

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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JAN 21 2014

**SC Court of Appeals**

APPEAL FROM OCONEE COUNTY  
Court of Common Pleas

Alexander S. Macaulay, Presiding Judge Seventh Judicial Circuit

Appellate Case No. 2013-001401

Stoneledge At Lake Keowee Owners' Association, Inc., C. Dan Carson, Jeffrey J. Dauler, Joan W. Davenport, Michael Furnari, Donna Furnari, Jessy B. Grasso, Nancy E. Grasso, Robert P. Hayes, Lucy H. Hayes, Ty Hix, Jennifer D. Hix, Paul W. Hund, III, Ruth E. Isaac, Michael D. Plourde, Mary Lou Plourde, Carol C. Pope, Steven B. Taylor, Bette J. Taylor, and Robert White, Individually and on Behalf of All others similarly situated.....Plaintiffs

IMK Development Co., LLC, Keowee Townhouses, LLC, Ludwig Corporation, LLC, SDI Funding, LLC, Medallion at Keowee, LLC, Integrys Keowee Development, LLC, Marick Home Builders, LLC, Bostic Brothers Construction, Inc., Miller/Player & Associates, John Ludwig, Clear View Construction, LLC, Michael Franz, MHC Contractors, Miguel Porras Choncoas, Builders First Source Southeast Group, Mike Green, Southern Concrete Specialties, Carl Compton d/b/a Compton Enterprize a/k/a Compton Enterprises, Gunter Heating & Air, All Pro Heating, A/C & Refrigeration, LLC, Coleman Waterproofing, Heyward Electrical Services, Inc., Tinsley Electrical, LLC, Hutch N Son Construction, Inc., Carl Catoe Construction, Inc., T.G. Construction, LLC, Delfino Construction, Francisco Javier Zarate d/b/a Zarate Construction, Alejandro Avalos Cruz, Herberto Acros Hernandez, Martin Hernandez-Aviles, Francisco Villalobos Lopez, Ambrosio Martinez-Ramirez, Ester Moran Mentado, Socorro Castillo Montel, Upstate Utilities, Inc., MJG Construction and Homebuilders, Inc. d/b/a MJG Construction, KMAC of the Carolinas, Inc., Eufacio Garcia, Everado Jarmamillo, Garcia Parra Insulation, Inc., J&J Construction, Jose Nino, Jose Manuel Garcia, Eason Construction, Inc., and Vincent Morales d/b/a Morales Masonry/Player & Associates, .....Defendants

Of Defendants, Marick Home Builders, LLC and Rick Thoennes .....Appellants,

Of Defendants, Builders FirstSource—Southeast Group, Carl Catoe Construction, Inc. and Catoe's Subcontractors T.G. Construction, LLC, Martin Hernandez-Aviles, Ester Moran Mentado, Herberto Arcos Hernandez, Francisco Javier Zarate d/b/a Zarate Construction ("Zarate Construction"), Alejandro Avalos Cruz, Francisco Villalobos Lopez, and Socorro Castillo Montel.....Respondents

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APPELLANTS' DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON  
APPEAL

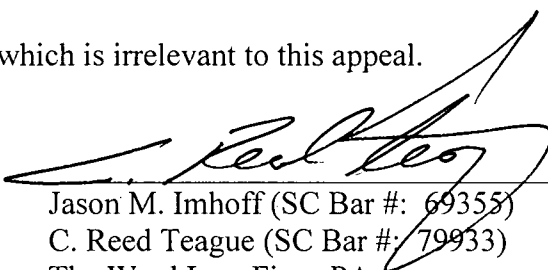
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Appellants propose the following to be included in the Record on Appeal:

1. Third Amended Complaint of Stoneledge at Lake Keowee Owners' Association, Inc.;
2. Answer to Third-Amended Complaint and Cross-Claims of Marick Home Builders, LLC;
3. Order Granting Builders FirstSource—Southeast Group, LLC, Carl Catoe Construction, Inc. and the Catoe Subcontractors' Motions to Dismiss and Motions for Summary Judgment;
4. Builders FirstSource—Southeast Group, LLC's Notice and Motion for Summary Judgment and/ or to Dismiss;
5. Carl Catoe Construction, Inc.'s Notice and Motion for Summary Judgment and/or to Dismiss;
6. All Catoe Subcontractors' Motions to Dismiss and/or for Summary Judgment;
7. Marick Home Builders, LLC and Rick Thoennes' Memorandum in Opposition to Builders FirstSource—Southeast Group, LLC, Carl Catoe Construction, Inc. and the Catoe Subcontractors' Motions for Summary Judgment and Motions to Dismiss along with all attached Exhibits;
8. Builders FirstSource-Southeast Group, LLC's Memorandum in Support of Summary Judgment;
9. Carl Catoe Construction, Inc.'s Memorandum in Support of Summary Judgment;
10. Catoe Subcontractors' Memorandums in Support of Summary Judgment and Motions to Dismiss;
11. Transcript of Proceedings dated September 5, 2012;
12. Marick Home Builders, LLC and Rick Thoennes' Motion to Alter and Amend Judgment;
13. Marick Home Builders, LLC and Rick Thoennes' Memorandum in Support of its Motion to Alter and Amend Judgment as to Carl Catoe Construction Inc. and the Catoe Subcontractors, along with all attached Exhibits;
14. Marick Home Builders, LLC and Rick Thoennes' Memorandum in Support of its Motion to Alter and Amend Judgment as to Builders FirstSource—Southeast Group, LLC, along with all attached Exhibits;
15. Respondents' Memorandums in Opposition to Marick Home Builders, LLC and Rick Thoennes' Motion to Alter and Amend Judgment;
16. Order Denying Marick Home Builders, LLC and Rick Thoennes' Motion to Alter and Amend Judgment;
17. Transcript of Proceedings dated April 10, 2013;
18. October 31, 2007 Contract Between Builders FirstSource—Southeast Group, LLC and Marick Home Builders, LLC;
19. Deposition of Derek Hodgin (Day 1) dated January 23, 2012 (Pages 38-39; Pages 97-98; Page 104; Pages 113-114;

