

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master in Equity

Case No. 2016-CP-10-1143

Palmetto Construction Group,

Respondent,

v.

Restoration Specialists, LLC,
Reuben Mark Ward, and
Lynnette Pennington Ward

Appellants.

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OCT 11 2016

SC Court of Appeals

NOTICE OF APPEAL

Restoration Specialists, LLC, Reuben Mark Ward, and Lynnette Pennington Ward appeal the Bench and Formal Orders of the Honorable Mikell R. Scarborough dated July 14, 2016. The Court's orders: (a): Denied Appellant's Motion to Lift Entry of Default for lack of good cause; (b): Denied Appellant's Motion to Stay and Compel Arbitration on the basis of default; and (c): Set a damages hearing for October 4, 2016. Appellants received written notice of entry of these orders on July 18, 2016.

Appellants filed a Motion to Reconsider and to Alter and Amend the Court's orders pursuant to SCRPC 59(e) and applicable case law on July 27, 2016. The Court scheduled the hearing on Appellants' motion for October 11, 2016. On September 7, 2016, standing on their rights to arbitration, the Appellants requested the Court to schedule the hearing on Appellants' motion prior to the October 4, 2016 damages hearing.

On September, 7, 2016, the Court replied to Appellants' request and made the decision to switch the hearing dates, with the motions hearing to be held on October 4, 2016 and, if necessary, the damages hearing to be held on October 11, 2016. The Court asked the parties to advise if this plan was acceptable. The Appellants informed the Court that this plan was acceptable. The Respondent notified the Court that it would defer to the Court, but preferred the damages hearing to be held on October 4, 2016 and the motions hearing to be held on October 11, 2016.

After further consideration, the Court then rendered a decision not to switch the hearing dates and informed the parties that the damages hearing would be held on October 4, 2016 and the motions hearing would be held October 11, 2016. Appellants received written notice of the Court's decision on September 12, 2016.

The Court's decision to proceed with the damages hearing and not hear the Appellant's Rule 59(e) prior thereto effectively denies this motion and proceeding with the damages hearing under these circumstances would severely prejudice Appellants' rights to arbitration. Therefore, subject to, without waiving, and fully preserving their rights to arbitration, the Appellants hereby file the instant appeal in this matter.

September 29, 2016

A handwritten signature in black ink, appearing to read "A. Bright Ariail", written over a horizontal line.

A. Bright Ariail
Law Office of A. Bright Ariail, LLC
125 Wappoo Creek Drive
Building E, Suite 202
Charleston, S.C. 29412
(843) 814-8805
Attorney for Appellants

Other Counsel of Record:
Andrew K. Epting, Jr.
Michelle N. Endemann
Andrew K. Epting, Jr., LLC
46A State Street
Charleston, S.C. 29401
(843) 377-1871
Attorneys for Respondent

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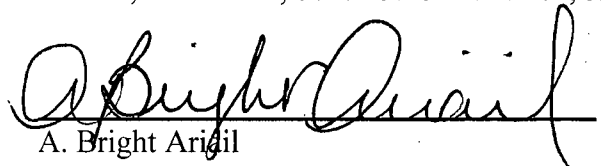
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SC Court of Appeals

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Palmetto Construction Group by depositing a copy of it in the United States Mail, postage prepaid, on September 30, 2016, addressed to Palmetto Construction Group's attorneys of record, Andrew K. Epting, Jr. and Michelle N. Endemann, Adrew K. Epting, Jr., LLC, 46A State Street, Charleston, South Carolina 29401 and by delivering a copy of it to Palmetto Construction Group's attorneys of record, Andrew K. Epting, Jr. and Michelle N. Endemann, at their office at 46A State Street, Charleston, South Carolina 29401, on September 30, 2016.

September 30, 2016



A. Bright Ariail
Law Office of A. Bright Ariail, LLC
125 Wappoo Creek Drive
Building E, Suite 202
Charleston, S.C. 29412
(843) 814-8805
Attorney for Appellants

LAW OFFICE OF A. BRIGHT ARIAIL, LLC

125E WAPPOO CREEK DRIVE, SUITE 202

CHARLESTON, SC 29412

bright@brightariailaaw.com

A. Bright Ariail, Esquire

Telephone: (843) 814-8805

Facsimile: (843) 266-0538

October 6, 2016

VIA FACSIMILE (803) 734-1839 & US MAIL

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

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SC Court of Appeals

RE: *Palmetto Construction Group v. Restoration Specialists, LLC,*
Reuben Mark Ward, and Lynette Pennington Ward
Case No. 2016-CP-10-1143

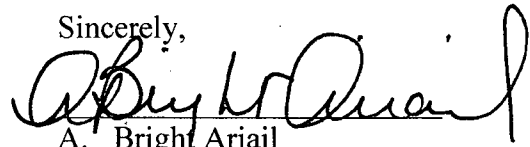
Dear Ms. Kitchings:

Enclosed for filing is a Notice of Appeal in the above case. Also enclosed are the following:

- (1) Proof of Service of the Notice of Appeal on the Respondent.
- (2) A copy of the order(s) which are to be challenged on appeal.
- (3) A filing fee of \$100.00.

