

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

J. Michael Baxley, Circuit Court Judge
Edgar W. Dickson, Circuit Court Judge

Case No. 2007-CP-07-1396

Appeal No. 2017-000218

RECEIVED
MAR 31 2017
SC Court of Appeals

Anthony and Barbara Grazia, individually and
on behalf of all other similarly situated Plaintiffs,

Respondents,

v.

South Carolina State Plastering, LLC,

Appellant.

and

South Carolina State Plastering, LLC,

Appellant,

v.

Del Webb Communities, Inc., Pulte Homes, Inc.,
and Kephart Architects, Inc.,

Third-Party Defendants,

Of Whom Del Webb Communities, Inc. and
Pulte Homes, Inc., are

Respondents.

Petition for Rehearing

South Carolina State Plastering, LLC filed a Notice of Appeal from certain intermediate orders in this action, to wit:

1. The order of the Honorable J. Michael Baxley, "Order Making Preliminary Finding that Plaintiffs' Proposed Class Meets the Requirements of Rule 23(a), SCRCF; Setting Parameters for Putative Class; Dismissing Plaintiffs' Unfair Trade Practices Claim Without Prejudice; Imposing a Stay of Proceedings; and Setting Forth Procedures for Compliance

with the Right to Cure Construction Dwelling Defect Act,” dated December 8, 2011 and filed December 19, 2011;

2. The order of the Honorable J. Michael Baxley, “Order Dismissing Defendants’ Motions to Reconsider and Denying Defendants’ Motions for Clarification of Order Preliminarily Certifying Class, dated May 1, 2012 and filed May 7, 2012;
3. The order of the Honorable J. Michael Baxley, “Order Approving Class Notice, Mailing List, and Procedures for Right to Cure Process,” dated April 9, 2014, and filed April 18, 2014;
4. The order of the Honorable Edgar W. Dickson, “Order Granting South Carolina State Plastering LLC’s Motion for Destructive Testing,” dated January 29, 2016, and filed February 12, 2016;
5. The order of the Honorable Edgar W. Dickson, “Scheduling Order,” dated May 16, 2016, and filed May 26, 2016;
6. The order of the Honorable Edgar W. Dickson, “Order (No Motions Pending)”, dated September 7, 2016, and filed September 9, 2016; and
7. The order of the Honorable Edgar W. Dickson, “Order Dismissing Defendants’ Motions to Reconsider Pursuant to Rule 59(e),” dated December 29, 2016 and filed January 6, 2017.

The Court of Appeals has issued an order dismissing the appeal stating:

We find the orders on appeal are interlocutory and not appealable pursuant to section 14-3-330 of the South Carolina Code (2017); accordingly, we grant Respondents' motion and dismiss the instant appeals. See Knowles v. Standard Sav. & Loan Ass'n, 274 S.C. 58, 59, 261 S.E.2d 49, 49 (1979) ("Class certification, essentially procedural in nature, does not involve substantial or essential legal rights which require attention prior to final judgment.... Neither does certification reach the 'merits' of the underlying cause of action "); Grazia v. S.C. State Plastering, LLC, 390 S.C. 562, 573, 703 S.E.2d 197, 202 (2010) ("[The] rights under the Right to Cure Act notice provisions are not new substantive rights, but instead represent an effort by the General Assembly to provide the contractors/subcontractors a new procedural timeline for asserting existing litigation rights.").

