

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

William H. Seals, Circuit Judge

**RECEIVED**

MAR 06 2017

SC Court of Appeals

---

Case No. 2016-CP-21-1230

---

Harvey R. Campbell, Jr., d/b/s Metal Construction and Roofing., Appellant,

Vs.

Lee Lyerly and Ellen Marie Stone Lyerly ..... Respondents

---

RECORD ON APPEAL

---

LOUIS D. NETTLES  
Folkens Law Firm, PA  
PO Box 6139  
Florence, South Carolina 29502  
Attorney for Appellant  
843-665-0100

GARY I. FINKLEA  
Finklea Law Firm PA  
PO Box 1317  
Florence SC 29503  
Attorney for Respondents

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2016-CP-21-1230

Harvey R. Campbell, Jr., d/b/a Metal Construction and Roofing

Lee Lyerly and Ellen Marie Stone Lyerly

2016 OCT 12 PM 11:16  
FILED

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Gary I. Finklea	Attorney for:
	<input type="checkbox"/> Plaintiff <input checked="" 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), SCRCP;  Rule 41(a), SCRCP (Vol. Nonsuit);  Rule 43(k), SCRCP (Settled);  Other
- ACTION STRICKEN (CHECK REASON):  Rule 40(j), SCRCP;  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

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

IT IS ORDERED AND ADJUDGED:  See attached order  Statement of Judgment by the Court:

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk : This Order grants Defendants' Motion to Dismiss the Plaintiff's Complaint. Counterclaims remain active.

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)
Harvey R. Campbell, Jr., d/b/a Metal Construction and Roofing	Lee Lyerly and Ellen Marie Stone Lyerly	\$ N/A
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

CERTIFIED: A TRUE COPY  
Cassie Red-Georgia  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.



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. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

[Signature] Circuit Court Judge      2157 Judge Code      10/6/16 Date

**For Clerk of Court Office Use Only**

This judgment was entered on the 12 day of Oct., 2016 and a copy mailed first class or placed in the appropriate attorney's box on this 13 day of Oct., 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Louis D. Nettles, Esquire ✓  
Folkens Law Firm  
P.O. Drawer 6139  
Florence, SC 29502-6139

Gary I. Finklea, Esquire ✓  
Finklea Law Firm  
Post Office Box 1317  
Florence, SC 29503

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)  
Connie Reel-Shaw  
CLERK OF COURT

Court Reporter:

FILED  
OCT 12 2016 11:46  
CLERK OF COURT  
FLORENCE COUNTY, SC

CERTIFIED: A TRUE COPY  
Connie Reel-Shaw  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA )  
 COUNTY OF FLORENCE )  
 Harvey R. Campbell, Jr., d/b/a Metal )  
 Construction and Roofing, )  
 Plaintiff, )  
 Vs. )  
 Lee Lyerly and Ellen Marie Stone Lyerly, )  
 Defendants. )

IN THE COURT OF COMMON PLEAS  
 TWELFTH JUDICIAL CIRCUIT  
 C/A #: 2016-CP-21-1230

RECEIVED  
 OCT 12 2016  
 11:15  
 CLERK OF COURT

ORDER  
 (Granting Defendants'  
 Motion to Dismiss)

HERETOFORE the Defendants contracted with the Plaintiff to perform roofing repairs and replacement at 5010 Old Georgetown Road, Coward, South Carolina. The Plaintiff demanded compensation in the amount of Twenty Six Thousand One Hundred Sixty and No/100 (\$26,160.00) Dollars. Six Thousand and No/100 (\$6,000.00) Dollars was paid. The Defendants have not paid the balance alleging the Plaintiff's work fell below industry standards and the cost to repair exceeds the balance due to the Plaintiff.

The Plaintiff filed this suit seeking damages for breach of contract or alternatively quantum meruit. The Defendants answered denying monies were due and further asserted South Carolina Code §40-59-130 precludes the Plaintiff from bringing an action to enforce or to seek compensation for the work performed on the grounds that he was not a licensed contractor at the time the contract was entered or any time during the course of the work.

Based upon the review of the pleadings, applicable law and considering the arguments of counsel, this Court grants the Defendants' Motion to Dismiss the Plaintiff's Complaint.

CERTIFIED: A TRUE COPY  
*Christina R. Spear*  
 CLERK OF COURT, C.P. & G.S.  
 FLORENCE COUNTY, S.C.

## APPLICABLE LAW

South Carolina Code Ann. §40-59-30(b) provides as follows:

Notwithstanding Section 29-5-10, or another provision of law, a person or firm who first has not procured a license or registered with the commission and is required to do so by law may not file a mechanics' lien or bring an action at law or in equity to enforce the provisions of a contract for residential building or residential specialty contracting which the person or firm entered into in violation of this chapter.

## DISCUSSION

Previous South Carolina case law held that a Residential Homebuilder could not sue to recover under a building contract if he did not have a license at the time contract was made. Duckworth v. Cameron, 244 S.E.2d. 217; 270 S.C. 647 (1978). The Duckworth case was decided in 1978 and S.C. Code §40-59-130 at that time provided:

"(n)o residential home builder who does not have the license required herein may bring any action either at law or in equity to enforce the provisions of any contract for residential home building which he entered into in violation of this chapter."

In addition to Duckworth, Roberta, Inc. v. Trust, 274 S.C. 53 260 S.E.2d. 818 (1979) was decided by the South Carolina Supreme Court one year later and concluded that an unlicensed residential homebuilder could not bring an action to recover amounts paid to third-parties for labor and materials furnished in the performance of the contract.

South Carolina Code §40-59-130 was revised in 2002 and again in 2009 to its current form. The Plaintiff argues that the amendment to the statute allows a contractor to pursue recovering for monies due under a building contract if the license is obtained after the work is performed.

**CONCLUSION**

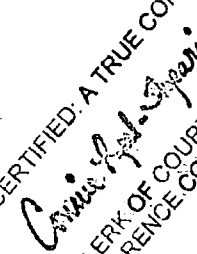
The Plaintiff did not have a license at the time the contract was entered nor any time during the course of performance and only obtained a license after he sought to collect under the contract. Since the Plaintiff is an unlicensed builder, he cannot "bring an action at law or in equity to enforce the provisions of a contract for residential building or residential specialty contracting." Based on the foregoing, the Defendants' Motion is Granted and the Plaintiff's Complaint is Dismissed.

**AND IT IS SO ORDERED.**

  
**HONORABLE WILLIAMS H. SEALS**  
**CIRCUIT COURT JUDGE**

October , 2016  
Marion, South Carolina

FILED  
2016 OCT 12 AM 11:46  
CLERK OF COURT  
FLORENCE COUNTY, S.C.

CERTIFIED - A TRUE COPY  
  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS

CASE NO

20 16 CP 21 1230

Harvey R. Campbell Jr, )  
D/B/A Metal Construction and )  
Roofing )  
Plaintiff, )

vs. )

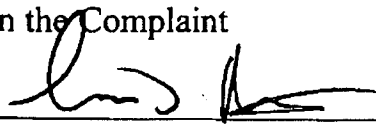
Lee Lyerly and Ellen Marie Stone )  
Lyerly )  
Defendants. )

SUMMONS

FILED  
2016 MAY 17 PM 1:12  
JANNIE REEL STEWART  
CLERK C.C.P. & G.S.  
FLORENCE COUNTY, S.C.

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer to the said complaint on the subscribers at their offices at 601 W. Evans St., Post Office Box 6139, Florence, South Carolina 29502-6139, within thirty (30) days after the service hereof, exclusive of the days of such service; and if you fail to answer the Complaint within the time aforesaid, Judgment by default will be rendered against you for the relief demanded in the Complaint



Louis D. Nettles  
Folkens Law Firm P.A.  
P.O. Box 6139  
601 W Evans St.

CERTIFIED: A TRUE COPY

*Cornie Gal-Spearia*  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

Florence SC 20502

843-665-0100

[louis@folkenslaw.com](mailto:louis@folkenslaw.com)

May 17, 2016

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS

CASE NO

2016 CC 01 1230

Harvey R. Campbell Jr, )  
D/B/A Metal Construction and )  
Roofing )  
Plaintiff, )

vs. )

Lee Lyerly and Ellen Marie Stone )  
Lyerly )  
Defendants. )

COMPLAINT

ANNIE REED STEPHENS  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

2016 MAY 17 PM 11:12

FILED

The Plaintiff complaining of the Defendants would allege as follows:

**FOR A FIRST CAUSE OF ACTION**

1. Plaintiff is a resident of Florence County and this actions arises out of a contract for work performed in Florence County.
2. Defendants are residents of Florence County.
3. The Plaintiff is licensed as a Residential Builder with Specialty License no. 2395. This license was first issued in 1998, but had expired at the time the work for the Defendant was begun. The license is now current.
4. On or about July 24, 2014 Defendants and Plaintiff entered in to a contract for roofing work on their property located at 5010 Old Georgetown Rd. Coward SC.

CERTIFIED: A TRUE COPY

*Cristie Hal-Shearia*

CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

5. That Plaintiff performed the work and additional requested work totaling Twenty-six Thousand One Hundred Sixty (\$26,160.00) Dollars and paid Six Thousand (\$6000.00) Dollars and there is due and owing to the Plaintiff the sum of Twenty Thousand One Hundred Sixty (\$20,160.00) Dollars.

6. Plaintiff has made due demand for payment and the Defendants had refused to pay the Plaintiff.

7. Plaintiff has been damaged in the sum of Twenty Thousand One Hundred Sixty (\$20,160.00) Dollars

#### **FOR A SECOND CAUSE OF ACTION**

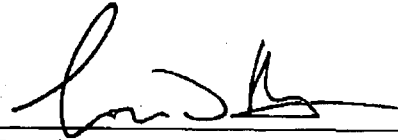
8. The allegations of the First Cause of Action are incorporated herein.

9. That at the specific request of the Defendants the Plaintiff preformed work for the Defendants at 5010 Old Georgetown Rd. Coward SC.

10. That the Defendant's property has increased in value as a result of Plaintiff's work in the amount of Twenty Thousand One Hundred Sixty (\$20,160.00) Dollars.

11. That in equity and good conscience the Defendant should be required to pay the Plaintiff for the value of his work.

WHEREFORE, the Plaintiff prays judgment against the Defendant's in the amount of Twenty Thousand One Hundred Sixty (\$20,160.00) Dollars plus costs, expenses and interest.



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Louis D. Nettles  
Folkens Law Firm P.A.  
P.O. Box 6139  
601 W Evans St.  
Florence SC 20502  
843-665-0100  
louis@folkenslaw.com

May 17, 2016

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS

BURCH ROOFING CO. INC. )  
D/B/A METAL MAN CONSTRUCTION AND )  
ROOFING )

PETITIONER, )

-VS- )

LEE LYERLY AND ELLEN MARIE )  
STONE-LYERLY, )

RESPONDENT. )

FILED  
FEB 20 PM 4:08  
CLERK OF COURT  
FLORENCE COUNTY S.C.

