

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

71382

APPEAL FROM THE YORK COUNTY
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2008-CP-46-2158

Brian and Deborah C. Pulliam, Monica Bradshaw, Helen K. Cook, Kala Craig, Victor E. Dirienzo, Cynthia Ditursi, J. Scott Drexel, Kathleen Kramer, Robert Loebe, Melanie McDaniel, Don and Debbie Neff, David Osborne, Celeste Arrowood, Vincent Dionna, Mikel Marcuse, James P. Wheaton, Jr., Joseph Manfredini, Elena Manfredini, David Cox, Jonathan B. Dillard, and Eric Wilson, and Marianna Junda,Respondents,

v.

M.U.I. Carolina Corporation, and Kensington Place Owners' Association, Inc., and Regent Carolina Corporation,Defendants.

Of whom, M.U.I. Carolina Corporation and Regent Carolina Corporation are, Respondents,

And Kensington Place Owners' Association, Inc. is the,Appellant.

**RESPONDENTS' MOTION TO DISMISS APPEAL, CONDUCT RULE 269 INQUIRY,
AND REFER MATTER TO CIRCUIT COURT FOR HEARING TO DETERMINE
SANCTIONS**

The Respondents, all homeowners of a Condominium Project known as Kensington Place, hereby move, pursuant to SCRCP 240, 201, 269 and SCRCP 11 to 1) dismiss the Appeal of Appellant M.U.I Carolina Corporation and Regent Corporation; 2) conduct a SCRCP 269 inquiry to determine whether the appeal is frivolous, taken solely for the purpose of delay or is otherwise not in compliance with the Rules of Appellate Procedure; and 3) return the matter to the Circuit Court for a hearing to determine the amount of sanctions should that be levied in accordance with SCRCP 11.

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SC Court of Appeals

In support of this Motion, Respondent/Plaintiffs would show as follows:

1. This action was filed on June 4, 2008 by a group condominium owners of the Kensington Place Horizontal Property Regime (hereinafter "Kensington Place") located in Fort Mill,
2. MUI is the developer of Kensington Place and Regent is a subsidiary that participated in the management of the Project while under developer control,
3. Plaintiffs, as owners of units of Kensington Place, claim that when MUI and Regent transferred control to the owners, the common areas were not in good repair nor did MUI and Regent set aside enough funds to put the common areas in good, safe, and usable order,
4. Following a long period of discovery, this matter was set for a May 31, 2011 date certain trial before the Honorable Judge John Hayes,
5. In advance of trial, Judge Hayes heard motions on March 24, 2011, including MUI and Regent's Motion for Summary Judgment. At that hearing, and in their moving papers, MUI and Regent argued that they were entitled to Summary Judgment based on Plaintiffs' lack of standing to bring their claim (Exhibit A),
6. By written order dated April 1, 2011, Judge Hayes denied MUI and Regent's Motion for Summary Judgment and denied their Motion to Reconsider on April 15, 2011 (Exhibits B, C),
7. MUI and Regent's Motion for Summary Judgment had previously been denied by the Honorable Judge Kimball by written order dated June 14, 2010 (Exhibit D),
8. While no appeal was taken by MUI or Regent from Judge Kimball's Order, on

May 20, 2011, ten (10) days before a date certain trial, MUI and Regent appealed the Circuit Court's denial of their Motion for Summary Judgment and divested the trial court of jurisdiction to conduct its long-scheduled date certain trial (Exhibit E),

9. On June 3, 2011, Plaintiff/Respondents filed a Motion to Dismiss MUI and Regent's Appeal (Exhibit F) and on August 15, 2011, this Court, by written order held as follows (Exhibit G):

Respondents have filed a motion to dismiss Respondents/ Appellants' appeal from an order of the circuit court denying their motion for summary judgment. In their return to Respondents motion, Respondents/ Appellants readily acknowledge that an order denying summary judgment is not generally appealable; however, Respondents/Appellants contend the circuit court's order is immediately appealable because it effectively struck their defenses of standing and real party in interest. In addition, Respondents/ Appellants contend this Court should review the order in the interests of judicial economy and to avoid unnecessary litigation.

After careful review of the order and the parties' filings, we dismiss Respondents/Appellants appeal. As explained in Ballenger v. Bowen, 313 S.C. 476, 477, 443 S.E.2d 379, 380 (1994), *an order denying summary judgment does not have the effect of striking any defenses*, does not establish the law of the case, and "decides nothing about the merits of the case, but simply decides the case should proceed to trial." Furthermore, because *an order denying summary judgment is never immediately appealable*, even after final judgment, we decline to consider the order in the interests of judicial economy or to avoid unnecessary litigation. See Olson v. Faculty House of Carolina, Inc. 354 S.C. 161, 168, 580 S.E.2d 440, 444 (2003) (reiterating that an order denying summary judgment is never immediately appealable and expressly overruling several cases that allowed for immediate review of an order denying summary judgment, including Tanner v. Florence City-County Bldg. Com'n, 333 S.C. 549, 553-554, 511 S.E.2d 369, 371 (Ct. App. 1999), which considered an order denying summary judgment that was appealed alongside an issue that was immediately appealable).

IT IS SO ORDERED.

(emphasis added)

10. On July 31, 2013, MUI and Regent filed the exact same Motion for Summary Judgment as it filed on January 18, 2011 (and substantively similar to the Motion to Dismiss it

filed on November 9, 2009) (Exhibit H).

11. This case was again scheduled for a date certain trial before Judge Hayes to commence February 3, 2014 and continue for two (2) weeks,

12. On January 7, 2014, Judge Hayes held a status conference where he heard motions and pre-trial matters. At that hearing, MUI and Regent (for a third time) argued their Motions for Summary Judgment, alleging (yet again) that Plaintiffs lacked standing,

13. On January 23, 2013, by written order, Judge Hayes again denied MUI and Regent's Motion, stating (Exhibit I):

Defendants MUI and Regent move for Summary Judgment on five grounds, constituting the same five grounds found in their Jan. 18, 2011 Motion for Summary Judgment, which motion was denied by the Court on April 1, 2011, and reaffirmed on April 15, 2011. This Motion is again denied.

14. On January 30, 2014, MUI and Regent filed a Notice, appealing from Judge Hayes's denial of MUI and Regent's Motion for Summary Judgment, once again divesting the Circuit Court of jurisdiction, thereby avoiding a trial that was just three (3) days away (Exhibit J),

15. As this Court has specifically stated in the case, the denial of a Motion for Summary Judgment is not appealable, Olson v. Faculty House of Carolina Inc., 354 S.C. 161, 5800 S.E.2d 440 (2003) and an order denying summary judgment does not have the effect of striking any defenses, Ballenger v. Bowen 313 S.C. 476, 477, 443 S.E.2d 379, 380 (1994). Through Pleadings and Orders in this case, MUI and Regent are on actual notice of the law (Exhibit G),

16. Notwithstanding this Court's specific ruling on August 15, 2011, and the mass of case law in South Carolina, MUI and Regent again filed a Notice of Appeal from the denial of a

Motion for Summary Judgment,

17. The only conclusion that can be reached from the actions of MUI and Regent is that both appeals were filed to avoid a date certain trial, were frivolous, and taken solely for the purpose of delay.

18. This civil action is now six (6) years old. Plaintiff/Respondents are entitled to have their case heard in the Circuit Court,

19. Plaintiff/Respondents have twice prepared for trial but as a result of the improper delay tactics the trials have been postponed. The MUI and Regent appeals were interposed solely for delay. The result is that (twice) Plaintiffs and the Circuit Court wasted valuable resources in preparation,

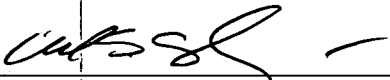
20. Therefore, Plaintiff/Respondents move for an Order dismissing MUI and Regent's improper appeal and for in an inquiry by this Court, pursuant to Rule 269, into the facts and circumstances surrounding MUI and Regent's clear abuse of the Appellate process,

21. In addition, Plaintiff /Respondents move for an Order, enjoining MUI and Regent from filing any further improper appeals and finally an Order remanding this matter to the Circuit Court for a hearing to determine whether MUI and Regent's Answer should be stricken and determine the proper sanctions that should be imposed on MUI and Regent for their repeated abuse of the judicial process and for the costs incurred by the Plaintiffs and Court in twice preparing for trial.

So Moved.

Respectfully submitted,

LEATH, BOUCH & SEEKINGS, LLP

By: 
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Attorneys for the Respondents

Charleston, South Carolina

Feb 7, 2014

OTHER COUNSEL OF RECORD:

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EXHIBIT A

STATE OF SOUTH CAROLINA)

COUNTY OF YORK)

BRIAN AND DEBORAH C. PULLIAM,)
MONICA BRADSHAW, HELEN K.)
COOK, KALA CRAIG, VICTOR E.)
DIRIENZO, CYNTHIA DITURSI,)
J. SCOTT DREXEL, KATHLEEN)
KRAMER, ROBERT LOEBE,)
MELANIE McDANIEL, DAVID)
OSBORNE, CELESTE ARROWOOD,)
VINCENT DIONNA, MIKEL MARCUSE,)
JAMES P. WHEATON, JR., JOSEPH)
MANFREDINI, ELENA MANFREDINI,)
DAVID COX, JONATHAN B. DILLARD,)
ERIC WILSON, DON AND DEBBIE)
NEFF, and MARIANNA JUNDA,)

Plaintiffs,)

vs.)

M.U.I. CAROLINA CORPORATION,)
KENSINGTON PLACE OWNERS')
ASSOCIATION, INC., and REGENT)
CAROLINA CORPORATION,)

Defendants.)

IN THE COURT OF COMMON PLEAS

CASE NUMBER: 2008-CP-46-2158

**NOTICE OF MOTION AND MOTION
FOR SUMMARY JUDGMENT**

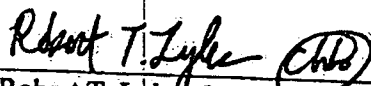
TO: W. JEFFERSON LEATH, JR., ESQUIRE and MICHAEL S. SEEKINGS, ESQUIRE,
ATTORNEYS FOR PLAINTIFFS:

PLEASE TAKE NOTICE that Defendants, M.U.I. Carolina Corporation ("MUI") and Regent
Carolina Corporation ("Regent"), by and through their undersigned attorneys, will move before this
Honorable Court ten (10) days after the date hereof, or as soon thereafter as counsel may be heard
for an Order pursuant to Rule 56(a), SCRPC, granting summary judgment and/or partial on the
following grounds:

FILED

1. MUI and Regent move for summary judgment as to all common elements claims asserted by the Plaintiffs on the ground that the Plaintiffs lack standing to pursue these claims;
2. MUI and Regent move for summary judgment in their favor as to Plaintiffs' Breach of Fiduciary Duty claim on the ground that neither MUI nor Regent owed a fiduciary duty to any Plaintiff;
3. MUI and Regent move for summary judgment as to all claims asserted by Kathleen Kramer and Brian and Deborah Pulliam on the ground that these claims are barred by the Statute of Limitations;
4. Regent moves for summary judgment as to Plaintiffs' Implied Warranty of Habitability claim on the ground that Regent was not the seller of any unit; and
5. Regent moves for summary judgment on Plaintiffs' Negligence claim on the ground that Regent owed no duty to any Plaintiff.

