc.)
 (License No. 117526),)
)
 Plaintiff,)
)
 vs.)
)
 Robert S. Lotstein, Kristin Huffman,)
 Robert S. Lotstein, Trustee of the Robert)
 S. Lotstein Family Trust dated)
 September 4, 2022, as Amended and)
 Restated, and Kristin S. Huffman,)
 Trustee of the Kristin S. Huffman)
 Family Trust dated September 4, 2022,)
 as Amended and Restated,)
)
 Defendants.)
 _____)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2024-CP-07-02002

ORDER

RECEIVED
May 27 2025
SC Court of Appeals

Defendants’ Motion to Dismiss dated October 18, 2024 came before me on February 21, 2024. Present was Robert Lotstein and Terry A. Finger, attorney for the Defendants and Lee Anne Walters, attorney for the Plaintiff.

Plaintiff sued Robert S. Lotstein and Kristin Huffman both individually and as Trustee of the two trusts set out in the caption. Plaintiff sued (1) to foreclose a Mechanic’s Lien, (2) for a breach of contract, and (3) for unjust enrichment. Plaintiff’s compliant had five (5) exhibits.

Defendants’ Motion to Dismiss essentially asserted the following grounds: (1) the Mechanic’s Lien was not timely properly served within 90 days of the last work, (2) the Plaintiff’s contract was only with Robert Lotstein, and (3) the contract has a binding arbitration clause.

After reviewing the Pleadings, Exhibits, Memorandum of Plaintiff, and hearing the arguments of counsel, I make the following

FINDINGS OF FACT

1. The Mechanic's Lien states the last day of work was May 1, 2024.
2. The Mechanic's Lien was filed with the Register of Deeds on July 3, 2024.
3. Exhibit A to the Complaint indicates the real property subject to the Mechanic's Lien is owned by the Robert S. Lotstein Family Trust dated September 4, 2002 and the Kristin S. Huffman Trust dated September 4, 2002.
4. Exhibit D to the Complaint is an "Affidavit of Nonservice" dated July 26, 2024.
5. Paragraph 25 of the Complaint states:

To satisfy the statute, the Beaufort County Sheriff's Office served the Mechanic's Lien (*sic*) upon the property manager, Luxury Rentals of Hilton Head, LLC, as the "person in possession" pursuant to S.C. Code Ann. § 29-5-90.
6. Exhibit E to the Complaint is an Affidavit of Service of the Mechanic's Lien on Joanna "Nicky" Gleason.
7. The contract is referenced in Plaintiff's Complaint and is attached as an Exhibit to the Defendants' Motion to Dismiss (hereinafter referred to as the "Contract"). No objection was made to the Contract being considered by the Court.
8. The Contract is between Cambridge Building, Inc., and Frank Guidobono and Robert Lotstein. No other parties signed the Contract.
9. The Contract has an Arbitration provision in Paragraph 10.2. This is a material provision to the Contract.

NOW THEREFORE, based upon the above Findings of Fact, I make the following

CONCLUSION OF LAW

1. Plaintiff did not serve the Mechanic’s Lien on a “person in possession” as required by S.C. Code Ann. § 29-5-90. Exhibit E to the Complaint, which Plaintiff asserts shows service on the “person in possession” is defective, for among other reason, the following:
 - a) The Exhibit E does not reference any Defendant other than “PMIC Luxury Rentals.” PMIC Luxury Rentals is not a party to this lawsuit and there is no reference to this lawsuit whatsoever.
 - b) The service was not made at the subject property.
 - c) The Affidavit of Joanna “Nicky” Gleason was not objected to by Plaintiff. This Affidavit shows Nicky Gleason was not affiliated with the Defendants or the property in any way. She told the Deputy Sheriff that she did not work for Luxury Rentals, she had never been to the property, and she did not know Robert Lotstein or Kristin Huffman. Joanna “Nicky” Gleason could not be considered a “person in possession.” See, *Stovall Building Supplies, Inc. v. Mottett*, 305 S.C. 28, 406 S.E.2d 176 (App. 1990) (Security guard at entrance to community not a responsible person living at the home and not a person in possession); *Reid v. Carr*, opinion No. 2008-UP-541 (S.C. App. 2008) (painting subcontractor at property not a “person in possession.”)
2. Plaintiff attempted to switch and move away from the allegation that a “person in possession” was served and instead argued that Exhibit D complied with S.C. Code Ann. § 29-5-90 for a person that could not be located.
3. Exhibit D does not comply with the required language of the statute if a person cannot be located. In fact, Exhibit D states the Deputy Sheriff located Robert Lotstein, they talked on