NOTICE OF MECHANIC'S LIEN

TO: THE RESPONDENTS ABOVE NAMED AND ALL OTHERS CONCERNED:

YOU WILL PLEASE TAKE NOTICE that the Petitioner above named, by virtue of the attached Affidavit, does hereby claim a Mechanic's Lien on real estate hereinafter described, said lien being in the amount of Twenty Thousand Five Hundred Ten and 00/100ths (\$20,510.00) Dollars, plus interest, attorneys fees and costs, for the labor and materials furnished and used in the improvements situated on the below described real estate, such having been authorized by the owner or by virtue of and in agreement with or by consent of the owner of such improvements or by some person or agent having authority from or rightfully acting for owner in the procuring or furnishing of such labor and materials which were placed on the subject real property. The said materials and labor were used on improving the subject property; that the aforesaid Respondents, Henry L. Lyerly Jr. and Ellen Marie Stone Lyerly, have not paid the Petitioner in full for the labor and materials used for improvement and the sum of Twenty Thousand Five Hundred Ten and 00/100ths (\$20,510.00)Dollars is now due and owing to the Petitioner for said materials and labor. That no part of the balance due has been paid by discount or otherwise and the Petitioner has incurred attorney fees and costs for the institution

CERTIFIED: A TRUE COPY  
*Louise Paul-Spencer*  
CLERK OF COURT S.P. & G.S.  
FLORENCE COUNTY S.C.

of this action and is entitled to a reasonable attorney's fee incurred in this action and costs.

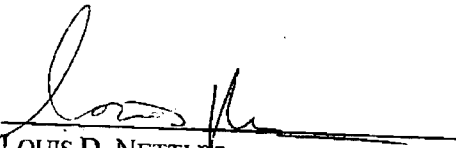
That the said materials were last furnished at the subject property within the last ninety (90) days; that the Petitioner is informed and believes that the furnishing of said materials and labor to the subject property was authorized and consented to by Henry L. Lyerly Jr. and Ellen Marie Stone Lyerly, the owners of the property. The property on which the materials were placed and used is located in the County of Florence and described as follows:

Parcel #1: All that parcel of land situate near the City of Coward, County of Florence, State of South Carolina, known and designated as containing 1.041 acres as shown on a map made for Bradley Edward McClam by Lower Florence County Engineering Company, dated September 24, 2008 and recorded in the Office of the Clerk of Court for Florence County in Plat Book 95 at Page 1. Said lot being bounded as follows, to wit: on the North by Lands of Jack Filyaw for distance of 214.76 feet; on the East by parcel of land containing 0.07 acres, known as Parcel A, for a distance of 213.06 feet; on the South by lands of Jack Filyaw for a distance of 211.12 feet; and on the West by S.C. Highway 72, known as Old Georgetown Road for a distance of 212.95 feet, reference being had to the above mentioned map for a more complete and accurate description.

Parcel #2: All that certain piece, parcel or lot of land lying, being and situate in the County of Florence, State of South Carolina, known and designated as Parcel "A", containing 0.07 acres as shown on a map made by Lower Florence County Engineering Company, date September 24, 2008 and recorded in the Office of the Clerk of Court for Florence county in Plat Book 95 at Page 1. Said Parcel "A" being bounded as follows, to wit: on the North by lands of Jack Filyaw, for a distance of 13.89; on the East by lands of Jack Filyaw for a distance of 213.06; on the South by Lands of Jack Filyaw for a distance of 13.89; and on the West by parcel containing 1.041 acres, for a distance of 213.06. Reference being had to the above mentioned map for a more complete and accurate description.

This being the same property conveyed to Ellen Marie Stone Lyerly by deed Robert E. Lee, Special Referee, dated February 4, 2014 and recorded February 4, 2014 in Book 508 at Page 643, in the Florence County Records, State of South Carolina.

TMS #: 00220-03-103

  
LOUIS D. NETTLES  
601 W Evans St  
Post Office Box 6139  
Florence, South Carolina 29502-6139  
(843) 665-0100  
ATTORNEY FOR PETITIONER

February 18, 2015

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS

BURCH ROOFING CO. INC. )  
D/B/A METAL MAN CONSTRUCTION AND )  
ROOFING )  
PETITIONER, )  
 )  
-VS- )  
 )  
HENRY L. LYERLY JR. AND ELLEN MARIE )  
STONE LYERLY, )  
 )  
RESPONDENTS. )  
 )  
\_\_\_\_\_ )

AFFIDAVIT

2015 FEB 26 PM 4:10:08  
CLERK OF COURT  
FLORENCE COUNTY, S.C.

PERSONALLY appeared before me, Harvey R. Campbell, Jr. who being first duly sworn, deposes and states that certain materials and labor were furnished for the improvement of property described in the attached Notice of Mechanic's Lien, such labor and materials having been furnished at the special instance and request of the owner of said property or by consent of the owner or some person or agent having authority from or rightfully acting for such owner or authorized by the owner and that said labor and materials were last furnished within ninety (90) days from the date of this Affidavit.

Deponent further states that there is past due and owing from the owners of said property to him, the sum of Twenty Thousand Five Hundred Ten and 00/100ths (\$20,510.00) Dollars, representing the sum which said labor and materials are reasonably worth with interest as evidenced by the attached certified Statement of Account, together with a reasonable attorney's fee, plus interest and costs of collection.

*Harvey R. Campbell, Jr.*  
\_\_\_\_\_  
Harvey R. Campbell, Jr.

SWORN before me this 20<sup>th</sup> day  
of February, 2015

*Carlae McLaughlin* (Seal)  
Notary Public for South Carolina

My Commission Expires: 5/28/2016 Transcript of Record 0013 51821

CERTIFIED: A TRUE COPY  
*Carlae McLaughlin*  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS

BURCH ROOFING CO. INC. )  
D/B/A METAL MAN CONSTRUCTION AND )  
ROOFING )

PETITIONER, )

-VS- )

HENRY L. LYERLY JR. AND ELLEN MARIE )  
STONE LYERLY, )

RESPONDENTS. )

FILED  
FLORENCE COUNTY, S.C.  
2015 FEB 20 PM 4:06  
JAN 15 2015

STATEMENT OF ACCOUNT

Amount

\$20,510.00

PERSONALLY appeared before me, Harvey R. Campbell, Jr. who first being duly sworn and deposed, states that the foregoing is a true and correct statement of the account of Metal Man LLC as it relates to the property which is the subject of this Mechanic's Lien action, and that no part of same has been paid by discount or otherwise.

Burch Roofing Co. Inc. (License 10872)

By:

*Harvey R. Campbell Jr.*  
HARVEY R. CAMPBELL JR.

SWORN to before me this  
20<sup>th</sup> day of February, 2015

*Candace McLaughlin* (SEAL)  
Notary Public for South Carolina  
My Commission Expires: 5/20/2016

Transcript of Record  
0014

5 1822

CERTIFIED: A TRUE COPY  
*Louise F. Spain*  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

Harvey R. Campbell, Jr., d/b/a Metal Construction and Roofing,  
 Plaintiff,

vs.

Lee Lyerly and Ellen Marie Stone Lyerly,  
 Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO. 2016-CP-21-1230

MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET

Plaintiff's Attorney: Bar #: Louis D. Nettles, Esquire Folkens Law Firm P.O. Drawer 6139 Florence, SC 29502-6139 Phone: (843) 665-0100 Fax: (843) 665-0500 Email: louis@folkenslaw.com	Defendant's Attorney: Bar #: 66174 Gary I. Finklea, Esquire Finklea Law Firm Post Office Box 1317 Florence, SC 29503 Phone: (843) 317-4900 Fax: (843) 317-4910 Email: gfinklea@finklealaw.com
---	--

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)  
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)  
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

**SECTION I: Hearing Information**

Nature of Motion: Motion to Dismiss  
Estimated Time Needed: 30 minutes Court Reporter Needed:  YES /  NO

**SECTION II: Motion/Order Type**

- Written Motion attached  
 Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for  Plaintiff /  Defendants  
June 9, 2016  
Date Submitted

**SECTION III: Motion Fee**

- PAID - AMOUNT: \$25.00  
 EXEMPT:  Rule to Show Cause in Child or Spousal Support  
 (check reason)  Domestic Abuse or Abuse and Neglect  
 Indigent Status  State Agency v. Indigent Party  
 Sexually Violent Predator Act  Post-Conviction Relief  
 Motion for Stay in Bankruptcy  
 Motion for Publication  Motion for Execution (Rule 69, SCRPC)  
 Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions  
 Name of Court Reporter:  
 Other Reason:

**JUDGE'S SECTION**

- Motion Fee to be paid upon filing of the attached order.  
 Other:

JUDGE

CODE: DATE:

**CLERK'S VERIFICATION**

Collected By: \_\_\_\_\_ Date Filed: \_\_\_\_\_

- MOTION FEE COLLECTED: \_\_\_\_\_  
 CONTESTED - AMOUNT DUE: \_\_\_\_\_

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	TWELFTH JUDICIAL CIRCUIT
COUNTY OF FLORENCE	)	C/A #: 2016-CP-21-1230
	)	
Harvey R. Campbell, Jr., d/b/a Metal	)	
Construction and Roofing,	)	
	)	
Plaintiff,	)	ANSWER, MOTION TO DISMISS
	)	AND COUNTERCLAIM
Vs.	)	
	)	
Lee Lyerly and Ellen Marie Stone Lyerly,	)	
	)	
Defendants.	)	
	)	

The Defendants, Lee Lyerly and Ellen Marie Stone Lyerly, responding to the Complaint of the Plaintiff would respectfully allege as follows:

**FOR A FIRST DEFENSE**  
(By Way of Affirmative Defenses)

1. The Defendants affirmatively set forth the defenses of accord and satisfaction, payment, offer of payment, tender, contributory negligence, comparative negligence, laches, misrepresentation, contract, agreement, bad faith, fraud, mutual mistake, rescission, default, breach of contract, offset, setoff, injury by fellow servant, unconscionability, unclean hands, release, waiver, estoppel, warranty and any other matter constituting an avoidance or affirmative defense that may develop through the discovery process.

**FOR A SECOND DEFENSE**  
(By Way of Answer)

2. Each and every allegation of the Plaintiff's Complaint not specifically admitted, modified, or explained is denied and strict proof is demanded thereof.
3. The Defendants admit the allegations contained in Paragraphs 1, 2, 4, 6 and 9.

4. In regard to the allegations contained in Paragraph 3, the Plaintiff represented he was in fact a licensed residential builder at the time the contract was entered. However, the Defendants eventually learned when they sought administrative enforcement against the Plaintiff that he did not in fact have a license. Further, South Carolina Labor, Licensing and Regulation investigated the matter and determined that the Plaintiff had engaged in an unlicensed practice of residential building; unlicensed practice of specialty contracting; practice of specialty contracting outside of the scope of his registration; that he failed to obtain a building permit for this construction; and failed to obtain a bond for the construction since the amount would have exceeded the amount of the Plaintiff's license if he had in fact carried one.
5. In regard to the allegations contained in Paragraph 5, the Defendants admit the contract price and amount paid but deny that the Plaintiff is entitled to the balance due based upon the faulty, negligent, and poor workmanship.
6. The Defendant denies the allegations contained in Paragraphs 7, 10, 11 and the allegations of the Wherefore Clause.
7. Upon information and belief, no response is required as to the allegations contained in Paragraph 8.

**FOR A THIRD DEFENSE**  
(By Way of Motion to Dismiss)  
(S.C. Code §40-59-130)

8. Each and every relevant allegation contained hereinabove is reiterated as fully as if set forth herein verbatim.

9. At the time in which the parties entered into this contract and at all times during the performance of the contract, the Plaintiff had failed to procure a building license as required to do so.
10. Consequently, under S.C. Code §40-59-130, the Plaintiff may not bring an action at law or in equity to enforce the provisions of a building contract entered in violation of this chapter.