This motion is supported by the pleadings, affidavits, discovery, and testimony which is on file and is of record.



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STATE OF SOUTH CAROLINA)
 COUNTY OF YORK)
)
Brian Pulliam, et al.)
 Plaintiff)
)
 v.)
)
MUI Carolina Corporation, et al.)
 Defendant)

IN THE COURT OF COMMON PLEAS
 CASE NO. 2008-CP-46-2158

**MOTION INFORMATION FORM
 AND COVER SHEET**

<u>name, SC Bar no. and address of plaintiff's attorney</u> W. Jefferson Leath, Jr. / Michael S. Seekings Leath, Bouch, & Seekings, LLP 92 Broad St., Chas., SC 29401 telephone: _____ fax: _____ e-mail: jl@leathbouchlaw.com / mseekings@leathbouch.com	<u>name, SC Bar no. and address of defendant's attorney</u> Robert T. Lyles, Jr. Lyles & Lyles, LLC 342 East Bay St., Chas., SC 29401 telephone: 843-577-7730 fax: 843-577-7172 e-mail: rtl@lylesfirm.com
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MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion for Summary Judgment
 Estimated Time Needed: 30 mins Court Reporter Needed: YES / NO

SECTION II: Motion Type

Written motion attached.
 Form Motion --
 I hereby move for relief or action by the court as set forth in the attached proposed order.

 Signature of Attorney for Plaintiff/Defendant Date submitted

SECTION III: Motion Fee

PAID - AMOUNT: \$25.00
 EXEMPT: Rule to Show Cause in Child or Spousal Support
 (check reason) Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRCP)
 Proposed order submitted at request of the court; or,
 reduced to writing from motion made in open court per judge's instructions
 Name of Court Reporter: _____
 Other:

<p style="text-align: center;">JUDGE'S SECTION</p> <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	<p style="text-align: center;">_____ JUDGE CODE: Date: _____</p>
--	---

CLERK'S VERIFICATION

Collected by: _____

DATE FILED

MOTION FEE COLLECTED: _____
 CONTESTED - AMOUNT DUE: _____

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George D Humphrey, III, Esquire
ALLMAN SPRY LEGGETT & CRUMPLER, PA
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**Attorneys for M.U.I. Carolina Corporation
and Regent Carolina Corporation**

Charleston, South Carolina

Jan 18, 2011

CERTIFICATE OF SERVICE

I hereby certify that a copy of Notice of Motion and Motion for Summary Judgment in the above-referenced matter (Case Number 2008-CP-46-2158) has been served on the following named persons via e-mail and/or by placing a copy of the same in the United States mail with proper postage affixed thereto on this 18th day of January, 2011:

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Ciad Walsham

Charleston, South Carolina

EXHIBIT B

STATE OF SOUTH CAROLINA)

COUNTY OF YORK)

Brian and Deborah C. Pulliam,)
Monica Bradshaw, Helen K. Cook,)
Kala Craig, Victor E. Dirienzo,)
Cynthia Ditursi, J. Scott Drexel,)
Kathleen Kramer, Robert Loebe,)
Melanie McDaniel, Don and Debbie Neff,)
David Osborne, Celeste Arrowood,)
Vincent Dionna, Mikel Marcuse,)
James P. Wheaton, Jr., Joseph Manfredini,)
Elena Manfredini, David Cox,)
Jonathan B. Dillard, and Eric Wilson,)
and Marianna Junda,)

Plaintiffs,)

vs.)

M.U.I. Carolina Corporation, and)
Kensington Place Owners')
Association, Inc., and Regent Carolina)
Corporation,)

Defendants.)

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

C.A. No.: 2008-CP-46-²¹⁵⁸~~2158~~


ORDER
"Catch 22"
Doc Daneeka¹

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2011 APR - 1 PM 3:26
DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC

Catch-22, A situation in which a desired outcome is impossible because of inherently illogical rules or conditions. American Heritage College dic-tion-ar-y., 4thEd., 2002, page 227.

The Court heard arguments on several motions in this matter on March 24, 2011. No court reporter was present. Plaintiffs were represented by W. Jefferson Leath, Jr., Esq. and Michael S. Seekings, Esq.; MUI Corporation (MUI) and Regent Carolina Corporation (Regent) were represented by Robert T. Lyles, Jr., Esq. and Kensington Place Owners' Association, Inc. (KPOA) by Kenneth R. Raynor, Esq.

¹ Catch-22, Joseph Heller, Simon and Schuster (1961).



Back Ground

Briefly, Plaintiffs are owners of some of the condominiums in Kensington Place a Horizontal Property Regime (HPR). MUI is the developer of Kensington Place and Regent Carolina Corporation (Regent) is a subsidiary of MUI. MUI, as developer, established a property owners association (POA) and controlled same until it transferred the control of the POA to a Board comprised of the Kensington Place owners. The transfer established control and maintenance of the Kensington Place common elements in the Kensington Place POA (KPOA).

Plaintiffs claim that when MUI transferred control of the common areas to KPOA, these common areas were not in good condition, and MUI did not set aside enough funding to put the common areas in good, safe, usable order.

The Court will not elaborate on the struggle within KPOA as to the membership of the board and pursuit of claims regarding the common areas.

In an earlier Order, Judge S. Jackson Kimball, in addressing several motions, set forth this case's background succinctly, thusly²:

Plaintiffs brought this action against MUI and Kensington, asserting causes of action relating to the construction and maintenance of the condominium project in which each of them owns a unit. Kensington is made a party based on alleged breaches of duty owed by Kensington to Plaintiffs. The alleged breaches are premised upon the actions or inactions of the board of directors of Kensington, the homeowners association of the Horizontal Property Regime ("HPR"). Some of Plaintiffs are on the current board of Kensington.

² Defendant Regent Carolina Corporation was later added by amendment of the Complaint.

A handwritten signature in black ink, appearing to be 'AJK', is located in the bottom right corner of the page.

MUI's Motion for Summary Judgment

MUI argues it is entitled to summary judgment as to Plaintiffs' claims based on Plaintiffs' lack of standing to pursue same.

While the motions before Judge Kimball were motions to dismiss, he treated them as motions for summary judgment since the arguments and exhibits presented went beyond the pleading.

As to MUI's motion, Judge Kimball held:

It is clear that Plaintiffs may have the right to pursue their claims in their own right. Given the complexity of this litigation, I believe that the individual claims asserted by the Plaintiffs should be decided based on a full development of the facts as to each claim, and the defenses applicable to each claim, at trial. Therefore, the motion is denied.

The undersigned finds Judge Kimball's denial of summary judgment to MUI is the law of the case and may not be, in effect, reversed by the Court in ruling on MUI's instant motion.

The undersigned feels compelled to elaborate on MUI's motion as this is the eve of trial. As did Judge Kimball, MUI's motion for summary judgment is denied for the reasons set forth below in addition to Judge Kimball already denying MUI's previous motion for summary judgment. The status of Regent as a proper party is elsewhere discussed. For purposes of this Order, and this Order only, the Court treats Regent as amalgamated with MUI.

First, as observed, this is a complex case and a full record needs to be established.

Second, the undersigned finds the issue presented by MUI as to Plaintiffs' standing and their not being the real party in interest is a novel issue in South Carolina.

All parties rely on Concerned Dunes West Residents, Inc. v. Georgia Pacific Corporation, 349 S.C. 251, 562 S.E.2d 633 (Sup. Ct. 2002) to some extent. (Abbreviate CDWR herein). The

undersigned finds CDWR is dichotomous on the instant issue. In CDWR the Plaintiff was not the Dunes West POA³, but rather an incorporated group of Dunes West owners. The owner's posture in CDWR is analogous to that here.

The dichotomy occurs because throughout the Opinion the Court discussed the rights of property owners associations and nowhere addresses the rights of an individual owner, a group of owners, or a legal entity comprised of owners to bring a suit such as that here. The Court simply accepted the parties' posture as plead. That is, the property owners brought suit in their own right. No challenge to the institution of the suit by the owners is mentioned in CDWR.

It should be noted that CDWR is a case in which the Supreme Court answered certified questions from the United States District Court. None of the certified questions raised the standing or real party in interest issue and, therefore, the Supreme Court could not, or at least would not, address questions outside those certified. The Court confined its Opinion to examining three of the five questions certified from the District Court.

The Opinion does not address the CDWR Plaintiffs standing in the body of the Opinion. The sole holding of CDWR is:

The developer of a PUD owes a duty to the POA to turn over common areas that are not substandard and that are in good repair. Failure to do so, subjects the developer to liability for bringing the common areas up to standard. (349 S.C. at 257).

CDWR does not address who may pursue the claim against the developer.⁴ In CDWR, it was not the POA, but rather a legal entity composed of individual owners that pursued the claim

³ Dunes West is a Planned Unit Development or PUD. Kensington Place is not a PUD, but the Court finds HPRs and PUDs are similar and the holding in CDWR applicable to a HPR.

⁴ There is no question, the POA could pursue the instant claim. See Queen's Grant Villas Horizontal Property Regimes I-V. vs. Daniel International Corp., 286 S.C. 555, 335 S.E.2d 365 (Sup. Ct. 1985).

against the developer. The Plaintiffs in CDWR do not differ significantly from Plaintiffs here other than CDWR's Plaintiffs' corporate formality.

Third, the By-Laws of KPOA (Exhibit "F" to the Master Deed of Kensington Place Horizontal Property Regime) have a section that establishes certain rights in individual members to sue the POA, its officers, or Board under certain circumstances (Article XV of By-Laws). This Article actually does not pertain to Plaintiffs' claims against the developer, MUI, but to claims against the KPOA, its officers or directors. Nothing has been cited to the Court that precludes any owner from seeking redress against the developer for a breach of its duties, as was done in CDWR. The By-Laws do not require owners to first request KPOA to act before proceeding on their own.

It seems fundamental that an individual may seek redress for any property rights they may have. That is not to say that these rights are exclusive to the individual owners. The duty owed by the developer is to the POA (*See CDWR*), and the POA could maintain the action. (*See Queen's Grand Villas Horizontal Property Regimes I-V. vs. Daniel International Corp.*, 286 S.C. 555, 335 S.E.2d 365 (Sup. Ct. 1985) and cases cited in CDWR from Florida and California).⁵

The Court should point out that the CDWR Court seems to confine the developer's liability to pay damages solely to the POA (349 S.C. at page 260). As observed by Judge Kimball, there may only be one recovery for damages pertaining to the common elements. CDWR, by implication, establishes the POA as the only entity entitled to recover damages, but the Court need not and indeed cannot make any findings or rulings as to the damages issue at this time. This will most probably require further development if Plaintiffs obtain a verdict. However, the Court would be derelict if it did not point out the CDWR language as to damages.

⁵ Counsel for MUI argues that the POA had the right, by statute and by-laws to represent all condominium owners. The Court cannot find this statutory authorize in Section 27-31-10, et seq., S.C. Code of Laws, 1976, as amended.