Pursuant to Rule 221, S.C.R.A.P, the Appellant South Carolina State Plastering petitions the Court for rehearing on the ground that the Court overlooked or misapprehended the following points as

noted below and as more fully discussed in SCSP's prior Motion to Determine Appealability and return to Plaintiffs' Motion to Dismiss, which are incorporated herein as if fully restated¹:

1. The Court misapprehended that the general rule as stated in Knowles v. Standard Sav. & Loan does not apply to this appeal and overlooked the point that the Trial Court has never made a deliberative ruling on whether the Plaintiffs have proven all the Rule 23 factors to warrant class certification. By his own express terms, Judge Baxley only made a preliminary decision and specifically stated that he would make a final decision after the Right to Cure compliance process is completed:

- “**Thereafter** [after compliance with the Right to Cure Act], the Court will make a final decision as to whether a class action is practicable under the specific facts and circumstances disclosed by the notices and response required under the Act.” [Baxley Order, p. 2.]
- “For these reasons, this Order makes only a **preliminary** finding that the requirements of Rule 23 have been met by Plaintiffs. The Court intends to employ the Right to Cure process as outlined below to further analyze and perhaps organize the various claims that exist in these cases.” [Baxley Order, p. 10.]
- “[F]or purposes of attempted compliance with the Right to Cure Construction Dwelling Defect Act, this Court finds that Plaintiffs have met the requirements of Rule 23(a), and are entitled to a **preliminary** determination that Plaintiffs may proceed at this juncture using a class approach.” [Baxley Order, p. 11.]

¹ Appellant SCSP also adopts and incorporates each and all those points and arguments raised by the Respondents/Appellants Pulte Homes and Del Webb on the appealability issues.

“Order Making **Preliminary** Finding that Plaintiffs’ Proposed Class Meets the Requirements of Rule 23(a), SCRCP...”, filed December 19, 2011. (Emphasis added.)

Judge Dickson acknowledged the *preliminary* nature of Judge Baxley’s ruling on the Plaintiffs’ class certification motion when he scheduled a hearing and set a briefing schedule for “the parties positions on class certification,” stating: “The stay on discovery in this case shall remain in effect until the Court issues its ruling on final certification.” [Dickson Scheduling Order, filed May 26, 2016.] Judge Dickson never made a deliberative ruling on final certification. Rather, he just declared that Judge Baxley had already made a final decision -- without making any independent finding on the Rule 23 factors. [Dickson “Order (No Motions Pending)”, filed September 9, 2016.] The RTC process has not yet been completed as contemplated by Judge Baxley, and neither Trial Judge has ever conducted the rigorous analysis necessary to make any final decision on class certification. This is what sets these class certification orders apart from the general rule referenced in the Knowles opinion.

In the prior appeal of this case, Grazia v. S.C. State Plastering, LLC, 390 S.C. 562, 575–76, 703 S.E.2d 197, 204 (2010), the Supreme Court stated that: “Upon a motion for class certification, it will be incumbent on the circuit court to determine whether or not the action meets each of the five prerequisites proponents of class certification are required to prove.” The failure/refusal to conduct the proper analysis and put the Plaintiffs to their burden of proving the five Rule 23 factors presents serious fundamental due process questions and affects the Defendant’s substantial rights such that these orders are appealable now under S.C. Code Ann. §14-3-330(2).

2. The Court has also overlooked or misapprehended that these orders deprive the Appellant of substantial, legal rights under the Right to Cure Act and they also effectively strike defenses

by not allowing discovery or providing a reasonable means to assert defenses. In dismissing the appeal, this Court quotes from the Grazia I opinion: "[The] rights under the Right to Cure Act notice provisions are not new substantive rights, but instead represent an effort by the General Assembly to provide the contractors/subcontractors a new procedural timeline for asserting existing litigation rights." 703 S.E.2d at 202. However, the Court overlooks or misapprehends the Supreme Court's further discussion on this point regarding staying the merits of the litigation pending compliance with the RTC:

[T]he predominant concern should be on the contractor/subcontractor's actual exercise of the rights to notice and the opportunity to cure, not when those rights are received. As discussed extensively above, we fail to discern how the rights to a pre-litigation opportunity to inspect and remedy/settle are substantially abridged when a court stays the proceedings under section 40-59-830, thereby granting the contractor/subcontractor the ability to explore those rights in full. As a result, we believe once properly harmonized, the Right to Cure Act's stay and notice provisions may be construed together to give each one its due effect, within the parameters of the Act's public policy.

