

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

William P. Keesley, Circuit Court Judge

Case No. 2011-CP-32-1929

RECEIVED

NOV 16 2015

SC Court of Appeals

Rose Electric, Inc., Appellant

v.

Cooler Erectors of Atlanta, Inc., Southern Produce, Inc., S2P, LLC, Certified
Development Corporation of South Carolina, Senn Bros., Inc.,
Custom Concrete of Lexington, Inc., and
James Dunlap d/b/a Dunlap Services, ... Defendants

Of whom

Southern Produce, Inc., and S2P, LLC are Respondents

REPLY BRIEF

William E. Booth III
3231 Sunset Boulevard, Suite A
West Columbia, SC 29169
(803) 791-9211 (T)
(803) 791-3159 (F)
SC Bar No. 771

Attorney for Appellant

CONTENTS

ARGUMENT	2
CONCLUSION.....	3
CERTIFICATE OF COUNSEL.....	4

Pursuant to the provisions of Rule 208(a) (3), SCACR, the Appellant herein submits this Brief in Reply.

ARGUMENT

In the Statement of Facts in the brief of Respondent Southern Produce, Inc., the statement is made that the mechanics' liens for Custom Concrete of Lexington, Inc., and James Dunlap d/b/a Dunlap Services were undisputed. (Respondent Southern Produce's Brief, p. 7). This statement of fact is contrary to the testimony of the general manager and only witness presented by Southern Produce, Inc. The relevant testimony of Mr. Stocker is presented on page 26 of Appellant's brief and this testimony clearly shows that these claims were settled prior to the trial. (Appellant's Brief, p. 26).

In the Statement of the Case in the brief of Respondent S2P, LLC, S2P, LLC correctly states that Custom Concrete of Lexington, Inc., and James Dunlap d/b/a Dunlap Services "had been both dismissed as parties prior to the trial of the case, having resolved their liens by agreement." (Respondent S2P's Brief, p. 4). So, the evidence that mechanics' liens had been filed and the amount of the filings are irrelevant to the apportionment of any retainage. At most, Mr. Stocker testified that the total amount paid to both claimants was \$465.

In both Respondent Briefs, the parties argue that the pursuit of only the quantum meruit claim and not pursuit of a contract claim was not proper or should be used against Appellant in deciding the issues in this case. An examination of the Complaint shows that the claim of quantum meruit had been a claim involved in this action since the beginning, and there was no objection by either party at the trial for the abandonment of all claims except a claim for quantum meruit.

CONCLUSION

This Court should reverse the rulings of the trial court and remand with instructions to issue an Order granting the relief sought by Appellant in its Brief.

November 16, 2015

Respectfully submitted,



William E. Booth III
3231 Sunset Boulevard, Suite A
West Columbia, SC 29169
(803) 791-9211 (T)
(803) 791-3159 (F)
boothlaw@bellsouth.net
Attorney for Appellant

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

NOV 16 2015

William P. Keesley, Circuit Court Judge

SC Court of Appeals

Case No. 2011-CP-32-1929

Rose Electric, Inc., Appellant

v.

Cooler Erectors of Atlanta, Inc., Southern Produce, Inc., S2P, LLC, Certified
Development Corporation of South Carolina, Senn Bros., Inc.,
Custom Concrete of Lexington, Inc., and
James Dunlap d/b/a Dunlap Services, Defendants

Of whom

Southern Produce, Inc., S2P, LLC, and Senn Bros, Inc., are Respondents

CERTIFICATE OF COUNSEL

The undersigned certifies that the Initial Reply Brief complies with Rule 211(b), SCACR.

November 16, 2015



William E. Booth III
3231 Sunset Boulevard, Suite A
West Columbia, SC 29169
(803) 791-9211 (T)
(803) 791-3159 (F)
bill@boothlawfirmssc.com
SC Bar No. 771

Attorney for Appellant

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

William P. Keesley, Circuit Court Judge

Case No. 2011-CP-32-1929

RECEIVED
NOV 16 2015
SC Court of Appeals

Rose Electric, Inc., Appellant

v.

Cooler Erectors of Atlanta, Inc., Southern Produce, Inc., S2P, LLC, Certified
Development Corporation of South Carolina, Senn Bros., Inc.,
Custom Concrete of Lexington, Inc., and
James Dunlap d/b/a Dunlap Services, ... Defendants


Of whom

Southern Produce, Inc., and S2P, LLC are Respondents

PROOF OF SERVICE

I certify that I have served the Brief of Appellant and Reply Brief by causing to be mailed via Priority US Mail with sufficient postage affixed thereto, on November 16, 2015, addressed to the Respondent Southern Produce, Inc.'s attorney of record, Kathryn M. Cook, Esquire, Kathryn M. Cook, PA, 306 Calhoun Road, Myrtle Beach, SC 29577.

November 16, 2015



William E. Booth III
3231 Sunset Boulevard, Suite A
West Columbia, SC 29169
(803) 791-9211 (T)
(803) 791-3159 (F)
Attorney for Appellant
SC Bar No. 771

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

William P. Keesley, Circuit Court Judge

Case No. 2011-CP-32-1929

Rose Electric, Inc., Appellant

v.

Cooler Erectors of Atlanta, Inc., Southern Produce, Inc., S2P, LLC, Certified
Development Corporation of South Carolina, Senn Bros., Inc.,
Custom Concrete of Lexington, Inc., and
James Dunlap d/b/a Dunlap Services, ... Defendants

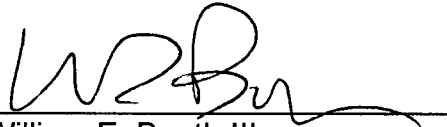
Of whom

Southern Produce, Inc., and S2P, LLC are Respondents

PROOF OF SERVICE

I certify that I have served the Brief of Appellant and Reply Brief by causing to be mailed via First Class US Mail with sufficient postage affixed thereto on November 16, 2015, addressed to the Respondent S2P, LLC's attorney of record, Jon Robin Turner, Esquire, P.O. Box 11646, Columbia SC 29211.

November 16, 2015


William E. Booth III
3231 Sunset Boulevard, Suite A
West Columbia, SC 29169
(803) 791-9211 (T)
(803) 791-3159 (F)
Attorney for Appellant
SC Bar No. 771

RECEIVED
NOV 16 2015
SC Court of Appeals