

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Deadra L. Jefferson
Circuit Court Judge

RECEIVED
MAY 23 2017
SC Court of Appeals

Appellate Case No. 2017-000542
Case No. 2013-CP-10-3326
Case No. 2014-CP-10-4335

Waverly at Hamlin Plantation Townhome Association, Inc., Plaintiff,

v.

John Wieland Homes and Neighborhoods of the Carolinas, Inc. as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Defendants,

And

John Wieland Homes and Neighborhoods of the Carolinas, Inc., as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes Inc., Builders Support Services of the Carolinas, Inc., Third-Party Plaintiffs,

v.

Barr Construction, Inc., Benjamin Mora d/b/a Mora Construction, a/k/a Benjamin Mora Construction, LLC, Builders FirstSource-Atlantic Group, LLC, DBC Construction Services, LLC, Eli, Inc., Gerardo Rosette Sanchez a/k/a JMC Construction, Inc., Jesus Mora a/k/a J. Mora Brick and Block Mason, LLC, Juan Luis Sanchez, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, Latitude Construction Services, LLC, the Muhler Company, Inc., Paul M. Vasquez, Richard Ditullio, Richard Ditullio a/k/a RDT Contracting, LLC, Third-Party Defendants,

Of whom John Wieland Homes and Neighborhoods of the Carolinas, Inc., as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builders Support Services of the Carolinas, Inc., is the Appellant,

And

Waverly at Hamlin Plantation Townhome Association, Inc., George Medina, George Medina a/k/a JMC Construction, LLC a/k/a JMC Construction, Inc., Juan Luis Sanchez, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, and the Muhler Company, Inc. are the Respondents.

And

Jeffrey Sills, Individually and as Class Representative, Marie Labarowski, Edward and Nancy Peyser, Francis Sills, Daniel and Suzanne Ruth, Stephanie Adili, Marc and Brandy Lynn, Russell Robinson, George Busnach, Helen Furtado, Jessica Baucom, Nancy S. Coleman, Linda Gritz, Peggy Gerou, Shannon Bebout, Maryann Walsh, Patty Whitmire, Donald L. Tomasello and Patricia Kelly, Chris Leigh-Jones, Edward Ray and Kathy Jo Feagins, Cindy Hunt for Bentgrass Limited, LLC, Adam A. and Susan S. Sokoloski, William and Carolyne Barone, Michelle Ray, Eugene and Cynthia Ray, William Abel, Dean and Conny Mason, David McCartney, Paul and Patricia Waters, James and Andrea Lowry, R. Robinson, Jr., Thaddeus R. and Barbara A. Kucynski, Beverly Sunders Carlson, Lisa Roeck, Elizabeth Jackson, Charles and Mary Kathleen Jenkins, Linda M. and Earl K. Rigler, Jr., John Twomey, Joe and Anita Brittain, Gilbert J. Hager and Kelly Hager Holmes, Carol and Chris Gilespe, Jared D. Overcash, Plaintiffs,

v.

John Wieland Homes and Neighborhoods of the Carolinas, Inc., as Successory by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc. John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builders Support Services of the Carolinas, Inc., Wheelock Street Capital, LLC d/b/a Jon Wieland Homes and Neighborhoods, Inc. Barr Construction, Inc. Benjamine Mora d/b/a Mora Construction, a/k/a Builders FirstSource-Atlantic Group, LLC, DBC Construction Services, LLC, Gerardo Rosette Sanchez a/ka/a GR Painting, George Medina a/k/a JMC Construction, LLC, JMC Construction, Inc., Jesus Mora a/k/a J. Mora Brick and Block Mason, LLC, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, Latitude Construction Services, LLC, The Muhler Company, Inc., Paul M. Vaquez, Richard Ditullio, Richard Ditullio a/k/a ROT Contracting, LLC Defendants,

Of whom John Wieland Homes and Neighborhoods of the Carolinas, Inc. as

Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Hoems, Inc., Builders Support Services of the Carolinas, Inc., is the Appellant,

And

Jeffrey Sills, individually and as Class Representative, Marie Labarawoksi, Edward and Nancy Peyser, Francis Sills, Daniel and Suzanne Ruth, Stephani Adili, Marc and Brady Lynn, Russel Robinson, George Busnach, Helen Furtado, Jessica Baucom, Nancy S. Coleman, Linda Glitz, Peggy Gerou, Shannon Bebout, Maryann Walsh, Patty Whitmire, Donald L. Tomasello and Patricia Kelly, Chris Leigh-Jones, Edward Ray and Kathy Joe Feagins, Cindy Hund for Bentgrass Limited, LLC, Adam A. and Susan S. Sokoloski, William and Carolyn Barone, Michelle Ray, Eugene and Cynthia Ray, William Abel, Dean and Conny Mason, David McCartney, Paul and Patricia Waters, James and Andrea Lowry, R. Robinson, Jr. Thaddeus R. and Barbara A. Kuczynski, Beverly Sanders Carlson, Lisa Roeck, Elizabeth Jackson, Charles and Mary Kathleen Jenkins, Lind M. and Earl K. Rigler, Jr., John Twomey, Joe and Anita Brittain, Gilbert J. Haver and Kelly Hager Holes, Carol and Chris Gillespie, Jared D. Overcash, Jeorge Medina, Jeorge Medina a/k/a JMC Construction, LLC a/k/a JMC Construction, Inc., Juan Luis Sanchez, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, and The Muhler Company, Inc., are the Respondents.

