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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

RECEIVED

APR 13 2015

SC Court of Appeals

Circuit Case No. 2012-CP-10-3857

Appellate Case No. 2014-002766

Shipwatch Condominium Association, Inc., Appellant,

v.

Carolina Concrete Systems, Inc.; Sisroy Engineering, LLC; Robert G. Sisroy, individually;
Terrence J. McKelvey; Glasgow Roofing, Inc.; GlassTec, Inc.; Spectec, Inc.; Sonneborn, Inc.;
Chimney Sweeps, Inc.; Low Country Chimneys, Inc.; EFCO Corp.; W.C. Johnston Architectural
Sales, Inc.; Charleston Glass Company, Inc.; First Exteriors, LLC; Acrocrete, Inc.; BASF Corp.;
Gary Freeman Architect, Inc.; Gary Freeman, individually, Defendants,

Of Which, Carolina Concrete Systems, Inc.; Sisroy Engineering, LLC; Robert G. Sisroy,
individually; Terrence J. McKelvey; Glasgow Roofing, Inc.; GlassTec, Inc.; Sonneborn, Inc.; EFCO
Corp.; W.C. Johnston Architectural Sales, Inc.; Charleston Glass Company, Inc.; First Exteriors,
LLC; Acrocrete, Inc.; BASF Corp.; Gary Freeman Architect, Inc.; Gary Freeman, individually,
are Respondents.

**APPELLANT'S RETURN TO ACROCRETE, INC.'S AND GLASSTEC, INC.'S JOINT
MOTION TO DISMISS APPEAL**

R. Patrick Flynn
Christopher M. Ramsey
ROBERTSON HOLLINGSWORTH & FLYNN
177 Meeting Street, Suite 300
Charleston, South Carolina 29401
(843) 723-6470
Attorneys for Appellant

On April 2, 2015, Appellant received Acrocrete, Inc.'s and Glasstec, Inc.'s Joint Motion to Dismiss Appeal as to those respondents (hereinafter "the Motion"). Acrocrete and Glasstec take the position that they should be dismissed from this appeal because they are not "adverse parties" to the Appellant. That position is without merit and unsupported by the South Carolina Appellate Court Rules or case law, and this Joint Motion must be denied.

These Respondents attempt to justify their position from the language of Rule 202(a), SCACR. However, that rule only provides guidance as to the proper nomenclature of the parties in an appeal, and does not provide any guidance as to the qualifications of either party to an appeal. Indeed, the rule only employs the term "adverse party" in order to distinguish the relative positions of the appellant and the respondent. "The party appealing shall be known as the appellant and the adverse party as the respondent." Id.

It is not disputed that Acrocrete and Glasstec are defendants in the underlying cases now on appeal. Additionally, Acrocrete and Glasstec do not dispute in their Joint Motion that they performed work on the Shipwatch project as subcontractors to Respondent Carolina Concrete Systems, as alleged in the Complaint. Appellant asserted that Acrocrete and Glasstec were negligent in the performance of their work at Shipwatch, among other causes of action. Acrocrete and Glasstec denied those allegations, thus taking an adverse position to Appellant in this matter.

A plain reading of the hearing transcript indicates that the lower court denies Appellant's right to assert any claims for work performed at the Shipwatch project prior to 2010. Transcript of Motion Hearing October 27, 2014, at p. 6. Appellant alleges in the Complaint that Acrocrete and Glasstec performed work at the project before 2010, thus making the substance of this appeal applicable to the claims and defenses relating to these two Respondents, which fully justifies their

inclusion as Respondents which are affected by the matter in this appeal.

Acrocrete and Glasstec are not, however, required to file a separate Brief of Respondent if they choose not to do so. Rule 208(b)(6), SCACR, provides: "In cases involving more than one appellant or respondent, including cases consolidated for appeal, any number of parties may join in a single brief, and any party may adopt by reference all or any part of the brief of another."

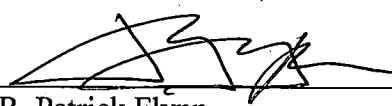
Moreover, it is appropriate to have all parties affected by the appeal, especially those who have taken adverse positions in the matter on appeal, included as Respondents in order to ensure that they receive copies of all filings and communications from the parties and the Court, in order to allow them the opportunity to submit briefs and participate as they deem appropriate.

Based upon the foregoing, the joint motion by Acrocrete and Glasstec must be denied, as they are adverse parties to Appellant and are properly included as Respondents in this Appeal.

Respectfully submitted,

ROBERTSON HOLLINGSWORTH & FLYNN
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By: _____


R. Patrick Flynn
Christopher M. Ramsey

Attorneys for Appellant

Charleston, South Carolina

April 10, 2015

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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R. Markley Dennis, Jr., Circuit Court Judge

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Chimney Sweeps, Inc.; Low Country Chimneys, Inc.; EFCO Corp.; W.C. Johnston Architectural
Sales, Inc.; Charleston Glass Company, Inc.; First Exteriors, LLC; Acrocrete, Inc.; BASF Corp.;
Gary Freeman Architect, Inc.; Gary Freeman, individually,

Of Whom, Carolina Concrete Systems, Inc.; Sisroy Engineering, LLC; Robert G. Sisroy,
individually; Terrence J. McKelvey; Glasgow Roofing, Inc.; GlassTec, Inc.; Sonneborn, Inc.;
EFCO Corp.; W.C. Johnston Architectural Sales, Inc.; Charleston Glass Company, Inc.; First
Exteriors, LLC; Acrocrete, Inc.; BASF Corp.; Gary Freeman Architect, Inc.; Gary Freeman,
individually, are,

..... Respondents.

CERTIFICATE OF SERVICE

I, Frances Klotsch, an employee of Robertson Hollingsworth & Flynn, hereby certify that I have served parties in this action with a copy of the following document(s) via U.S. Mail and E-Mail as follows:

- Appellant's Return to Acrocrete, Inc.'s and Glasstec, Inc.'s Joint Motion to Dismiss Appeal

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April 10, 2015



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Claron A. Robertson
Of Counsel

April 10, 2015

South Carolina Court of Appeals
Clerk of Court
1220 Senate St.
Columbia, South Carolina 29201

Re: Shipwatch Condominium Association, Inc. vs. Carolina Concrete Systems, et al
Appellate Court No. 2014-002766

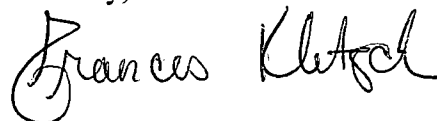
Dear Sir or Madam:

Enclosed please find the original and seven (6) copies of the Appellant's Return to Acrocrete, Inc.'s and Glasstec, Inc.'s Joint Motion to Dismiss Appeal in the above-referenced matter. By copy of this letter, I am serving the same upon all counsel of record.

I have also enclosed a self-addressed, postage-paid envelope and request that you return one file stamped copy to me at your convenience.

If you have any questions or require any additional information, please do not hesitate to contact me.

Sincerely,



Frances Klotsch

Legal Assistant to R. Patrick Flynn

/fak
Enclosures

cc: All Counsel of Record (via US Mail and email)

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