**FOR A FOURTH DEFENSE**  
(By Way of First Counterclaim)  
(Breach of Contract)

11. Each and every relevant allegation contained hereinabove is reiterated as fully as if set forth herein verbatim.
12. Heretofore, the Defendants contracted with the Plaintiff to install a new metal roof system. The contract price was Twenty Three Thousand and No/100 (\$23,000.00) Dollars and the Defendants placed a deposit of Six Thousand and No/100 (\$6,000.00) Dollars toward the construction.
13. The construction was complete but it was defective, negligent, not in accordance with industry standard, in violation of building practices, in violation of building codes, in violation of the Residential Standards Guides, and simply poor and shotty workmanship.
14. As a result, the Defendants withheld the balance of the funds due under the contract and demanded the Plaintiff to cure the defects.
15. The Plaintiff has failed to cure in accordance with South Carolina Law and the Defendants' home is subject to further damage as a result of rain and other conditions.

16. The Defendants are ready, willing and able to pay the balance of the monies owed but the improvements are not built to industry standards or the Residential Building Code.
17. The Defendants have provided notice and opportunity to cure in accordance in South Carolina Law but the Plaintiff has failed to remedy the defects.
18. As a direct and proximate result of breach of contract by the Plaintiff, the Defendants have been significantly harmed and actually damaged.

**FOR A FIFTH DEFENSE**  
(By Way of Second Counterclaim)  
(Negligence)

19. Each and every relevant allegation contained hereinabove is reiterated as fully as if set forth herein verbatim.
20. The Plaintiff owed duties to the Defendants to build all improvements in accordance with industry standards; manufacturer's recommendations; train and supervise its employees and contractors; comply with building codes; remedy defects upon notice; obtain proper licensing; obtain the proper permits; obtain inspections from local building officials; and procuring a bond.
21. The Defendants are informed and believe the Plaintiff has breached the duties referenced above.
22. As a direct and proximate result of the negligence, wantonness, recklessness, carelessness, and unlawfulness on the part of the Plaintiff, the Defendants have been actually damaged.
23. The Defendants are informed and believe the Plaintiff's negligence was willful, intentional, with malice towards the Defendants, and with a reckless disregard for the

rights of the Defendants. The Defendants therefore request an award of punitive damages in an amount to be determined by the jury.

**FOR A SIXTH DEFENSE**  
(By Way of Third Counterclaim)  
(Unfair Trade Practices)  
(§39-5-10, et seq.)

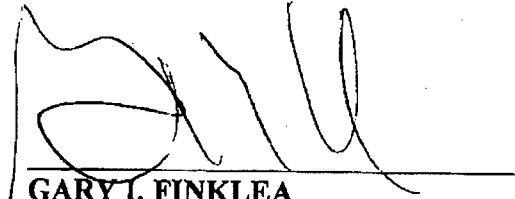
24. Each and every relevant allegation contained hereinabove is reiterated as fully as if set forth herein verbatim.
25. The Plaintiff's conduct amounted to unfair methods of competition and unfair deceptive acts or practices in the conduct of trade or commerce. The Defendants are informed and believe that the Plaintiff unfairly, deceptively, and negligently engaged in improper collection practices as it relates to the Defendants' dues.
26. Moreover, the unfair deceptive acts and practices on behalf of the Plaintiff has an impact upon the public interest and have the potential for repetition. The Defendants are informed and believe the Plaintiff will continue to unfairly, deceptively, and negligently engage in improper collection practices.
27. By virtue of the Plaintiff's unfair and deceptive acts and practices, the Defendants have been actually damaged.
28. The Plaintiff's use or employment of unfair or deceptive methods, acts, and practices was willful, wanton, and knowing; therefore, the Defendants are informed and believe they are entitled to an award of three (3) times the actual damages sustained, costs, reasonable attorney's fees, and for such other relief as this Court deems just and proper.

**WHEREFORE**, having fully responded to the Complaint of the Plaintiff, the Defendants respectfully pray that the Court dismiss the action of the Plaintiff, and award the Defendants

actual, punitive, treble, and other damages consistent with its prayers for relief and for such other and further relief as the Court deems just and proper.

Florence, South Carolina

June 9, 2016

A handwritten signature in black ink, appearing to read 'GARY I. FINKLEA', written over a horizontal line.

**GARY I. FINKLEA**

Attorney for Defendants

**Finklea Law Firm**

814 West Evans Street

Post Office Box 1317

Florence, SC 29503-1317

Phone: (843) 317-4900

Fax: (843) 317-4910

[gfinklea@finklealaw.com](mailto:gfinklea@finklealaw.com)

**MICHAEL MEAN**  
**Construction & Roofing**  
 402 Mt. Carmel rd. Timmonsville SC 29161  
 (843) 319-8500

Name: <u>Lee + Ellen Lyerly</u>		Phone: <u>843-240-2522</u>	Date: <u>7-24-14</u>
Street:		Job name: <u>5210 N. Dillard Lane -</u>	
City, State, Zip:		Location: <u>Town Rd.</u>	
Architect:	Date of plans:	<u>Edward E.C.</u>	Job phase:
<u>House + Pool House</u>			

1. Protect ground as well as possible.
2. Clean up all job related debris and dispose of.
3. A 40yr. paint warranty will be furnished by manufacturer.
4. Workmanship 100% guaranteed under normal weather conditions, (example) hurricanes & hail storms.

B. Furnish + Install a 28-ft. 40yr. paint  
annel Loc plus metal roof system w/ all new flashing  
-Trims.  
6. 3-pipe flanges  
7. Remove + replace Aluminum fascia on complete

sure

We propose hereby to furnish material and labor complete in accordance with above specifications for the sum of Two + Three Thousand Dollars 23000.00

Payment to be made as follows: balance Upon completion of job

deposit \$6000.00

Authorized Signature: [Signature]

Note: This proposal may be withdrawn by us if not accepted within \_\_\_\_\_ days

Acceptance of proposal-

Date of Acceptance: 7/24/14

Signature: [Signature]

Extramedl - Pool House - \$960.00

Extramedl - House \$900.00

Ext Vinyl \$1200.00

Wood work - \$100.00

Transcript of Record  
 0022

Send to 7-14



South Carolina  
Department of Labor, Licensing and Regulation



Residential Builders Commission

Nikki R. Haley  
Governor

Richele Taylor  
Director

110 Centerview Drive  
Post Office Box 11329  
Columbia, SC 29211-1329  
Phone: (803) 896-4696  
FAX: (803) 896-4814

[www.llronline.com/POL/ResidentialBuilders](http://www.llronline.com/POL/ResidentialBuilders)

HARVEY CAMPBELL JR  
402 MOUNT CARMEL ROAD  
TIMMONSVILLE SC 29161

This is to certify that the records of the Residential Builders Commission indicate the following information regarding:

Name: HARVEY CAMPBELL JR  
Registration Type: Specialty  
Registration Number: 2395  
Date Issued: 07/17/1998  
License/Registration Status: ACTIVE  
Expiration Date: 06/30/2017  
Licensure/Registration Based on: Reference letters  
Authorized Trades: Carpentry, Roofing, Vinyl/Aluminum Siding

Disciplinary Action: Citation/Cease and Desist issued 6/30/2015 (see attached)

A check mark indicates that licensure/registration has not been continuous.  
Registration lapsed 6/30/2009 – 02/25/2015

If other information is needed, please contact this office at the number above.  
\*Please be advised that this form must be submitted in a sealed envelope, otherwise this form will not be accepted.

Janet Baumberger  
Title Administrator  
Date June 15, 2016

Unresolved disciplinary actions currently pending before the boards will not be included in the information presented. Reported discipline of licensees indicates the final disposition of contested cases, but may not reflect the current status of a license. Licensees are fully authorized to practice their professions unless their licenses have been restricted, suspended, revoked, deactivated or voluntarily surrendered. Licensees on probation may have been placed under certain professional restrictions which may limit the scope of their practice. Also, board actions reported here may not reflect any subsequent judicial actions to stay or modify the board's decision.



S.C. DEPARTMENT OF LABOR, LICENSING AND REGULATION  
 RESIDENTIAL BUILDERS COMMISSION  
 P.O. Box 11329  
 Columbia, SC 29211-1329

**CITATION AND NOTIFICATION OF PENALTY  
 NOTICE TO CEASE VIOLATION OF LAW**

HARVEY CAMPBELL JR  
 METAL ROOFING SPECIALTIES

License Number: RBS.2395

Issuance Date: 6/30/2015  
 Complaint #: 2015-246

TIMMONSVILLE, SC 29161

*This citation describes alleged violation of §40-59-5, et seq., South Carolina Code of Laws, 1976, as amended. The penalties listed are based on these violations. You must immediately cease and desist from further violation until such time, if ever, as proper authorization is issued by the S.C. Residential Builders Commission. Pursuant to §40-59-105(D), you must pay the proposed penalties within thirty (30) days of receipt of the citation if no appeal is filed. Failure to pay the citation within thirty (30) days from the date of its issuance shall result in administrative suspension of your license until such time that the citation is paid in full. Any citation and/or penalty assessed by a representative of the South Carolina Department of Labor, Licensing and Regulation may be appealed by requesting, in writing, an administrative review. Such requests must be addressed to: Residential Builders Commission Administrator, South Carolina Department of Labor, Licensing and Regulation, PO Box 11329, Columbia, SC 29211-1329, and must be mailed within 10 calendar days from receipt of this Citation and Notification of Penalty. This citation concerns application of the South Carolina Residential Builders Act and Regulations and does not necessarily resolve all aspects of any disciplinary action currently pending before the Board or which may be filed in the future. Failure to make a timely request for review will result in the citation becoming a final order of the Residential Builders Commission.*

ITEM	SECTION(S) VIOLATED	DESCRIPTION	PENALTY
1	§40-59-220	Unlicensed practice. Practice of Residential building at: on:	500.00
	§40-59-220	Unlicensed practice of Specialty contracting at: [redacted] Coward, SC on: 07/24/2014.	
	§40-59-240(A)	Practice of Specialty contracting outside the scope of the registration (S.C. Regulation 106-3) at: on: by engaging in:	
	§40-59-240(C)	Specialty Registrant failure to obtain a building permit for construction at:	
	§40-59-110	Builder failure to obtain a building permit for construction at:	
	§40-59-240(D)	Undertaking a Specialty contract which exceeds \$5000 without bond for construction at:	
	§40-1-110(c)	Aiding or abetting violation of licensing requirements by: at: on:	

I certify that I explained the requirements of law and that the respondent must immediately cease and desist from further violation until such time, if ever, as proper authorization is issued by the S.C. Residential Builders Commission. I also provided the necessary application forms to be completed and forwarded to the Commission by the respondent.

**TOTAL PENALTY: \$500.00**

Please make check or money order payable to S.C. Department of Labor, Licensing and Regulation, and indicate citation number on remittance.

Maurice Smith, Investigator III

Copy received:

Signature of Respondent \_\_\_\_\_ Date \_\_\_\_\_

**CERTIFICATE OF SERVICE BY MAIL**

This is to certify that the undersigned has this date served this Citation and Notification of Penalty in the above entitled action upon all parties to this cause by depositing a copy hereof in the United States mail, certified, return receipt requested, and postage paid, or in the Interagency Mail Services, addressed to the party(ies) or their attorney(s) to the following address: 402 MOUNT CARMEL ROAD, TIMMONSVILLE, SC 29161.