20. Deposition of Derek Hodgkin (Day 2) dated January 24, 2012 (Pages 16-18; Pages 20-21; Pages 24-26; Pages 49-50; Pages 63-64; Pages 108-109; Page 151; Page 195; Pages 211-213; Pages 224-228);
21. Deposition of Randy Still dated August 15, 2012 (Pages 84-85; Pages 169-170; Page 172; Page 174);
22. Deposition of Terry Rosamond dated January 16, 2012 (Page 15; Page 37; Pages 48-49; Page 53; Page 61; Pages 63-64; Page 85);
23. Deposition of Nathan Hornaday dated March 30, 2012 (Pages 18-20);
24. Deposition of Fredrick (Rick) R. Thoennes dated November 21, 2011 (Pages 30-31; Pages 36-37; Pages 131-132; Pages 176-177; Pages 224-225; Page 244);
25. Deposition of Carl Catoe dated December 5, 2011 (Pages 45-47; Page 90; Pages 159-160);
26. Deposition of William Cary dated April 12, 2012 (Pages 101-102; Page 113; Pages 127-128; Page 144; Pages 146-148; Page 152);

I certify that this designation contains no matter which is irrelevant to this appeal.



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*Attorneys for Appellants Marick Home  
Builders, LLC and Rick Thoennes*

January 16, 2014

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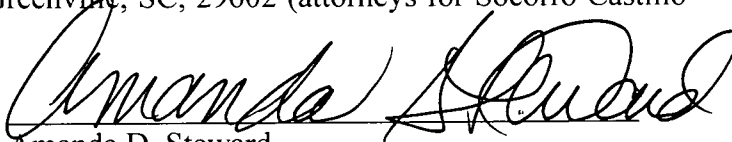
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Of Defendants, Marick Home Builders, LLC and Rick Thoennes .....Appellants,

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PROOF OF SERVICE

I certify that I have served the Initial Brief of Appellants Marick Home Builders, LLC and Rick Thoennes on Respondent by depositing a copy of it in the United States Mail, First Class postage prepaid, on January 16, 2014, addressed to Respondents' attorneys of record, Ronald G. Tate, Jr., Esquire, PO Box 10589, Greenville, SC 29603 (attorney for Carl Catoe Construction, Inc.), Dana W. Lang, Esquire, PO Box 999, Charleston, SC, 29402 (attorney for Carl Catoe Construction, Inc.), K. Lindsay Terrell, Esquire, 1164 Woodruff Road, Greenville, SC, 29607 (attorneys for TG Construction, LLC), D. Andrew Williams, Esquire, PO Box 1473, Columbia, SC 29202 (attorneys for Martin Hernandez-Aviles), Steven P. Hughes, Esquire, PO Box 40, Beaufort, SC 29901 (attorneys for Ester Moran Mentado), Elizabeth Martineau, PO Box 31188, Charlotte, NC 28231 (attorneys for Herberito Acros Hernandez), Finley B. Clarke, Esquire, PO Box 1865, Florence, SC 29503 (attorneys for Francisco Javier Zarate d/b/a Zarate Construction), Paul E. Hammack, Esquire, 223 West Stone Avenue, Suite 100, Greenville, SC, 29609 (attorney for Alejandro Avalos Cruz), Christopher G. Lewis, Esquire 22 South Park Square, Suite 800, Asheville, NC, 28801 (attorneys for Francisco Villalobos Lopez), and Geoffrey Gibbon, Esquire, PO Box 2980, Greenville, SC, 29602 (attorneys for Socorro Castillo Montel).



Amanda D. Steward  
Paralegal to Jason M. Imhoff

January 16, 2014

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January 16, 2014

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

**Re** *Stoneledge at Lake Keowee Owners' Association, Inc., et al. vs. IMK  
Development Co., LLC, et al. vs. Michael Franz, et al.*  
**Appellate Case No. 2013-001401**

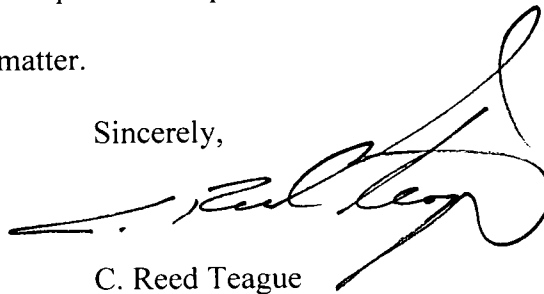
Dear Ms. Kitchings,

Enclosed please find an original and two (2) copies of Marick Home Builders, LLC and Rick Thoennes' Designation of Matter and Initial Brief along with Proof of Service. Please return clocked copies in the enclosed, self-addressed, stamped envelope.

By a copy hereof, I am serving the same upon the Respondents' counsel.

Thank you for your assistance in this matter.

Sincerely,



C. Reed Teague

CRT/ads  
Enclosure

Cc: Geoffrey Gibbon, Esquire  
Christopher G. Lewis, Esquire  
D. Andrew Williams, Esquire  
Elizabeth Martineau, Esquire  
Paul E. Hammack, Esquire  
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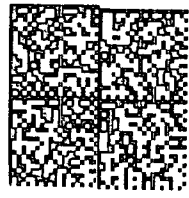
**SC Court of Appeals**



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