

81641

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2014-CP-08-2424

RECEIVED

NOV 18 2016

SC Court of Appeals

PATRICIA DAMICO, AND
LENNA LUCAS, Individually and
on behalf of all other similarly
situated, JOSHUA AND
BRETTANY BUETOW,
EDWARD AND SYLVIA
DENGG, JONATHAN AND
THERESA DOUGLASS,
ANTHONY AND STACEY RAY,
DANNY AND ELLEN DAVIS
MORROW, CZARA AND CHAD
ENGLAND, BRYAN AND
CYNTHIA CAMARA, AND
MATTHEW COLLINS,

Plaintiffs,

v.

LENNAR CAROLINAS, LLC,
SPRING GROVE PLANTATION
DEVELOPMENT, INC., MANALE
LANDSCAPING, LLC, SUPER
CONCRETE OF SC, INC.,
SOUTHERN GREEN, INC. TJB
TRUCKING/LEASING, LLC,
PARAGON SITE
CONSTRUCTORS, INC., CIVIL
SITE ENVIRONMENTAL AND
RICK BRYANT, Individually.

Defendants.

LENNAR CAROLINAS, LLC,

Third-Party Plaintiff,

THE EARTHWORKS GROUP,
INC., VOLKMAR CONSULTING
SERVICES, LLC, GEOMETRICS
CONSULTING, LLC, LAND/SITE
SERVICES, INC., MYERS
LANDSCAPING, INC., A.C. & A.
CONCRETE, INC., KNIGHT'S
CONCRETE PRODUCTS, INC.,
KNIGHT'S REDI-MIX, INC.,
COASTAL CONCRETE
SOUTHEAST, LLC, COASTAL
CONCRETE SOUTHEAST II,
LLC, GUARANTEED FRAMING,
LLC, OZZY CONSTRUCTION,
LLC, CONSTRUCTION
APPLICATORS CHARLESTON,
LLC, LA NEW ENTERPRISES,
LLC, DÉCOR CORPORATION,
DVS, INC., RAUL MARTINEZ
MASONRY, LLC, ALPHA
OMEGA CONSTRUCTION
GROUP, INC., SOUTH
CAROLINA EXTERIORS, LLC;
BUILDERS FIRSTSOURCE-
SOUTHEAST GROUP, LLC, AND
LOW COUNTRY
RENOVATIONS AND SIDING,
LLP,

Third-Party
Defendants.

DÉCOR CORPORATION,

Fourth Party
Plaintiff,

v.

BARANOV FLOORING, LLC,
DJ CONSTRUCTION
SERVICES, LLC, CREATIVE
WOOD FLOORS, LLC,
GERALDO CUNHA,
EBENEZER FLOORING, LLC,
ENMANUEL FLOORING AND
SIDING, LLC, EUSI FLOORING
AND COVERING, LLC,
NICOLAS FLORES,
ALEXANDER MARTINEZ,
ISIDRU MEJIA, JUAN PEREZ
SON, ERNESTO M. PEREZ,
N&B CONSTRUCTION, LLC,
JOSE DIAS RODRIGUES,
LIVIA SOUSA, JOSE BETIO
PEREIRA, JOSE PAZ CASTRO
HERNANDEZ, DIVINIO
APERECIDO CORGOSINHO,
RICARDO CHICHE, CEBS
CONSTRUCTION, BAYSHORE
SIDING AND FLOORING,
SEBASTIO LUIZ DE ARAUJO,
AND JOHN DOES 1-4,

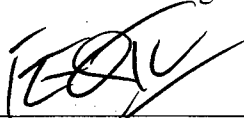
Fourth-Party
Defendants.

Of which Lennar Carolinas, LLC is the Appellant and Patricia Damico; Joshua and Brettany Buetow; Bryan and Cynthia Camara; Matthew Collins; Edward and Sylvia Dengg; Jonathan and Theresa Douglass; Czara and Chad England; Lenna Lucas; Danny and Ellen Davis Morrow; Anthony and Stacey Ray; and Defendants and Third-Party Defendants Super Concrete of SC, Inc.; Southern Green, Inc.; Southern Green Turf Care, Inc.; Manale Landscaping, LLC; and TJB Trucking/Leasing, LLC are the Respondents.