MOTION TO DISMISS APPEAL

Respondents Jeffrey Sills, Individually and as Class Representative, Marie Labarowski, Edward and Nancy Peyser, Francis Sills, Daniel and Suzanne Ruth, Stephanie Adili, Marc and Brandy Lynn, Russell Robinson, George Busnach, Helen Furtado, Jessica Baucom, Nancy S. Coleman, Linda Glitz, Peggy Gerou, Shannon Bebout, Maryann Walsh, Patty Whitmire, Donald L. Tomasello and Patricia Kelly, Chris Leigh-Jones, Edward Ray and Kathy Jo Feagins, Cindy Hunt for Bentgrass Limited, LLC, Adam A. and Susan S. Sokoloski, William and Carolyne Barone, Michelle Ray, Eugene and Cynthia Ray, William Abel, Dean and Conny Mason, David McCartney, Paul and Patricia Waters, James and Andrea Lowry, R. Robinson, Jr., Thaddeus R. and Barbara A. Kucysnksi,

Beverly Sanders Carlson, Lisa Roeck, Elizabeth Jackson, Charles and Mary Kathleen Jenkins, Linda M. and Earl K. Rigler, Jr., John Twomey, Joe and Anita Brittain, Gilbert J. Hager and Kelly Hager Holmes, Carol and Chris Gillespie, Jared D. Overcash, and Waverly at Hamlin Plantation Townhome Association, Inc., through their undersigned counsel, hereby respectfully move to dismiss any matters pending for appeal that are listed in Appellant's March 1, 2017 Notice of Appeal (Exhibit A).¹

This Motion is made pursuant to Rule 203(b)(1) of the South Carolina Appellate Court Rules. The grounds for this motion are that: (1) Rule 203(b)(1), SCACR requires an Appellant to serve all respondents with a Notice of Appeal within thirty (30) days from receipt of written notice of entry of the order or judgment, or within thirty (30) days from receipt of written notice of entry of the order or judgment denying the Appellant's Rule 50, Rule 52, or Rule 59 Motions, and (2) Appellant has failed to serve any counsel for Respondents with its March 1, 2017 Notice of Appeal (Exhibit B).

STANDARD OF REVIEW

Rule 203(b)(1), SCACR sets forth the rule for service of a Notice of Appeal:

(b) Time for Service.

(1) Appeals From the Court of Common Pleas. A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment. When a timely motion for judgment n.o.v. (Rule 50, SCRCP), motion to alter or amend the judgment (Rules 52 and 59, SCRCP), or a motion for a new trial (Rule 59, SCRCP) has been made, the time for appeal for all parties shall be stayed and shall run from receipt of written notice of entry of the order granting or denying such motion. When a form or other short order or judgment indicates that a more full and complete order or judgment is to follow, a party need not appeal until receipt of written notice of entry of the more complete order or judgment.

¹ Respondents obtained a copy of the Notice of Appeal from C-Track, the South Carolina Appellate Case Management System.

In *USAA Property and Cas. Ins. Co. v. Clegg*, the South Carolina Supreme Court set forth the consequence of failing to serve a Notice of Appeal within the time prescribed under Rule 203(B), SCACR:

"Rule 203(b), SCACR, requires a party to serve his notice of appeal within thirty days after receiving written notice of the entry of a final order or judgment, and **failure to do so divests this court of subject matter jurisdiction and results in dismissal of the appeal.**" *Canal Ins. Co. v. Caldwell*, 338 S.C. 1, 4, 524 S.E.2d 416, 418 (Ct.App.1999). "The requirement of service of the notice of appeal is jurisdictional, i.e., **if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice.**" *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004).

"A timely post-trial motion, including a motion to alter or amend the judgment pursuant to Rule 59(e), SCRCP, stays the time for an appeal for all parties until receipt of written notice of entry of the order granting or denying such motion." *Id.* at 15, 602 S.E.2d at 775 (citing Rule 203(b)(1), SCACR, Rules 50(e), 52(c), and 59(f), SCRCP).

USAA Property and Cas. Ins. Co. v. Clegg, 661 S.E.2d 791, 795 (S.C., 2008)
[Emphasis added]

ARGUMENT

The above-named Respondents are jointly represented by four (4) different lawyers from three (3) separate law firms. Specifically, Respondents are represented by John C. Hayes, IV and Mary-Margaret F. Noland of Hayes Law Firm, LLC, I. Keith McCarty of McCarty Law Firm, PC, and Jesse Sanchez of The Law Office of Jesse Sanchez, LLC. None of Respondents' lawyers were served with Appellant's March 1, 2017 Notice of Appeal. Not a single copy of the Notice of Appeal was received at *any* of their respective offices.

On January 30, 2017, a judgment was rendered by a jury in favor of Respondents.² At the end of trial, Appellant filed and argued its post-trial motions before the Honorable Deadra L. Jefferson.³ Appellant's motions were denied at the January 30th post-trial hearing and an Order (Form 4) granting judgment in favor of Respondents and denying Appellant's post-trial Motions was entered on February 9, 2017. On February 14, 2017, the Charleston County Clerk of Court issued the written notice of entry of the February 9th Order, which Respondents received on February 21, 2017 (Exhibit C).⁴

An excess of sixty (60) days has transpired since the Charleston Clerk of Court issued its written notice of entry of the Order. Despite filing a "Proof of Service" with the subject Notice of Appeal, **none** of Respondents' lawyers were served with the Notice of Appeal at their respective offices. Accordingly, pursuant to Rule 203(b), SCACR, Appellant's March 1, 2017 Notice of Appeal is untimely and the matters appealed thereunder should be dismissed.