This 30 day of JUNE, 2015.

By: Maurice Smith, Investigator III

Certified True Copy  
  
 Dorothy A. Buchanan  
 FOIA & Governmental Affairs Coordinator  
 Communications & Governmental Affairs  
 SC Dept. of Labor, Licensing & Regulation



S.C. DEPARTMENT OF LABOR, LICENSING AND REGULATION  
 RESIDENTIAL BUILDERS COMMISSION  
 P.O. Box 11329  
 Columbia, SC 29211-1329

**CITATION AND NOTIFICATION OF PENALTY  
 NOTICE TO CEASE VIOLATION OF LAW**

HARVEY CAMPBELL JR  
 METAL ROOFING SPECIALTIES  
 402 MOUNT CARMEL ROAD  
 TIMMONSVILLE, SC 29161

License Number: RBS.2395

Issuance Date: 6/30/2015  
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	§40-59-110	Builder failure to obtain a building permit for construction at:	
	§40-59-240(D)	Undertaking a Specialty contract which exceeds \$5000 without bond for construction at:	
	§40-1-110(c)	Aiding or abetting violation of licensing requirements by: at: on:	

I certify that I explained the requirements of law and that the respondent must immediately cease and desist from further violation until such time, if ever, as proper authorization is issued by the S.C. Residential Builders Commission. I also provided the necessary application forms to be completed and forwarded to the Commission by the respondent.

**TOTAL PENALTY: \$500.00**

Please make check or money order payable to S.C. Department of Labor, Licensing and Regulation, and indicate citation number on remittance.

Maurice Smith, Investigator III

Copy received:

Signature of Respondent

Date

**CERTIFICATE OF SERVICE BY MAIL**

This is to certify that the undersigned has this date served this Citation and Notification of Penalty in the above entitled action upon all parties to this cause by depositing a copy hereof in the United States mail, certified, return receipt requested, and postage paid, or in the Interagency Mail Services, addressed to the party(ies) or their attorney(s) to the following address: 402 MOUNT CARMEL ROAD, TIMMONSVILLE, SC 29161.

This 30 day of JUNE, 2015.

By: Maurice Smith, Investigator III  
 Transcript of Record  
 0025

**South Carolina General Assembly**  
118th Session, 2009-2010

**A40, R97, H3187**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Chalk and Willis

Document Path: I:\council\bill\agm\19320ab09.docx

Introduced in the House on January 13, 2009

Introduced in the Senate on March 3, 2009

Last Amended on April 29, 2009

Passed by the General Assembly on May 20, 2009

Governor's Action: June 2, 2009, Signed

Summary: Landscape service

**HISTORY OF LEGISLATIVE ACTIONS**

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
12/16/2008	House	Prefiled
12/16/2008	House	Referred to Committee on <b>Labor, Commerce and Industry</b>
1/13/2009	House	Introduced and read first time <u>HJ-83</u>
1/13/2009	House	Referred to Committee on <b>Labor, Commerce and Industry</b> <u>HJ-83</u>
2/18/2009	House	Committee report: Favorable <b>Labor, Commerce and Industry</b> <u>HJ-6</u>
2/24/2009	House	Member(s) request name added as sponsor: Willis
2/24/2009	House	Read second time <u>HJ-31</u>
2/24/2009	House	Roll call Yeas-103 Nays-2 <u>HJ-31</u>
2/26/2009	House	Read third time and sent to Senate <u>HJ-12</u>
3/3/2009	Senate	Introduced and read first time <u>SJ-12</u>
3/3/2009	Senate	Referred to Committee on <b>Banking and Insurance</b> <u>SJ-12</u>
4/28/2009	Senate	Committee report: Favorable with amendment <b>Banking and Insurance</b> <u>SJ-21</u>
4/29/2009		Scrivener's error corrected
4/29/2009	Senate	Committee Amendment Adopted <u>SJ-24</u>
4/29/2009	Senate	Amended <u>SJ-24</u>
4/29/2009	Senate	Read second time <u>SJ-24</u>
4/30/2009		Scrivener's error corrected
5/14/2009	Senate	Read third time and returned to House with amendments <u>SJ-23</u>
5/20/2009	House	Concurred in Senate amendment and enrolled <u>HJ-44</u>
5/20/2009	House	Roll call Yeas-111 Nays-0 <u>HJ-44</u>
5/27/2009		Ratified R 97
6/2/2009		Signed By Governor
6/11/2009		Effective date 06/02/09
6/12/2009		Act No. 40

**VERSIONS OF THIS BILL**

12/16/2008

2/18/2009

4/28/2009

4/29/2009  
4/29/2009-A  
4/30/2009

(A40, R97, H3187)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 29-5-26 SO AS TO PROVIDE A PERSON WHO PROVIDES CERTAIN LANDSCAPE SERVICES MAY HAVE A MECHANICS' LIEN ON THE REAL ESTATE WHERE THE LANDSCAPE SERVICES WERE PROVIDED, AND TO DEFINE LANDSCAPE SERVICES; BY ADDING SECTION 29-5-15 SO AS TO PROVIDE THE MANNER BY WHICH A CONTRACTOR MUST FILE A MECHANICS' LIEN AND A PENALTY FOR FILING A FRIVOLOUS MECHANICS' LIEN; TO AMEND SECTION 29-5-120, RELATING TO THE DISSOLUTION OF LIENS NOT TIMELY BROUGHT, SO AS TO PROVIDE CIRCUMSTANCES IN WHICH A MECHANICS' LIEN MAY BE RELEASED BY A COURT; AND TO AMEND SECTION 40-59-30, AS AMENDED, RELATING TO LICENSE REQUIREMENTS, ENFORCEMENT OF CONTRACTS, AND RESTRAINING ORDERS, SO AS TO PROVIDE A PENALTY FOR FAILING TO REGISTER WITH THE COMMISSION BEFORE ENGAGING OR OFFERING TO ENGAGE IN THE BUSINESS OF RESIDENTIAL BUILDING, AMONG OTHER THINGS.

Be it enacted by the General Assembly of the State of South Carolina:

**Mechanics' lien for landscape services; landscape services defined**

SECTION 1. Chapter 5, Title 29 of the 1976 Code is amended by adding:

"Section 29-5-26. (A) A person who provides a landscape service on a parcel of real estate, which service exceeds five thousand dollars, by virtue of a written agreement with the owner of the real estate and to whom a debt is due for his performance of the landscaping service has a mechanics' lien on the real estate to secure payment of debt due to him as provided by Section 29-5-10 and Section 29-5-20. The lien attaches to the land and a building, structure, or other improvement on the land.

(B) As used in this chapter, a landscape service includes:

(1) land clearing, grading, filling, plant removal, natural obstruction removal, or other preparation of land;

(2) provision or installation, or both of them, of a landscaping item including plant material, mulch, paving, walkway, swimming pool, fountain, retaining wall, bulkhead, deck, patio, lightscaping system, irrigation system, drainage structure, drainage system, underground utility, or other feature incidental and necessary to a landscape plan or site design; or

(3) both.

(C) A landscaping service does not depend on whether the service is related to the construction, erection, alteration, or repair of a building or other structure.”

### **Mechanics’ lien filing requirements; penalty for frivolous lien**

SECTION 2. Chapter 5, Title 29 of the 1976 Code is amended by adding:

“Section 29-5-15. (A) To file a mechanics’ lien, a contractor must provide the county clerk of court or register of deeds proof that he is licensed or registered if he is required by law to be licensed or registered. As proof of licensure or registration, the contractor must record his contractor license number or registration number on the lien document when the lien document is filed.

(B) A contractor who files a frivolous lien is subject to a fine up to five thousand dollars, the loss of his registration or contractor license, or both.”

### **Release of mechanics’ lien under certain conditions**

SECTION 3. Section 29-5-120 of the 1976 Code is amended to read:

“Section 29-5-120. (A) Unless a suit for enforcing the lien is commenced and notice of pendency of the action is filed within six months after the person desiring to avail himself of it ceases to labor on or furnish labor or material for the building or structure, the lien must be dissolved.

(B) A mechanics’ lien and associated bonds may be released by a court order, a written affidavit of the bond holder’s attorney, or by a written affidavit from the defendant’s attorney stating:

(1) six months has passed since the lien was attached and no suit or notice of pendency has been filed; or

(2) the failure of the filing party to take some other timely action required by this chapter. This affidavit must be in the form approved

by the appropriate local office where the mechanics' lien was filed and must reference the lien's recording information."

**License requirement; enforcement of contracts; restraining orders**

SECTION 4. Section 40-59-30 of the 1976 Code is amended to read:

"Section 40-59-30. (A) A person or firm who engages or offers to engage in the business of residential building or residential specialty contracting without first having registered with the commission or procured a license from the commission, which has not expired or been revoked, suspended, or restricted or who knowingly presents to, or files with, the commission false information for the purpose of obtaining a license or registering with the commission is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars or more than ten thousand dollars or imprisoned for not less than thirty days, or both.

(B) Notwithstanding Section 29-5-10, or another provision of law, a person or firm who first has not procured a license or registered with the commission and is required to do so by law may not file a mechanics' lien or bring an action at law or in equity to enforce the provisions of a contract for residential building or residential specialty contracting which the person or firm entered into in violation of this chapter.

(C) Pursuant to Article 5, Chapter 23, Title 1, the commission may petition an administrative law judge to issue a temporary restraining order enjoining a violation of this chapter, pending a full hearing to determine whether the injunction must be made permanent."

**Time effective**

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 27<sup>th</sup> day of May, 2009.

Approved the 2<sup>nd</sup> day of June, 2009.

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FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2016-CP-21-1230

Harvey R. Campbell, Jr., d/b/a Metal Construction and Roofing

Lee Lyerly and Ellen Marie Stone Lyerly

2016 OCT 12 PM 11:16  
FILED

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Gary I. Finklea	Attorney for:
	<input type="checkbox"/> Plaintiff <input checked="" 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

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

IT IS ORDERED AND ADJUDGED:  See attached order  Statement of Judgment by the Court:

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk : This Order grants Defendants' Motion to Dismiss the Plaintiff's Complaint. Counterclaims remain active.

CERTIFIED: A TRUE COPY  
Carrie Fed-Spencer  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

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)
Harvey R. Campbell, Jr., d/b/a Metal Construction and Roofing	Lee Lyerly and Ellen Marie Stone Lyerly	\$ N/A
		\$
		\$

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. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

[Signature]  
Circuit Court Judge

2157  
Judge Code

10/6/16  
Date

**For Clerk of Court Office Use Only**

This judgment was entered on the 12 day of Oct., 2016 and a copy mailed first class or placed in the appropriate attorney's box on this 13 day of Oct., 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Louis D. Nettles, Esquire ✓  
Folkens Law Firm  
P.O. Drawer 6139  
Florence, SC 29502-6139

Gary I. Finklea, Esquire ✓  
Finklea Law Firm  
Post Office Box 1317  
Florence, SC 29503

\_\_\_\_\_  
ATTORNEY(S) FOR THE PLAINTIFF(S)

\_\_\_\_\_  
ATTORNEY(S) FOR THE DEFENDANT(S)

Connie Reel-Sheavun  
CLERK OF COURT

Court Reporter:

FILED  
OCT 12 PM 11:46  
CLERK OF COURT  
FLORENCE COUNTY, SC

CERTIFIED: A TRUE COPY  
Connie Reel-Sheavun  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA )  
 COUNTY OF FLORENCE )  
 Harvey R. Campbell, Jr., d/b/a Metal )  
 Construction and Roofing, )  
 Plaintiff, )  
 Vs. )  
 Lee Lyerly and Ellen Marie Stone Lyerly, )  
 Defendants. )

IN THE COURT OF COMMON PLEAS  
 TWELFTH JUDICIAL CIRCUIT  
 C/A #: 2016-CP-21-1230

RECEIVED  
 JUDGE  
 12  
 11-15

**ORDER**  
**(Granting Defendants'**  
**Motion to Dismiss)**

HERETOFORE the Defendants contracted with the Plaintiff to perform roofing repairs and replacement at 5010 Old Georgetown Road, Coward, South Carolina. The Plaintiff demanded compensation in the amount of Twenty Six Thousand One Hundred Sixty and No/100 (\$26,160.00) Dollars. Six Thousand and No/100 (\$6,000.00) Dollars was paid. The Defendants have not paid the balance alleging the Plaintiff's work fell below industry standards and the cost to repair exceeds the balance due to the Plaintiff.