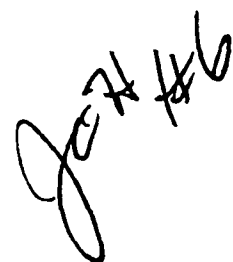
This is one of many points of contention. The Court observes that CDWR did not address who could pursue the claim against the developer as it did not have that issue before it. However, the Supreme Court seems to have established who is the beneficiary of any recovery. The Court uses the word "seems" advisedly. Here lies the catch 22. Plaintiffs can sue, but CDWR seems to vest the right of recovery in KPOA.

The issues here are not only complex, as observed by Judge Kimball, but novel. Novel issues should be decided with a full and complete record. Chastain v. Hiltabidle, 381 S.C. 508, 673 S.E.2d 826 (Ct. App. 2009). (See also KPOA's Memorandum of March 22, 2011). KPOA argues Plaintiffs cannot sue it because the Plaintiffs are in effect suing themselves. MUI adopts this argument also. There is a paucity of cases dealing with the relationship and rights of property owners relative to POAs.

In Murphy v. Yacht Cove Homeowners Assoc., 289 S.C. 327, 345 S.E.2d 709 (Sup. Ct. 1986), members of an unincorporated condominium association (husband and wife) sued the POA in tort. The Supreme Court held in Murphy that members of a condominium association could, pursuant to The Horizontal Property Act, sue the Association in contract or tort.

The Murphy Court held that the below language from Queen's Grant Villas Horizontal Property Regimes I-V v. Daniel International Corporation, 286 S.C. 555, 335 S.E.2d 365 (sup. Ct. 1986), "implies that an association can be sued by the unit owners for its failure to discharge its duties," 289 S.C. 368:

We have noted that [s]hould the Regime not uphold its duty to pursue a recovery for any alleged construction defects in the common elements which it maintains it may be liable to the homeowners for its omissions.
286 S.C. at 556.



The Supreme Court clairvoyantly foresaw the imbroglio extant here. The Murphy Court observed:

While the issues raised by appellant are a source of legitimate concern, it is the function of the Legislature and not this Court to anticipate problems such as the ones envisioned by appellant and enact legislation to deal with them. (289 S.C. at 369).

While the Horizontal Property Act has in part been amended since 1986, the Legislature has not addressed the problems foreseen by the Supreme Court in Murphy. (1999 Act. No. 25; 1999 Act No. 86; and 2006 Act No. 250).

MUI's Motion for Summary Judgment is DENIED.

Plaintiffs Motion for Partial Summary Judgment as to Liability Against POA

There exists genuine issues of material fact as to KPOA's liability, if any, and Plaintiffs are not entitled to judgment as a matter of law on this issue.

Plaintiffs have presented the affidavit of Michael R. Parades, PCAM, in support of their motion for partial summary judgment. This affidavit is insufficient to support Plaintiffs' motion. The affidavit relies on a survey of Gary Freeman, AIA, and Repair Estimates by Procon⁶. Such reliance is appropriate under SCREvid 703. However, a witness's reliance on the reports of others does not, per se, establish the correctness or general reliability of the reports. That is to say the expert, Mr. Parades, relies on the accuracy of third party reports. The reports are not presented as sworn affidavits nor have they been subject to scrutiny by cross-examination.

⁶ Plaintiffs' brief also references a Miller Dodson report which was not attached nor mentioned in Mr. Parades affidavit. Of course, a report is just that, nothing else.

Handwritten signature or initials in the bottom right corner of the page, appearing to be 'JC 7/14/07'.

Plaintiffs Motion to Substitute Real Party in Interest Defendants

MUI is, based on a corporate structure chart provided the Court⁷, a subsidiary of one or more other corporate entities. Plaintiffs have moved to add two legal entities they argue are so interrelated with MUI as to be necessary defendants. Plaintiffs argue these two entities are additional real parties in interest based on the theory of amalgamation pursuant to Kincaid v. The Landing Development, 289 SC 89, 344 S.E.2d 869 (Ct. App. 1986). Defendant Regent is one of many entities on the chart and, by earlier Order, has been added since Plaintiffs filed and served the original Complaint.

Plaintiffs' Motion is denied. Without giving the matter short shrift, the Court finds adding additional parties is not necessary for the resolution of Plaintiffs' claims, would delay trial scheduled within two months of this date, would prejudice the current parties as new claims or cross-claims may arise through the addition of parties, extensive and expensive discovery would have to be retreaded, and repairs would be pushed farther in the future, perhaps allowing more deterioration of the common elements and a greater cost to repair.

Plaintiffs' Motion to Dismiss Cross-Claim of KPOA

Plaintiffs argue that KPOA lacks standing to pursue the cross-claim. The basis for Plaintiffs' argument is that KPOA does not own the common elements or any part thereof, that KPOA has not obtained the necessary votes to pursue the cross-claim, and that Article XV, as noted above, gives the Plaintiffs the right to pursue this claim as do the laws of this State.

Donald Triplett, President of KPOA, has admitted, under oath, that KPOA has not been authorized to commence or prosecute any action against MUI. (Triplett's deposition, page 65,

⁷ Exhibit "C" to Plaintiffs' Memorandum in Support of their motion to add a statutory cause of action and to add a real party in interest.

line 12 through page 66, line 6).⁸ There is no evidence in any of the record before the Court that KPOA has properly voted to institute the cross-claim or ratified its institution. For this reason, KPOA may not maintain its cross-claim against MUI.

It might be argued that MUI would be the party to challenge the cross-claim⁹. However, Plaintiffs instituted this action and are entitled to have it litigated and resolved with only proper parties at the table. Also, as members of KPOA, Plaintiffs have a right to protect their interests as such and insist that KPOA function according to its by-laws.

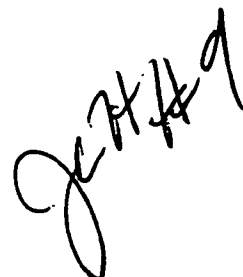
The complexity of this case is highlighted by this instant motion. As noted, Judge Kimball, without additional comment, denied MUI's Motion to Dismiss KPOA's cross-claim. This is the law of the case as to MUI and KPOA. In spite of this, Plaintiffs have an independent right to move to dismiss the cross-claim as members of the POA. The Plaintiffs have exercised their independent rights and are entitled to the relief they seek, i.e., dismissal of the cross-claim. This creates a conundrum. KPOA's By-Laws do not address cross-claims in Article XI of the by-laws but does allow counterclaims in proceedings instituted against it. (Article XI (d)). The reason and wisdom in such distinction is not for the Court.

This conundrum is resolved by the undersigned finding (without any real authority to so do) that a subsequent, successful motion by Plaintiffs trumps the denial of MUI's motion by Judge Kimball and KPOA's cross-claim against MUI is dismissed.

As noted, Plaintiffs have a separate and distinct interest in the actions of KPOA. I find Plaintiffs' rights are direct, not tangential as MUI's are.

⁸ The deposition was taken November 11, 2009.

⁹ Judge Kimball has denied MUI's Motion to Dismiss KPOA's cross-claim.



**Plaintiffs Motion to add a cause of action pursuant to
Section 27-31-430, S.C. Code of Laws, as amended**

Section 27-31-430, South Carolina Code of Laws, 1976, as amended, relates to the conversion of rental units to condominium ownership. This Section requires certain disclosures to be reported to a purchaser. Plaintiffs assert that some Kensington units were rental units prior to their sale as condominium units.

The Plaintiffs' motion to add this cause of action is denied. There is no evidence any of the Plaintiffs purchased any rental unit. The nature of the rental of any units is unclear. Any cause of action under The Unfair Trade Practices Act under Section 27-31-140 would inure only to the purchaser of a particular unit which was a "rental unit."

Also, for the reason set forth as to Plaintiffs' Motion to Substitute Real Party in Interest, addition of a new cause of action would work to the prejudice of Defendants. Specifically, the trial of this case would necessarily be pushed into the future.

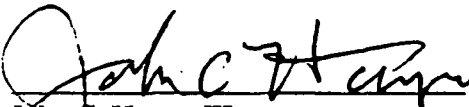
Plaintiffs' motion to add a cause of action pursuant to Section 27-31-430, S.C. Code of Laws, 1976, as amended is denied.

Wherefore:

1. MUI's Motion for Summary Judgment is DENIED, and
2. Plaintiffs Motion for Partial Summary Judgment as to Liability Against KPOA is DENIED, and
3. Plaintiffs' Motion to Substitute Real Party Interest is DENIED, and
4. Plaintiffs' Motion to Dismiss Cross-Claim of KPOA is GRANTED, and
5. Plaintiffs' Motion to Add a Cause of Action (§ 27-31-430) is DENIED.

JEH/60

IT IS SO ORDERED.


John E. Hayes, III
Presiding Judge #101

April 1, 2011
York, South Carolina

ADDENDUM ATTACHED

ADDENDUM

The court has gone through the morass of paperwork in this file in order to determine which pleadings are the operative pleadings and what issues are for trial. The Court begs correction, promptly, if the Court's grasp of the posture of this case as set forth below, is incorrect in any manner.

Fifth Amended Complaint

1. Defendants:

- A. MUI
- B. KPOA
- C. Regent

2. Causes of Action

- A. First; Breach of Fiduciary Duty as to all Defendants.
- B. Second; Breach of Implied Warranty of Habitability as to MUI and Regent.
- C. Third; Negligence as to all Defendants

Answers

1. Regent and MUI

- A. Qualified General Denial
- B. 12(b)(6) (handled through summary judgment motions)
- C. Statute of Limitations
- D. Statute of Repose
- E. Laches
- F. Waiver
- G. Accord and Satisfaction
- H. Settlement and Release
- I. Lack of Standing (ruled on)
- J. Set Off
- K. Conditions Precedent
- L. Joinder (out?)
- M. Real party in Interest (ruled on)
- N. Implied Warranties Disclaimed
- O. Failure to Mitigate
- P. Intervening and Superseding Negligence
- Q. Comparative Negligence

Je H/H/2

R. Negligence of Third Party
(unnecessary as raised by qualified General Denial);

See Funderburke v. Johnson

253 S.C. 430, 171 S.E.2d 597 (1969)

S. Acceptance

T. Economic Loss Rule

U. Open and Obvious

V. Counterclaim (MUI Only)

2. Plaintiffs' Reply to MUI's Counterclaim

3. KPOA

A. Qualified General Denial

B. Standing (ruled on)

C. Failure to comply with Rule 23 SCRCP (out)

D. Counterclaim

1. Breach of Contract by Plaintiffs

E. Cross-claim against MUI and Regent (ruled on)

4. Plaintiffs Reply To KOPA's Counterclaim

5. Pending Motions

1. To exclude Evidence

2. To Quash Subpoena

Jc 74 #13

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2008CP4602158

Brian Pulliam vs. MUI Carolina Corporation

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: _____

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Order

Dated at York, South Carolina, this 1st day of April, 2011.