As the South Carolina Supreme Court noted in *Elam v. South Carolina Dept. of Transportation*, "The notice of appeal in a case appealed from the Court of Common Pleas **must** be served on all respondents within thirty days after receipt of written notice of entry of the order or judgment. Rule 203(b)(1), SCACR. **The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to "rescue" the**

² The jury reached a verdict in favor of Respondents in the amount of \$7,200,000 in damages.

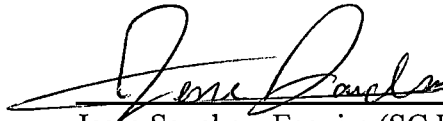
³ Appellants' post-trial motions included motions under Rule 50, Rule 52, and Rule 59, SCRCP.

⁴ Respondents learned that an appeal had been initiated upon receiving Appellant's letter to the Court Reporter, requesting a copy of the transcript. Out of an abundance of caution, Respondents timely served their own Notice of Appeal as a cross-appeal on March 21, 2017.

delinquent party by extending or ignoring the deadline for service of the notice.” 361 S.C. 9, 14, 602 S.E.2d 772 (S.C. 2004), citing *Mears v. Mears*, 287 S.C. 168, 337 S.E.2d 206 (1985).

CONCLUSION

For each of the foregoing reasons, Respondents respectfully request that the Court dismiss any matters pending for appeal that are listed in Appellant’s March 1, 2017 Notice of Appeal.



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EXHIBIT A

82663

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Deadra L. Jefferson
Circuit Court Judge

Case No. 2013-CP-10-3326

RECEIVED
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Waverly at Hamlin Plantation Townhome Association,
Inc.,

Plaintiff,

v.

John Wieland Homes and Neighborhoods of the Carolinas, Inc. as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builders Support Services of the Carolinas, Inc. and Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc.,

Defendants,

and

John Wieland Homes and Neighborhoods of the Carolinas, Inc., as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes Inc., Builders Support Services of the Carolinas, Inc.,

*Third-Party
Plaintiffs,*

v.

Barr Construction, Inc. Benjamin Mora d/b/a Mora Construction, a/k/a Benjamin Mora Construction, LLC, Builders FirstSource, Inc., a/k/a Builders FirstSource-Southeast Group, LLC, a/k/a Builders FirstSource-Atlantic Group, LLC, DBC Construction Services, LLC, Eli, Inc, Gerardo Rosette Sanchez a/k/a GR Painting, Jeorge Medina, Jeorge Medina a/k/a JMC

Construction, LLC a/k/a JMC Construction, Inc., Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC, Juan Luis Sanchez, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, Latitude Construction Services, LLC, The Muhler Company, Inc., Paul M. Vasquez, Richard Ditullio, Richard Ditullio a/k/a RDT Contracting, LLC,

*Third-Party
Defendants.*

of whom

John Wieland Homes and Neighborhoods of the Carolinas, Inc. as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builders Support Services of the Carolinas, Inc., is the

Appellant.

and

Waverly at Hamlin Plantation Townhome Association, Inc., Jeorge Medina, Jeorge Medina a/k/a JMC Construction, LLC a/k/a JMC Construction, Inc., Juan Luis Sanchez, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, and The Muhler Company, Inc., are the

Respondents.

Case No. 2014-CP-10-4335

Jeffrey Sills, Individually and as Class Representative, Marie Labarowski, Edward and Nancy Peyser, Francis Sills, Daniel and Suzanne Ruth, Stephani Adili, Marc and Brandy Lynn, Russell Robinson, George Busnach, Helen Furtado, Jessica Baucom, Nancy S. Coleman, Linda Glitz, Peggy Gerou, Shannon Bebout, Maryann Walsh, Patty Whitmire, Donald L. Tomasello and Patricia Kelly, Chris Leigh-Jones, Edward Ray and Kathy Jo Feagins, Cindy Hunt for Bentgrass Limited, LLC, Adam A. and Susan S. Sokoloski, William and Carolyn Barone, Michelle Ray, Eugene and Cynthia

Ray, William Abel, Dean and Conny Mason, David McCartney, Paul and Patricia Waters, James and Andrea Lowry, R. Robinson, Jr. Thaddeus R. and Barbara A. Kuczynski, Beverly Sunders Carlson, Lisa Roeck, Elizabeth Jackson, Charles and Mary Kathleen Jenkins, Linda M. and Earl K. Rigler, Jr., John Twomey, Joe and Anita Brittain, Gilbert J. Hager and Kelly Hager Holmes, Carol and Chris Gilespeie, Jared D. Overcash,

Plaintiffs,

v.

John Wieland Homes and Neighborhoods of the Carolinas, Inc., as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builders Support Services of the Carolinas, Inc., Wheelock Street Capital, LLC d/b/a Jon Wieland Homes and Neighborhoods, Inc., Bar Construction, Inc., Benjamin Mora d/b/a Mora Construction, a/k/a Benjamin Mora Construction, LLC, Builder's Firstsource, Inc. a/k/a Builders Firstsource-Atlantic Group, LLC, DBC Construction Services, LLC, Gerardo Rosette Sanchez a/k/a GR Painting, Jeorge Medine a/k/a JMC Construction, LLC a/k/a JMC Construction, Inc., Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, Latitude Construction Services, LLC, The Muhler Company, Inc., Paul M. Vasque, Richard Ditullio, Richard Ditullio a/k/a ROT Contracting, LLC,

Defendants,

of whom

John Wieland Homes and Neighborhoods of the Carolinas, Inc. as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builders Support Services of the Carolinas, Inc., is the

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Respondents.