The Plaintiff filed this suit seeking damages for breach of contract or alternatively quantum meruit. The Defendants answered denying monies were due and further asserted South Carolina Code §40-59-130 precludes the Plaintiff from bringing an action to enforce or to seek compensation for the work performed on the grounds that he was not a licensed contractor at the time the contract was entered or any time during the course of the work.

Based upon the review of the pleadings, applicable law and considering the arguments of counsel, this Court grants the Defendants' Motion to Dismiss the Plaintiff's Complaint.

CERTIFIED: A TRUE COPY  
*Crista K. Spear*  
 CLERK OF COURT C.P. & G.S.  
 FLORENCE COUNTY, S.C.

### APPLICABLE LAW

South Carolina Code Ann. §40-59-30(b) provides as follows:

Notwithstanding Section 29-5-10, or another provision of law, a person or firm who first has not procured a license or registered with the commission and is required to do so by law may not file a mechanics' lien or bring an action at law or in equity to enforce the provisions of a contract for residential building or residential specialty contracting which the person or firm entered into in violation of this chapter.

### DISCUSSION

Previous South Carolina case law held that a Residential Homebuilder could not sue to recover under a building contract if he did not have a license at the time contract was made. Duckworth v. Cameron, 244 S.E.2d. 217, 270 S.C. 647 (1978). The Duckworth case was decided in 1978 and S.C. Code §40-59-130 at that time provided:

"(n)o residential home builder who does not have the license required herein may bring any action either at law or in equity to enforce the provisions of any contract for residential home building which he entered into in violation of this chapter."

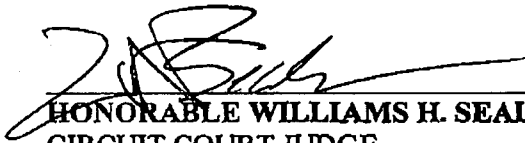
In addition to Duckworth, Roberta, Inc. v. Trust, 274 S.C. 53 260 S.E.2d. 818 (1979) was decided by the South Carolina Supreme Court one year later and concluded that an unlicensed residential homebuilder could not bring an action to recover amounts paid to third-parties for labor and materials furnished in the performance of the contract.

South Carolina Code §40-59-130 was revised in 2002 and again in 2009 to its current form. The Plaintiff argues that the amendment to the statute allows a contractor to pursue recovering for monies due under a building contract if the license is obtained after the work is performed.

CONCLUSION

The Plaintiff did not have a license at the time the contract was entered nor any time during the course of performance and only obtained a license after he sought to collect under the contract. Since the Plaintiff is an unlicensed builder, he cannot "bring an action at law or in equity to enforce the provisions of a contract for residential building or residential specialty contracting." Based on the foregoing, the Defendants' Motion is Granted and the Plaintiff's Complaint is Dismissed.

**AND IT IS SO ORDERED.**

  
**HONORABLE WILLIAMS H. SEALS**  
**CIRCUIT COURT JUDGE**

October , 2016  
Marion, South Carolina

FILED  
2016 OCT 12 AM 11:46  
CLERK OF COURT  
FLORENCE COUNTY, S.C.

CERTIFIED A TRUE COPY  
  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS

CASE NO

20 16 CP 21 1230

Harvey R. Campbell Jr, )  
D/B/A Metal Construction and )  
Roofing )

Plaintiff, )

vs. )

Lee Lyerly and Ellen Marie Stone )  
Lyerly )

Defendants. )

SUMMONS

FILED  
2016 MAY 17 PM 1:12  
ONLINE REEL - STATE ARCHIVE  
CCCP & GS  
FLORENCE COUNTY, SC

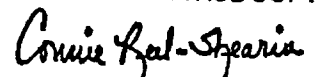
TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer to the said complaint on the subscribers at their offices at 601 W. Evans St., Post Office Box 6139, Florence, South Carolina 29502-6139, within thirty (30) days after the service hereof, exclusive of the days of such service; and if you fail to answer the Complaint within the time aforesaid, Judgment by default will be rendered against you for the relief demanded in the Complaint

  
Louis D. Nettles

Folkens Law Firm P.A.  
P.O. Box 6139  
601 W Evans St.

CERTIFIED: A TRUE COPY



CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

Florence SC 20502

843-665-0100

[louis@folkenslaw.com](mailto:louis@folkenslaw.com)

May 17, 2016

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS

CASE NO

2016 CC 04 1230

Harvey R. Campbell Jr, )  
D/B/A Metal Construction and )  
Roofing )

Plaintiff, )

vs. )

Lee Lyerly and Ellen Marie Stone )  
Lyerly )

Defendants. )

COMPLAINT

JENNIE REEL SHEPHERD  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, SC

2016 MAY 17 PM 1:12

FILED

The Plaintiff complaining of the Defendants would allege as follows:

**FOR A FIRST CAUSE OF ACTION**

1. Plaintiff is a resident of Florence County and this actions arises out of a contract for work performed in Florence County.
2. Defendants are residents of Florence County.
3. The Plaintiff is licensed as a Residential Builder with Specialty License no. 2395. This license was first issued in 1998, but had expired at the time the work for the Defendant was begun. The license is now current.
4. On or about July 24, 2014 Defendants and Plaintiff entered in to a contract for roofing work on their property located at 5010 Old Georgetown Rd. Coward SC.

CERTIFIED: A TRUE COPY

*Cornie Reel-Shepherd*

CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

5. That Plaintiff performed the work and additional requested work totaling Twenty-six Thousand One Hundred Sixty (\$26,160.00) Dollars and paid Six Thousand (\$6000.00) Dollars and there is due and owing to the Plaintiff the sum of Twenty Thousand One Hundred Sixty (\$20,160.00) Dollars.

6. Plaintiff has made due demand for payment and the Defendants had refused to pay the Plaintiff.

7. Plaintiff has been damaged in the sum of Twenty Thousand One Hundred Sixty (\$20,160.00) Dollars

**FOR A SECOND CAUSE OF ACTION**

8. The allegations of the First Cause of Action are incorporated herein.

9. That at the specific request of the Defendants the Plaintiff preformed work for the Defendants at 5010 Old Georgetown Rd. Coward SC.

10. That the Defendant's property has increased in value as a result of Plaintiff's work in the amount of Twenty Thousand One Hundred Sixty (\$20,160.00) Dollars.

11. That in equity and good conscience the Defendant should be required to pay the Plaintiff for the value of his work.

WHEREFORE, the Plaintiff prays judgment against the Defendant's in the amount of Twenty Thousand One Hundred Sixty (\$20,160.00) Dollars plus costs, expenses and interest.



---

Louis D. Nettles  
Folkens Law Firm P.A.  
P.O. Box 6139  
601 W Evans St.  
Florence SC 20502  
843-665-0100  
louis@folkenslaw.com

May 17, 2016

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS

BURCH ROOFING CO. INC. )  
D/B/A METAL MAN CONSTRUCTION AND )  
ROOFING )

PETITIONER, )

-VS- )

LEE LYERLY AND ELLEN MARIE )  
STONE LYERLY, )

RESPONDENT. )

NOTICE OF MECHANIC'S LIEN

FILED  
FEB 20 PM 4:08  
CLERK OF COURT  
FLORENCE COUNTY S.C.

TO: THE RESPONDENTS ABOVE NAMED AND ALL OTHERS CONCERNED:

YOU WILL PLEASE TAKE NOTICE that the Petitioner above named, by virtue of the attached Affidavit, does hereby claim a Mechanic's Lien on real estate hereinafter described, said lien being in the amount of Twenty Thousand Five Hundred Ten and 00/100ths (\$20,510.00) Dollars, plus interest, attorneys fees and costs, for the labor and materials furnished and used in the improvements situated on the below described real estate, such having been authorized by the owner or by virtue of and in agreement with or by consent of the owner of such improvements or by some person or agent having authority from or rightfully acting for owner in the procuring or furnishing of such labor and materials which were placed on the subject real property. The said materials and labor were used on improving the subject property; that the aforesaid Respondents, Henry L. Lyerly Jr. and Ellen Marie Stone Lyerly, have not paid the Petitioner in full for the labor and materials used for improvements and the sum of Twenty Thousand Five Hundred Ten and 00/100ths (\$20,510.00) Dollars is now due and owing to the Petitioner for said materials and labor. That no part of the balance due has been paid by discount or otherwise and the Petitioner has incurred attorney fees and costs for the institution

5-1819  
Transcript of Record  
0011

CERTIFIED: A TRUE COPY  
*Amie Fel-Spencer*  
CLERK OF COURT  
FLORENCE COUNTY S.C.

of this action and is entitled to a reasonable attorney's fee incurred in this action and costs.

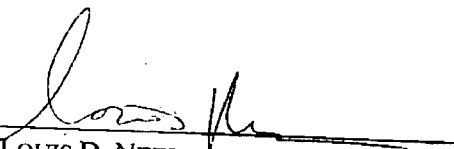
That the said materials were last furnished at the subject property within the last ninety (90) days; that the Petitioner is informed and believes that the furnishing of said materials and labor to the subject property was authorized and consented to by Henry L. Lyerly Jr. and Ellen Marie Stone Lyerly, the owners of the property. The property on which the materials were placed and used is located in the County of Florence and described as follows:

Parcel #1: All that parcel of land situate near the City of Coward, County of Florence, State of South Carolina, known and designated as containing 1.041 acres as shown on a map made for Bradley Edward McClam by Lower Florence County Engineering Company, dated September 24, 2008 and recorded in the Office of the Clerk of Court for Florence County in Plat Book 95 at Page 1. Said lot being bounded as follows, to wit: on the North by Lands of Jack Filyaw for distance of 214.76 feet; on the East by parcel of land containing 0.07 acres, known as Parcel A, for a distance of 213.06 feet; on the South by lands of Jack Filyaw for a distance of 211.12 feet; and on the West by S.C. Highway 72, known as Old Georgetown Road for a distance of 212.95 feet, reference being had to the above mentioned map for a more complete and accurate description.

Parcel #2: All that certain piece, parcel or lot of land lying, being and situate in the County of Florence, State of South Carolina, known and designated as Parcel "A", containing 0.07 acres as shown on a map made by Lower Florence County Engineering Company, date September 24, 2008 and recorded in the Office of the Clerk of Court for Florence county in Plat Book 95 at Page 1. Said Parcel "A" being bounded as follows, to wit: on the North by lands of Jack Filyaw, for a distance of 13.89; on the East by lands of Jack Filyaw for a distance of 213.06; on the South by Lands of Jack Filyaw for a distance of 13.89; and on the West by parcel containing 1.041 acres, for a distance of 213.06. Reference being had to the above mentioned map for a more complete and accurate description.

