

IN THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Clifton Newman, Circuit Court Judge

Consolidated Case No. 2010-CP-10-2271

Appellate Case No.: 2016-000076

Superior Construction Corporation APPELLANT,

v.

The Muhler Company, Inc. RESPONDENT.

**DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Appellant Superior Construction Corporation proposes the following to be included in the Record on Appeal:

1. Consent Order to Stay the Trial Pending Appeal January 25, 2016.
2. Order filed Jan. 21, 2016
3. Order dated January 12, 2016, filed January 19, 2016
4. Order Granting Consent Motion to Seal of October 10, 2014
5. Order Granting Weather Shield's and Muhler's Motion for Partial summary Judgment; Denying Superior's Motion for Partial Summary Judgment filed October 6, 2014
6. Consent Order of April 26, 2012 [refer all claims of all parties to bench trial before Judge Newman]

7. Complaint of Concord and Cumberland Horizontal Property Regime filed March 19, 2010
8. Second Amended Complaint of Concord and Cumberland Horizontal Property Regime June 1, 2012
9. Superior Answer, Cross Claim, and Third Party Complaint filed May 27, 2010
10. Concord & Cumberland, LLC Answer to Second Amended Complaint and Cross Claims Against Superior Construction Corporation [et al] dated 6/18/12
11. Muhler Answer to Superior's Cross-claims dated 8/20/12
12. Muhler Notice and Motion for Summary Judgment filed January 6, 2016
13. Muhler's Opposition to Superior Constructions Motion to Reconsider filed October 22, 2015
14. Superior Construction's Motion to Reconsider filed October 16, 2014
15. Muhler's Memorandum in Opposition to Motion for Partial Summary Judgment filed July 25, 2014
16. Muhler's Amended Motion for Partial Summary Judgement filed July 15, 2014
17. Muhler's Memorandum in Support of Its Motion for Partial Summary Judgment filed July 15, 2014
18. Muhler's Amended Motion for Partial Summary Judgment against Superior July 14, 2014
19. Superior Construction's Supplemental Memorandum in Support of Partial Summary Judgment against Muhler filed July 14, 2014
20. Superior Motion for Partial Summary Judgment against Muhler filed July 11, 2014
21. Superior Construction's Memorandum of Law in Support of its Motion for Partial Summary Judgment against Muhler filed May 16, 2014
22. Muhler's Notice and Motion for Summary Judgment filed October 17, 2013
23. Superior Construction's Motion for Summary Judgment against Muhler filed August 27, 2013
24. Hearing Transcript July 28-29, 2014
25. Hearing Transcript December 4, 2015

26. Partial Settlement and Release By and Between All Plaintiffs and Superior Construction Company and Safeco Insurance Company [filed under Seal Order of 10/10/14]
27. Exhibit 1: Subcontract for Construction with Muhler [Superior's Memo in Support of its Motion for Partial Summary Judgment against Muhler filed May 16, 2014]
28. Exhibit 2: Murphy Letter to Superior, dated 6/14/07 [Superior's Memo in Support of its Motion for Partial Summary Judgment against Muhler filed May 16, 2014]
29. Exhibit 3: Agreement between Weather Shield, Muhler and Superior dated June 2007 [Superior's Memo in Support of its Motion for Partial Summary Judgment against Muhler filed May 16, 2014]
30. Exhibit 3A: Agreement between Weather Shield, Muhler and Superior dated June 11, 2007 [Superior's Memo in Support of its Motion for Partial Summary Judgment against Muhler filed May 16, 2014]
31. Exhibit 5: Stafford Consulting Engineers Report 10/3/2013 [Superior's Memo in Support of its Motion for Partial Summary Judgment against Muhler filed May 16, 2014]
32. Exhibit 6: AIA Document A101-1997 Standard Form of Agreement between Owner and Contractors (Concord & Cumberland, LLC and Superior) dated 2/28/2006 [Superior's Memo in Support of its Motion for Partial Summary Judgment against Muhler filed May 16, 2014]
33. Deposition of Richard Andrews, Vol. II, 9/10/2013: pp. 350-366 and pp. 424- 430
34. Attachment O: Amended Complaint dated May 31, 2012 [Muhler's Memo in Opp to Motion for Partial Summary Judgment filed July 25, 2014]
35. Attachment P: Concord & Cumberland, LLC Answer, Crossclaims and Third-party Complaint filed June 11, 2010 [Muhler's Memo in Opp to Motion for Partial Summary Judgment filed July 25, 2014]
36. Attachment K: Receipt and General Release [Muhler's Memo in Support for Partial Summary Judgement filed July 15, 2014] [order to seal]
37. Letter from Gunnar Nistad to The Honorable Clifton Newton of January 7, 2016
38. Letter from Gunnar Nistad to The Honorable Clifton Newton of January 8, 2016
39. Letter from Chris Majure to The Honorable Clifton Newton of January 5, 2016

I certify that this designation contains no matter which is irrelevant to this appeal.

July 8, 2016



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PROOF OF SERVICE

I certify that I have served the Initial Brief of Appellant, designation of Matter to be included in the Record on Appeal and Certificate of Counsel on the Respondent by depositing a copy of it in the United States mail, postage prepaid, on July 8, 2016, addressed to the counsel of record at the following address:

Counsel of Record

P. Gunner Nistad, Esquire
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Columbia, South Carolina
July 8, 2016



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The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Superior Const. Corp. v. The Muhler Co., Inc.
Appellate Case No. 2016-000076
Our File No.: 4200-0114

Dear Ms. Kitchings:

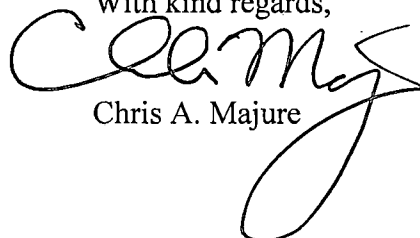
Enclosed please find enclosed the original and one (1) copy of the following documents: Initial Brief of Appellant, Designation of Matter to be included in the Record of Appeal and Certificate of Counsel in this matter.

Also enclosed herewith is one (1) copy of the Proof of Service of such Initial Brief of Appellant, Designation of Matter to be included in the Record of Appeal and Certificate of Counsel on counsel for Respondent.

Please file the original and return the filed-stamped copies to us via our courier.

Thank you for your assistance.

With kind regards,



Chris A. Majure

CAM/ppr
Enclosure

cc: Gunnar Nistad, Esquire

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