NOTICE OF APPEAL

John Wieland Homes and Neighborhoods of the Carolinas, Inc. as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builders Support Services of the Carolinas, Inc. ("Appellant"), appeals the following:

- The jury's verdict in these matters, which were tried together, entered into the Record on January 30th, 2017 (Exhibit A);

- The Court's oral denial of Appellant's *Post-Trial Motions* which was entered on the Record on January 30th, 2017;
- The Court's written Order denying Appellant's *Post-Trial Motions* entered on January 30th, 2017 (Exhibit B);
- The Court's oral denial of Appellant's *Motions for Directed Verdict* at Trial;
- Any and/or all orders addressing any and/or all motions made by Appellant prior to trial and contemporaneously raised at trial by Appellant which the Court denied; and
- The Court's Orders bifurcating Appellant's cross-claims against Third-Party Defendants Jeorge Medina, Jeorge Medina a/k/a JMC Construction, LLC a/k/a JMC Construction, Inc., Juan Luis Sanchez, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, and The Muhler Company, Inc. (Exhibit 2).



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John Wieland Homes Inc., John Wieland
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March 1, 2017

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Deadra L. Jefferson
Circuit Court Judge

Case No. 2013-CP-10-3326

RECEIVED

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Waverly at Hamlin Plantation Townhome Association,
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Plaintiff,

v.

John Wieland Homes and Neighborhoods of the Carolinas, Inc. as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builders Support Services of the Carolinas, Inc. and Wheelock Street Capital, LLC d/b/a John Wieland Homes and Neighborhoods, Inc.,

Defendants,

and

John Wieland Homes and Neighborhoods of the Carolinas, Inc., as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes Inc., Builders Support Services of the Carolinas, Inc.,

*Third-Party
Plaintiffs,*

v.

Barr Construction, Inc. Benjamin Mora d/b/a Mora Construction, a/k/a Benjamin Mora Construction, LLC, Builders FirstSource, Inc., a/k/a Builders FirstSource-Southeast Group, LLC, a/k/a Builders FirstSource-Atlantic Group, LLC, DBC Construction Services, LLC, Eli, Inc, Gerardo Rosette Sanchez a/k/a GR Painting, Jeorge Medina, Jeorge Medina a/k/a JMC

Construction, LLC a/k/a JMC Construction, Inc., Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC, Juan Luis Sanchez, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, Latitude Construction Services, LLC, The Muhler Company, Inc., Paul M. Vasquez, Richard Ditullio, Richard Ditullio a/k/a RDT Contracting, LLC,

*Third-Party
Defendants.*

of whom

John Wieland Homes and Neighborhoods of the Carolinas, Inc. as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builders Support Services of the Carolinas, Inc., is the

Appellant.

and

Waverly at Hamlin Plantation Townhome Association, Inc., Jeorge Medina, Jeorge Medina a/k/a JMC Construction, LLC a/k/a JMC Construction, Inc., Juan Luis Sanchez, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, and The Muhler Company, Inc., are the

Respondents.

Case No. 2014-CP-10-4335

Jeffrey Sills, Individually and as Class Representative, Marie Labarowski, Edward and Nancy Peyser, Francis Sills, Daniel and Suzanne Ruth, Stephani Adili, Marc and Brandy Lynn, Russell Robinson, George Busnach, Helen Furtado, Jessica Baucom, Nancy S. Coleman, Linda Glitz, Peggy Gerou, Shannon Bebout, Maryann Walsh, Patty Whitmire, Donald L. Tomasello and Patricia Kelly, Chris Leigh-Jones, Edward Ray and Kathy Jo Feagins, Cindy Hunt for Bentgrass Limited, LLC, Adam A. and Susan S. Sokoloski, William and Carolyn Barone, Michelle Ray, Eugene and Cynthia

Ray, William Abel, Dean and Conny Mason, David McCartney, Paul and Patricia Waters, James and Andrea Lowry, R. Robinson, Jr. Thaddeus R. and Barbara A. Kuczynski, Beverly Sunders Carlson, Lisa Roeck, Elizabeth Jackson, Charles and Mary Kathleen Jenkins, Linda M. and Earl K. Rigler, Jr., John Twomey, Joe and Anita Brittain, Gilbert J. Hager and Kelly Hager Holmes, Carol and Chris Gilespeie, Jared D. Overcash,

Plaintiffs,

v.

John Wieland Homes and Neighborhoods of the Carolinas, Inc., as successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builders Support Services of the Carolinas, Inc., Wheelock Street Capital, LLC d/b/a Jon Wieland Homes and Neighborhoods, Inc., Bar Construction, Inc., Benjamin Mora d/b/a Mora Construction, a/k/a Benjamin Mora Construction, LLC, Builder's Firstsource, Inc. a/k/a Builders Firstsource-Atlantic Group, LLC, DBC Construction Services, LLC, Gerardo Rosette Sanchez a/k/a GR Painting, George Medine a/k/a JMC Construction, LLC a/k/a JMC Construction, Inc., Jesus Mora a/k/a J. Mora Brick & Block Mason, LLC, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, Latitude Construction Services, LLC, The Muhler Company, Inc., Paul M. Vasque, Richard Ditullio, Richard Ditullio a/k/a ROT Contracting, LLC,