NOTICE OF APPEAL

Lennar Carolinas, LLC (“Appellant”) appeals the orders of the Honorable J.C. Nicholson, Jr. denying Appellant’s motion to compel arbitration. The Court issued an Order dated September 19, 2016, denying Appellant’s motion to compel arbitration, Appellant moved for reconsideration on September 29, 2016, and Appellant received notice of the ruling on its motion to reconsider on October 28, 2016.

November 16, 2016



Jenna K. McGee
F. Elliotte Quinn IV
Parker, Poe, Adams & Bernstein LLP
200 Meeting Street, Suite 301
Charleston, South Carolina 29401
(843) 727-2650
Attorneys for Appellant Lennar Carolinas, LLC

Other Counsel of Record:

Michael J. Jordan, Esq.
Catherine K. Dunn, Esq.
The Steinberg Law Firm, LLP
P.O. Box 1028
Goose Creek, SC 29445

and

John Calvin Hayes, IV, Esq.
Hayes Law Firm, LLC
180 Meeting Street, Suite 330
Charleston, SC 29401

Attorneys for Respondents Patricia Damico; Joshua and Brettany Buetow; Bryan and Cynthia Camara; Matthew Collins; Jonathan and Theresa Douglass; Czara and Chad England; Lenna Lucas; Danny and Ellen Davis Morrow

Shanna Milcetic Stephens
Katherine C. Miars
Anderson Reynolds & Stephens, LLC
P.O. Box 87
Charleston, SC 29402
Attorney for Respondent A.C.&A. Concrete, Inc.

Laura H. Budd, Esquire
The Budd Law Group, PLLC
10550 Independence Point Pkwy, Suite 301
Matthews, NC 28105
and

Stephen L. Brown, Esquire
Catherine H. Chase, Esquire
Young Clement Rivers, LLP
P.O. Box 993
Charleston, SC 29402

and

Preston B. Dawkins, Jr., Esquire
Aiken Bridges, P.A.
P.O. Drawer 1931
Florence, SC 29503

Attorneys for Respondent Alpha Omega Construction Group, Inc.

Stephen P. Hughes, Esquire
Howell, Gibson and Hughes, P.A.
P.O. Box 40
Beaufort, SC 29901

Attorney for Respondent Builders FirstSource-Southeast Group, LLC

Brent M. Boyd, Esq.
PO Box 6648 4406-B Forest Dr.
Columbia, SC 29260

Attorney for Respondents Coastal Concrete Southeast, LLC and Coastal Concrete Southeast II, LLC

David S. Cobb
Turner Padgett
P.O. Box 22129
Charleston, SC 29413

Attorney for Respondent Construction Applicators Charleston, LLC

Kathy A. Carlsten, Esquire
N. Keith Emge, Esquire (Chip)
Carlock Copeland & Stair, LLP
40 Calhoun Street, Suite 400
Charleston, SC 29401

Attorneys for Respondent Civil Site Environmental, Inc.

Samia Nettles, Esquire
Richardson Plowden
40 Calhoun Street, Suite 220
Charleston, SC 29401

Attorney for Respondent Décor Corporation

S. Markey Stubbs, Esquire
Baker Ravenel Bender
P.O. Box 8057
Columbia, SC 29202
Attorney for Respondent DVS, Inc.

Derek M. Newberry, Esquire
Hall Booth Smith, P.C.
40 Calhoun Street, Suite 550
Charleston, SC 29401

and

Christine Companion Varnado, Esquire
The Seibels Law Firm
38 Broad Street, Suite 200
Charleston, SC 29401

and

Alan R. Belcher, Jr., Esq.
40 Calhoun Street, Suite 550
Charleston, SC 29401
Attorneys for Respondent Guaranteed Framing, LLC

Steven L. Smith, Esquire
Zachary J. Closser, Esquire
Samuel M. Wheeler, Esquire
Smith Closser, P.A.
P.O. Box 405878
Charleston, SC 29423-0578
Attorneys for Respondents Knight's Concrete Products, Inc. and Knight's Redi-Mix, Inc.