the phone, and Defendants were on vacation. Exhibit D states the Sheriff's Department did locate Robert Lotstein, but he was traveling.

4. The Contract was between Cambridge Building, Inc., and Frank Guidobono and Robert Lotstein. Kristin Huffman and the respective trusts were not signatories or parties to the Contract.
5. The Contract contains an enforceable and binding arbitration provision.

NOW THEREFORE, IT IS ORDERED:

1. The Mechanic's Lien and Lis pendens on the subject property are hereby dismissed with prejudice and the First Cause of Action in the Complaint is dismissed.
2. Kristin Huffman, individually, and the Robert S. Lotstein Family Trust dated September 4, 2002 and the Kristin S. Huffman Trust dated September 4, 2002 are dismissed from this case with prejudice.
3. The Breach of Contract and Unjust Enrichment causes of action continue against Robert Lotstein individually. He has 15 days from the date of this Order to file responsive pleadings.
4. Once Robert Lotstein files his responsive pleadings, this case is stayed and the case is ORDERED to binding Arbitration. The parties are free to jointly agree on an arbitrator or go through the process of the American Arbitration Association.

IT IS SO ORDERED.

February _____, 2025

Honorable Benjamin Culbertson



Beaufort Common Pleas

Case Caption: Cambridge Building Inc VS Robert Lotstein , defendant, et al

Case Number: 2024CP0702002

Type: Order/Dismissal

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

Electronically signed on 2025-04-24 12:11:46 page 5 of 5

RECEIVED

Jun 03 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Appellate Case No. 2025-001046

Cambridge Building, Inc.

Appellant,

v.

Robert S. Lotstein, Kristin Huffman, Robert S. Lotstein, Trustee of the Robert S. Lotstein Family Trust dated September 4, 2022, as Amended and Restated, and Kristin S. Huffman, Trustee of the Kristin S. Huffman Family Trust dated September 4, 2022, as Amended and Restated

Respondents.

AMENDED NOTICE OF APPEAL

Cambridge Building, Inc. amends its previously filed Notice of Appeal and hereby appeals the following orders issued by the Honorable Benjamin H. Culbertson:

- (1) Form 4 Order Partially Granting the Defendants' Motion to Dismiss filed February 25, 2025,
- (2) Order on Defendants' Motion to Dismiss filed April 24, 2025,
- (3) Form 4 Order denying Plaintiff's Motion to Alter or Amend filed April 24, 2025, and
- (4) Form 4 Order denying Plaintiff's Motion to Alter or Amend filed May 28, 2025.

Appellant's counsel received written notice of entry of the Order filed May 28, 2025, on that same date.

WALTERS LAW FIRM

s/Lee Anne Walters

Lee Anne Walters (SC Bar No. 74984)

Post Office Box 1214

Beaufort, South Carolina 29901-1214

(843) 379-0973

Email: leeanne@walterslawsc.com

Counsel for Appellant

June 3, 2025

Other Counsel of Record:

Terry A. Finger
Finger, Melnick, Brooks & LaBruce, P.A.
PO Box 24005
Hilton Head Island, SC 29925-4005
tfinger@fingerlaw.com

Counsel for Respondents

Jesse Ryan Oates
Sweeny Wingate & Barrow, PA
PO Box 12129
Columbia, SC 29211
jro@swblaw.com

*Counsel for Cambridge Building, Inc. and
Frank Guidobono*

Cambridge Building Inc
PLAINTIFF(S)

Robert Lotstein et al
DEFENDANT(S)

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.
- 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:

The defendant's Motion to Dismiss filed 10/18/2024 is PARTIALLY GRANTED.
Attorney Terry A. Finger is to prepare an order.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 02/25/2025 .