This being the same property conveyed to Ellen Marie Stone Lyerly by deed Robert E. Lee, Special Referee, dated February 4, 2014 and recorded February 4, 2014 in Book 508 at Page 643, in the Florence County Records, State of South Carolina.

TMS #: 00220-03-103

  
LOUIS D. NETTLES  
601 W Evans St  
Post Office Box 6139  
Florence, South Carolina 29502-6139  
(843) 665-0100  
ATTORNEY FOR PETITIONER

February 18, 2015

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS

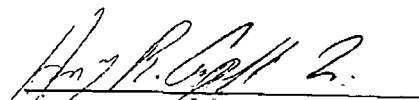
BURCH ROOFING CO. INC. )  
D/B/A METAL MAN CONSTRUCTION AND )  
ROOFING )  
PETITIONER, )  
 )  
-VS- )  
 )  
HENRY L. LYERLY JR. AND ELLEN MARIE )  
STONE LYERLY, )  
 )  
RESPONDENTS. )  
 )  
 )

FILED  
FEB 20 PM 4:10  
CLERK OF COURT  
FLORENCE COUNTY, S.C.

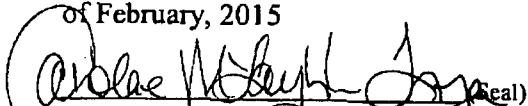
AFFIDAVIT

PERSONALLY appeared before me, Harvey R. Campbell, Jr. who being first duly sworn, deposes and states that certain materials and labor were furnished for the improvement of property described in the attached Notice of Mechanic's Lien, such labor and materials having been furnished at the special instance and request of the owner of said property or by consent of the owner or some person or agent having authority from or rightfully acting for such owner or authorized by the owner and that said labor and materials were last furnished within ninety (90) days from the date of this Affidavit.

Deponent further states that there is past due and owing from the owners of said property to him, the sum of Twenty Thousand Five Hundred Ten and 00/100ths (\$20,510.00) Dollars, representing the sum which said labor and materials are reasonably worth with interest as evidenced by the attached certified Statement of Account, together with a reasonable attorney's fee, plus interest and costs of collection.

  
Harvey R. Campbell, Jr.

SWORN before me this 20<sup>th</sup> day  
of February, 2015

  
Notary Public for South Carolina

My Commission Expires: 5/23/2016 Transcript of Record  
0013

51821

CERTIFIED: A TRUE COPY  
*Carrie Ford-Spaulin*  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS

BURCH ROOFING CO. INC. )  
D/B/A METAL MAN CONSTRUCTION AND )  
ROOFING )

PETITIONER, )

-VS- )

HENRY L. LYERLY JR. AND ELLEN MARIE )  
STONE LYERLY, )

RESPONDENTS. )

FILED  
CLERK & G.S.  
FLORENCE COUNTY, S.C.  
FEB 20 PM 4:08

STATEMENT OF ACCOUNT

Amount

\$20,510.00

PERSONALLY appeared before me, Harvey R. Campbell, Jr. who first being duly sworn and deposed, states that the foregoing is a true and correct statement of the account of Metal Man LLC as it relates to the property which is the subject of this Mechanic's Lien action, and that no part of same has been paid by discount or otherwise.

Burch Roofing Co. Inc. (License 10872)

By:

*Harvey R. Campbell Jr.*  
HARVEY R. CAMPBELL JR.

SWORN to before me this  
20<sup>th</sup> day of February, 2015

*Candace McLaughlin Ingersoll* (SEAL)  
Notary Public for South Carolina  
My Commission Expires: 5/23/2016

CERTIFIED: A TRUE COPY  
*Candace McLaughlin Ingersoll*  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

Harvey R. Campbell, Jr., d/b/a Metal Construction and Roofing,  
 Plaintiff,

vs.

Lee Lyerly and Ellen Marie Stone Lyerly,  
 Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO. 2016-CP-21-1230

MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET

Plaintiff's Attorney: Bar #: Louis D. Nettles, Esquire Folkens Law Firm P.O. Drawer 6139 Florence, SC 29502-6139 Phone: (843) 665-0100 Fax: (843) 665-0500 Email: louis@folkenslaw.com	Defendant's Attorney: Bar #: 66174 Gary I. Finklea, Esquire Finklea Law Firm Post Office Box 1317 Florence, SC 29503 Phone: (843) 317-4900 Fax: (843) 317-4910 Email: gfinklea@finklealaw.com
---	--

MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)  
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)  
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

**SECTION I: Hearing Information**  
 Nature of Motion: Motion to Dismiss  
 Estimated Time Needed: 30 minutes Court Reporter Needed:  YES /  NO

**SECTION II: Motion/Order Type**  
 Written Motion attached  
 Form Motion/Order  
 I hereby move for relief or action by the court as set forth in the attached proposed order.  
 Signature of Attorney for  Plaintiff /  Defendants  
 June 9, 2016  
 Date Submitted

**SECTION III: Motion Fee**  
 PAID - AMOUNT: \$25.00  
 EXEMPT:  Rule to Show Cause in Child or Spousal Support  
 (check reason)  Domestic Abuse or Abuse and Neglect  
 Indigent Status  State Agency v. Indigent Party  
 Sexually Violent Predator Act  Post-Conviction Relief  
 Motion for Stay in Bankruptcy  
 Motion for Publication  Motion for Execution (Rule 69, SCRPC)  
 Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions  
 Name of Court Reporter:  
 Other Reason:

**JUDGE'S SECTION**  
 Motion Fee to be paid upon filing of the attached order.  
 Other:  
 JUDGE: \_\_\_\_\_  
 CODE: \_\_\_\_\_ DATE: \_\_\_\_\_

**CLERK'S VERIFICATION**  
 Collected By: \_\_\_\_\_ Date Filed: \_\_\_\_\_  
 MOTION FEE COLLECTED: \_\_\_\_\_  
 CONTESTED - AMOUNT DUE: \_\_\_\_\_

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	TWELFTH JUDICIAL CIRCUIT
COUNTY OF FLORENCE	)	C/A #: 2016-CP-21-1230
	)	
Harvey R. Campbell, Jr., d/b/a Metal	)	
Construction and Roofing,	)	
	)	
Plaintiff,	)	ANSWER, MOTION TO DISMISS
	)	AND COUNTERCLAIM
Vs.	)	
	)	
Lee Lyerly and Ellen Marie Stone Lyerly,	)	
	)	
Defendants.	)	

---

The Defendants, Lee Lyerly and Ellen Marie Stone Lyerly, responding to the Complaint of the Plaintiff would respectfully allege as follows:

**FOR A FIRST DEFENSE**  
(By Way of Affirmative Defenses)

1. The Defendants affirmatively set forth the defenses of accord and satisfaction, payment, offer of payment, tender, contributory negligence, comparative negligence, laches, misrepresentation, contract, agreement, bad faith, fraud, mutual mistake, rescission, default, breach of contract, offset, setoff, injury by fellow servant, unconscionability, unclean hands, release, waiver, estoppel, warranty and any other matter constituting an avoidance or affirmative defense that may develop through the discovery process.

**FOR A SECOND DEFENSE**  
(By Way of Answer)

2. Each and every allegation of the Plaintiff's Complaint not specifically admitted, modified, or explained is denied and strict proof is demanded thereof.
3. The Defendants admit the allegations contained in Paragraphs 1, 2, 4, 6 and 9.

4. In regard to the allegations contained in Paragraph 3, the Plaintiff represented he was in fact a licensed residential builder at the time the contract was entered. However, the Defendants eventually learned when they sought administrative enforcement against the Plaintiff that he did not in fact have a license. Further, South Carolina Labor, Licensing and Regulation investigated the matter and determined that the Plaintiff had engaged in an unlicensed practice of residential building; unlicensed practice of specialty contracting; practice of specialty contracting outside of the scope of his registration; that he failed to obtain a building permit for this construction; and failed to obtain a bond for the construction since the amount would have exceeded the amount of the Plaintiff's license if he had in fact carried one.
5. In regard to the allegations contained in Paragraph 5, the Defendants admit the contract price and amount paid but deny that the Plaintiff is entitled to the balance due based upon the faulty, negligent, and poor workmanship.
6. The Defendant denies the allegations contained in Paragraphs 7, 10, 11 and the allegations of the Wherefore Clause.
7. Upon information and belief, no response is required as to the allegations contained in Paragraph 8.

**FOR A THIRD DEFENSE**  
(By Way of Motion to Dismiss)  
(S.C. Code §40-59-130)

8. Each and every relevant allegation contained hereinabove is reiterated as fully as if set forth herein verbatim.

9. At the time in which the parties entered into this contract and at all times during the performance of the contract, the Plaintiff had failed to procure a building license as required to do so.
10. Consequently, under S.C. Code §40-59-130, the Plaintiff may not bring an action at law or in equity to enforce the provisions of a building contract entered in violation of this chapter.

**FOR A FOURTH DEFENSE**  
(By Way of First Counterclaim)  
(Breach of Contract)

11. Each and every relevant allegation contained hereinabove is reiterated as fully as if set forth herein verbatim.
12. Heretofore, the Defendants contracted with the Plaintiff to install a new metal roof system. The contract price was Twenty Three Thousand and No/100 (\$23,000.00) Dollars and the Defendants placed a deposit of Six Thousand and No/100 (\$6,000.00) Dollars toward the construction.
13. The construction was complete but it was defective, negligent, not in accordance with industry standard, in violation of building practices, in violation of building codes, in violation of the Residential Standards Guides, and simply poor and shotty workmanship.
14. As a result, the Defendants withheld the balance of the funds due under the contract and demanded the Plaintiff to cure the defects.
15. The Plaintiff has failed to cure in accordance with South Carolina Law and the Defendants' home is subject to further damage as a result of rain and other conditions.

16. The Defendants are ready, willing and able to pay the balance of the monies owed but the improvements are not built to industry standards or the Residential Building Code.
17. The Defendants have provided notice and opportunity to cure in accordance in South Carolina Law but the Plaintiff has failed to remedy the defects.
18. As a direct and proximate result of breach of contract by the Plaintiff, the Defendants have been significantly harmed and actually damaged.

**FOR A FIFTH DEFENSE**  
(By Way of Second Counterclaim)  
(Negligence)

19. Each and every relevant allegation contained hereinabove is reiterated as fully as if set forth herein verbatim.
20. The Plaintiff owed duties to the Defendants to build all improvements in accordance with industry standards; manufacturer's recommendations; train and supervise its employees and contractors; comply with building codes; remedy defects upon notice; obtain proper licensing; obtain the proper permits; obtain inspections from local building officials; and procuring a bond.
21. The Defendants are informed and believe the Plaintiff has breached the duties referenced above.
22. As a direct and proximate result of the negligence, wantonness, recklessness, carelessness, and unlawfulness on the part of the Plaintiff, the Defendants have been actually damaged.
23. The Defendants are informed and believe the Plaintiff's negligence was willful, intentional, with malice towards the Defendants, and with a reckless disregard for the

rights of the Defendants. The Defendants therefore request an award of punitive damages in an amount to be determined by the jury.