Erin D. Dean, Esquire
Tupper Grimsley & Dean, P.A.
PO Box 2055
Beaufort, SC 29901-2055
Attorney for Respondent LA New Enterprises, LLC

John E. Rogers, II
The Ward Law Firm, P.A.
PO Box 5663
Spartanburg, SC 29304
Attorney for Respondent Land/Site Services, Inc.

James H. Elliott, Jr., Esq.
Samia H. Nettles, Esq.

Richardson Plowden
40 Calhoun Street, Suite 220
Charleston, SC 29401
Attorneys for Respondent Manale Landscaping, LLC

Thomas F. Dougall
William A. Collins, Jr.
Michal Kalwajtys
Dougall & Collins
1700 Woodcreek Farms Road, Suite 100
Elgin, South Carolina 29045
Attorney for Respondent Ozzy Construction, LLC

Erin D. Dean, Esquire
Tupper Grimsley & Dean, P.A.
PO Box 2055
Beaufort, SC 29901-2055
Attorney for Respondent Raul Martinez Masonry, LLC

Jenny C. Honeycutt, Esq.
PO Box 13466
James Island, SC 29422
Attorney for Respondent South Carolina Exteriors, LLC

Bachman S. Smith, IV, Esq.
Haynsworth Sinkler Boyd, P.A.
134 Meeting Street, Third Floor
Charleston, SC 29401
Attorney for Respondent Southern Green, Inc.

R. Trippett Boineau, III, Esq.
Heath McAlvin Stewart, III, Esq.
McAngus, Goudelock & Courie, LLC
P.O. Box 12519
Columbia, SC 29211
Attorneys for Respondent Spring Grove Plantation Development, Inc.

R. Patrick Flynn, Esq.
Michael Allen, Esq.
Pope Flynn, LLC
PO Box 70
Charleston, SC 29402
Attorneys for Respondent Super Concrete of SC, Inc.

David Shuler Black, Esq.
Howell Gibson & Hughes, P.A.
P.O. Box 40
Beaufort, SC 29901-0040
Attorney for Respondent TJB Trucking/Leasing, LLC

Ronald G. Tate, Jr., Esquire
R. Batten Farrar, Esquire
Gallivan, White & Boyd, P.A.
55 Beattie Place, Suite 1200 (29601)
P.O. Box 10589
Greenville, SC 29603
Attorneys for Respondent Volkmar Consulting Services, LLC

Edward and Sylvia Dengg
238 Maywood Drive
Moncks Corner, SC 29461
Pro Se Respondents

Anthony and Stacey Ray
233 Maywood Drive
Moncks Corner, SC 29461
Pro Se Respondents

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2014-CP-08-2424

PATRICIA DAMICO, AND
LENNA LUCAS, Individually and
on behalf of all other similarly
situated, JOSHUA AND
BRETTANY BUETOW,
EDWARD AND SYLVIA
DENGG, JONATHAN AND
THERESA DOUGLASS,
ANTHONY AND STACEY RAY,
DANNY AND ELLEN DAVIS
MORROW, CZARA AND CHAD
ENGLAND, BRYAN AND
CYNTHIA CAMARA, AND
MATTHEW COLLINS,

Plaintiffs,
v.

LENNAR CAROLINAS, LLC,
SPRING GROVE PLANTATION
DEVELOPMENT, INC., MANALE
LANDSCAPING, LLC, SUPER
CONCRETE OF SC, INC.,
SOUTHERN GREEN, INC. TJB
TRUCKING/LEASING, LLC,
PARAGON SITE
CONSTRUCTORS, INC., CIVIL
SITE ENVIRONMENTAL AND
RICK BRYANT, Individually.

RECEIVED

NOV 18 2016

SC Court of Appeals

Defendants.