RECEIVED
Jun 03 2025
SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Beaufort Common Pleas

Case Caption: Cambridge Building Inc VS Robert Lotstein , defendant, et al

Case Number: 2024CP0702002

Type: Order/Electronic Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

Electronically signed on 2025-02-25 10:54:14 page 3 of 3

Cambridge Building Inc
PLAINTIFF(S)

Robert Lotstein et al
DEFENDANT(S)

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.
- 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:

Plaintiff's Motion to Alter or Amend filed 3/7/2025 is DENIED.

Pursuant to Rule 59(f), SCRPC, this motion is decided on the contents of plaintiff's motion (as a brief in support of the motion) without oral arguments.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 04/24/2025 .

RECEIVED
Jun 03 2025
SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Beaufort Common Pleas

Case Caption: Cambridge Building Inc VS Robert Lotstein , defendant, et al

Case Number: 2024CP0702002

Type: Order/Electronic Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

Electronically signed on 2025-04-24 12:16:32 page 3 of 3

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 Cambridge Building, Inc.)
 (License No. 117526),)
)
 Plaintiff,)
)
 vs.)
)
 Robert S. Lotstein, Kristin Huffman,)
 Robert S. Lotstein, Trustee of the Robert)
 S. Lotstein Family Trust dated)
 September 4, 2022, as Amended and)
 Restated, and Kristin S. Huffman,)
 Trustee of the Kristin S. Huffman)
 Family Trust dated September 4, 2022,)
 as Amended and Restated,)
)
 Defendants.)
 _____)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2024-CP-07-02002

ORDER

RECEIVED
Jun 03 2025
SC Court of Appeals

Defendants’ Motion to Dismiss dated October 18, 2024 came before me on February 21, 2024. Present was Robert Lotstein and Terry A. Finger, attorney for the Defendants and Lee Anne Walters, attorney for the Plaintiff.

Plaintiff sued Robert S. Lotstein and Kristin Huffman both individually and as Trustee of the two trusts set out in the caption. Plaintiff sued (1) to foreclose a Mechanic’s Lien, (2) for a breach of contract, and (3) for unjust enrichment. Plaintiff’s compliant had five (5) exhibits.

Defendants’ Motion to Dismiss essentially asserted the following grounds: (1) the Mechanic’s Lien was not timely properly served within 90 days of the last work, (2) the Plaintiff’s contract was only with Robert Lotstein, and (3) the contract has a binding arbitration clause.

After reviewing the Pleadings, Exhibits, Memorandum of Plaintiff, and hearing the arguments of counsel, I make the following

FINDINGS OF FACT

1. The Mechanic's Lien states the last day of work was May 1, 2024.
2. The Mechanic's Lien was filed with the Register of Deeds on July 3, 2024.
3. Exhibit A to the Complaint indicates the real property subject to the Mechanic's Lien is owned by the Robert S. Lotstein Family Trust dated September 4, 2002 and the Kristin S. Huffman Trust dated September 4, 2002.
4. Exhibit D to the Complaint is an "Affidavit of Nonservice" dated July 26, 2024.
5. Paragraph 25 of the Complaint states:

To satisfy the statute, the Beaufort County Sheriff's Office served the Mechanic's Lien (*sic*) upon the property manager, Luxury Rentals of Hilton Head, LLC, as the "person in possession" pursuant to S.C. Code Ann. § 29-5-90.
6. Exhibit E to the Complaint is an Affidavit of Service of the Mechanic's Lien on Joanna "Nicky" Gleason.
7. The contract is referenced in Plaintiff's Complaint and is attached as an Exhibit to the Defendants' Motion to Dismiss (hereinafter referred to as the "Contract"). No objection was made to the Contract being considered by the Court.
8. The Contract is between Cambridge Building, Inc., and Frank Guidobono and Robert Lotstein. No other parties signed the Contract.
9. The Contract has an Arbitration provision in Paragraph 10.2. This is a material provision to the Contract.

