

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Robert M. Young, Circuit Court Judge

RECEIVED

APR 25 2014

Case No.: 2009-CP-10-267
Appellate Case No.: 2012-207850

SC Court of Appeals

3 Chisolm Street Homeowners Association, Inc.,Appellant,

v.

Chisolm Street Partners, LLC, Murray School Partners, LLC,
Genoa Construction Services, Inc., Masterpiece Millwork, Inc.,
Allen Roper, Jr. d/b/a Masonry Brickwork and Stucco, John Doe #1,
John Doe #2, and Brock Green Architects and Planners, LLC.....Defendants

Of whom Genoa Construction Services, Inc.,
Masterpiece Millwork, Inc., and Brock Green Architects
and Planners, LLC, are..... Respondents.

Genoa Construction Services, Inc.,.....Third-Party Plaintiff,

v.

The Fox Steel Company, Carolina Services, Inc.,
Lesco Restoration, Inc., Ferst Plastering, Inc.,
Charleston Glass & Mirror Company, 3d Renovations,
Williams Mechanical, Mastercraft Interior & Exterior,
Coastal Glass and Block, Adams Davis & Partners,
Troy Pardee Heating and Air Conditioning
(d/b/a Pardee Heating and Air), CT Windows Limited,
and Architectural Materials & Systems,Third Party Defendants,

Lesco Restoration, Inc.,.....Fourth-Party Plaintiff,

v.

Coastal Waterproofing, Inc. n/d/b/a
Wards Waterproofing, Inc.,.....Fourth-Party Defendant.

RETURN OF RESPONDENT GENOA CONSTRUCTION SERVICES, INC. TO
APPELLANT'S PETITION FOR REHEARING WITH SUGGESTION FOR
REHEARING *EN BANC*

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DISCUSSION

Genoa Construction Services, Inc. (“Genoa”) respectfully submits this Return to Appellant 3 Chisolm Street Homeowners Association, Inc.’s (“Appellant”) Petition for Rehearing with Suggestion for Rehearing *En Banc*. As explained below, this Court should deny Appellant’s Petition.

In order to prevail on a petition for rehearing, appellants must demonstrate that the Court overlooked or misapprehended Appellant’s argument. Rule 221, SCACR. The purpose of a petition for rehearing is not to have the case tried in the appellate court a second time. *Kennedy v. S. Carolina Ret. Sys.*, 349 S.C. 531, 532, 564 S.E.2d 322 (2001) (citing Jean H. Toal, Shahin Vafai & Robert Muckenfuss, *Appellate Practice in South Carolina* 309 (1999)).

The points listed in Appellant’s Petition for Rehearing were fully briefed by counsel for Appellant, discussed by counsel for Appellant during oral argument, and understood by the Court. Appellant’s Petition for Rehearing is simply an attempt to re-argue the case that was correctly decided by the Court in its unpublished opinion.

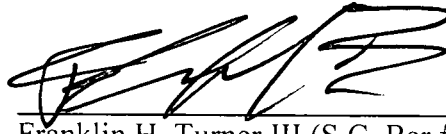
As a result, this Court should deny Appellant’s Petition for Rehearing with Suggestion for Rehearing *En Banc*.

CONCLUSION

Based on the foregoing, Genoa respectfully requests that this Court deny Appellant’s Petition for Rehearing with Suggestion for Rehearing *En Banc*.

[Signature block on following page.]

Respectfully submitted,



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4/22, 2014

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In The Court of Appeals

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Robert M. Young, Circuit Court Judge

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Lesco Restoration, Inc.,.....Fourth-Party Plaintiff,

v.

Coastal Waterproofing, Inc. n/d/b/a
Wards Waterproofing, Inc.,.....Fourth-Party Defendant.

PROOF OF SERVICE

I certify that I have served the **RETURN OF RESPONDENT GENOA CONSTRUCTION SERVICES, INC. TO APPELLANT'S PETITION FOR REHEARING WITH SUGGESTION FOR REHEARING EN BANC** in this case on Appellant, 3 Chisolm Street Homeowners Association, Inc. by depositing a copy of it in the United States Mail, postage prepaid, on April, 23, 2014, addressed to the attorney of record, David J. Parrish, Esquire, NEXSEN PRUET, LLC, Post Office Box 486, Charleston, South Carolina 29402.

ROGERS TOWNSEND & THOMAS, PC



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April 23, 2014

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
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SC Court of Appeals

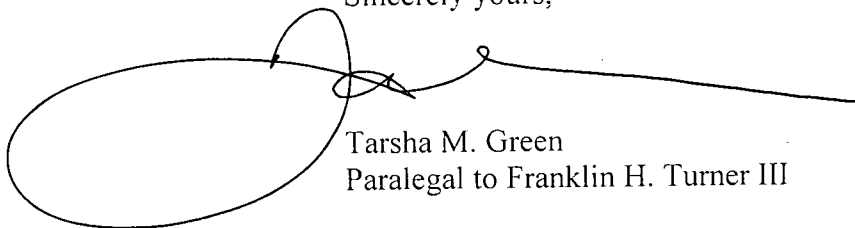
Re: 3 Chisolm Street Homeowners Association, Inc. vs. Genoa Construction Services, Inc., et al.
Civil Action No.: 2009-CP-10-267
Appellate Case No.: 2012-207850
RTT File Number: 11152.53

Dear Ms. Kitchings:

Enclosed for filing please find the original and one copy of the Return of Respondent Genoa Construction Services, Inc. to Appellant's Petition for Rehearing with Suggestion for Rehearing *En Banc* and Proof of Service. Please file the originals and return the clocked copy to our firm in the enclosed self-addressed stamped envelope.

Thank you for your assistance.

Sincerely yours,



Tarsha M. Green
Paralegal to Franklin H. Turner III

/tmg

cc: All counsel of record