LENNAR CAROLINAS, LLC,

Third-Party Plaintiff,

THE EARTHWORKS GROUP,
INC., VOLKMAR CONSULTING
SERVICES, LLC, GEOMETRICS
CONSULTING, LLC, LAND/SITE
SERVICES, INC., MYERS
LANDSCAPING, INC., A.C. & A.
CONCRETE, INC., KNIGHT'S
CONCRETE PRODUCTS, INC.,
KNIGHT'S REDI-MIX, INC.,
COASTAL CONCRETE
SOUTHEAST, LLC, COASTAL
CONCRETE SOUTHEAST II,
LLC, GUARANTEED FRAMING,
LLC, OZZY CONSTRUCTION,
LLC, CONSTRUCTION
APPLICATORS CHARLESTON,
LLC, LA NEW ENTERPRISES,
LLC, DÉCOR CORPORATION,
DVS, INC., RAUL MARTINEZ
MASONRY, LLC, ALPHA
OMEGA CONSTRUCTION
GROUP, INC., SOUTH
CAROLINA EXTERIORS, LLC,
BUILDERS FIRSTSOURCE-
SOUTHEAST GROUP, LLC, AND
LOW COUNTRY
RENOVATIONS AND SIDING,
LLP,

Third-Party Defendants.

DÉCOR CORPORATION,

Fourth Party Plaintiff,

v.

BARANOV FLOORING, LLC,
DJ CONSTRUCTION
SERVICES, LLC, CREATIVE
WOOD FLOORS, LLC,
GERALDO CUNHA,
EBENEZER FLOORING, LLC,
ENMANUEL FLOORING AND
SIDING, LLC, EUSI FLOORING
AND COVERING, LLC,
NICOLAS FLORES,
ALEXANDER MARTINEZ,
ISIDRU MEJIA, JUAN PEREZ
SON, ERNESTO M. PEREZ,
N&B CONSTRUCTION, LLC,
JOSE DIAS RODRIGUES,
LIVIA SOUSA, JOSE BETIO
PEREIRA, JOSE PAZ CASTRO
HERNANDEZ, DIVINIO
APERECIDO CORGOSINHO,
RICARDO CHICHE, CEBS
CONSTRUCTION, BAYSHORE
SIDING AND FLOORING,
SEBASTIO LUIZ DE ARAUJO,
AND JOHN DOES 1-4,

Fourth-Party Defendants.

Of which Lennar Carolinas, LLC is the Appellant and Patricia Damico; Joshua and Brittany Buetow; Bryan and Cynthia Camara; Matthew Collins; Edward and Sylvia Dengg; Jonathan and Theresa Douglass; Czara and Chad England; Lenna Lucas; Danny and Ellen Davis Morrow; Anthony and Stacey Ray; and Defendants and Third-Party Defendants Super Concrete of SC, Inc.; Southern Green, Inc.; Southern Green Turf Care, Inc.; Manale Landscaping, LLC; and TJB Trucking/Leasing, LLC are the Respondents.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on all Respondents by depositing a copy of it in the United States Mail, postage prepaid, on November 16, 2016, addressed to the following:

Michael J. Jordan, Esq.
Catherine K. Dunn, Esq.

The Steinberg Law Firm, LLP

P.O. Box 1028

Goose Creek, SC 29445

and

John Calvin Hayes, IV, Esq.

Hayes Law Firm, LLC

180 Meeting Street, Suite 330

Charleston, SC 29401

Attorneys for Respondents Patricia Damico; Joshua and Brettany Buetow; Bryan and Cynthia Camara; Matthew Collins; Jonathan and Theresa Douglass; Czara and Chad England; Lenna Lucas; Danny and Ellen Davis Morrow

Shanna Milcetic Stephens

Katherine C. Miars

Anderson Reynolds & Stephens, LLC

P.O. Box 87

Charleston, SC 29402

Attorney for Respondent A.C.&A. Concrete, Inc.

