

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

Alexander S. Macaulay, Presiding Judge Seventh Judicial Circuit

Case No.: 2013-001403 *and* Case No.: 2013-001404

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, Herberito 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 whom Marick Home Builders, LLC and Rick Thoennes are the Appellants,

And Builders First Source-Southeast Group, Southern Concrete Specialties, Inc., Clear View Construction, LLC, and Michael Franz are the Respondents,

Bostic Construction, Inc., Third Party Plaintiffs,

v.

Southern Stone, Inc., and Buck Smith Construction, Third Party Defendants.

DESIGNATION OF MATTER TO BE INCLUDED ON APPEAL

Respondents propose the following be included in the Record on Appeal:

1. Clear View Construction, LLC and Michael Franz's Notice and Motion for Summary Judgment;
2. Order Granting Defendants Clear View Construction, LLC and Michael Franz's Motion for Summary Judgment as to the Cross-Claims of Marick Home Builders, LLC for Negligence and Equitable Indemnification;
3. Order Granting Defendants Builders FirstSource—Southeast Group, LLC, Southern Concrete Specialties, Inc., Clear View Construction, LLC, and Michael Franz as to the Cross-Claims of Marick Home Builders, LLC for Breach of Contract and Breach of Warranty;
4. Third Amended Complaint of Stoneledge at Lake Keowee Owners' Association, Inc.;
5. Defendants Clear View Construction LLC and Michael Franz's Answer to Plaintiffs' Third Amended Complaint;
6. Defendants Clear View Construction LLC and Michael Franz's Brief in Support of Motion for Summary Judgment as to the Cross-Claims of Marick Home Builders, LLC and Rick Thoennes, along with all attached Exhibits;
7. Answer to Third-Amended Complaint and Cross-Claims of Marick Home Builders, LLC and Rick Thoennes;
8. Marick Home Builders, LLC and Rick Thoennes' Supplemental Memorandum in Opposition to Builders FirstSource—Southeast Group, LLC, Southern Concrete Specialties, Inc., Clear View Construction, LLC and Michael Franz's Motions for Summary Judgment;
9. Memorandum in Support of Carl Catoe Construction, Inc.'s Mtn. to Dismiss as to Marick Home Builder, LLC's Claims, along with all attached Exhibits;
10. Deposition of Randy Still dated August 15, 2012 (Pages 86; 87; 89; 175-176);
11. Deposition of Drew Wilkie dated August 16, 2012 (Pages 20; 205-206);
12. Deposition of Rick Thoennes dated November 21, 2011 (Pages 80);
13. Marick Home Builders, LLC and Rick Thoennes' Motion to Alter and Amend Judgment;
14. Orders Denying Marick Home Builders, LLC and Rick Thoennes' Motion to Alter and Amend Judgment;

15. Clear View Construction, LLC and Michael Franz's Memorandum in Opposition to Marick Home Builders, LLC and Rick Thoennes' Motion to Alter and Amend Judgment;
16. Transcript of Proceedings dated September 5, 2013;
17. Transcript of Proceedings dated April 10, 2013;
18. Builders FirstSource—Southeast Group, LLC, Memorandum in Support of Summary Judgment, and all attached Exhibits; and
19. Memorandum in Opposition to Marick Home Builders, LLC's Motion for Summary Judgment and in Further Support of Builders FirstSource—Southeast Group, Southern Concrete Specialties, Inc., and Clear View Construction, LLC's Motion for Summary Judgment as to the Cross Claims of Marick Home Builders, LLC for Breach of Contract, and all attached Exhibits.

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

March 19, 2014



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Of whom Marick Home Builders, LLC and Rick Thoennes are the Appellants,

And Builders First Source-Southeast Group, Southern Concrete Specialties, Inc., Clear View Construction, LLC, and Michael Franz are the Respondents,

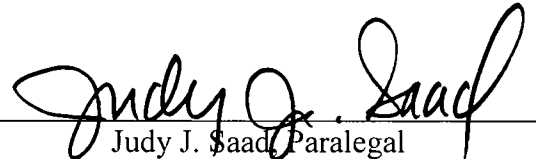
Bostic Construction, Inc., Third Party Plaintiffs,

v.

Southern Stone, Inc., and Buck Smith Construction, Third Party Defendants.

PROOF OF SERVICE

I certify that I have served the *Designation of Matter to be Included on Appeal* on Appellants by depositing a copy of it in the United States Mail, First Class postage prepaid, on March 19, 2014, addressed to Appellants' attorneys of record, Jason M. Imhoff, Esquire and C. Reed Teague, Esquire, PO Box 5663, Spartanburg, SC, 29304 (attorneys for Marick Home Builders, LLC and Rick Thoennes), and the following counsel of record:



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March 19, 2014

The Honorable Jenny Abbott Kitchings
Clerk, of South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: *Stoneledge at Lake Keowee Owners' Assoc., Inc., et al v. IMK Development Co., et al.*
Appellate Case No.: 2013-001403 and Case No.: 2013-1404

Dear Ms. Kitchings:

Enclosed please find the following:

- (1) Two originals and one copy Proof of service of the Initial Brief of Respondents Clear View Construction, LLC and Michael Franz in Appellate Case No.: 2013-001403 and Case No.: 2013-1404;
- (2) Two originals and one copy of the Initial Brief of Respondents Clear View Construction, LLC and Michael Franz in Appellate Case No.: 2013-001403 and Case No.: 2013-1404 (one original for filing in each case and one for return);
- (3) Two originals and one copy Proof of service of Respondents' Designation of Matter to be Included in the Record on Appeal in Appellate Case No.: 2013-001403 and Case No.: 2013-1404; and

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- (4) Two originals and one copy of Respondents' Designation of Matter to be Included in the Record on Appeal in Appellate Case No.: 2013-001403 and Case No.: 2013-1404 (one for filing in each case and one for return).

Please file one original of each document in Appellate Case No.: 2013-001403 and Case No.: 2013-1404 and return the clocked copies in the enclosed, self-addressed, stamped envelope. If you have any questions regarding the enclosed, please do not hesitate to contact me.

By copy hereof, I am serving the same upon all counsel of record in the cases.

Thank your for your assistance in this matter.

Sincerely,



Lindsay L. Builder
lbuilder@wilkeslaw.com

Enclosures

Cc w/enclosures to:

Jason M. Imhoff, Esquire
C. Reed Teague, Esquire
Mason A. Goldsmith, Esquire
David A. Root, Esquire
Robert T. Lyles, Esquire
Michael B.T. Wilkes, Esquire