Grazia I, 703 S.E.2d at 202-03. In harmonizing the statutory provisions, the Supreme Court discussed the critical importance of the stay in accomplishing the legislative purpose of the RTC

Act:

The stated public policy, therefore, is not abridged when a court, on motion, is required to stay a proceeding in order to require compliance with the Right to Cure Act's notice provisions.... Enforcing a stay provision does absolutely nothing to restrict the furtherance of that purpose; instead, the purpose is better served by allowing the use of the Right to Cure Act's stay provision to allow a court to determine whether or not a class action is feasible under the circumstances in each individual case, rather than striking the class allegations in toto at the outset.

Id. at 203. Thus, while the Supreme Court did not read the Act to require RTC compliance before allowing the plaintiff to file a complaint seeking class status, it is clear that the class certification should not be dispositively ruled upon prior to RTC compliance (as originally intended by Judge Baxley), and most certainly, the litigation cannot proceed on the merits until RTC compliance is complete.

As of the filing of this appeal, SCSP was still attempting to complete necessary testing before it could make offers to the claimants under the Act. That process has since been completed, but SCSP still is in the process of extending offers to which the claimants must respond before the statutorily-mandated stay can be lifted. Meanwhile, the stay of discovery has been prematurely lifted, and Judge Dickson has declared that he will call this case for trial within 30 days from the issuance of the remittitur back to the Circuit Court seemingly without regard to whether the RTC compliance is complete or SCSP has been allowed full discovery necessary to defend the case on the merits and present its defenses:

[H]ere is what you can expect from Judge Dickson: on the day the remittitur is received, if at all, from the Court of Appeals, Judge Dickson will issue an order setting the trial date for thirty (30) days after the date of the remittitur; in addition, you should expect Judge Dickson to require you all to submit your pretrial briefs, voir dire, and proposed jury instructions to the court five (5) days after the date the court receives the remittitur, if at all, from the Court of Appeals.

See Email from Judge Dickson's Law Clerk John Dodds, to Vic Rawl (March 21, 2017, 10:59 AM) (Attached hereto as Petition for Rehearing Exhibit 1).²

SCSP maintains that this process does not meet the purpose or express provisions of the RTC Act or the instructions in *Grazia I*, and deprives SCSP of its fundamental due process rights as well as its substantial rights under the RTC Act. As such, these orders are appealable now under §14-3-330(2).

² Of note, the Trial Court is overlooking or disregarding the fact that there are multiple motions still outstanding, which go to the merits of the claimants' claims and SCSP's right to discovery on key issues affecting the affirmative defenses, such as: Motion to Compel Depositions of the Class Members, Motion to Compel Plaintiff's Discovery Responses, Motion to Reconvene Depositions, Motion for Destructive Testing on *Grazia Home*, Motion to Remove Members of the Class Who have Failed to Return the Right to Cure Questionnaire, Motion to Remove Members Who Entered Into an Agreement to Not Participate in any Class Litigation, and Motion to Remove Members of the Class Who Do Not Meet the Class Definition.

3. The Court has overlooked or misapprehended that the denial of a party's right to a particular mode of trial is immediately appealable as a substantial right under §14-3-330(2). Hagood v. Sommerville, 362 S.C. 191, 196, 607 S.E.2d 707, 709 (2005), and cases cited therein. The Supreme Court reviewed a class certification order under this principle in Salmonsens v. CGD, Inc., 377 S.C. 442, 448–49, 661 S.E.2d 81, 85 (2008). Despite his use of the term “opt-out,” Judge Baxley effectively created a de facto opt-in process by cobbling together the RTC questionnaires with the class notice process. Accordingly, under *Salmonsens*, these orders are immediately appealable.