Court Reporter:

s/John C. Hayes, III

PRESIDING JUDGE - JOHN C. HAYES, III

This judgment was entered on the 1st day of April, 2011, and a copy mailed first class this 1st day of April, 2011, to attorneys of record or to parties (when appearing pro se) as follows:

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Kenneth R Raynor Templeton & Raynor, PA 1800
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ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

SCRPC APP-24/FORM 4

David Hamilton - Clerk of Court

EXHIBIT C

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF YORK)

SIXTEENTH JUDICIAL CIRCUIT

C.A. No.: 2008-CP-46-2158

Brian and Deborah C. Pulliam,)
Monica Bradshaw, Helen K. Cook,)
Kala Craig, Victor E. Dirienzo,)
Cynthia Ditursi, J. Scott Drexel,)
Kathleen Kramer, Robert Loebe,)
Melanie McDaniel, Don and Debbie Neff,)
David Osborne, Celeste Arrowood,)
Vincent Dionna, Mikel Marcuse,)
James P. Wheaton, Jr., Joseph Manfredini,)
Elena Manfredini, David Cox,)
Jonathan B. Dillard, and Eric Wilson,)
and Marianna Junda,)

Plaintiffs,)

vs.)

M.U.I. Carolina Corporation, and)
Kensington Place Owners')
Association, Inc., and Regent Carolina)
Corporation,)

Defendants.)

ORDER

FILED-RECEIVED
2011 APR 19 AM 10:51
DAVID HAMILTON
C.P. & S.S.
YORK COUNTY, SC

The Court issued an Order in this matter on April 1, 2011. The Order addressed myriad and complex issues raised by a number of motions. M.U.I. Carolina Corporation (MUI) and Regent Carolina Corporation (Regent) move the Court to reconsider the April 1, 2011 Order (The Order) on a litany of grounds.

The Court herein, in this Order disposes of the listed grounds:

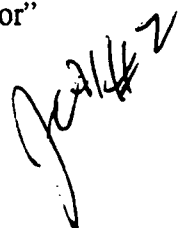
1. The Order attempts, as best the Court can fathom the status of the law, to address all of the issues raised. The Court notes that The Order disposes of motions, not necessarily every argument raised by a party.
2. Conflated or not, The Order attempts to dispose of all of the motions. As to MUI and Regent's motion for partial summary judgment,

as to Plaintiffs fiduciary duty claims the Court finds genuine issues of material fact.

3. The undersigned does not recognize any constitutional issue here extant. As to the issue of "redressability" (a word not defined in The American Heritage College dictionary, 4th Ed.) The Court has pointed out the Catch 22 element present on the issue of recovery.
4. Judge Kimball's Order is the law of the case as to issues it addresses.
5. See Number 4
6. The Court refers these parties to The Order.
7. The Court refers these parties to The Order.
8. The Court continues to be satisfied with its analogy.
9. See the definition of Catch 22.
10. A significant issue exists on the mechanics of the "transfer" of property to an owner's association. A transfer is a conveyance or passing of one thing to another.¹ MUI's argument on this issue is that a transfer and a continuation are the same. The Court finds a transfer, as recognized by the language of this ground, did occur.
11. The Court "amalgamated" MUI and Regent solely for the purposes of its Order.
12. Plaintiffs' motion for partial summary judgment as to MUI and Regent is denied for the reasons set forth in the order at the heading Plaintiffs Motion for Partial Summary Judgment as to Liability Against POA.

The undersigned must point out the somewhat strange submission of the instant motion. Rule 11, SCRPC requires a pleading to be signed by an attorney of record. The Court has not examined every document in this voluminous and does not know if Catherine H. Bryan (a member of the South Carolina Bar) is an attorney of record in this case. If so, she should have signed in her own right. The undersigned knows of no rule allowing one attorney to sign "for"


¹ American Heritage College dictionary, 4th Ed., p. 145.



another. Ms. Bryan by affixing her signature to the Motion is assuring the Court that she is doing so within the Rule. This observation is a concern and a caution, no more.²

MUI and Regent's Motion to Reconsider the Court's April 1, 2011 Order is DENIED.

IT IS SO ORDERED.


John C. Hayes, III
Presiding Judge #3

April 15th, 2011
York, South Carolina

² Ms. Bryan has signed one or more Certificates of Service.

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF YORK

CASE NO: 2008CP4602158

IN THE COURT OF COMMON PLEAS

Brian Pulliam et al vs. MUI Carolina Corporation et al

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:

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

ORDER

Dated at York, South Carolina, this 15th day of April, 2011.

Court Reporter:

S/ John C. Hayes, III

PRESIDING JUDGE - John C. Hayes, III

This judgment was entered on the 19th day of April, 2011, and a copy mailed first class this 19th day of April, 2011, to attorneys of record or to parties (when appearing pro se) as follows:

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Charlotte, NC 28203

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

SCRPC APP-24/FORM 4

David Hamilton - Clerk of Court

EXHIBIT D

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS

BRIAN AND DEBORAH C. PULLIAM,)
MONICA BRADSHAW, HELEN K.)
COOK, KALA CRAIG, VICTOR E.)
DIRIENZO, CYNTHIA DITURSI, J.)
SCOTT DREXEL, KATHLEEN KRAMER,)
ROBERT LOEBE, MELANIE)
MCDANIEL, JESSICA NEFF, DAVID)
OSBORNE, CELESTE ARWOOD,)
VINCENT DIONNA, MIKEL MARCUSE,)
JAMES P. WHEATON, JR., JOSEPH)
MANFREDINI, ELENA MANFREDINI,)
DAVID COX, JONATHAN B. DILLARD,)
AND ERIC WILSON, INDIVIDUALLY)
AND ON BEHALF OF ALL OTHER)
SIMILARLY SITUATED PLAINTIFFS,)

Plaintiff,

vs.

M.U.I. CAROLINA CORPORATION, and)
KENSINGTON PLACE OWNERS')
ASSOCIATION, INC.,)

Defendant.)

ORDER

Case No. 2008CP4602158

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DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC

This matter came before me on May 26, 2010, upon several motions of the parties. Plaintiffs' motions were: to dismiss the counterclaim of Defendant Kensington Place Owners' Association, Inc. ("Kensington"); and, to certify this case as a class action and approve the Pulliam Plaintiffs as class representatives. The motions of Defendant M.U.I. Carolina Corporation ("M.U.I.") were: to dismiss Plaintiff's claims; and, to dismiss Kensington's cross-claim. The motions of Kensington were: to dismiss M.U.I.'s cross-claim; and, for summary judgment as to Defendant Deborah Pulliam, and as to all of Plaintiffs' claims. Representing the parties were: W. Jefferson Leath and Michael S. Seekings, Plaintiffs' attorneys; Kenneth R. Raynor ("Raynor"), attorney for Kensington; and, Robert T. Lyles, attorney for M.U.I.

BACKGROUND

Plaintiffs brought this action against MUI and Kensington, asserting causes of action relating

to the construction and maintenance of the condominium project in which each of them owns a unit. Kensington is made a party based on alleged breaches of duty owed by Kensington to Plaintiffs. The alleged breaches are premised upon the actions or inactions of the board of directors of Kensington, the homeowners association of the horizontal property regime ("HPR"). Some of Plaintiffs are on the current board of Kensington.

In defending against Plaintiffs' claims, Kensington, through Raynor, asserted defenses, a counterclaim and a cross-claim against MUI. While denominated a counterclaim against Plaintiffs, the matters pleaded in the counterclaim basically challenges the authority of Plaintiffs to bring this action, and request that any recovery of Plaintiffs be paid to Kensington. The counterclaim is based on the master deed and bylaws of the established HPR governing the relationship between Plaintiffs and Kensington.

As the arguments of counsel and exhibits presented to me went beyond the pleadings and involved argument based on the result of discovery, I have considered all of the motions referenced above, except the motion to certify this matter as a class action, as motions for summary judgment.

STANDARD FOR SUMMARY JUDGMENT

Summary judgment is appropriate when it is clear there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. *Baird v. Charleston County*, 333 S.C. 519, 511 S.E.2d 69 (1999); *Young v. South Carolina Dep't of Corrections*, 333 S.C. 714, 511 S.E.2d 413 (Ct.App.1999); Rule 56(c), S.C.R.C.P. In determining whether any triable issue of fact exists, as will preclude summary judgment, the evidence and all inferences which can be reasonably drawn therefrom must be viewed in the light most favorable to the nonmoving party. *Strother v. Lexington County Recreation Comm'n*, 332 S.C. 54, 504 S.E.2d 117 (1998); *Pye v. Aycock*, 325 S.C. 426, 480 S.E.2d 455 (Ct.App. 1997). In ruling on a summary judgment motion, the Court should consider the pleadings, depositions, interrogatory answers, admissions, and affidavits in determining whether there is a genuine issue of fact for trial. *See Thomas v. Waters*, 315 S.C. 524, 445 S.E.2d 659 (Ct.App. 1994). "If the evidence favoring the nonmoving party is merely colorable . . . or is not significantly probative, . . . summary judgment may be granted." *Anderson v. Liberty Lobby, Inc.*, 477 U.S., 242, 249-250 (1986).

Summary judgment is appropriate when facts exist on which reasonable minds cannot differ, and it is not appropriate where further inquiry into the facts is desirable to clarify the application of law. It is not, however, sufficient that the nonmoving party seeks to create an inference that is not reasonable, or an issue of fact that is not genuine, in order to avoid summary judgment. *Rothrock v. Copeland*, 305 S.C. 402, 409 S.E.2d 366 (1991). The purpose of summary judgment is to

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expedite disposition of cases that do not require the services of a fact finder. In that way, "[a] motion for summary judgment is akin to a motion for a directed verdict" because "[i]n each instance, one party must lose as a matter of law." *George v. Fabri*, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001); *Main v. Corley*, 281 S.C. 525, 526, 316 S.E.2d 406, 407 (1984); *see, also, Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991) (standard for summary judgment "mirrors" standard for directed verdict).

DISCUSSION

1. Plaintiffs' motion to dismiss the counterclaim of Kensington.

Based on my construction of the applicable provisions of the master deed and by-laws of Kensington, the motion to dismiss the counterclaim is denied. Homeowner approval is not required for the HOA to prosecute a counterclaim.

2. Plaintiffs' motion to certify this case as a class action and approve the Pulliam Plaintiffs as class representatives.

The prerequisites to court approval of a class action are the following:

1) the class must be "so numerous that joinder of all members is impracticable;" 2) there must be "questions of law or fact common to the class;" 3) the "claims or defenses of the representative parties [must be] typical of the claims or defenses of the class;" 4) "the representative parties [must] fairly and adequately protect the interests of the class;" and 5) [353 S.C. 21] "the amount in controversy [must] exceed one hundred dollars for each member of the class." *Gardner v. South Carolina Dept. of Revenue*, 353 S.C. 1, 20-21, 577 S.E.2d 190, 200 (2003), quoting Rule 23(a), South Carolina Rules of Civil Procedure ("SCRCP").

