

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.

NOTICE OF APPEAL

Restoration Specialists, LLC, Reuben Mark Ward, and Lynnette Pennington Ward appeal the Orders of the Honorable Mikell R. Scarborough dated July 14, 2016 and October 28, 2016.

The Order dated July 14, 2016 (Exhibit A): (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, 2105. Appellants received written notice of entry of this order on July 18, 2016. The parties timely filed cross-motions to reconsider the Court's July 14, 2016 Order pursuant to Rule 59, SCRCP.

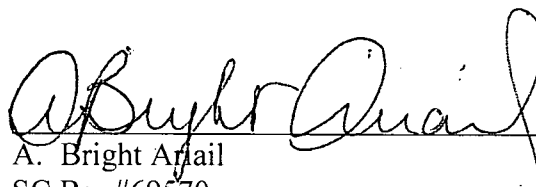
The Order dated October 28, 2016 (Exhibit B), in response to the parties' cross-motions to reconsider pursuant to Rule 59, SCRCP: (a) Denied Defendants' Motion to Amend on the basis that Defendants have not shown good cause to lift the default, and (b) Denied Defendants' Motion to Stay and Compel filed July 11, 2016 on the basis that the affirmative defense of arbitration had been waived and therefore the motion was not properly made. Appellants received written notice of entry of this order on November 2, 2016.

RECEIVED

NOV 18 2016

SC Court of Appeals

November 14, 2016



A. Bright Ariail

SC Bar #69570

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Attorney for Appellants

Other Counsel of Record:

Andrew K. Epting, Jr.

Michelle N. Endemann

Andrew K. Epting, LLC

46A State Street

Charleston, SC 29401

(843) 377-1871

Attorneys for Respondent

Law Office of A. Bright Ariail, LLC

November 15, 2016

VIA FACSIMILE AND US MAIL

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

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NOV 18 2016
SC Court of Appeals

RE: Palmetto Construction Group v. Restoration Specialists, LLC *et al.*
C/A 2016-CP-10-1143

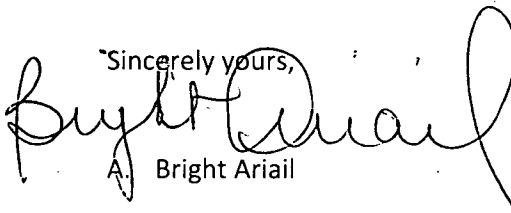
Dear Ms. Kitchings;

Enclosed, please find the original and one copy of Appellants' Notice of Appeal and Proof of Service in the above referenced case, both dated November 14, 2016, for filing. Please note that the orders that are being challenged on appeal are attached to the Notice of Appeal as Exhibits A and B. After filing, please return the clocked copy to me in the enclosed, self-addressed stamped envelope.

Also, while the Order of the Court of Appeals filed on November 10, 2016 involving a prior appeal in this case cites *Hudson v. Hudson*, 290 S.C. 215, 216, 349 S.E.2d 341, 342 (1986) which indicates that a second filing fee will not be collected from a party who has previously appealed, I am including a filing fee in case it is required for this appeal. Please feel free to return my check with the copy of the filed Notice of Appeal if it is not necessary in this case.

By copy of this letter, I am serving counsel for Respondents with same.

With kindest regards, I am

Sincerely yours,

A. Bright Ariail

Enclosures

cc: Andrew Epting, Esquire (via email and US Mail)
Michelle Endemann, Esquire (via email and US Mail)

bright@brightariailaw.com

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Suite 202
Charleston, SC 29412

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STATE OF SOUTH CAROLINA
 COUNTY OF CHARLESTON
 IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2016 CP-10-1143

RECEIVED

NOV 18 2016

SC Court of Appeals

Palmetto Construction Group LLC

Restoration Specialists, LLC, et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

FILED
 2016 NOV -22 PM 12:38
 JULIE J. AUSTIN
 CLERK OF COURT

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT TRIBUNALS, ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: This matter came before the court for argument on October 11, 2016 on Cross-Motions to Reconsider pursuant to Rule 59, SCRPC. After a review of the file and memoranda submitted by counsel, the court finds as follows: 1) Defendants' Motion to Amend is respectfully DENIED, inasmuch as Defendants have not shown good cause to lift the default; and 2) the affirmative defense of arbitration has been waived and Defendant's Motion to Stay and Compel filed July 11, 2016 was not properly made.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

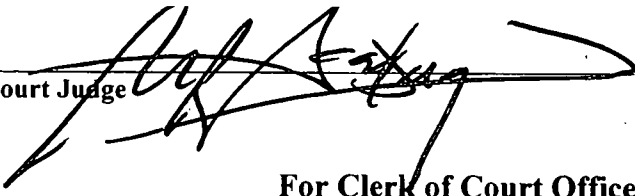
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INFORMATION FOR THE PUBLIC INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
NA	NA	\$NA
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amount or additional taxable costs not available at the time the form and final order are submitted to clerk. Note: Title abstractors and researchers should refer to the official court order for judgment. SCRPC Form 4C (10/2011)

EXHIBIT B

Circuit Court Judge



3062

Judge Code

Date

10/28/16

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

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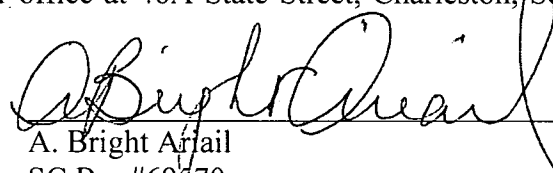
Restoration Specialists, LLC,
Reuben Mark Ward, and
Lynnette Pennington Ward

Appellants.

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 November 14, 2016, addressed to Palmetto Construction Group's attorneys of record, Andrew K. Epting, Jr. and Michelle N. Endemann, Andrew K. Epting, 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 November 14, 2016.

November 14, 2016



A. Bright Ariail
SC Bar #69570

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Attorney for Appellants