

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

G. Thomas Cooper, Jr., Circuit Court Judge

Case No. 2012-CP-40-8512

Appellate Case No. 2015-000180

The Gates at Williams-Brice Condominium Association
and Katharine Swinson, individually, and on behalf of all
others similarly situated,.....

Respondents,

v.

DDC Construction, Inc.; Kapasi Glass Mart, Inc.; DMC Consolidated, Inc.; DMC Builders, Co., Inc., individually and d/b/a The Dinerstein Companies; DC Developers – Columbia Condos, Inc.; Columbia Condos, LP; DMC Developers I, Ltd.; 31-W Insulation Company, Inc.; Associated Concrete Contractors, Inc.; Bailey Electric Company, LLC; C&B Utilities, LP; Carolina Floor Systems, Inc.; Century Fire Protection, LLC; Cherokee Inc.; Coronado Stucco, LP; Cross Plains Custom Tile, Inc.; Lowry Construction & Framing Inc.; LTB Construction, Inc.; Martin Morales Jr. Painting & Drywall, LLC; Metal Construction Materials, Inc.; Southwest Ironworks, Inc.; The Clerkley/Watkins Group, LP; Tindall Corporation; Triad Pest Control, Inc.; Wyman Acoustics LLC; Alenco Holding Corporation; Alenco Window GA, LLC; New Alenco Window, Ltd.; AWC Holding Company; Crosby Window, Inc., f/k/a Action WinDoor Technology, Inc.; Geo-Systems Design & Testing, Inc.; HGE Consulting, Inc.; Maintenance Builders Supply, Ltd.; SCA Engineers, Inc.; Sinclair & Associates, Inc.; Faultless Hardware, individually and d/b/a Pamex, Inc.; T&M Concrete, Inc.; Loveless Commercial Contracting, Inc.; Economy Waterproofing, Inc.; BMC West Corporation; Highway One Construction, Inc.; J.I. Windows LLC; Dietrich Industries, Inc. a/k/a Dietrich Metal Framing, Inc. n/k/a

Clarkwestern Dietrich Building Systems LLC; Best
Masonry and its successor in interest, OldCastleAPG;
Headwaters, Inc. d/b/a Best Masonry; and John Doe #1-
10

Defendants,

Of whom DDC Construction, Inc.; DMC Consolidated,
Inc.; DMC Builders, Co., Inc., individually and
improperly identified as d/b/a The Dinerstein
Companies; DC Developers – Columbia Condos, Inc.;
Columbia Condos, LP; DMC Developers I, Ltd.;
Associated Concrete Contractors, Inc.; Bailey Electric
Company, LLC; C&B Utilities, LP; Carolina Floor
Systems, Inc.; Century Fire Protection, LLC; Cherokee
Inc.; Coronado Stucco, LP; Cross Plains Custom Tile,
Inc.; Lowry Construction & Framing Inc.; LTB
Construction, Inc.; Martin Morales Jr. Painting &
Drywall, LLC; Metal Construction Materials, Inc.;
Wyman Acoustics LLC; and Highway One Construction,
Inc. are

Appellants.

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

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Attorneys for Appellants

Pursuant to Rule 209, SCACR, Appellants designate the following material for inclusion in the record on appeal:

ORDERS

1. Order of the Honorable G. Thomas Cooper, Jr., Denying Dinerstein and OCIP Defendants' Motion for Non-Jury Trial and to Strike Plaintiffs' Class Action Allegations and Jury Trial Demand filed July 18, 2014;
2. Order of the Honorable G. Thomas Cooper, Jr., Denying Defendants' Motion to Reconsider filed January 22, 2015;

PLEADINGS

3. Complaint filed December 26, 2012;
4. Defendant DDC Construction, Inc.'s Answer to Plaintiffs' Complaint filed March 7, 2013;
5. Amended Complaint filed May 15, 2013;
6. Defendant DDC Construction, Inc.'s Answer to Plaintiffs' Amended Complaint filed July 5, 2013;
7. Defendant DDC Construction, Inc.'s Amended Answer to Plaintiffs' Amended Complaint filed August 5, 2013;
8. Defendant Columbia Condos, LP's Answer to Plaintiffs' Amended Complaint filed August 5, 2013;
9. Defendant DC Developers – Columbia Condos, Inc.'s Answer to Plaintiffs' Amended Complaint filed August 5, 2013;
10. Defendant DMC Builders Co., Inc., Individually and d/b/a The Dinerstein Companies' Answer to Plaintiffs' Amended Complaint filed August 5, 2013;
11. Defendant DMC Consolidated, Inc.'s Answer to Plaintiffs' Amended Complaint filed August 5, 2013;
12. Defendant DMC Developers I, Ltd.'s Answer to Plaintiffs' Amended Complaint filed August 5, 2013;
13. Defendant Associated Concrete Contractors, Inc.'s Answer to Plaintiffs' Amended Complaint filed August 15, 2013;