The burden of proving the satisfaction of all these prerequisites is upon the proponent of class certification. *Id.*; *Waller v. Seabrook Island Property Owners Association*, 300 S.C. 465, 388 S.E.2d 799 (1990). "It is imperative the court apply a rigorous analysis to assure the prerequisites of Rule 23(a) have been satisfied." *Waller, supra*, 300 S.C. at 467, 388 S.E.2d at 801.799. Each of the prerequisites must be met in accordance with this standard. *Id.*

The mere fact that the subject matter of litigation will involve a large number of parties does not require class certification. It is also necessary that the named plaintiffs interests not be antagonistic to the rest of the class. *Waller, supra*. This element goes to the issue of whether the representatives of the class can be expected to protect the interests of the whole class, and whether the representatives' claims and defenses are substantially the same as the rest of the class.

In the present case, based on the discovery cited, I am concerned that there is a divergence of opinion among homeowners on the pursuit of this action in the manner that it has been pursued. It is apparent that the named Plaintiffs have attempted to secure the participation of the other owners

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by repeated communication of Plaintiffs' activities in pursuit of the claims asserted. However, Plaintiffs are only twenty-two of more than a hundred owners. It is also clear that there is a divergence of opinion as to how to seek redress from M.U.I., the developer, for allegedly failing in its duty to turn over the common elements of the condominium to the HOA.

Further, the collective claims pertaining only to the common elements of the condominium regime are now being pursued by Kensington, the lawful representative of all owners under both the by-laws and by statute. It is apparent that some owners are satisfied with this pursuit.

Therefore, based on the record presented to this point, I find and conclude that Plaintiffs are not entitled to class certification.

3. Defendant M.U.I.'s motion to dismiss Plaintiffs' claims.

It is clear that Plaintiffs may have the right to pursue their claims in their own right. Given the complexity of this litigation, I believe that the individual claims asserted by the Plaintiffs should be decided based on a full development of the facts as to each claim, and the defenses applicable to each claim, at trial. Therefore, the motion is denied with exception noted below.

I am mindful that there may be only one recovery for damages pertaining to the common elements of the condominium; however, that issue may be dealt with at trial, in the discretion of the trial judge, by special verdicts and special instructions to the jury.

Notwithstanding the general ruling above, M.U.I. is entitled to summary judgment as to Plaintiffs' claim for unfair trade practices. From the record presented, and applying the requisite summary judgment standard, I find and conclude that Plaintiffs' claims do not present an issue as to either impact on the public interest, or potential for repetition. The dispute in this case is confined to M.U.I.'s duty, and alleged breach thereof, in connection with the circumstances surrounding a single project, and there is no implication of public impact or repetition. Thus, the motion is granted as to the unfair trade practices claim.

4. Defendant M.U.I.'s motion to dismiss Kensington's cross-claim.

Kensington is arguably the only appropriate party to pursue M.U.I. for the breaches of duty alleged against M.U.I. as developer in respect to the common elements of the HPR. In any event, as noted above, there can only be one recovery of damages pertaining to the common elements, and that can be dealt with by the trial judge. Therefore, the motion is denied.

5. Defendant Kensington's motion to dismiss M.U.I.'s cross-claim.

M.U.I.'s cross-claim is dependent on the development of facts at trial, and the ultimate verdict in the case. Therefore, it would be inappropriate to dismiss the cross-claim at this time, and the motion is denied.


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6. Defendant Kensington's motion for summary judgment as to Defendant Deborah Pulliam, and as to all of Plaintiffs' claims.

As stated above, given the complexity of this litigation, I believe that all claims should be decided based on a full development of the facts as to each claim, and the defenses applicable to each claim, at trial. Therefore the motion is denied.

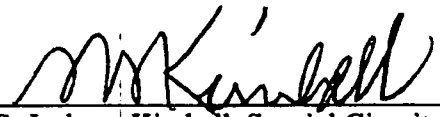
ORDER

Based on the discussion herein, the arguments presented, the exhibits submitted for the Court's consideration, and the applicable law, it is ordered as follows:

1. Plaintiffs' motion to dismiss the counterclaim of Kensington is denied.
2. Plaintiffs' motion to certify this case as a class action and to approve the Pulliam Plaintiffs as class representatives is denied.
3. Defendant M.U.I.'s motion to dismiss Plaintiffs' claims is denied.
4. Defendant M.U.I.'s motion to dismiss Kensington's cross-claim is denied.
5. Defendant Kensington's motion to dismiss M.U.I.'s cross-claim is denied.
6. Defendant Kensington's motion for summary judgment as to Defendant Deborah Pulliam, and as to all of Plaintiffs' claims is denied.

AND IT IS SO ORDERED.

June 8, 2010


S. Jackson Kimball, Special Circuit Judge
York County

#5

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2008CP4602158

Brian Pulliam vs. MUI Carolina Corporation

CHECK ONE:

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- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other:

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Order

Dated at York, South Carolina, this 8th day of June, 2010.

Court Reporter:

s/S. Jackson Kimball

PRESIDING JUDGE - S. JACKSON KIMBALL

This judgment was entered on the 14th day of June, 2010, and a copy mailed first class this 14th day of June, 2010, to attorneys of record or to parties (when appearing pro se) as follows:

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Kenneth R Raynor Templeton & Raynor, PA 1800
East Blvd. Charlotte, NC 28203

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

SCRPC APP-24/FORM 4

David Hamilton - Clerk of Court

EXHIBIT E

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

CASE NUMBER: 2008-CP-46-2158

Brian and Deborah C. Pulliam, Monica Bradshaw, Helen K. Cook, Kala Craig, Victor E. Dirienzo, Cynthia Ditursi, J. Scott Drexel, Kathleen Kramer, Robert Loebe, Melanie McDaniel, David Osborne, Celeste Arrowood, Vincent Dionna, Mikel Marcuse, James P. Wheaton, Jr., Joseph Manfredini, Elena Manfredini, David Cox, Jonathan B. Dillard, Eric Wilson, Don and Debbie Neff, Marianna Junda, individually, and on behalf of all other similarly situated Plaintiffs, Respondents,

v.

Kensington Place Owners' Association, Inc., Appellant-Respondent,
M.U.I. Carolina Corporation and Regent Carolina Corporation,
..... Respondents-Appellants.

NOTICE OF APPEAL

M.U.I. Carolina Corporation and Regent Carolina Corporation appeal the Orders of the Honorable John C. Hayes, III dated April 1, 2011 and April 15, 2011. Respondents-Appellants received a Notice of Appeal from Appellant-Respondent on May 18, 2011.

May 20, 2011.

Robert Lyles / chl

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S.C. Bar No.: 10299
Federal Id No.: 3029
Attorney for Respondents-Appellants

Other Counsel of Record:

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Attorneys for Appellant-Respondent

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

CASE NUMBER: 2008-CP-46-2158

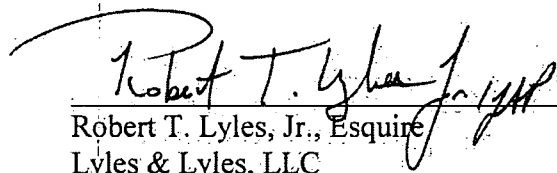
Brian and Deborah C. Pulliam, Monica Bradshaw, Helen K. Cook, Kala Craig, Victor E. Dirienzo, Cynthia Ditursi, J. Scott Drexel, Kathleen Kramer, Robert Loebe, Melanie McDaniel, David Osborne, Celeste Arrowood, Vincent Dionna, Mikel Marcuse, James P. Wheaton, Jr., Joseph Manfredini, Elena Manfredini, David Cox, Jonathan B. Dillard, Eric Wilson, Don and Debbie Neff, Marianna Junda, individually, and on behalf of all other similarly situated Plaintiffs, Respondents,

v.

Kensington Place Owners' Association, Inc., Appellant-Respondent,
M.U.I. Carolina Corporation and Regent Carolina Corporation,
..... Respondents-Appellants.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on all Respondents and Appellant-Respondent by depositing a copy of it in the United States Mail, postage prepaid, on May 20, 2011, addressed to their respective attorney of record: W. Jefferson Leath, Jr., Esquire, Michael S. Seekings, Esquire, Leath, Bouch, & Seekings, LLP, 92 Broad Street (29401), Post Office Box 59, Charleston, South Carolina 29402, and Kenneth R. Raynor, Esquire, Templeton & Raynor, P.A., 1800 East Boulevard, Charlotte, North Carolina 28203.



Robert T. Lyles, Jr., Esquire

Lyles & Lyles, LLC

342 East Bay Street (29401)

Post Office Box 773

Charleston, South Carolina 29402

(843) 577-7730 / rtl@lylesfirm.com

S.C. Bar No.: 10299

Federal Id No.: 3029

Attorney for Respondents-Appellants

EXHIBIT F

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE YORK COUNTY
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2008-CP-46-2158

Brian and Deborah C. Pulliam, Monica Bradshaw, Helen K. Cook, Kala Craig, Victor E. Dirienzo, Cynthia Ditursi, J. Scott Drexel, Kathleen Kramer, Robert Loebe, Melanie McDaniel, Don and Debbie Neff, David Osborne, Celeste Arrowood, Vincent Dionna, Mikel Marcuse, James P. Wheaton, Jr., Joseph Manfredini, Elena Manfredini, David Cox, Jonathan B. Dillard, and Eric Wilson, and Marianna Junda Respondents,

v.

M.U.I. Carolina Corporation, and Kensington Place Owners' Association, Inc., and Regent Carolina Corporation, Defendants.

Of whom, M.U.I. Carolina Corporation and Regent Carolina Corporation are,
..... Respondents/Appellants,

And Kensington Place Owners' Association, Inc. is the, Appellants/Respondent.

**RESPONDENTS' MOTION TO DISMISS APPEAL OF
RESPONDENTS/APPELLANTS M.U.I. CAROLINA CORPORATION
AND REGENT CAROLINA CORPORATION**

W. Jefferson Leath, Jr., Esq.
Michael S. Seekings, Esq.
Leath, Bouch & Seekings, LLP
92 Broad Street
P. O. Box 59
Charleston, SC 29402
(843) 937-8811

Attorneys for the Respondents

Respondents Pulliam, et al, hereby move this Court pursuant to Rules 240 and 201, SCACR, to dismiss the Appeal of the Respondents/Appellants M.U.I. Carolina Corporation and Regent Carolina Corporation on the grounds that this Appeal does not comply with Rule 201, SCACR, in that it is not an appeal from any final judgment, appealable order or decision, rather it is an attempted appeal of a denial of a Motion for Summary Judgment, which denial is not appealable as a matter of law.

**MEMORANDUM IN SUPPORT OF MOTION TO DISMISS
RESPONDENTS/APPELLANTS APPEAL**

The Orders which M.U.I. and Regent attempt to appeal are those of Judge John Hayes, III, dated April 1, 2011, and April 15, 2011. The latter Order is simply the denial of the Motion to Reconsider the original Order, so that it is the ruling made within the first Order which is at issue here.