NOW THEREFORE, based upon the above Findings of Fact, I make the following

CONCLUSION OF LAW

1. Plaintiff did not serve the Mechanic’s Lien on a “person in possession” as required by S.C. Code Ann. § 29-5-90. Exhibit E to the Complaint, which Plaintiff asserts shows service on the “person in possession” is defective, for among other reason, the following:
 - a) The Exhibit E does not reference any Defendant other than “PMIC Luxury Rentals.” PMIC Luxury Rentals is not a party to this lawsuit and there is no reference to this lawsuit whatsoever.
 - b) The service was not made at the subject property.
 - c) The Affidavit of Joanna “Nicky” Gleason was not objected to by Plaintiff. This Affidavit shows Nicky Gleason was not affiliated with the Defendants or the property in any way. She told the Deputy Sheriff that she did not work for Luxury Rentals, she had never been to the property, and she did not know Robert Lotstein or Kristin Huffman. Joanna “Nicky” Gleason could not be considered a “person in possession.” See, *Stovall Building Supplies, Inc. v. Mottett*, 305 S.C. 28, 406 S.E.2d 176 (App. 1990) (Security guard at entrance to community not a responsible person living at the home and not a person in possession); *Reid v. Carr*, opinion No. 2008-UP-541 (S.C. App. 2008) (painting subcontractor at property not a “person in possession.”)
2. Plaintiff attempted to switch and move away from the allegation that a “person in possession” was served and instead argued that Exhibit D complied with S.C. Code Ann. § 29-5-90 for a person that could not be located.
3. Exhibit D does not comply with the required language of the statute if a person cannot be located. In fact, Exhibit D states the Deputy Sheriff located Robert Lotstein, they talked on

the phone, and Defendants were on vacation. Exhibit D states the Sheriff's Department did locate Robert Lotstein, but he was traveling.

4. The Contract was between Cambridge Building, Inc., and Frank Guidobono and Robert Lotstein. Kristin Huffman and the respective trusts were not signatories or parties to the Contract.
5. The Contract contains an enforceable and binding arbitration provision.

NOW THEREFORE, IT IS ORDERED:

1. The Mechanic's Lien and Lis pendens on the subject property are hereby dismissed with prejudice and the First Cause of Action in the Complaint is dismissed.
2. Kristin Huffman, individually, and the Robert S. Lotstein Family Trust dated September 4, 2002 and the Kristin S. Huffman Trust dated September 4, 2002 are dismissed from this case with prejudice.
3. The Breach of Contract and Unjust Enrichment causes of action continue against Robert Lotstein individually. He has 15 days from the date of this Order to file responsive pleadings.
4. Once Robert Lotstein files his responsive pleadings, this case is stayed and the case is ORDERED to binding Arbitration. The parties are free to jointly agree on an arbitrator or go through the process of the American Arbitration Association.

IT IS SO ORDERED.

February _____, 2025

Honorable Benjamin Culbertson



Beaufort Common Pleas

Case Caption: Cambridge Building Inc VS Robert Lotstein , defendant, et al

Case Number: 2024CP0702002

Type: Order/Dismissal

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

Electronically signed on 2025-04-24 12:11:46 page 5 of 5

Cambridge Building Inc
PLAINTIFF(S)

Robert Lotstein et al
DEFENDANT(S)

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.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRCP; Rule 41(a), SCRCP (Vol. Nonsuit); Rule 43(k), SCRCP (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRCP; 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:

Plaintiff's second Motion to Alter or Amend (entitled "Motion to Reconsider Order Granting, In Part, Defendant's Motion to Dismiss") filed 5/5/2025 is DENIED.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 05/28/2025 .

Frank Guidobono

RECEIVED
Jun 03 2025
SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Beaufort Common Pleas

Case Caption: Cambridge Building Inc VS Robert Lotstein , defendant, et al

Case Number: 2024CP0702002

Type: Order/Electronic Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

Electronically signed on 2025-05-28 12:50:45 page 3 of 3