14. Defendant Bailey Electric Company, LLC's Answer to Plaintiffs' Amended Complaint filed August 15, 2013;
15. Defendant C&B Utilities, LP's Answer to Plaintiffs' Amended Complaint filed August 15, 2013;
16. Defendant Carolina Floor Systems, Inc.'s Answer to Plaintiffs' Amended Complaint filed August 15, 2013;
17. Defendant Cherokee Inc.'s Answer to Plaintiffs' Amended Complaint filed August 15, 2013;
18. Defendant Coronado Stucco, LP's Answer to Plaintiffs' Amended Complaint filed August 15, 2013;
19. Defendant Cross Plains Custom Tile, Inc.'s Answer to Plaintiffs' Amended Complaint filed August 15, 2013;
20. Defendant Lowry Construction & Framing Inc.'s Answer to Plaintiffs' Amended Complaint filed August 15, 2013;
21. Defendant Martin Morales Jr. Painting & Drywall, LLC's Answer to Plaintiffs' Amended Complaint filed August 15, 2013;
22. Defendant Metal Construction Materials, Inc.'s Answer to Plaintiffs' Amended Complaint filed August 15, 2013;
23. Defendant Wyman Acoustics LLC's Answer to Plaintiffs' Amended Complaint filed August 15, 2013;
24. Defendant LTB Construction, Inc.'s Answer to Plaintiffs' Amended Complaint filed August 15, 2013;
25. Defendant Century Fire Protection, LLC's Answer to Plaintiffs' Amended Complaint filed August 15, 2013;
26. Second Amended Complaint filed February 19, 2014;
27. Defendant Bailey Electric Company, LLC's Answer to Plaintiffs' Second Amended Complaint filed March 13, 2014;
28. Defendant LTB Construction, Inc.'s Answer to Plaintiffs' Second Amended Complaint filed March 21, 2014;
29. Defendant Associated Concrete Contractors, Inc.'s Answer to Plaintiffs' Second Amended Complaint filed March 21, 2014;

30. Defendant C&B Utilities, LP's Answer to Plaintiffs' Second Amended Complaint filed March 21, 2014;
31. Defendant Century Fire Protection, LLC's Answer to Plaintiffs' Second Amended Complaint filed March 21, 2014;
32. Defendant Cherokee, Inc.'s Answer to Plaintiffs' Second Amended Complaint filed March 21, 2014;
33. Defendant Columbia Condos, Inc.'s Answer to Plaintiffs' Second Amended Complaint and Cross-Claims filed March 21, 2014;
34. Defendant Coronado Stucco, LP's Answer to Plaintiffs' Second Amended Complaint filed March 21, 2014;
35. Defendant Cross Plains Custom Tile, Inc.'s Answer to Plaintiffs' Second Amended Complaint filed March 21, 2014;
36. Defendant DC Developers – Columbia Condos, Inc.'s Answer to Second Amended Complaint filed March 21, 2014;
37. Defendant DDC Construction, Inc.'s Answer to Plaintiffs' Second Amended Complaint and Cross-Claims filed March 21, 2014;
38. Defendant DMC Consolidated, Inc.'s Answer to Plaintiffs' Second Amended Complaint filed March 21, 2014;
39. Defendant DMC Developers I, Ltd's Answer to Plaintiffs' Second Amended Complaint filed March 21, 2014;
40. Defendant Highway One Construction, Inc.'s Answer to Plaintiffs' Second Amended Complaint filed March 21, 2014;
41. Defendant Lowry Construction & Framing, Inc's Answer to Plaintiffs' Second Amended Complaint filed March 21, 2014;
42. Defendant Martin Morales, Jr. Painting & Drywall's Answer to Plaintiffs' Second Amended Complaint filed March 21, 2014;
43. Defendant Metal Construction Materials, Inc.'s Answer to Plaintiffs' Second Amended Complaint filed March 21, 2014;
44. Defendant Wyman Acoustics, LLC's Answer to Plaintiffs' Second Amended Complaint filed March 21, 2014;

45. Defendant DMC Builders Co., Inc.'s Answer to Plaintiffs' Second Amended Complaint filed March 21, 2014;
46. Defendant Carolina Floor Systems, Inc.'s Answer to Plaintiffs' Second Amended Complaint filed March 24, 2014;
47. Third Amended Complaint filed August 7, 2014;
48. Defendant Bailey Electric Company's Answer to Plaintiffs' Third Amended Complaint filed September 2, 2014;
49. Defendant Associated Concrete Contractors, Inc.'s Answer to Plaintiffs' Third Amended Complaint filed September 5, 2014;
50. Defendant C&B Utilities, LP's Answer to Plaintiffs' Third Amended Complaint and Cross-Claims filed September 5, 2014;
51. Defendant Carolina Floor Systems, Inc.'s Answer to Plaintiffs' Third Amended Complaint and Cross-Claims filed September 5, 2014;
52. Defendant Century Fire Protection, LLC's Answer to Plaintiffs' Third Amended Complaint filed September 5, 2014;
53. Defendant Columbia Condos, Inc.'s Answer to Plaintiffs' Third Amended Complaint and Cross-Claims filed September 5, 2014;
54. Defendant Coronado Stucco's LP's Answer to Plaintiffs' Third Amended Complaint and Cross-Claims filed September 5, 2014;
55. Defendant DC Developers – Columbia Condos, Inc.'s Answer to Plaintiffs' Third Amended Complaint filed September 5, 2014;
56. Defendant DDC Construction, Inc.'s Answer to Plaintiffs' Third Amended Complaint and Cross-Claims filed September 5, 2014;
57. Defendant DMC Builders Co., Inc.'s Answer to Plaintiffs' Third Amended Complaint filed September 5, 2014;
58. Defendant DMC Developers I, Ltd.'s Answer to Plaintiffs' Third Amended Complaint filed September 5, 2014;
59. Defendant DMC Consolidated, Inc.'s Answer to Plaintiffs' Third Amended Complaint filed September 5, 2014;
60. Defendant Highway One Construction, Inc.'s Answer to Plaintiffs' Third Amended Complaint filed September 5, 2014;