A cursory review of this April 1 Order immediately demonstrates that M.U.I./Regent made a Motion for Summary Judgment as to the Respondents' claims based upon a lack of standing argument, and this Motion was denied. Nothing else in this Order deals with M.U.I./Regent, rather the remainder of the Order deals with Respondents' Motions, all of which were denied with the exception of the dismissal of Appellant/Respondent Kensington Place POA's Cross-Claim, which dismissal forms the basis for the POA's Appeal in the instant matter.

So – M.U.I./Regent's Appeal is an appeal of a denial of a Motion for Summary Judgment – a denial which is not appealable pursuant to Rule 201, SCACR, so that this Appeal must be dismissed.

The Supreme Court's 1994 decision in *Ballenger v. Bowen*, 443 S.E.2d 379, 313 S.C. 476 (1994), stated the law clearly and emphatically with citations to more than ten previous decisions: "This court has repeatedly held that the denial of summary judgment is not directly appealable."

As if this were not clear enough for the Bar to understand, the Supreme Court stated it one more time in *Olson v. Faculty House of Carolina, Inc.*, 580 S.E.2d 440, 354 S.C. 161 (2003).

CONCLUSION

There is no dispute that what is sought to be appealed - a denial of Summary Judgment - is not appealable. This Court must dismiss the Appeal of M.U.I./Regent Corporation.

Respectfully submitted,

LEATH, BOUCH & SEEKINGS, LLP

By: Jefferson Leath
W. Jefferson Leath, Jr., Esq.
Michael S. Seekings, Esq.
92 Broad Street
P. O. Box 59
Charleston, SC 29402
(843) 937-8811
Attorneys for the Respondents

Charleston, South Carolina

June 3, 2011

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE YORK COUNTY
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2008-CP-46-2158

Brian and Deborah C. Pulliam, Monica Bradshaw, Helen K. Cook, Kala Craig, Victor E. Dirienzo, Cynthia Ditursi, J. Scott Drexel, Kathleen Kramer, Robert Loebe, Melanie McDaniel, Don and Debbie Neff, David Osborne, Celeste Arrowood, Vincent Dionna, Mikel Marcuse, James P. Wheaton, Jr., Joseph Manfredini, Elena Manfredini, David Cox, Jonathan B. Dillard, and Eric Wilson, and Marianna Junda Respondents,

v.

M.U.I. Carolina Corporation, and Kensington Place Owners' Association, Inc., and Regent Carolina Corporation, Defendants.

Of whom, M.U.I. Carolina Corporation and Regent Carolina Corporation are, Respondents/Appellants,

And Kensington Place Owners' Association, Inc. is the, Appellants/Respondent.

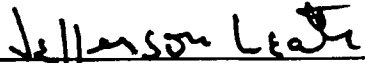
PROOF OF SERVICE

W. Jefferson Leath, Jr., Esq.
Michael S. Seekings, Esq.
Leath, Bouch & Seekings, LLP
92 Broad Street
P. O. Box 59
Charleston, SC 29402
(843) 937-8811
Attorneys for the Respondents

I, W. Jefferson Leath, Jr., do hereby certify that on June 3, 2011, I served opposing counsel with a copy of Respondents' Motion to Dismiss Appeal of Respondents/Appellants M.U.I. Carolina Corporation and Regent Carolina Corporation via regular first class United States mail, postage prepaid, addressed as follows:

Robert T. Lyles, Jr., Esq.
Catherine Bryan MacKelcan, Esq.
Lyles & Lyles, LLC
342 East Bay Street
P.O. Box 773 (29402)
Charleston, SC 29401
Attorneys for Respondents/Appellants

Kenneth R. Raynor, Esq.
Clay A. Campbell, Esq.
Templeton & Raynor, P.A.
1800 East Blvd.
Charlotte, NC 28203
Attorneys for Appellant/Respondent



W. Jefferson Leath, Jr.

Charleston, South Carolina

June 3, 2011

EXHIBIT G



The South Carolina Court of Appeals

TANYA A. GEE
CLERK
V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

August 15, 2011

W. Jefferson Leath, Jr., Esquire
Leath, Bouch & Seekings, LLP
92 Broad Street
Charleston, SC 29401

Robert T. Lyles, Jr, Esquire
Lyles & Lyles, LLC
P.O. Box 773
Charleston, SC 29402

Re: Pulliam, B. v. M.U.I. (Kensington)
2011192247

Dear Counsel:

Enclosed is a copy of an Order of the Court regarding Mr. Leath's Motion in the above case. Please be advised that a Partial Remittitur will be sent in accordance with the South Carolina Appellate Court Rules.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/mpm

cc: Kenneth Ray Raynor, Esquire
The Honorable David Hamilton

The South Carolina Court of Appeals

Brian and Deborah C. Pulliam, Monica
Bradshaw, Helen K. Cook, Kala Craig,
Victor E. Dirienzo, Cynthia Ditursi, J.
Scott Drexel, Kathleen Kramer, Robert
Loebe, Melanie McDaniel, Don and
Debbie Neff, David Osborne, Celeste
Arrowood, Vincent Dionna, Mikel
Marcuse, James P. Wheaton, Jr., Joseph
Manfredini, Elena Manfredini, David
Cox, Jonathan B. Dillard, and Eric
Wilson, and Marianna Junda, Respondents,

v.

M.U.I. Carolina Corporation, and
Kensington Place Owners' Association,
Inc., and Regent Carolina Corporation, Defendants,

Of whom, M.U.I. Carolina Corporation
and Regent Carolina Corporation are, Respondents/Appellants,

And Kensington Place Owners'
Association, Inc. is the, Appellant/Respondent.

The Honorable John C. Hayes, III
York County
Trial Court Case No. 2008-CP-46-02158

ORDER

Respondents have filed a motion to dismiss Respondents/Appellants' appeal from an order of the circuit court denying their motion for summary judgment. In their return to Respondents motion, Respondents/Appellants readily acknowledge that an order denying summary judgment is not generally appealable; however, Respondents/Appellants contend the

circuit court's order is immediately appealable because it effectively struck their defenses of standing and real party in interest. In addition, Respondents/Appellants contend this Court should review the order in the interests of judicial economy and to avoid unnecessary litigation.

After careful review of the order and the parties' filings, we dismiss Respondents/Appellants appeal. As explained in Ballenger v. Bowen, 313 S.C. 476, 477, 443 S.E.2d 379, 380 (1994), an order denying summary judgment does not have the effect of striking any defenses, does not establish the law of the case, and "decides nothing about the merits of the case, but simply decides the case should proceed to trial." Furthermore, because an order denying summary judgment is never immediately appealable, even after final judgment, we decline to consider the order in the interests of judicial economy or to avoid unnecessary litigation. See Olson v. Faculty House of Carolina, Inc. 354 S.C. 161, 168, 580 S.E.2d 440, 444 (2003) (reiterating that an order denying summary judgment is never immediately appealable and expressly overruling several cases that allowed for immediate review of an order denying summary judgment, including Tanner v. Florence City-County Bldg. Com'n, 333 S.C. 549, 553-554, 511 S.E.2d 369, 371 (Ct. App. 1999), which considered an order denying summary judgment that was appealed alongside an issue that was immediately appealable).

IT IS SO ORDERED.

H B W J.

Columbia, South Carolina

cc: Kenneth Ray Raynor, Esquire
Robert T. Lyles, Jr, Esquire
W. Jefferson Leath, Jr., Esquire

8/15/11
FILED

EXHIBIT H

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF YORK)

CASE NUMBER: 2008-CP-46-2158

BRIAN AND DEBORAH C. PULLIAM,)
MONICA BRADSHAW, HELEN K.)
COOK, KALA CRAIG, VICTOR E.)
DIRIENZO, CYNTHIA DITURSI,)
J. SCOTT DREXEL, KATHLEEN)
KRAMER, ROBERT LOEBE,)
MELANIE McDANIEL, DAVID)
OSBORNE, CELESTE ARWOOD,)
VINCENT DIONNA, MIKEL MARCUSE,)
JAMES P. WHEATON, JR., JOSEPH)
MANFREDINI, ELENA MANFREDINI,)
DAVID COX, JONATHAN B. DILLARD,)
ERIC WILSON, DON AND DEBBIE)
NEFF, and MARIANNA JUNDA,)

**NOTICE OF MOTION AND MOTION
FOR SUMMARY JUDGMENT**

Plaintiffs,

vs.

M.U.I. CAROLINA CORPORATION,)
KENSINGTON PLACE OWNERS')
ASSOCIATION, INC., and REGENT)
CAROLINA CORPORATION,)

Defendants.

TO: W. JEFFERSON LEATH, JR., ESQUIRE and MICHAEL S. SEEKINGS, ESQUIRE,
ATTORNEYS FOR PLAINTIFFS:

PLEASE TAKE NOTICE that Defendants, M.U.I. Carolina Corporation ("MUIC") and
Regent Carolina Corporation ("Regent"), by and through their undersigned attorneys, will move
before this Honorable Court ten (10) days after the date hereof, or as soon thereafter as counsel may
be heard for an Order pursuant to Rule 56(a), *SCRCP*, granting summary judgment and/or partial on
the following grounds:

1. With the dismissal of the claims of the KPOA against MUIC, MUIC and Regent hereby move for summary judgment as to all common elements claims asserted by the Plaintiffs on the ground that the Plaintiffs lack standing to pursue these claims;

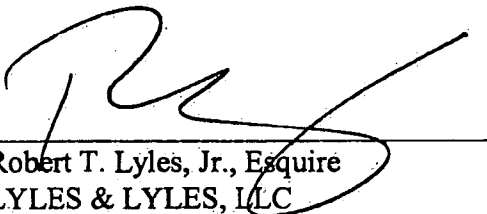
2. MUIC and Regent move for summary judgment in their favor as to Plaintiffs' Breach of Fiduciary Duty claim on the ground that neither MUIC nor Regent owed a fiduciary duty to any Plaintiff;

3. MUIC and Regent move for summary judgment as to all claims asserted by Kathleen Kramer and Brian and Deborah Pulliam on the ground that these claims are barred by the Statute of Limitations;

4. Regent moves for summary judgment as to Plaintiffs' Implied Warranty of Habitability claim on the ground that Regent was not the seller of any unit; and

5. Regent moves for summary judgment on Plaintiffs' Negligence claim on the ground that Regent owed no duty to any Plaintiff.

This motion is supported by the pleadings, affidavits, discovery, and testimony which is on file and is of record.