Defendants,

of whom

John Wieland Homes and Neighborhoods of the Carolinas, Inc. as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builders Support Services of the Carolinas, Inc., is the

Appellant.

and

Jeffrey Sills, Individually and as Class Representative, Marie Labarowski, Edward and Nancy Peysér, Francis Sills, Daniel and Suzanne Ruth, Stephani Adili, Marc and Brandy Lynn, Russell Robinson, George Busnach, Helen Furtado, Jessica Baucom, Nancy S. Coleman, Linda Glitz, Peggy Gerou, Shannon Bebout, Maryann Walsh, Patty Whitmire, Donald L. Tomasello and Patricia Kelly, Chris Leigh-Jones, Edward Ray and Kathy Jo Feagins, Cindy Hunt for Bentgrass Limited, LLC, Adam A. and Susan S. Sokoloski, William and Carolyn Barone, Michelle Ray, Eugene and Cynthia Ray, William Abel, Dean and Conny Mason, David McCartney, Paul and Patricia Waters, James and Andrea Lowry, R. Robinson, Jr. Thaddeus R. and Barbara A. Kuczynski, Beverly Sunders Carlson, Lisa Roeck, Elizabeth Jackson, Charles and Mary Kathleen Jenkins, Linda M. and Earl K. Rigler, Jr., John Twomey, Joe and Anita Brittain, Gilbert J. Hager and Kelly Hager Holmes, Carol and Chris Gilespe, Jared D. Overcash, George Medina, Jeorge Medina a/k/a JMC Construction, LLC a/k/a JMC Construction, Inc., Juan Luis Sanchez, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, and The Muhler Company, Inc., are the

Respondents.

Proof of Service

I, the undersigned employee of Howser Newman & Besley, LLC, hereby certify that pursuant to Rules 203 and 262(b), SCACR, I have served the Notice of Appeal of John Wieland Homes and Neighborhoods of the Carolinas, Inc. as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builders Support Services of the Carolinas, Inc. in these matters on all counsel of record, the Clerk of the Court of Appeals, and the Clerk of Court for Charleston County by delivering a copy or mailing a copy, United States Mail, postage prepaid, on March 1, 2017, to the following addresses:

Clerk of the Court of Appeals:

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

Clerk of Court for Charleston County:

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, South Carolina 29401-2258

Attorneys for Waverly @ Hamlin Plantation Townhome Association, Inc., and Jeffrey Sills, et al.:

John C. Hayes IV
Mary-Margaret Fitzhenry Noland
HAYES LAW FIRM LLC
180 Meeting Street, Suite 330
Charleston, SC 29401
(843) 805-7003

Ivon Keith McCarty
MCCARTY LAW FIRM, PC
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Charleston, SC 29417
(843) 793-1272

Jesse Sanchez
THE LAW OFFICE OF JESSE SANCHEZ
98½ Broad Street, Suite B
Charleston, SC 29401

Attorneys for AC Construction Inc.:

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Kevin W. Mims
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Charleston, SC 29403
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Attorneys for Barr Construction Inc.:

Erin DuBose Dean
TUPPER GRIMSLEY & DEAN, PA
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Beaufort, SC 29901-2055
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Pro Se:

Paul M. Vasquez
1417 Peach Blossom Lane
Charleston, SC 29492-8263

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Curtis Brent Martin
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(843) 723-0185

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Cheryl D. Shoun
NEXSEN PRUET, LLC
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Christopher M. Adams
Andrew N. Cole
COLLINS & LACY, PC
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Attorneys for Juan Luis Sanchez, Sanchez Brothers Painting:

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Charleston, SC 29401
(843) 576-2800

Attorneys for Builders Firstsource Southeast Group LLC:

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HOWELL GIBSON & HUGHES, PA
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Beaufort, SC 29901
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Attorneys for Richard Ditullio and RDT Contracting LLC:

Jared Hudson Garraux
RICHARDSON PLOWDEN & ROBINSON, PA
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(803) 771-4400

Attorneys for Eli Inc.:

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CLAWSON & STAUBES, LLC
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(843) 577-2026

Attorneys for Latitude Construction Services LLC:

Robert Michael Ethridge
Laura Elizabeth Paris Paton
CARLOCK COPELAND & STAIR, LLP
Post Office Box 20969
Charleston, SC 29413
(843) 727-0307

Attorneys for J Mora Brick & Block Mason LLC, Jesus Mora:

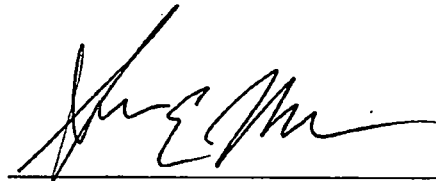
Elizabeth Fraysure Fulton
PRITCHARD LAW GROUP LLC
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Charleston, SC 29401
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John Elliott Rogers II
Carl Reed Teague
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Attorneys for The Muhler Company Inc:

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Andrew Elliott Haselden
Justin Paul Novak
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Theodorè Luke Manos
ROBERTSON HOLLINGSWORTH & FLYNN
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Charleston, SC 29401
(843) 723-6470

***Attorneys for Builder Support Services
of the Carolinas, Inc., John Wieland
Homes and Neighborhoods of South
Carolina, Inc., John Wieland Homes and
Neighborhoods of the Carolinas, Inc.,
John Wieland Homes Inc., John Wieland
Homes of Charleston, Inc.***

March 1, 2017

EXHIBIT B

STATE OF SOUTH CAROLINA)