4. The Court has overlooked or misapprehended that the orders of Judge Baxley and Judge Dickson dismissing SCSP's motions for reconsideration are appealable under §14-3-330(2) because the Trial Court's refusal to allow the opportunity for reconsideration affects SCSP's substantial rights that could prevent them from raising certain issues on appeal. In Johnston v. Bowen, 313 S.C. 61, 63, 437 S.E.2d 45, 47 (1993), the Supreme Court held that that trial court intermediate orders are amendable on motions for reconsideration, and in Elam v. South Carolina Dept. of Transp., 361 S.C. 9, 602 S.E.2d 772, 778-79 (2004), the Supreme Court states that: “It is inherently unfair to disallow such an opportunity.” By denying SCSP's motions as “improper” without ruling of the merits of the motions, Judge Baxley and Judge Dickson have improperly and unfairly deprived SCSP to its substantial, due process rights.

On this point, the Court has also overlooked or misapprehended the Supreme Court's holding in Salinas v. C. Aultman & Co., 49 S.C. 325, 27 S.E. 385, 387 (1897) that: “While the granting or refusing of an interlocutory order of injunction, upon the merits, is not, as a rule, appealable, it is appealable when granted or refused upon a ‘purely’ legal ground, and especially

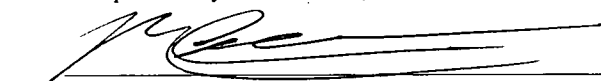
a jurisdictional ground.” Accordingly, the orders dismissing the motions for reconsideration on purely legal grounds are appealable.

5. Finally, the Court has overlooked or misapprehended that: “An order that is not directly appealable may be considered if there is an appealable issue before the court.” Edge v. State Farm Mut. Auto. Ins. Co., 366 S.C. 511, 517, 623 S.E.2d 387, 390 (2005). The Court will allow such appeals “in an effort to avoid another appeal in the future and potentially narrow the issues for trial (i.e. judicial economy).” *Id.* Similarly, in *Salmonsens*, the Court chose to address an issue in an interlocutory appeal because it was “in the interest of judicial economy and guidance to the bench and bar.” 661 S.E.2d at 87. In *Knowles*, the Court spoke of the “debilitating effect on judicial administration caused by piecemeal appeals.” 261 S.E.2d at 49. However, in this case, the postponement of appellate review of orders affecting substantial rights and affecting the mode of trial on multiple points is producing a far more debilitating effect on resources of the circuit court.

CONCLUSION

The statute allows immediate appeal of these orders and the interests of justice and the administration of the judicial system are best served by proceeding with review of all the issues raised in regards to these orders at this stage, rather than years from now. WHEREFORE, the Appellant SCSP respectfully requests that the Court reconsider its order of dismissal and allow this appeal to proceed.

Respectfully submitted,


For Everett A. Kendall, II, SC Bar #08450

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methridge@ethridgelawgroup.com

**Attorneys for Appellant
South Carolina State Plastering, LLC**

March 31, 2017

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

J. Michael Baxley, Circuit Court Judge
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Case No. 2007-CP-07-1396

Anthony and Barbara Grazia, individually and
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South Carolina State Plastering, LLC,

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and

South Carolina State Plastering, LLC,

Appellant,

v.

Del Webb Communities, Inc., Pulte Homes, Inc.,
and Kephart Architects, Inc.,

Third-Party Defendants,

Of Whom Del Webb Communities, Inc. and
Pulte Homes, Inc., are

Respondents.

Exhibit 1

Marshall C. Crane

From: Dickson, Edgar W. Law Clerk (John Dodds) <edicksonlc@sccourts.org>
Sent: Tuesday, March 21, 2017 10:59 AM
To: Rawl, Vic
Cc: Mike Seekings; Jefferson Leath; john@chakerislawfirm.com; psegui@seguilawfirm.com; Rett Kendall; dcobb; Ellie Martin; Christi Daniels; Alicia Petit; Stephen M. Bowden (stephen@chakerislawfirm.com); Brittany Johnson; Frampton, Hal; Mike Ethridge; Widener, Robert; Miller, Dana
Subject: RE: Grazia, et al. v. SCSP, et al.