Laura H. Budd, Esquire

The Budd Law Group, PLLC

10550 Independence Point Pkwy, Suite 301

Matthews, NC 28105

and

Stephen L. Brown, Esquire

Catherine H. Chase, Esquire

Young Clement Rivers, LLP

P.O. Box 993

Charleston, SC 29402

and

Preston B. Dawkins, Jr., Esquire

Aiken Bridges, P.A.

P.O. Drawer 1931

Florence, SC 29503

Attorneys for Respondent Alpha Omega Construction Group, Inc.

Stephen P. Hughes, Esquire

Howell, Gibson and Hughes, P.A.

P.O. Box 40

Beaufort, SC 29901

Attorney for Respondent Builders FirstSource-Southeast Group, LLC

Brent M. Boyd, Esq.
PO Box 6648 4406-B Forest Dr.
Columbia, SC 29260
Attorney for Respondents Coastal Concrete Southeast, LLC and Coastal Concrete Southeast II, LLC

David S. Cobb
Turner Padgett
P.O. Box 22129
Charleston, SC 29413
Attorney for Respondent Construction Applicators Charleston, LLC

Kathy A. Carlsten, Esquire
N. Keith Emge, Esquire (Chip)
Carlock Copeland & Stair, LLP
40 Calhoun Street, Suite 400
Charleston, SC 29401
Attorneys for Respondent Civil Site Environmental, Inc.

Samia Nettles, Esquire
Richardson Plowden
40 Calhoun Street, Suite 220
Charleston, SC 29401
Attorney for Respondent Décor Corporation

S. Markey Stubbs, Esquire
Baker Ravenel Bender
P.O. Box 8057
Columbia, SC 29202
Attorney for Respondent DVS, Inc.

Derek M. Newberry, Esquire
Hall Booth Smith, P.C.
40 Calhoun Street, Suite 550
Charleston, SC 29401

and
Christine Companion Varnado, Esquire
The Seibels Law Firm
38 Broad Street, Suite 200
Charleston, SC 29401
and
Alan R. Belcher, Jr., Esq.
40 Calhoun Street, Suite 550
Charleston, SC 29401

Attorneys for Respondent Guaranteed Framing, LLC

Steven L. Smith, Esquire
Zachary J. Closser, Esquire
Samuel M. Wheeler, Esquire
Smith-Closser, P.A.
P.O. Box 405878
Charleston, SC 29423-0578

Attorneys for Respondents Knight's Concrete Products, Inc. and Knight's Redi-Mix, Inc.

Erin D. Dean, Esquire
Tupper Grimsley & Dean, P.A.
PO Box 2055
Beaufort, SC 29901-2055
Attorney for Respondent LA New Enterprises, LLC

John E. Rogers, II
The Ward Law Firm, P.A.
PO Box 5663
Spartanburg, SC 29304
Attorney for Respondent Land/Site Services, Inc.

James H. Elliott, Jr., Esq.
Samia H. Nettles, Esq.
Richardson Plowden
40 Calhoun Street, Suite 220
Charleston, SC 29401
Attorneys for Respondent Manale Landscaping, LLC

Thomas F. Dougall
William A. Collins, Jr.
Michal Kalwajtys
Dougall & Collins
1700 Woodcreek Farms Road, Suite 100
Elgin, South Carolina 29045
Attorney for Respondent Ozzy Construction, LLC

Erin D. Dean, Esquire
Tupper Grimsley & Dean, P.A.
PO Box 2055
Beaufort, SC 29901-2055
Attorney for Respondent Raul Martinez Masonry, LLC

Jenny C. Honeycutt, Esq.
PO Box 13466
James Island, SC 29422
Attorney for Respondent South Carolina Exteriors, LLC

Bachman S. Smith, IV, Esq.
Haynsworth Sinkler Boyd, P.A.
134 Meeting Street, Third Floor
Charleston, SC 29401
Attorney for Respondent Southern Green, Inc.

R. Trippett Boineau, III, Esq.
Heath McAlvin Stewart, III, Esq.
McAngus, Goudelock & Courie, LLC
P.O. Box 12519
Columbia, SC 29211
Attorneys for Respondent Spring Grove Plantation Development, Inc.