)

AFFIDAVIT OF JOHN C. HAYES

COUNTY OF CHARLESTON)

RECEIVED

MAY 23 2017

SC Court of Appeals

PERSONALLY APPEARED BEFORE ME John C. Hayes, IV who, being duly sworn,
deposes and states:

1. I am the principal attorney of Hayes Law Firm, LLC.
2. I graduated from University of South Carolina School of Law in 2001 and have been licensed to practice law for approximately fifteen (15) years. I am a member of the South Carolina Bar, the Charleston County Bar, and the South Carolina Trial Lawyers Association.
3. My law office is located at 180 Meeting Street, Suite 330, Charleston, SC 29401.
4. I am an attorney of record in *Waverly at Hamlin Plantation Townhome Association, Inc. v. John Wieland Homes, et al.* (Case No: 2013-CP-10-3326) and *Jeffrey Sills, et al. v. John Wieland Homes, et al.* (Case No: 2014-CP-10-04335), and the corresponding Appellate Case (Appellate Case No: 2017-000542).
5. As of the date of this affidavit, I have not been served with the March 1, 2017 Notice of Appeal that was filed by Mr. Andrew Haselden in Appellate Case No: 2017-000542.

FURTHER AFFIANT SAYETH NOT.

[Signature on Following Page]

John C. Hayes, IV, Esquire (SC Bar # 69740)
Hayes Law Firm, LLC
180 Meeting Street, Suite 330
Charleston, SC 29401
Phone: 843-805-7003
Fax: 843-573-7388
jhayes@hayeslaw.org

SWORN TO BEFORE ME THIS

22 day of May 2017

Carrie Pitts

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires 11/13/2025



STATE OF SOUTH CAROLINA)

)

AFFIDAVIT OF I. KEITH MCCARTY

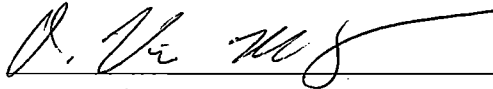
COUNTY OF CHARLESTON)

PERSONALLY APPEARED BEFORE ME I. Keith McCarty who, being duly sworn, deposes and states:

1. I am the principal attorney of McCarty Law Firm, PC.
2. I graduated from University of Memphis School of Law in 1983 and have been licensed to practice law for approximately thirty-three (33) years. I am licensed in all South Carolina Courts and Tennessee Courts. I am a member of the Bar in both South Carolina and Tennessee.
3. My law office is located at 1212 Wappoo Road, Charleston, SC 29407.
4. I am an attorney of record in *Waverly at Hamlin Plantation Townhome Association, Inc. v. John Wieland Homes, et al.* (Case No: 2013-CP-10-3326) and *Jeffrey Sills, et al. v. John Wieland Homes, et al.* (Case No: 2014-CP-10-04335), and the corresponding Appellate Case (Appellate Case No: 2017-000542).
5. As of the date of this affidavit, I have not been served with the March 1, 2017 Notice of Appeal that was filed by Mr. Andrew Haselden in Appellate Case No: 2017-000542.

FURTHER AFFIANT SAYETH NOT.

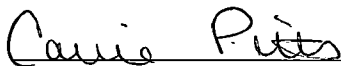
[Signature on Following Page]



I. Keith McCarty, Esquire (SC Bar # 66447)
McCarty Law Firm, PC
1212 Wappoo Road
Charleston, SC 29407
Phone: 843-793-1272
ikeithmccarty@gmail.com

SWORN TO BEFORE ME THIS

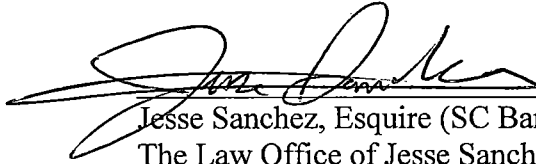
22nd day of May 2017



NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires 11/13/2025





Jesse Sanchez, Esquire (SC Bar #101906)
The Law Office of Jesse Sanchez, LLC
98 ½ Broad Street, Suite B
Charleston, SC 29401
Phone: 843-814-8181
Fax: 843-284-3953
jesse@jessesanchezlaw.com

SWORN TO BEFORE ME THIS
22 day of May 2017

Carrie Pitts
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires 11/13/2025



EXHIBIT C

JULIE J. ARMSTRONG
CLERK OF COURT, C.P. & G.S.
100 BROAD STREET, SUITE 106
CHARLESTON, SC 29401-2258
RETURN SERVICE REQUESTED



clerkofcourt.charlestoncounty.org



36



JOHN CALVIN HAYES IV
180 MEETING ST STE 330
CHARLESTON SC 29401-2264

NOTICE OF ENTRY OF JUDGMENT/ORDER PURSUANT TO RULE 77 SCRPC

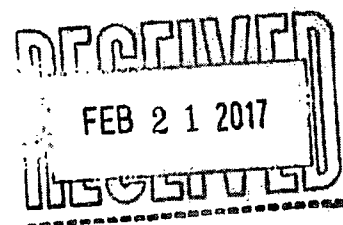
Order/Jury Verdict, Post Trial Motions, & Matters Under Advis

CASE NO: 2013CP1003326

Waverly at Hamlin Plantation Townhome Association Inc VS John Wieland Homes and Neighborhoods of

This judgment was entered on the 09th day of February, 2017, and notice mailed first class on Tuesday, February 14, 2017, to all counsel of record and/or all parties entitled to receive notice.