Mr. Rawl,

Thank you for voicing your concerns. The Lancaster case you cited reads as follows: "Pursuant to Rule 205, SCACR, upon the service of a notice of appeal, the appellate court has exclusive jurisdiction over the appeal, with the exception of matters not affected by the appeal. The appellate court retains jurisdiction until the remittitur is sent to the lower court." Judge Dickson is of the opinion that a status conference, wherein the parties will simply discuss matters pertinent to this case and in which Judge Dickson will not make any binding rulings, is not a matter "affected by the appeal." A status conference in this context would simply be a device used to keep everyone on the same page and to avoid further delay. However, Judge Dickson will defer to the good judgment of the attorneys in this case.

Since we will not have a status conference, here is what you can expect from Judge Dickson: on the day the remittitur is received, if at all, from the Court of Appeals, Judge Dickson will issue an order setting the trial date for thirty (30) days after the date of the remittitur; in addition, you should expect Judge Dickson to require you all to submit your pretrial briefs, voir dire, and proposed jury instructions to the court five (5) days after the date the court receives the remittitur, if at all, from the Court of Appeals. Thank you, and please let me know if you have any questions or concerns.

Best,
John Dodds

-----Original Message-----

From: Rawl, Vic [mailto:VRawlJr@mcnair.net]
Sent: Monday, March 20, 2017 6:17 PM
To: Dickson, Edgar W. Law Clerk (John Dodds) <edicksonlc@sccourts.org>
Cc: Mike Seekings <mseekings@leathbouchlaw.com>; Jefferson Leath <jl@leathbouchlaw.com>; john@chakerislawfirm.com; psegui@seguilawfirm.com; eak@swblaw.com; dcobb <dcobb@turnerpadget.com>; Ellie Martin <emartin@seguilawfirm.com>; Christi Daniels <christi@chakerislawfirm.com>; Alicia Petit <alicia@chakerislawfirm.com>; Stephen M. Bowden (stephen@chakerislawfirm.com) <stephen@chakerislawfirm.com>; Brittany Johnson <bjohnson@leathbouchlaw.com>; Frampton, Hal <HFrampton@mcnair.net>; Mike Ethridge <methridge@ethridgelawgroup.com>; Widener, Robert <RWidener@MCNAIR.NET>; Miller, Dana <DLMiller@mcnair.net>
Subject: RE: Grazia, et al. v. SCSP, et al.

Dear Judge Dickson and John,

Respectfully, we believe that it would be improper for the Circuit Court to have a status conference or take any other action at this time.

As expressly set forth in the Court of Appeals' order (attached), the Court of Appeals has not yet returned the remittitur to the Circuit Court. The Court of Appeals states that it will return the remittitur in accordance with Rule 221(b), SCACR, which requires the Court of Appeals to hold the remittitur for at least 15 days following its order to give the losing party time to petition for rehearing. Under Rules 221(b) and 242(c), SCACR, if a party petitions for rehearing and the petition is denied, the Court of Appeals must wait a further 30 days to allow time to file a Petition for Certiorari with the Supreme Court before returning the remittitur to the Circuit Court. The South Carolina Supreme Court has recently clarified this issue for the trial bench. The Court specifically ruled that until the remittitur is sent by the Court of Appeals to the Circuit Court, the Court of Appeals retains exclusive jurisdiction of the matter. See *Lancaster v. Georgia-Pacific Corp.*, 403 S.C. 136, 137, 742 S.E.2d 867, 868 (2013) ("The appellate court retains jurisdiction until the remittitur is sent to the lower court."). In the attached order, the Court of Appeal specifically states that remittitur has not yet been returned.