61. Defendant Lowry Construction & Framing, Inc.'s Answer to Plaintiffs' Third Amended Complaint filed September 5, 2014;
62. Defendant LTB Construction, Inc.'s Answer to Plaintiffs' Third Amended Complaint filed September 5, 2014;
63. Defendant Metal Construction Materials, Inc.'s Answer to Plaintiffs' Third Amended Complaint filed September 5, 2014;
64. Defendant Martin Morales, Jr. Painting & Drywall's Answer to Plaintiffs' Third Amended Complaint filed September 5, 2014;
65. Defendant Cherokee, Inc.'s Answer to Plaintiffs' Third Amended Complaint filed September 5, 2014;
66. Defendant Cross Plains Custom Tile, Inc.'s Answer to Plaintiffs' Third Amended Complaint filed September 5, 2014;
67. Defendant Wyman Acoustics, LLC's Answer to Plaintiffs' Third Amended Complaint filed September 5, 2014;

MOTIONS

68. Appellants' Motion for Non-Jury Trial and to Strike Plaintiffs' Class Action Allegations and Jury Trial Demand filed March 24, 2014, with Exhibits; Exhibits itemized below:
 - a. Master Deed of the Gates at Williams-Brice Horizontal Property Regime;
69. Respondents' Memorandum in Opposition to Appellants' Motion for Non-Jury Trial and to Strike Plaintiffs' Class Action Allegations and Jury Trial Demand filed June 9, 2014;
70. Appellants' Supplement to Record in Further Support of Motion for Non-Jury Trial and to Strike Plaintiffs' Class Action Allegations and Jury Trial Demand filed June 19, 2014 with Exhibits; Exhibits itemized below:
 - a. Bylaws of the Gates at Williams Brice-Homeowners Association;
 - b. Deed of Title for Katharine Swinson, which is an exemplar of a Deed of Title for a Gates condominium unit;
 - c. Purchase Contract of William Yarborough, which is an exemplar of a purchase contract for a Gates condominium unit;

- d. Relevant excerpts of deposition testimony for Katharine Swinson, named class representative, and William Yarborough, the Association board chair;
- e. Master Deed of the Gates at Williams-Brice Horizontal Property Regime;
- f. Second Amendment to the Master Deed of the Gates at Williams-Brice Horizontal Property Regime;

71. Appellants' Motion to Reconsider filed August 1, 2014;

TRANSCRIPTS

72. Transcript of Hearing of June 9, 2014;

73. Relevant Excerpts of Transcript of Deposition of Katharine Swinson dated March 4, 2014;

74. Relevant Excerpts of Transcript of Deposition of William Yarborough dated March 5, 2014;

MISCELLANEOUS

75. Notice of Appeal filed January 29, 2015; and

76. Amended Notice of Appeal filed February 3, 2015.

Undersigned counsel certified, pursuant to Rule 209(c), SCACR, that this designation contains no matter which is irrelevant to the appeal.

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Contractors, Inc.; Bailey Electric Company, LLC; C&B
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Corporation; Triad Pest Control, Inc.; Wyman Acoustics
LLC; Alenco Holding Corporation; Alenco Window GA,
LLC; New Alenco Window, Ltd.; AWC Holding Company;
Crosby Window, Inc., f/k/a Action WinDoor Technology,
Inc.; Geo-Systems Design & Testing, Inc.; HGE Consulting,
Inc.; Maintenance Builders Supply, Ltd.; SCA Engineers,
Inc.; Sinclair & Associates, Inc.; Faultless Hardware,
individually and d/b/a Pamex, Inc.; T&M Concrete, Inc.;
Loveless Commercial Contracting, Inc.; Economy
Waterproofing, Inc.; BMC West Corporation; Highway One
Construction, Inc.; J.I. Windows LLC; Dietrich Industries,
Inc. a/k/a Dietrich Metal Framing, Inc. n/k/a Clarkwestern
Dietrich Building Systems LLC; Best Masonry and its
successor in interest, OldCastleAPG; Headwaters, Inc. d/b/a
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