You may view and download this document at <http://clerkofcourt.charlestoncounty.org> or obtain a copy in person at the Clerk of Court's Office during regular Charleston County business hours.



FORM 4

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON
IN THE COURT OF COMMON PLEAS

Waverly at Hamlin Plantation Townhome
Association, Inc.

v.

JUDGMENT IN A CIVIL
CASE

CASE NO. 2013-CP-10-03326

John Wieland Homes and
Neighborhoods of the Carolinas, Inc.,
et al,

PLAINTIFF

DEFENDANT

FILED
2017 FEB -9 PM 1:42
BY JULIE J. AINSWORTH
CLERK OF COURT

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

BOX:

DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE

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. (Formal order to follow)
- Statement of Judgment by the Court:

This case was called before the Court for a jury trial on January 23-30, 2017. On January 30, 2017, a judgment was rendered by the jury. The jury reached a verdict in favor of Plaintiff Waverly at Hamlin Plantation Townhome Association, Inc. in the amount of \$ 7,000,000.00 dollars actual damages.

At the end of the trial, post-trial motions were required and heard. The Defendant filed its Post-Trial Motions numbered 1-15. The Defendant's concede that numbers 3, 4, and 6 are moot. Defendants also withdraw number 13. Defendant John Wieland Homes made a Motion for Judgment Notwithstanding the Verdict pursuant to SCRPC, Rule 50. SCRPC Rule 50 states that "[w]henver a motion for a directed verdict made at the close of all the evidence is denied or for any reason is not granted, the court is deemed to have submitted the action to the jury subject to a later determination of the legal questions raised by the motion. A party who has moved for a directed verdict may move to have the verdict and any judgment entered thereon set aside and to

have judgment entered in accordance with his motion for a directed verdict; or if a verdict was not returned, such party may move for judgment in accordance with his motion for a directed verdict." "Motions for directed verdict or JNOV should be denied if the evidence yields more than one reasonable inference or its inference is in doubt." *Strange v. S.C. Dep't of Highways & Pub. Transp.*, 314 S.C. 427, 429-30, 445 S.E.2d 439, 440 (1994). Further, "[a] motion for JNOV may be granted only if no reasonable jury could have reached the challenged verdict." *Gastineau v. Murphy*, 331 S.C. 565, 568, 503 S.E.2d 712, 713 (1998).

The Defendant additionally made a Motion for both a New Trial and a Remittitur of the Award. "A motion for a new trial nisi remittitur asks the trial court in its discretion to reduce the verdict because it is 'merely excessive,' although not motivated by considerations such as passion, caprice, or prejudice. If the amount of the verdict is grossly excessive so as to be the result of passion, caprice, prejudice, or some other influence outside the evidence, the trial judge must grant a new trial absolute, not a new trials nisi remittitur." *Hunter v. Staples*, 335 S.C. 93, 515 S.E.2d 261, 268 (Ct. App. 1999). A circuit court may grant a new trial absolute on the ground that the verdict is excessive or inadequate. "The jury's determination of damages, however, is entitled to substantial deference." *RRR, Inc. v. Toggas*, 378 S.C. 174, 662 S.E.2d 438, 442-43 (Ct. App. 2008). The circuit court should grant a new trial absolute on the excessiveness of the verdict only if the amount is so grossly inadequate or excessive so as to shock the conscience of the court and clearly indicates the figure reached was the result of passion, caprice, prejudice, partiality, corruption or some other improper motives. . . . Similarly, the circuit court alone has the power to grant a new trial nisi when it finds the amount of the verdict to be merely inadequate or excessive. "Compelling reasons, however, must be given to justify invading the jury's province in this manner." *Id.*

Accordingly, JNOV, a new trial, or a remittitur of the damages award would be improper as a reasonable jury could have reached the challenged verdict. Further, the jury's verdict must be upheld if there is any evidence to sustain the factual findings implicit in the verdict. *Sorin Equipment Co., Inc. v. The Firm, Inc.*, 323 S.C. 359, 474 S.E.2d 819, 823 (Ct. App. 1996). The Court further finds that the verdict is not shockingly disproportionate to the injuries sustained by the Plaintiff as to indicate passion, caprice, prejudice, or some other influence outside the evidence. *Kalchthaler v. Workman*, 316 S.C. 499, 450 S.E.2d 621 (Ct. App. 1994). Pursuant to SCRCP Rule 59, "the motion for a new trial shall be made promptly after the jury is discharged, or in the discretion of the court not later than 10 days thereafter." The Court required motions to be made promptly after the jury was discharged. The Court heard argument on motions numbered 1-2, 5, 7-12, and 14-15. At that time the Court made contemporaneous findings of fact and conclusions of law for the record which are incorporated herein. No other motions were made and are therefore waived. Accordingly, the Defendant's Motions were heard and respectfully denied.