R. Patrick Flynn, Esq.
Michael Allen, Esq.
Pope Flynn, LLC
PO Box 70
Charleston, SC 29402
Attorneys for Respondent Super Concrete of SC, Inc.

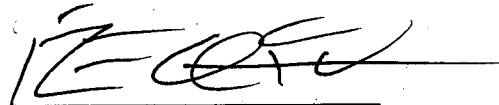
David Shuler Black, Esq.
Howell Gibson & Hughes, P.A.
P.O. Box 40
Beaufort, SC 29901-0040
Attorney for Respondent TJB Trucking/Leasing, LLC

Ronald G. Tate, Jr., Esquire
R. Batten Farrar, Esquire
Gallivan, White & Boyd, P.A.
55 Beattie Place, Suite 1200 (29601)
P.O. Box 10589
Greenville, SC 29603
Attorneys for Respondent Volkmar Consulting Services, LLC

Third-Party Defendant Myers Landscaping, Inc.
c/o Joseph H. Myers, Registered Agent
Myers Landscaping, Inc.
382 Big Bird Lane
Summerville, SC 29486

Edward and Sylvia Dengg
238 Maywood Drive
Moncks Corner, SC 29461
Pro Se Respondents

Anthony and Stacey Ray
233 Maywood Drive
Moncks Corner, SC 29461
Pro Se Respondents



Jenna K. McGee
F. Elliotte Quinn IV
Parker, Poe, Adams & Bernstein LLP
200 Meeting Street, Suite 301
Charleston, South Carolina, 29401
(843) 727-2650
Attorneys for Appellant Lennar Carolinas, LLC



F. Elliotte Quinn IV
Associate
Telephone: 843.727.6315
Direct Fax: 843.727.2680
elliottquinn@parkerpoe.com

Charleston, SC
Charlotte, NC
Columbia, SC
Raleigh, NC
Spartanburg, SC

November 16, 2015

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

RECEIVED

NOV 18 2016

SC Court of Appeals

Re: *Damico, et al. v. Lennar Carolinas, LLC, et al.*
Case No.: 2014-CP-08-02424

Dear Ms. Kitchings:

Enclosed for filing please find the original and two copies of the Notice of Appeal in connection with the above-referenced matter. Also enclosed are the following:

1. Proof of Service of the Notice of Appeal on the Respondents.
2. A copy of the Order which is to be challenged on appeal.
3. A filing fee of \$100.00.

Please file the originals and return filed-stamped copies to me in the enclosed self-addressed stamped envelope. Please do not hesitate to contact me if you have any questions. By copy of this letter, we are serving same on all parties.

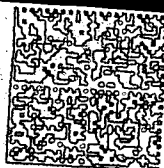
Sincerely,

Elliotte Quinn

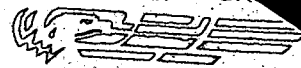
FEQiv/kjg
Enclosures

cc: All Counsel of Record (via email and US Mail with enclosures)
Edward and Sylvia Dengg (via US Mail with enclosures)
Anthony and Stacey Ray (via US Mail with enclosures)
Joseph H. Myers, Registered Agent (via US Mail with enclosures)

PPAB 3488092v1

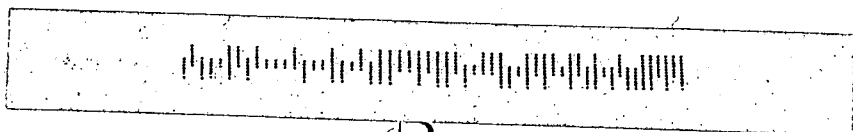


U.S. POSTAGE **FOREVER**



ZIP 29401 \$002.83⁰
02 4W

0000343301 NOV 16 2016



Parker Poe

200 Meeting Street, Suite 301
Charleston, SC 29401
Post Office Box 160
Charleston, SC 29402

To:

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

RECEIVED

NOV 18 2016

South Carolina Court of Appeals