**FOR A SIXTH DEFENSE**  
(By Way of Third Counterclaim)  
(Unfair Trade Practices)  
(§39-5-10, et seq.)

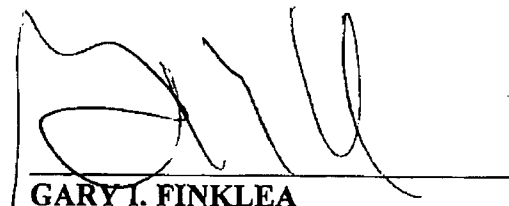
24. Each and every relevant allegation contained hereinabove is reiterated as fully as if set forth herein verbatim.
25. The Plaintiff's conduct amounted to unfair methods of competition and unfair deceptive acts or practices in the conduct of trade or commerce. The Defendants are informed and believe that the Plaintiff unfairly, deceptively, and negligently engaged in improper collection practices as it relates to the Defendants' dues.
26. Moreover, the unfair deceptive acts and practices on behalf of the Plaintiff has an impact upon the public interest and have the potential for repetition. The Defendants are informed and believe the Plaintiff will continue to unfairly, deceptively, and negligently engage in improper collection practices.
27. By virtue of the Plaintiff's unfair and deceptive acts and practices, the Defendants have been actually damaged.
28. The Plaintiff's use or employment of unfair or deceptive methods, acts, and practices was willful, wanton, and knowing; therefore, the Defendants are informed and believe they are entitled to an award of three (3) times the actual damages sustained, costs, reasonable attorney's fees, and for such other relief as this Court deems just and proper.

**WHEREFORE**, having fully responded to the Complaint of the Plaintiff, the Defendants respectfully pray that the Court dismiss the action of the Plaintiff, and award the Defendants

actual, punitive, treble, and other damages consistent with its prayers for relief and for such other and further relief as the Court deems just and proper.

Florence, South Carolina

June 9, 2016

A handwritten signature in black ink, appearing to read 'GARY T. FINKLEA', written over a horizontal line.

**GARY T. FINKLEA**

Attorney for Defendants

**Finklea Law Firm**

814 West Evans Street

Post Office Box 1317

Florence, SC 29503-1317

Phone: (843) 317-4900

Fax: (843) 317-4910

[gfinklea@finklealaw.com](mailto:gfinklea@finklealaw.com)

Merial Man  
 Construction & Roofing  
 402 Mt. Carmel rd. Timmonsville SC 29161  
 (843) 319-8500

Name: Lee + Ellen Lyerly	Phone: 843-240-3523	Date: 7-24-14
Street:	Job name: 5010 - N. Dill Range -	
City, State, Zip:	Location: Town Rd.	
Architect:	Date of plans:	Contractor: Edward E

House & Pool House

1. Protect ground as well as possible.
2. Clean up all job related debris and dispose of.
3. A 40yr. Paint warranty will be furnished by manufacturer.
4. Workmanship 100% guaranteed under normal weather conditions, (example) hurricanes & hail storms.

5. Furnish & Install a 29 GA 40yr. paint Panel Loc plus metal roof system w/ all new flashing

6. 3 - pipe flanges

7. Remove & replace Aluminum fascia on complete

Panel Loc  
- Trims.

pure

We Propose hereby to furnish material and labor complete in accordance with above specifications for the sum  
 of Two thousand three hundred Dollars (23000.00)

Payment to be made as follows: balance upon completion of job

deposit \$6000.00

Authorized Signature: Rusty Campbell

Note: This proposal may be withdrawn by us if not accepted within \_\_\_\_\_ days

Acceptance of proposal

Date of Acceptance: 7/24/14

Signature: *[Signature]*

Extraneel - Pool House →

Extraneel - house \$960.00

Ex Vinyl \$1200.00

Wood work - 002 \$1200.00

Verb  
 7-14



South Carolina  
Department of Labor, Licensing and Regulation



Nikki R. Haley  
Governor

Residential Builders Commission

110 Centerview Drive  
Post Office Box 11329  
Columbia, SC 29211-1329  
Phone: (803) 896-4696  
FAX: (803) 896-4814

Richele Taylor  
Director

[www.llronline.com/POL/ResidentialBuilders](http://www.llronline.com/POL/ResidentialBuilders)

HARVEY CAMPBELL JR  
402 MOUNT CARMEL ROAD  
TIMMONSVILLE SC 29161

This is to certify that the records of the Residential Builders Commission indicate the following information regarding:

Name: HARVEY CAMPBELL JR

Registration Type: Specialty

Registration Number: 2395

Date Issued: 07/17/1998

License/Registration Status: ACTIVE

Expiration Date: 06/30/2017

Licensure/Registration Based on: Reference letters

Authorized Trades: Carpentry, Roofing, Vinyl/Aluminum Siding

Disciplinary Action: Citation/Cease and Desist issued 6/30/2015 (see attached)

A check mark indicates that licensure/registration has not been continuous.  
Registration lapsed 6/30/2009 – 02/25/2015

If other information is needed, please contact this office at the number above.

\*Please be advised that this form must be submitted in a sealed envelope, otherwise this form will not be accepted.

Janet Baumberger

Title Administrator

Date June 15, 2016

Unresolved disciplinary actions currently pending before the boards will not be included in the information presented. Reported discipline of licensees indicates the final disposition of contested cases, but may not reflect the current status of a license. Licensees are fully authorized to practice their professions unless their licenses have been restricted, suspended, revoked, deactivated or voluntarily surrendered. Licensees on probation may have been placed under certain professional restrictions which may limit the scope of their practice. Also, board actions reported here may not reflect any subsequent judicial actions to stay or modify the board's decision.

Transcript of Record



S.C. DEPARTMENT OF LABOR, LICENSING AND REGULATION  
 RESIDENTIAL BUILDERS COMMISSION  
 P.O. Box 11329  
 Columbia, SC 29211-1329

CITATION AND NOTIFICATION OF PENALTY  
 NOTICE TO CEASE VIOLATION OF LAW

HARVEY CAMPBELL JR  
 METAL ROOFING SPECIALTIES

License Number: RBS.2395

Issuance Date: 6/30/2015  
 Complaint #: 2015-246

TIMMONSVILLE, SC 29161

*This citation describes alleged violation of §40-59-5, et seq., South Carolina Code of Laws, 1976, as amended. The penalties listed are based on these violations. You must immediately cease and desist from further violation until such time, if ever, as proper authorization is issued by the S.C. Residential Builders Commission. Pursuant to §40-59-105(D), you must pay the proposed penalties within thirty (30) days of receipt of the citation if no appeal is filed. Failure to pay the citation within thirty (30) days from the date of its issuance shall result in administrative suspension of your license until such time that the citation is paid in full. Any citation and/or penalty assessed by a representative of the South Carolina Department of Labor, Licensing and Regulation may be appealed by requesting, in writing, an administrative review. Such requests must be addressed to: Residential Builders Commission Administrator, South Carolina Department of Labor, Licensing and Regulation, PO Box 11329, Columbia, SC 29211-1329, and must be mailed within 10 calendar days from receipt of this Citation and Notification of Penalty. This citation concerns application of the South Carolina Residential Builders Act and Regulations and does not necessarily resolve all aspects of any disciplinary action currently pending before the Board or which may be filed in the future. Failure to make a timely request for review will result in the citation becoming a final order of the Residential Builders Commission.*

ITEM	SECTION(S) VIOLATED	DESCRIPTION	PENALTY
1	§40-59-220	Unlicensed practice. Practice of Residential building at:	500.00
	§40-59-220	on: Unlicensed practice of Specialty contracting at: [redacted] Coward, SC on: 07/24/2014.	
	§40-59-240(A)	Practice of Specialty contracting outside the scope of the registration (S.C. Regulation 106-3) at: on: by engaging in:	
	§40-59-240(C)	Specialty Registrant failure to obtain a building permit for construction at:	
	§40-59-110	Builder failure to obtain a building permit for construction at:	
	§40-59-240(D)	Undertaking a Specialty contract which exceeds \$5000 without bond for construction at:	
	§40-1-110(c)	Aiding or abetting violation of licensing requirements by: at: on:	

I certify that I explained the requirements of law and that the respondent must immediately cease and desist from further violation until such time, if ever, as proper authorization is issued by the S.C. Residential Builders Commission. I also provided the necessary application forms to be completed and forwarded to the Commission by the respondent.

**TOTAL PENALTY: \$500.00**

  
 Maurice Smith, Investigator III

Please make check or money order payable to S.C. Department of Labor, Licensing and Regulation, and indicate citation number on remittance.

Copy received:

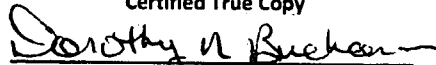
Signature of Respondent \_\_\_\_\_ Date \_\_\_\_\_

**CERTIFICATE OF SERVICE BY MAIL**

This is to certify that the undersigned has this date served this Citation and Notification of Penalty in the above entitled action upon all parties to this cause by depositing a copy hereof in the United States mail, certified, return receipt requested, and postage paid, or in the Interagency Mail Services, addressed to the party(ies) or their attorney(s) to the following address: 402 MOUNT CARMEL ROAD, TIMMONSVILLE, SC 29161.

This 30 day of JUNE, 2015.

  
 By: Maurice Smith, Investigator III

Certified True Copy  
  
 Dorothy A. Buchanan  
 FOIA & Governmental Affairs Coordinator  
 Communications & Governmental Affairs  
 SC Dept. of Labor, Licensing & Regulation



S.C. DEPARTMENT OF LABOR, LICENSING AND REGULATION  
 RESIDENTIAL BUILDERS COMMISSION  
 P.O. Box 11329  
 Columbia, SC 29211-1329

**CITATION AND NOTIFICATION OF PENALTY  
 NOTICE TO CEASE VIOLATION OF LAW**

HARVEY CAMPBELL JR  
 METAL ROOFING SPECIALTIES  
 402 MOUNT CARMEL ROAD  
 TIMMONSVILLE, SC 29161

License Number: RBS.2395

Issuance Date: 6/30/2015  
 Complaint #: 2015-246

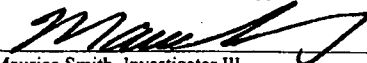
*This citation describes alleged violation of §40-59-5, et seq., South Carolina Code of Laws, 1976, as amended. The penalties listed are based on these violations. You must immediately cease and desist from further violation until such time, if ever, as proper authorization is issued by the S.C. Residential Builders Commission. Pursuant to §40-59-105(D), you must pay the proposed penalties within thirty (30) days of receipt of the citation if no appeal is filed. Failure to pay the citation within thirty (30) days from the date of its issuance shall result in administrative suspension of your license until such time that the citation is paid in full. Any citation and/or penalty assessed by a representative of the South Carolina Department of Labor, Licensing and Regulation may be appealed by requesting, in writing, an administrative review. Such requests must be addressed to: Residential Builders Commission Administrator, South Carolina Department of Labor, Licensing and Regulation, PO Box 11329, Columbia, SC 29211-1329, and must be mailed within 10 calendar days from receipt of this Citation and Notification of Penalty. This citation concerns application of the South Carolina Residential Builders Act and Regulations and does not necessarily resolve all aspects of any disciplinary action currently pending before the Board or which may be filed in the future. Failure to make a timely request for review will result in the citation becoming a final order of the Residential Builders Commission.*

ITEM	SECTION(S) VIOLATED	DESCRIPTION	PENALTY
1	§40-59-220 §40-59-220 §40-59-240(A) §40-59-240(C) §40-59-110 §40-59-240(D) §40-1-110(c)	Unlicensed practice. Practice of Residential building at: on: Unlicensed practice of Specialty contracting at: Coward, SC on: 07/24/2014. Practice of Specialty contracting outside the scope of the registration (S.C. Regulation 106-3) at: on: by engaging in: Specialty Registrant failure to obtain a building permit for construction at: Builder failure to obtain a building permit for construction at: Undertaking a Specialty contract which exceeds \$5000 without bond for construction at: Aiding or abetting violation of licensing requirements by: at: on:	500.00

I certify that I explained the requirements of law and that the respondent must immediately cease and desist from further violation until such time, if ever, as proper authorization is issued by the S.C. Residential Builders Commission. I also provided the necessary application forms to be completed and forwarded to the Commission by the respondent.