Del Webb intends to file a petition for rehearing and, if unsuccessful, a petition for certiorari. Thus, we do not expect the remittitur to be returned for at least 45 days. Moreover, Del Webb's petitions for writs of certiorari and mandamus remain pending in the Supreme Court. Because this Court does not possess the remittitur, we believe it would be improper for the Court to take any action with respect to this matter. We would therefore request that the Court hold off on scheduling any status conferences or other matters until the remittitur is returned and this Court can properly act in this case.

Respectfully submitted,

Vic

A. Victor Rawl Jr.
Shareholder and Chair of Class Action Practice Group vrawl@mcnair.net

McNair Law Firm, P.A.
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-----Original Message-----

From: Dickson, Edgar W. Law Clerk (John Dodds) [<mailto:edicksonlc@sccourts.org>]
Sent: Monday, March 20, 2017 5:51 PM
To: Mike Ethridge <methridge@ethridgelawgroup.com>
Cc: Mike Seekings <mseekings@leathbouchlaw.com>; Jefferson Leath <jl@leathbouchlaw.com>; john@chakerislawfirm.com; psegui@seguilawfirm.com; Rawl, Vic <VRawlJr@mcnair.net>; eak@swblaw.com; dcobb <dcobb@turnerpadget.com>; Ellie Martin <emartin@seguilawfirm.com>; Christi Daniels <christi@chakerislawfirm.com>; Alicia Petit <alicia@chakerislawfirm.com>; Stephen M. Bowden (stephen@chakerislawfirm.com) <stephen@chakerislawfirm.com>; Brittany Johnson <bjohnson@leathbouchlaw.com>
Subject: Re: Grazia, et al. v. SCSP, et al.

Judge Dickson can do Wednesday any time after 10am.

> On Mar 20, 2017, at 5:01 PM, Mike Ethridge <methridge@ethridgelawgroup.com> wrote:

>
> John,
> I am available tomorrow morning before 9:30. After that I'm in back to back meetings all day. I am available add day on Wednesday.

>
> Thanks,
> Mike

>
> -----Original Message-----
> From: Dickson, Edgar W. Law Clerk (John Dodds)
> [mailto:edicksonlc@sccourts.org]
> Sent: Monday, March 20, 2017 4:55 PM
> To: Mike Seekings <mseekings@leathbouchlaw.com>
> Cc: Jefferson Leath <jl@leathbouchlaw.com>; john@chakerislawfirm.com;
> psegui@seguilawfirm.com; Vic Rawl <VRawlJr@mcnair.net>;
> eak@swblaw.com; dcobb <dcobb@turnerpadget.com>; Mike Ethridge
> <methridge@ethridgelawgroup.com>; Ellie Martin
> <emartin@seguilawfirm.com>; Christi Daniels
> <christi@chakerislawfirm.com>; Alicia Petit
> <alicia@chakerislawfirm.com>; Stephen M. Bowden
> (stephen@chakerislawfirm.com) <stephen@chakerislawfirm.com>; Brittany
> Johnson <bjohnson@leathbouchlaw.com>
> Subject: Re: Grazia, et al. v. SCSP, et al.

>
> I just sent Judge Dickson a text, and he asked if the attorneys would be available tomorrow via telephone. He can do whatever time is best for everyone. Please let me know at your earliest convenience. If tomorrow doesn't work, he is available Wednesday as well.

>
>> On Mar 20, 2017, at 4:44 PM, Dickson, Edgar W. Law Clerk (John Dodds) <edicksonlc@sccourts.org> wrote:
>>
>> Mr. Seekings,
>>
>> I will speak with Judge Dickson first thing tomorrow and let you know. Thank you for the heads up, and please let me know if I can be of any assistance in the meantime.