Robert T. Lyles, Jr., Esquire
LYLES & LYLES, LLC
P.O. Box 773
Charleston, SC 29402
Phone: (843)577-7730 / Fax: (843) 577-7172
E-mail: rtl@lylesfirm.com

**Attorneys for M.U.I. Carolina Corporation
and Regent Carolina Corporation**

Charleston, South Carolina
_____, 2013

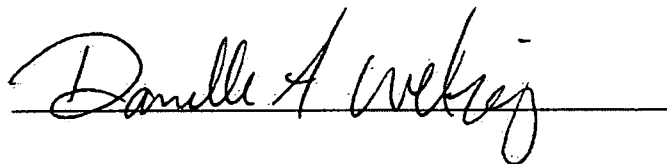
CERTIFICATE OF SERVICE

I hereby certify that a copy of **Motion for Summary Judgment** in the above-referenced matter (Case Number 2008-CP-46-2158) has been served on the following named persons via either hand delivery, e-mail, and/or by placing a copy of the same in the United States mail with proper postage affixed thereto on this 31st day of July, 2013:

W. Jefferson Leath, Jr., Esquire
Michael S. Seekings, Esquire
Leath, Bouch, & Seekings, LLP
92 Broad Street (29401)
Post Office Box 59
Charleston, S.C. 29402
Fax: 843.937.0606
jl@leathbouchlaw.com
mseekings@leathbouchlaw.com
dcatapano@leathbouchlaw.com
Attorneys for Plaintiffs

Kenneth R. Raynor, Esquire
Templeton & Raynor, P.A.
1800 East Boulevard
Charlotte, N.C. 28203
Fax: 704.344.8555
ken@templetonraynor.com
shawn@templetonraynor.com
Attorneys for Kensington Place Owners' Association, Inc.

LYLES & LYLES, LLC



Charleston, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS)
CASE NO. 2008-CP-46-2158)

Brian Pulliam, et al.)
 Plaintiff)

v.)

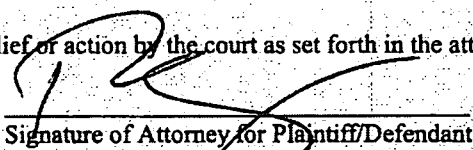
MUI Carolina Corporation, et al.)
 Defendant)

**MOTION INFORMATION FORM
AND COVER SHEET**

<u>name, SC Bar no. and address of plaintiff's attorney</u> W. Jefferson Leath, Jr. / Michael S. Seekings Leath, Bouch, & Seekings, LLP 92 Broad St., Chas., SC 29401 telephone: _____ fax: _____ e-mail: jl@leathbouchlaw.com / mseekings@leathbouch.com	<u>name, SC Bar no. and address of defendant's attorney</u> Robert T. Lyles, Jr. Lyles & Lyles, LLC 342 East Bay St., Chas., SC 29401 telephone: 843-577-7730 fax: 843-577-7172 e-mail: rtl@lylesfirm.com
---	---

MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information
Nature of Motion: Motion for Summary Judgment
Estimated Time Needed: 15 mins Court Reporter Needed: YES / NO

SECTION II: Motion Type
 Written motion attached
 Form Motion --
I hereby move for relief of action by the court as set forth in the attached proposed order.

Signature of Attorney for Plaintiff/Defendant Date submitted: 7/31/12

SECTION III: Motion Fee
 PAID - AMOUNT: \$25.00
 EXEMPT: Rule to Show Cause in Child or Spousal Support
(check reason) Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act: Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRCP)
 Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
 Other: _____

<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE'S SECTION JUDGE CODE: _____ Date: _____
--	---

CLERK'S VERIFICATION
Collected by: _____ DATE FILED
 MOTION FEE COLLECTED: _____
 CONTESTED - AMOUNT DUE: _____

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2008 CP-46-02158

Brian & Deborah C. Pulliam, et al.

MUI Carolina Corp., et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Robert T. Lyles, Jr.

Attorney for : Plaintiff Defendant
or
 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.
- 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
- 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

This order ends does not end the case.
Additional Information for the Clerk : _____

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.

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:

EXHIBIT I

FORM 4

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

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2008CP4602158

Brian Pulliam	Deborah C Pulliam	MUI Carolina Corporation	Kensington Place Owners Association Inc
Monica Bradshaw	Helen K Cook	Regent Carolina Corporation	
Kala Craig	Victor E Dirienzo		
Cynthia Ditursi	J Scott Drexel		
Kathleen Kramer			

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____ Attorney for: Plaintiff Defendant
 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), 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: _____
- 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

This order ends does not end the case.

Additional Information for the Clerk: **ORDER ON DEFENDANTS SUMMARY JUDGMENT MOTIONS**

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.

s/ John C. Hayes, III.

2049

1/22/2014

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on January 23, 2014, and a copy mailed first class or placed in the appropriate attorney's box on January 23, 2014, to attorneys of record or to parties (when appearing pro se) as follows:

W. Jefferson Leath Jr. PO Box 59 Charleston, SC 29402

ATTORNEY(S) FOR THE PLAINTIFF(S)

Robert T. Lyles Jr. PO Box 773 Charleston, SC 29402
Kenneth Ray Raynor 1800 East Blvd. Charlotte, NC 28203

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

Court Reporter

David Hamilton - Clerk of Court

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.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF YORK) CASE NUMBER: 08-CP-46-2158

BRIAN AND DEBORAH C. PULLIAM,)
MONICA BRADSHAW, HELEN K.)
COOK, KALA CRAIG, VICTOR E.)
DIRIENZO, CYNTHIA DITURSI, J.)
SCOTT DREXEL, KATHLEEN KRAMER,)
ROBERT LOEBE, MELANIE McDANIEL,)
DAVID OSBORNE, CELESTE)
ARWOOD, VINCENT DIONNA,)
MIKEL MARCUSE, JAMES P.)
WHEATON, JR., JOSEPH MANFREDINI,)
ELENA MANFREDINI, DAVID COX,)
JONATHAN B. DILLARD, ERIC)
WILSON, DON AND DEBBIE NEFF, and)
MARIANNA JUNDA,)

Plaintiffs,)

vs.)

M.U.I. CAROLINA CORPORATION, AND)
KENSINGTON PLACE OWNERS')
ASSOCIATION, INC., and REGENT)
CAROLINA CORPORATION)

Defendants.)

**ORDER ON DEFENDANTS SUMMARY
JUDGMENT MOTIONS**

2014 JAN 23 AM 11:07
5
CLERK OF COURT
YORK COUNTY, SC

On April 1, 2011, this Court issued its Order Denying Motions for Summary Judgment filed by Defendants Kensington Place Homeowners Association ("KPOA"), MUI Corporation ("MUI"), and Regent Carolina Corporation ("Regent"). These defendants have now renewed their Motions, and for the reasons stated in the Court's April 21, 2011 Order, as well as the reasons stated below, the Motions are Denied.

KPOA'S SUMMARY JUDGMENT MOTIONS

The KPOA, Inc., again urges the Court to grant it summary judgment on two theories: 1) that a suit by homeowners against the KPOA, Inc., a South Carolina non-profit corporation, is a suit by the plaintiffs against themselves, and 2) that the damages alleged are as a result of activities of

JCH

defendants other than KPOA, Inc., or are as a result of original construction defects.

Additionally, KPOA Inc. takes the position that it has judicial immunity by virtue of the governing documents of the regime.

Plaintiffs retained an expert witness, Michael Parades, who has given testimony and submitted an affidavit. Mr. Parades, according to his affidavit, has been qualified in Court in the areas of community association governance, management, and fiduciary duties of Property Owner Associations. Mr. Parades opines in his affidavit that the KPOA, Inc., during the period of developer control of the KPOA was negligent and breached fiduciary duties in failing to investigate the building, failing to have it correctly maintained and repaired, and in failing to adequately fund a repair and replacement reserve fund, as well as permitting the turnover of a defective building. The regime Master Deed and By-Laws place the responsibility of maintenance of the Common Elements in the KPOA, Inc. The KPOA, Inc. has not produced a witness to counter the Parades affidavit and the evidence of record establishes that the Kensington Place Condominiums suffer from some degree due to deterioration, although that degree is in dispute.

This suit is not a suit by owners against each other; rather it is a suit by individuals against a corporate entity. There is no bar to the suit. Additionally, the By-Laws cited by the KPOA, Inc., in support of its immunity claim do not grant immunity to the corporation, but on the contrary, only grant a qualified immunity to individual directors. No individual directors are defendants. This By-Law has no applicability.

To the extent that other defendants may have liability, that does not insulate the KPOA, Inc. for liability for breach of its repair and maintenance obligations under the governing documents, nor for failing to require the developer to turn over the Common Elements in good repair.

The Court finds, therefore, that significant genuine issues of material fact exist which would preclude the grant of Summary Judgment in favor of the KPOA, Inc.

MUI/REGENT SUMMARY JUDGMENT MOTIONS

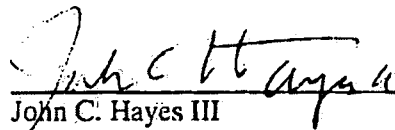
Defendants MUI and Regent move for Summary Judgment on five grounds, constituting the same five grounds found in their Jan. 18, 2011 Motion for Summary Judgment, which motion was denied by the Court on April 1, 2011, and reaffirmed on April 15, 2011. This Motion is again denied.

As to the issue of standing to pursue these claims against the developer defendants, this Court, and the South Carolina Court of Appeals has already ruled that these Plaintiffs have standing, and nothing has been advanced by these defendants to alter those rulings.

Regarding Regent and its claims of lack of developer responsibility, evidence has been introduced by Plaintiffs demonstrating a factual question as to the amalgamation of interests between Regent and MUI sufficient to withstand this motion.

As to the claims of lack of fiduciary duty and Statute of Limitations, these matters have been previously denied by this Court's April 1, 2011 Order, and its observations regarding the effect of the decision in Concerned Dunes West Residents, Inc. v. Georgia Pacific Corporation, 563 S.E. 2d 633 (Sup.Ct. 2002).

Based upon the foregoing, prior hearings, and the Court's prior rulings in this matter, the Summary Judgment Motions of the KPOA, Inc., and MUI and Regent, are hereby **DENIED**.
IT IS SO ORDERED.



John C. Hayes III
Judge Sixteenth Judicial Circuit
H 3

January 27th, 2014
York, South Carolina

EXHIBIT J

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2008-CP-46-2158

Brian and Deborah C. Pulliam, Monica Bradshaw, Helen K. Cook, Kala Craig, Victor E. Dirienzo, Cynthia Ditursi, J. Scott Drexel, Kathleen Kramer, Robert Loebe, Melanie McDaniel, David Osborne, Celeste Arrowood, Vincent Dionna, Mikel Marcuse, James P. Wheaton, Jr., Joseph Manfredini, Elena Manfredini, David Cox, Jonathan B. Dillard, Eric Wilson, Don and Debbie Neff, Marianna Junda, individually, and on behalf of all other similarly situated Plaintiffs,.....Respondents,

v.

M.U.I. Carolina Corporation, Kensington Place Owners' Association, Inc., and Regent Carolina CorporationDefendants,

Of whom, M.U.I. Carolina Corporation and Regent Carolina CorporationAppellants,

NOTICE OF APPEAL

M.U.I. Carolina Corporation and Regent Corporation appeal the order/ruling of the Honorable John C. Hayes, III dated January 22, 2014 (and filed January 23, 2014), in which he ruled, as a matter of law, that Respondents have standing to pursue claims for damages relating to the repair of the common elements, thereby striking Appellants' primary defenses. Appellant received the Order by mail on January 27, 2014.

January 30, 2014

Robert T. Lyles, Jr. / MIA

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rtl@lylesfirm.com

*Attorney for Appellants, M.U.I. Carolina
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cc:

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Attorneys for Kensington Place Owners' Association, Inc.

