

Carter, Elizabeth A.

From: Angela Gross <agg@eption-law.com> on behalf of Andrew K. Eption <ake@eption-law.com>
Sent: Tuesday, February 02, 2016 1:25 PM
To: Carter, Elizabeth A.
Cc: Andrew K. Eption; Michelle Endemann; (jkirchner@tktylawfirm.com); (john@chakerislawfirm.com); Jefferson Leath (jl@leathbouchlaw.com); (pseguil@seguilawfirm.com); 'hJames@seguilawfirm.com'; jlucey@lucey-law.com
Subject: Mark F. Tesenair et al v. Fenwick Plantation Tarragon, LLC et al / 2008-CP-10-0049
Attachments: 2015 07 28 - Mt. Hawley Motion to Intervene FILED.pdf

Elizabeth,

Since the Order the subject of this Appeal is a Form 4 and does not contain the entire caption, per your request, I have attached a pleading containing the complete caption in the above-referenced matter. Note, I have copied all counsel of record on this correspondence.

Angela

Angela Gross
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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

MARK F. TESENIAR and NAN M.
TESENIAR, on behalf of themselves and
others similarly situated, and TWELVE
OAKS AT FENWICK PROPERTY
OWNERS ASSOCIATION, INC. (from
December 16, 2088 to present),

Plaintiffs,

vs.

FENWICK PLANTATION TARRAGON,
LLC, A SOUTH CAROLINA LIMITED
LIABILITY COMPANY, F/K/A FENWICK
TARRAGON APARTMENTS, LLC, A
SOUTH CAROLINA LIMITED LIABILITY
COMPANY, CHARLESTON TARRAGON
MANAGER, LLC, A DELAWARE
LIMITED LIABILITY COMPANY,
TARRAGON DEVELOPMENT
CORPORATION, A NEVADA
CORPORATION, SUMMIT
CONTRACTORWSW GROUP, INC.,
SUMMIT CONTRACTORS, INC.,
FUGLEBERG KOCH ARCHITECTS, INC.,
DEVELOPMENT, COMPLIANCE &
INSPECTIONS, INC., H2L CONSULTING
ENGINEERS, TWELVE OAKS T
FENWICK PROPERTY OWNERS
ASSOCIATION, INC., (FROM AUGUST 6,
2006 TO DECEMBER 15, 2008),
PROFESSIONAL PLASTERING &
STUCCO, INC., JOHNSON COMPANIES,
INC., D/B/A JOHNSON ROOFING, INC.,
LOS COMPOS, INC., NORTH FLORIDA
FRAMING, INC. BEST MASONRY &
TOOL SUPPLY, INC. AS SUCCESSOR IN
INTEREST TO MANGA WALL, INC., ALL
SOUTH VINYL PRODUCTS, INC.,
MARQUEZ CONSTRUCTION, INC., J.T.
WALKLER INDUSTRIES, INC., J.T.
INDUSTRIES D/B/A GENERAL

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO. 2008-CP-10-0049

FILED
2015 JUL 28 PM 4:10
JULIE J. WAINWRIGHT
CLERK OF COURT

MT. HAWLEY INSURANCE COMPANY'S
MOTION TO INTERVENE & FOR RELIEF
FROM JUDGMENTS

ALUMINUM CORPORATION AND
GENERAL ALUMINUM COMPANY OF
TEXAS, LP, J.R. HOBBS CO. – ATLANTA,
LLC F/K/A JRH MERGER CO., LLC,
JAMIE HELMAN, INDIVIDUALLY,
SCOTT FERGUSON, INDIVIDUALLY
AND CHRIS COBBS, INDIVIDUALLY
AND FEDERAL INSURANCE COMPANY,
MARIA ARIAS, MIQUEL ROALES, APS
ENTERPRISES, UNLIMITED, INC., HR
ELECTRIC, A.M. JACOBS, INC., MICKEY
MASON, D/B/A MASON CONTRACTORS
KMAC OF THE CAROLINAS, INC., NEO
CORPORATION AND VAVA GUZMAN
CONSTRUCTION COMPANY, INC.,

Defendants.

TO: COUNSEL FOR PLAINTIFFS

YOU WILL PLEASE TAKE NOTICE that the undersigned counsel for Mt. Hawley Insurance Company (“Mt. Hawley”), hereby moves this Honorable Court, pursuant to SCRCP 24(a) and 24(b), for an Order allowing Mt. Hawley to intervene in the above captioned action for the limited purpose stated below.

Mt. Hawley has standing to intervene as Mt. Hawley claims a direct, substantial, and legally protectable interest in the one aspect of this proceeding and is so situated that the disposition of the issues may, as a practical matter, impair or impede its ability to protect its interest. Mt. Hawley is one of the insurance carriers for a “Settling Defendant” in this action, North Florida Framing, Inc. (“North Florida”). On August 9, 2011, a settlement was approved by this Court, and thereafter a default and judgment entered against North Florida. On May 26, 2015, Plaintiffs, in their capacity as judgment creditors of North Florida, sued Mt. Hawley in a case styled, *MARK F. TESENIAR and NAN M. TESENIAR, on behalf of themselves and others similarly situated, and TWELVE OAKS AT FENWICK PROPERTY OWNERS ASSOCIATION, INC.* (from December 16,

2088 to present) vs. MT. HAWLEY INSURANCE COMPANY; Case No. 2015-CP-10-2994 (the "Creditors' Action"). As Plaintiffs are using the judgment against North Florida in the Creditors' Action as the basis for their claims, Mt. Hawley is entitled to intervene for the purpose of challenging the judgements entered against North Florida. Accordingly, Mt. Hawley must be allowed to intervene to protect its interest.

Mt. Hawley's interest is not adequately represented by the existing parties, and Mt. Hawley's application is timely as the suit filed by Plaintiffs in this action as judgment creditors against Mt. Hawley was only recently filed, on May 26, 2015. There is no prejudice to existing parties.

Alternately, Mt. Hawley requests to intervene pursuant to SCRPC 24(b).

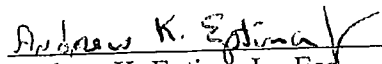
Plaintiffs' reliance on judgements entered against North Florida is misplaced and this Court should so hold as well as restrain Plaintiffs from pursuing its claim against Mt. Hawley in which it relies on its status as a judgment creditor.

This motion will be heard at a time and place to be set by the Court.

PLEASE BE PRESENT IF SO MINDED.

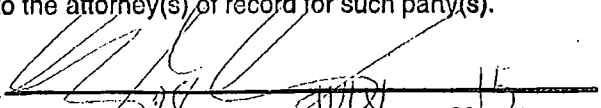
Respectfully Submitted By:

ANDREW K. EPTING, JR., LLC


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ATTORNEYS FOR MT. HAWLEY

THE UNDERSIGNED HEREBY CERTIFIES that true and correct copies of the pleading or paper to which this certificate is affixed was served upon the party(s) to this action in accord with the applicable Court Rules by electronic transmission or by hand delivery or by regular U.S. Mail, postage prepaid, properly addressed to the attorney(s) of record for such party(s).


Signed this 28 day of JULY, 2015 at
Charleston, South Carolina

On this 28 day of July, 2015
Charleston, South Carolina