>>
>> Best,
>> John
>>
>>> On Mar 20, 2017, at 3:39 PM, Mike Seekings <mseekings@leathbouchlaw.com> wrote:
>>>
>>> John,
>>>
>>> As you know, the Court of Appeals has dismissed all filings of the Defendants and has returned the case to the Circuit Court for trial. I am writing today to inquire about Judge Dickson's availability to meet with counsel and hold a status conference given that trial is now just a few weeks away. I thought it might be helpful for us to get together to discuss pretrial matters and the process of jury selection. While I believe you have been provided with all of the filings and the Order of the Court of Appeals, please let me know if you or Judge Dickson need anything further from us.

>>>
>>> By copy of this email, I am advising all counsel of my communication with the Court. Thank you in advance for your assistance.
>>>
>>> Mike

>>>
>>> Michael S. Seekings
>>> Leath, Bouch & Seekings, LLP
>>> 92 Broad Street
>>> Post Office Box 59
>>> Charleston, South Carolina 29402
>>> Phone: (843) 937-8811
>>> Direct Dial: (843) 513-1073
>>> Fax: (843) 937-0606
>>>
> ~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

J. Michael Baxley, Circuit Court Judge
Edgar W. Dickson, Circuit Court Judge

Case No. 2007-CP-07-1396

RECEIVED

MAR 31 2017

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South Carolina State Plastering, LLC,

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and

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Del Webb Communities, Inc., Pulte Homes, Inc.,
and Kephart Architects, Inc.,

Third-Party Defendants,

Of Whom Del Webb Communities, Inc. and
Pulte Homes, Inc., are

Respondents.

Proof of Service

I, the undersigned legal assistant, of the law offices of Sweeny, Wingate & Barrow, P.A., attorneys for the Appellant South Carolina State Plastering, do hereby certify that I have served a copy of the foregoing **Petition for Rehearing** in connection with the above-referenced case by mailing a copy of the same by United States Mail, postage prepaid, to the following addresses:

W. Jefferson Leath, Jr.
Michael S. Seekings
Leath, Bouch & Seekings, LLP
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Charleston, South Carolina 29402

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John T. Chakeris
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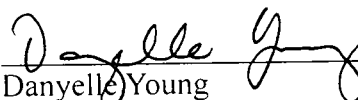
Attorney for Respondents Anthony and Barbara Grazia, individually and on behalf of all other similarly situated Plaintiffs

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Attorney for Third-Party Defendants Del Webb Communities, Inc., and Pulte Homes, Inc.


Danyelle Young

Columbia, South Carolina
March 31, 2017



SWEENY WINGATE & BARROW P.A.

March 31, 2017

Reply to: Main Office

Marshall C. Crane
(803) 256-2233 x7149
mcc@swblaw.com

VIA HAND DELIVERY

Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1015 Sumter Street
Post Office Box 11629
Columbia, South Carolina 29202

RECEIVED

MAR 31 2017

SC Court of Appeals

RE: Anthony and Barbara Grazia, individually and on behalf of all other similarly situated Plaintiffs v. South Carolina State Plastering, LLC, Dei Webb Communities, Inc., Pulte Homes, Inc., and Kephart Architects, Inc.
Appellate Case No.: 2017-000218
Civil Action No.: 2007-CP-07-1396
Our File: 3826-6177

Dear Ms. Kitchings:

Enclosed for filing please find the original of South Carolina State Plastering, LLC's Petition for Rehearing along with six (6) copies of the same. Please return all file-stamped copies with the Courier.

By copy hereof, all counsel of record are being served with the above.

Thank you for your assistance in this matter. Should you have any questions or concerns, please do you hesitate to contact me.

Very truly yours,

SWEENY, WINGATE & BARROW, P.A.

Marshall C. Crane

MCC/dvy
Enclosures

March 31, 2017

Page 2 of 2

cc: W. Jefferson Leath, Jr.
Michael S. Seekings
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92 Broad Street
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Attorneys for Respondents Anthony and Barbara Grazia, individually and on behalf of all other similarly situated Plaintiffs

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