Please file the Notice of Appeal and return the clocked copy to me in the enclosed SASE. Thank you for your assistance in this matter.

Sincerely,


A. Bright Ariail
Attorney for Appellants

Enclosures

cc: Andrew K. Epting, Jr.,
Michelle N. Endemann
Andrew K Epting, Jr., LLC
46A State Street
Charleston, S.C. 29401
(843) 377-1871
Attorneys for Respondent

LAW OFFICE OF A. BRIGHT ARIAIL, LLC

125-E WAPPOO CREEK DRIVE, SUITE 202

CHARLESTON, SC 29412

(843) 814-8805 (TELEPHONE)

(843) 266-0538 (FACSIMILE)

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FACSIMILE TRANSMITTAL SHEET

SC Court of Appeals

TO: THE HONORABLE JENNY ABBOTT KITCHINGS	FROM: A. BRIGHT ARIAIL, ESQ
FAX NUMBER (803)-734-1839	DATE: OCTOBER 6, 2016
PHONE NUMBER (803) 734-1890	TOTAL NO. OF PAGES INCLUDING COVER: 13
YOUR REFERENCE: Appeal - Palmetto Construction Group v. Restoration Specialists, LLC, Reuben Mark Ward, and Lynette Pennington Ward/ Case No: 2016-CP-10-1143	
CASE NAME/CASE NUMBER: .Palmetto Construction Group v. Restoration Specialists, LLC, Reuben Mark Ward, and Lynette Pennington Ward/ Case No: 2016-CP-10-1143	

☐

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FOR REVIEW ☐

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PLEASE COMMENT ☐

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PLEASE REPLY ☐

NOTES/COMMENTS:

DEAR MS. KITCHINGS:

ENCLOSED PLEASE FIND AN ELECTRONICALLY TRANSMITTED FACSIMILE COPY OF THE FOLLOWING DOCUMENTS IN CONNECTION WITH THE ABOVE-REFERENCED APPEAL:

- (1) COVER LETTER FILING NOTICE OF APPEAL OF APPELLANTS RESTORATION SPECIALISTS, LLC, REUBEN MARK WARD, AND LYNNETTE PENNINGTON WARD ("NOTICE OF APPEAL");
- (2) NOTICE OF APPEAL;
- (3) PROOF OF SERVICE OF THE NOTICE OF APPEAL ON THE RESPONDENT;
- (4) THE ORDER(S) WHICH ARE TO BE CHALLENGED ON APPEAL;
- (5) THE FILING FEE CHECK OF \$100.00.

WE ARE REFILEING THESE DOCUMENTS AS THE COURT REPORTER'S CERTIFICATION OF THE JULY 14, 2016 BENCH ORDER WAS INADVERTANTLY OMITTED FROM OUR OCTOBER 5, 2016 FILING WITH THE COURT OF APPEALS. THE ORIGINALS OF THESE DOCUMENTS AND THE FILING FEE CHECK WILL BE IMMEDIATELY SENT BY U.S. MAIL TO YOUR OFFICE.

BEST REGARDS,

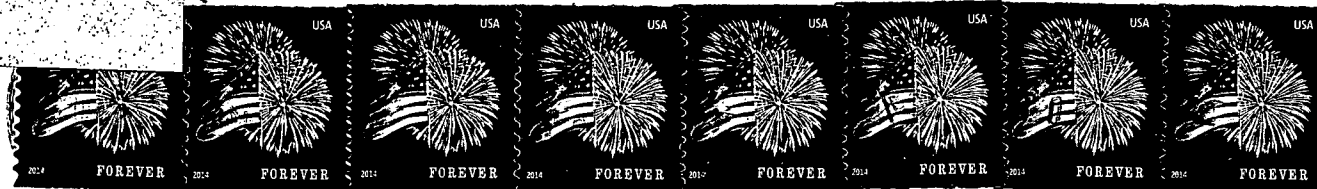
A. BRIGHT ARIAIL

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BUILDING E, SUITE 202
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