FORM 4

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

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2008CP4602158

Brian Pulliam	Deborah C Pulliam	MUI Carolina Corporation	Kensington Place Owners Association Inc
Monica Bradshaw	Helen K Cook	Regent Carolina Corporation	
Kala Craig	Victor E Dirienzo		
Cynthia Ditursi	J Scott Drexel		
Kathleen Kramer			

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____ Attorney for: Plaintiff Defendant
 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: _____
- 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

This order ends does not end the case.

Additional Information for the Clerk: **ORDER ON DEFENDANTS SUMMARY JUDGMENT MOTIONS**

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.

s/ John C. Hayes, III.
 Circuit Court Judge

2049
 Judge Code

1/22/2014
 Date

For Clerk of Court Office Use Only

This judgment was entered on January 23, 2014, and a copy mailed first class or placed in the appropriate attorney's box on January 23, 2014, to attorneys of record or to parties (when appearing pro se) as follows:

W. Jefferson Leath Jr. PO Box 59 Charleston, SC 29402

Robert T. Lyles Jr. PO Box 773 Charleston, SC 29402
Kenneth Ray Raynor 1800 East Blvd. Charlotte, NC 28203

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

Court Reporter

David Hamilton - Clerk of Court

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.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF YORK) CASE NUMBER: 08-CP-46-2158

BRIAN AND DEBORAH C. PULLIAM,
MONICA BRADSHAW, HELEN K.
COOK, KALA CRAIG, VICTOR E.
DIRIENZO, CYNTHIA DITURSI, J.
SCOTT DREXEL, KATHLEEN KRAMER,
ROBERT LOEBE, MELANIE McDANIEL,
DAVID OSBORNE, CELESTE
ARWOOD, VINCENT DIONNA,
MIKEL MARCUSE, JAMES P.
WHEATON, JR., JOSEPH MANFREDINI,
ELENA MANFREDINI, DAVID COX,
JONATHAN B. DILLARD, ERIC
WILSON, DON AND DEBBIE NEFF, and
MARIANNA JUNDA,

Plaintiffs,

vs.

M.U.I. CAROLINA CORPORATION, AND
KENSINGTON PLACE OWNERS'
ASSOCIATION, INC., and REGENT
CAROLINA CORPORATION

Defendants.

**ORDER ON DEFENDANTS SUMMARY
JUDGMENT MOTIONS**

2011 JUN 23 AM 11:07
CLERK OF COURT
D.C. CP & GS
YORK COUNTY, SC

On April 1, 2011, this Court issued its Order Denying Motions for Summary Judgment filed by Defendants Kensington Place Homeowners Association ("KPOA"), MUI Corporation ("MUI"), and Regent Carolina Corporation ("Regent"). These defendants have now renewed their Motions, and for the reasons stated in the Court's April 21, 2011 Order, as well as the reasons stated below, the Motions are Denied.

KPOA'S SUMMARY JUDGMENT MOTIONS

The KPOA, Inc., again urges the Court to grant it summary judgment on two theories: 1) that a suit by homeowners against the KPOA, Inc., a South Carolina non-profit corporation, is a suit by the plaintiffs against themselves, and 2) that the damages alleged are as a result of activities of

defendants other than KPOA, Inc., or are as a result of original construction defects.

Additionally, KPOA Inc. takes the position that it has judicial immunity by virtue of the governing documents of the regime.

Plaintiffs retained an expert witness, Michael Parades, who has given testimony and submitted an affidavit. Mr. Parades, according to his affidavit, has been qualified in Court in the areas of community association governance, management, and fiduciary duties of Property Owner Associations. Mr. Parades opines in his affidavit that the KPOA, Inc., during the period of developer control of the KPOA was negligent and breached fiduciary duties in failing to investigate the building, failing to have it correctly maintained and repaired, and in failing to adequately fund a repair and replacement reserve fund, as well as permitting the turnover of a defective building. The regime Master Deed and By-Laws place the responsibility of maintenance of the Common Elements in the KPOA, Inc. The KPOA, Inc. has not produced a witness to counter the Parades affidavit and the evidence of record establishes that the Kensington Place Condominiums suffer from some degree due to deterioration, although that degree is in dispute.

This suit is not a suit by owners against each other; rather it is a suit by individuals against a corporate entity. There is no bar to the suit. Additionally, the By-Laws cited by the KPOA, Inc., in support of its immunity claim do not grant immunity to the corporation, but on the contrary, only grant a qualified immunity to individual directors. No individual directors are defendants. This By-Law has no applicability.

To the extent that other defendants may have liability, that does not insulate the KPOA, Inc. for liability for breach of its repair and maintenance obligations under the governing documents, nor for failing to require the developer to turn over the Common Elements in good repair.

J. H. 2

The Court finds, therefore, that significant genuine issues of material fact exist which would preclude the grant of Summary Judgment in favor of the KPOA, Inc.

MUI/REGENT SUMMARY JUDGMENT MOTIONS

Defendants MUI and Regent move for Summary Judgment on five grounds, constituting the same five grounds found in their Jan. 18, 2011 Motion for Summary Judgment, which motion was denied by the Court on April 1, 2011, and reaffirmed on April 15, 2011. This Motion is again denied.

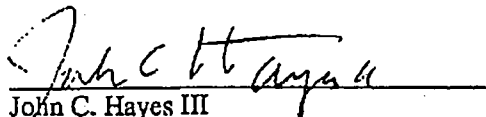
As to the issue of standing to pursue these claims against the developer defendants, this Court, and the South Carolina Court of Appeals has already ruled that these Plaintiffs have standing, and nothing has been advanced by these defendants to alter those rulings.

Regarding Regent and its claims of lack of developer responsibility, evidence has been introduced by Plaintiffs demonstrating a factual question as to the amalgamation of interests between Regent and MUI sufficient to withstand this motion.

As to the claims of lack of fiduciary duty and Statute of Limitations, these matters have been previously denied by this Court's April 1, 2011 Order, and its observations regarding the effect of the decision in Concerned Dunes West Residents, Inc. v. Georgia Pacific Corporation, 563 S.E. 2d 633 (Sup.Ct. 2002).

Based upon the foregoing, prior hearings, and the Court's prior rulings in this matter, the Summary Judgment Motions of the KPOA, Inc., and MUI and Regent, are hereby DENIED.

IT IS SO ORDERED.


John C. Hayes III
Judge Sixteenth Judicial Circuit

January 22nd, 2014
York, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case Number: 2008-CP-46-2158

Brian and Deborah C. Pulliam, Monica Bradshaw, Helen K. Cook, Kala Craig, Victor E. Dirienzo, Cynthia Ditursi, J. Scott Drexel, Kathleen Kramer, Robert Loebe, Melanie McDaniel, David Osborne, Celeste Arrowood, Vincent Dionna, Mikel Marcuse, James P. Wheaton, Jr., Joseph Manfredini, Elena Manfredini, David Cox, Jonathan B. Dillard, Eric Wilson, Don and Debbie Neff, Marianna Junda, individually, and on behalf of all other similarly situated Plaintiffs, Respondents,

v.

M.U.I. Carolina Corporation, Kensington Place Owners' Association, Inc., and Regent Carolina Corporation, Defendants,

Of whom, M.U.I. Carolina Corporation and Regent Carolina Corporation, .. Appellants.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Respondents and Defendants by depositing a copy of it in the United States Mail, postage prepaid, on January 30, 2014, addressed to their respective attorney of record: W. Jefferson Leath, Jr., Esquire, Michael S. Seekings, Esquire, Leath, Bouch, & Seekings, LLP, 92 Broad Street (29401), Post Office Box 59, Charleston, South Carolina 29402, and Kenneth R. Raynor, Esquire, Templeton & Raynor, P.A., 1800 East Boulevard, Charlotte, North Carolina 28203.

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S.C. Bar No.: 10299
Federal Id No.: 3029
Attorney for Appellants

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE YORK COUNTY
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2008-CP-46-2158

Brian and Deborah C. Pulliam, Monica Bradshaw, Helen K. Cook, Kala Craig, Victor E. Dirienzo, Cynthia Ditursi, J. Scott Drexel, Kathleen Kramer, Robert Loebe, Melanie McDaniel, Don and Debbie Neff, David Osborne, Celeste Arrowood, Vincent Dionna, Mikel Marcuse, James P. Wheaton, Jr., Joseph Manfredini, Elena Manfredini, David Cox, Jonathan B. Dillard, and Eric Wilson, and Marianna Junda Respondents,

v.

M.U.I. Carolina Corporation, and Kensington Place Owners' Association, Inc., and Regent Carolina Corporation Defendants.

Of whom, M.U.I. Carolina Corporation and Regent Carolina Corporation are
. Respondents/Appellants,

And Kensington Place Owners' Association, Inc. is the Appellants/Respondent.


PROOF OF SERVICE

W. Jefferson Leath, Jr., Esq.
Michael S. Seekings, Esq.
Leath, Bouch & Seekings, LLP
92 Broad Street
P. O. Box 59
Charleston, SC 29402
(843) 937-8811
Attorneys for the Respondents

I, Michael S. Seekings, Esq. do hereby certify that on February 7, 2014 I served opposing counsel with a copy of Respondents Motion to via regular first class United States mail, postage prepaid, addressed as follows:

Robert T. Lyles, Jr., Esq.
Catherine Bryan MacKelcan, Esq.
Lyles & Lyles, LLC
342 East Bay Street
P.O. Box 773 (29402)
Charleston, SC 29401

Kenneth R. Raynor, Esq.
Clay A. Campbell, Esq.
Templeton & Raynor, P.A.
1800 East Blvd.
Charlotte, NC 28203



Michael S. Seekings

Charleston, South Carolina

February 7, 2014



DAVID RAMSAY HOUSE
c. 1740

LEATH, BOUCH & SEEKINGS, LLP

COMMERCIAL LITIGATION • CONSTRUCTION • ENVIRONMENTAL

February 7, 2014

The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

RE: Brian and Deborah C. Pulliam, et al v. M.U.I. Carolina Corporation, et al
Case No.: 08-CP-46-2158
Case Tracking No.: 2011192247
LB&C File No. 1408.1

Dear Ms. Gee:


Please find enclosed for filing the original and seven (7) copies of Respondents' Pulliam, et al's Motion to Dismiss Appeal, etc., along with a firm check in the amount of \$25.00 for the filing fee, in the above referenced case. Please file the original and return filed copy to our office in the enclosed envelope.

By copy of this letter, I am also serving a copy of this Motion on all counsel of record.

With best regards, I am

Yours very truly,

LEATH, BOUCH & SEEKINGS, LLP


Natalie Oschkin, Paralegal to
Michael S. Seekings

/nero

Enclosures

cc: Kenneth R. Raynor, Esq.
Robert T. Lyles, Jr., Esq.

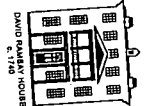
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FEB 18 2014



SC Court of Appeals




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The Honorable Tanya A. Gee
 Clerk, South Carolina Court of Appeals
 1015 Sumter Street
 Columbia, SC 29201



LEATH, BOUCH & SEEKINGS, LLP
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 92 BROAD STREET
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