**TOTAL PENALTY: \$500.00**

Please make check or money order payable to S.C. Department of Labor, Licensing and Regulation, and indicate citation number on remittance.

  
 Maurice Smith, Investigator III

Copy received:

Signature of Respondent \_\_\_\_\_ Date \_\_\_\_\_

**CERTIFICATE OF SERVICE BY MAIL**

This is to certify that the undersigned has this date served this Citation and Notification of Penalty in the above entitled action upon all parties to this cause by depositing a copy hereof in the United States mail, certified, return receipt requested, and postage paid, or in the Interagency Mail Services, addressed to the party(ies) or their attorney(s) to the following address: 402 MOUNT CARMEL ROAD, TIMMONSVILLE, SC 29161.

This 30 day of JUNE, 2015.

  
 By: Maurice Smith, Investigator III  
 Transcript of Record  
 0025

**South Carolina General Assembly**  
118th Session, 2009-2010

**A40, R97, H3187**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Chalk and Willis

Document Path: I:\council\bill\agm\19320ab09.docx

Introduced in the House on January 13, 2009

Introduced in the Senate on March 3, 2009

Last Amended on April 29, 2009

Passed by the General Assembly on May 20, 2009

Governor's Action: June 2, 2009, Signed

Summary: Landscape service

**HISTORY OF LEGISLATIVE ACTIONS**

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
12/16/2008	House	Prefiled
12/16/2008	House	Referred to Committee on <b>Labor, Commerce and Industry</b>
1/13/2009	House	Introduced and read first time <u>HJ-83</u>
1/13/2009	House	Referred to Committee on <b>Labor, Commerce and Industry</b> <u>HJ-83</u>
2/18/2009	House	Committee report: Favorable <b>Labor, Commerce and Industry</b> <u>HJ-6</u>
2/24/2009	House	Member(s) request name added as sponsor: Willis
2/24/2009	House	Read second time <u>HJ-31</u>
2/24/2009	House	Roll call Yeas-103 Nays-2 <u>HJ-31</u>
2/26/2009	House	Read third time and sent to Senate <u>HJ-12</u>
3/3/2009	Senate	Introduced and read first time <u>SJ-12</u>
3/3/2009	Senate	Referred to Committee on <b>Banking and Insurance</b> <u>SJ-12</u>
4/28/2009	Senate	Committee report: Favorable with amendment <b>Banking and Insurance</b> <u>SJ-21</u>
4/29/2009		Scrivener's error corrected
4/29/2009	Senate	Committee Amendment Adopted <u>SJ-24</u>
4/29/2009	Senate	Amended <u>SJ-24</u>
4/29/2009	Senate	Read second time <u>SJ-24</u>
4/30/2009		Scrivener's error corrected
5/14/2009	Senate	Read third time and returned to House with amendments <u>SJ-23</u>
5/20/2009	House	Concurred in Senate amendment and enrolled <u>HJ-44</u>
5/20/2009	House	Roll call Yeas-111 Nays-0 <u>HJ-44</u>
5/27/2009		Ratified R 97
6/2/2009		Signed By Governor
6/11/2009		Effective date 06/02/09
6/12/2009		Act No. 40

**VERSIONS OF THIS BILL**

12/16/2008  
2/18/2009  
4/28/2009

4/29/2009  
4/29/2009-A  
4/30/2009

(A40, R97, H3187)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 29-5-26 SO AS TO PROVIDE A PERSON WHO PROVIDES CERTAIN LANDSCAPE SERVICES MAY HAVE A MECHANICS' LIEN ON THE REAL ESTATE WHERE THE LANDSCAPE SERVICES WERE PROVIDED, AND TO DEFINE LANDSCAPE SERVICES; BY ADDING SECTION 29-5-15 SO AS TO PROVIDE THE MANNER BY WHICH A CONTRACTOR MUST FILE A MECHANICS' LIEN AND A PENALTY FOR FILING A FRIVOLOUS MECHANICS' LIEN; TO AMEND SECTION 29-5-120, RELATING TO THE DISSOLUTION OF LIENS NOT TIMELY BROUGHT, SO AS TO PROVIDE CIRCUMSTANCES IN WHICH A MECHANICS' LIEN MAY BE RELEASED BY A COURT; AND TO AMEND SECTION 40-59-30, AS AMENDED, RELATING TO LICENSE REQUIREMENTS, ENFORCEMENT OF CONTRACTS, AND RESTRAINING ORDERS, SO AS TO PROVIDE A PENALTY FOR FAILING TO REGISTER WITH THE COMMISSION BEFORE ENGAGING OR OFFERING TO ENGAGE IN THE BUSINESS OF RESIDENTIAL BUILDING, AMONG OTHER THINGS.

Be it enacted by the General Assembly of the State of South Carolina:

**Mechanics' lien for landscape services; landscape services defined**

SECTION 1. Chapter 5, Title 29 of the 1976 Code is amended by adding:

“Section 29-5-26. (A) A person who provides a landscape service on a parcel of real estate, which service exceeds five thousand dollars, by virtue of a written agreement with the owner of the real estate and to whom a debt is due for his performance of the landscaping service has a mechanics' lien on the real estate to secure payment of debt due to him as provided by Section 29-5-10 and Section 29-5-20. The lien attaches to the land and a building, structure, or other improvement on the land.

(B) As used in this chapter, a landscape service includes:

(1) land clearing, grading, filling, plant removal, natural obstruction removal, or other preparation of land;

(2) provision or installation, or both of them, of a landscaping item including plant material, mulch, paving, walkway, swimming pool, fountain, retaining wall, bulkhead, deck, patio, lightscaping system, irrigation system, drainage structure, drainage system, underground utility, or other feature incidental and necessary to a landscape plan or site design; or

(3) both.

(C) A landscaping service does not depend on whether the service is related to the construction, erection, alteration, or repair of a building or other structure.”

### **Mechanics’ lien filing requirements; penalty for frivolous lien**

SECTION 2. Chapter 5, Title 29 of the 1976 Code is amended by adding:

“Section 29-5-15. (A) To file a mechanics’ lien, a contractor must provide the county clerk of court or register of deeds proof that he is licensed or registered if he is required by law to be licensed or registered. As proof of licensure or registration, the contractor must record his contractor license number or registration number on the lien document when the lien document is filed.

(B) A contractor who files a frivolous lien is subject to a fine up to five thousand dollars, the loss of his registration or contractor license, or both.”

### **Release of mechanics’ lien under certain conditions**

SECTION 3. Section 29-5-120 of the 1976 Code is amended to read:

“Section 29-5-120. (A) Unless a suit for enforcing the lien is commenced and notice of pendency of the action is filed within six months after the person desiring to avail himself of it ceases to labor on or furnish labor or material for the building or structure, the lien must be dissolved.

(B) A mechanics’ lien and associated bonds may be released by a court order, a written affidavit of the bond holder’s attorney, or by a written affidavit from the defendant’s attorney stating:

(1) six months has passed since the lien was attached and no suit or notice of pendency has been filed; or

(2) the failure of the filing party to take some other timely action required by this chapter. This affidavit must be in the form approved

by the appropriate local office where the mechanics' lien was filed and must reference the lien's recording information."

**License requirement; enforcement of contracts; restraining orders**

SECTION 4. Section 40-59-30 of the 1976 Code is amended to read:

"Section 40-59-30. (A) A person or firm who engages or offers to engage in the business of residential building or residential specialty contracting without first having registered with the commission or procured a license from the commission, which has not expired or been revoked, suspended, or restricted or who knowingly presents to, or files with, the commission false information for the purpose of obtaining a license or registering with the commission is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars or more than ten thousand dollars or imprisoned for not less than thirty days, or both.

(B) Notwithstanding Section 29-5-10, or another provision of law, a person or firm who first has not procured a license or registered with the commission and is required to do so by law may not file a mechanics' lien or bring an action at law or in equity to enforce the provisions of a contract for residential building or residential specialty contracting which the person or firm entered into in violation of this chapter.

(C) Pursuant to Article 5, Chapter 23, Title 1, the commission may petition an administrative law judge to issue a temporary restraining order enjoining a violation of this chapter, pending a full hearing to determine whether the injunction must be made permanent."

**Time effective**

SECTION 5. This act takes effect upon approval by the Governor.

Ratified the 27<sup>th</sup> day of May, 2009.

Approved the 2<sup>nd</sup> day of June, 2009.

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

William H. Seals, Circuit Judge

**RECEIVED**

MAR 06 2017

SC Court of Appeals

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Case No. 2016-CP-21-1230

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Harvey R. Campbell, Jr., ..... Appellant

Vs.

Lee Lyerly and Ellen Marie Stone Lyerly ..... Respondents

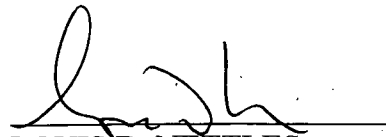
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CERTIFICATE OF SERVICE

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I certify that I have served the Appellant's Final Brief, on  
Respondent's Attorney by depositing copies of the same in the United States  
Mail, postage prepaid, on March 3, 2017 addressed to the following  
addresses:

Gary I. Finklea, Esq.  
Finklea Law Firm  
P. O. Box 1317  
Florence, South Carolina 29503



LOUIS D. NETTLES

Folkens Law Firm, PA

PO Box 6139

Florence, South Carolina 29502

Attorney for Appellants

843-665-0100

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

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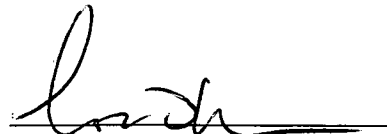
Lee Lyerly and Ellen Marie Stone Lyerly ..... Respondents

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CERTIFICATE OF COUNSEL

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The undersigned certifies that the Appellant's Brief compiles with Rule 211(b), SCACR.



LOUIS D. NETTLES  
Folkens Law Firm, PA  
PO Box 6139  
Florence, South Carolina 29502  
Attorney for Appellant  
843-665-0100

March 2, 2017

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

William H. Seals, Circuit Judge

**RECEIVED**

MAR 06 2017

SC Court of Appeals

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Case No. 2016-CP-21-1230

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Harvey R. Campbell, Jr., ..... Appellant

Vs.

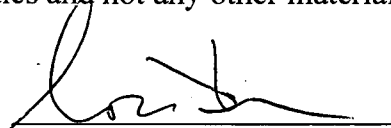
Lee Lyerly and Ellen Marie Stone Lyerly ..... Respondents

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CERTIFICATE OF COUNSEL

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The undersigned certifies that the the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



LOUIS D. NETTLES  
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March 2, 2017