Subsequent to trial, on February 3, 2017 the Defendants filed a motion for set-off. Accordingly, a hearing was held on February 9, 2017 on Defendant's Motion to Enforce Set-Off and Reduce Judgment. Present at the hearing were John Hayes, Esquire and I. Keith McCarty, Esquire, representing the Plaintiff, and Theodore Manos, Esquire and Andrew Haselden, Esquire, representing Defendant John Wieland Homes. "Before entering judgment on a jury verdict, the court must reduce the amount of the verdict to account for any funds previously paid by a settling defendant, so long as the settlement funds were paid to compensate the same plaintiff on a claim for the same injury; when the settlement is for the same injury, the nonsettling defendant's right to a setoff arises by operation of law." *Smith v. Widener*, 397 S.C. 468, 724 S.E.2d 188 (Ct. App. 2012). After hearing from all parties present, the parties stipulate, without objection, that the Defendants are entitled to a set-off in the amount of \$1,919,000.00. Therefore, Judgment is entered

against the Defendants in the amount of \$5,081,000.00. Further, the gravamen of Defendant John Wieland Homes' Motion is their contention that they are entitled to an enhanced set-off in the amount of \$434,000.00. They maintain this is the result of an alleged settlement with Benjamin Mora d/b/a Mora Construction a/k/a Benjamin Mora Construction, LLC. The Court heard argument on the matter and has taken this matter under advisement. The Court will issue a Supplemental Order concerning this matter.

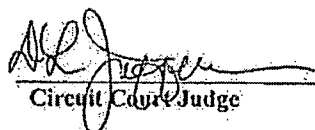
ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT 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)
Waverly at Hamlin Plantation Townhome Association, Inc.	John Wieland Homes and Neighborhoods of the Carolinas, Inc. As successor by statutory merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc.	\$ 5,081,000.00
If applicable, describe the property, including tax map information and address		

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.


Circuit Court Judge

2128
Judge Code

2/9/17
Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20__ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20__ to attorneys of record or

to parties (when appearing pro se) as follows:

John C. Hayes, Esq., I. Keith McCarty, Esq.
Mary Margaret Noland, Esq.

PLAINTIFF

Theodore Manos, Esq., Andrew Haselden Esq.,
Justin Novak, Esq.

ATTORNEY FOR DEFENDANT

CLERK OF COURT

Court Reporter: Ruth Weese

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Waverly at Hamlin Plantation)
Townhome Association, Inc.)
)
Plaintiff,)
)
v.)
)
John Wieland Homes and)
Neighborhoods of the Carolinas, Inc.)
As successor by statutory merger to)
John Wieland Homes and)
Neighborhoods of South Carolina,)
Inc., John Wieland Homes of)
Charleston, Inc., John Wieland)
Homes, Inc.,)
)
Defendants,)

IN THE COURT OF COMMON PLEAS
CASE NO.: 2013-CP-10-03326

VERDICT FORM

AS TO THE NEGLIGENCE CAUSE OF ACTION:

1. We, the jury, unanimously find for the Plaintiff in the amount
\$ 7,000,000 (dollars) actual damages.

OR

2. We, the jury, unanimously find for the Plaintiff in the amount of
\$ _____ (dollars) actual damages.
\$ _____ (dollars) punitive damages.

OR

3. _____ We, the jury, unanimously find for the Defendants.

Please sign and date.

Chris Jordan

Foreperson

1/30/17

Date

Please notify the Bailiff when you have completed your deliberations.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Deadra L. Jefferson
Circuit Court Judge

Appellate Case No. 2017-000542
Case No. 2013-CP-10-3326
Case No. 2014-CP-10-4335

RECEIVED

MAY 28 2017
SC Court of Appeals

Waverly at Hamlin Plantation Townhome Association, Inc., Plaintiff,

v.

John Wieland Homes and Neighborhoods of the Carolinas, Inc. as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Defendants,

And

John Wieland Homes and Neighborhoods of the Carolinas, Inc., as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes Inc., Builders Support Services of the Carolinas, Inc., Third-Party Plaintiffs,

v.

Barr Construction, Inc., Benjamin Mora d/b/a Mora Construction, a/k/a Benjamin Mora Construction, LLC, Builders FirstSource-Atlantic Group, LLC, DBC Construction Services, LLC, Eli, Inc., Gerardo Rosette Sanchez a/k/a JMC Construction, Inc., Jesus Mora a/k/a J. Mora Brick and Block Mason, LLC, Juan Luis Sanchez, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, Latitude Construction Services, LLC, the Muhler Company, Inc., Paul M. Vasquez, Richard Ditullio, Richard Ditullio a/k/a RDT Contracting, LLC, Third-Party Defendants,

Of whom John Wieland Homes and Neighborhoods of the Carolinas, Inc., as

Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Homes, Inc., Builders Support Services of the Carolinas, Inc., is the Appellant,

And

Waverly at Hamlin Plantation Townhome Association, Inc., George Medina, George Medina a/k/a JMC Construction, LLC a/k/a JMC Construction, Inc., Juan Luis Sanchez, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, and the Muhler Company, Inc. Are the Respondents.

And

Jeffrey Sills, Individually and as Class Representative, Marie Labarowski, Edward and Nancy Peyser, Francis Sills, Daniel and Suzanne Ruth, Stephanie Adili, Marc and Brandy Lynn, Russell Robinson, George Busnach, Helen Furtado, Jessica Baucom, Nancy S. Coleman, Linda Glitz, Peggy Gerou, Shannon Bebout, Maryann Walsh, Patty Whitmire, Donald L. Tomasello and Patricia Kelly, Chris Leigh-Jones, Edward Ray and Kathy Jo Feagins, Cindy Hunt for Bentgrass Limited, LLC, Adam A. and Susan S. Sokoloski, William and Carolyne Barone, Michelle Ray, Eugene and Cynthia Ray, William Abel, Dean and Conny Mason, David McCartney, Paul and Patricia Waters, James and Andrea Lowry, R. Robinson, Jr., Thaddeus R. and Barbara A. Kucynski, Beverly Sanders Carlson, Lisa Roeck, Elizabeth Jackson, Charles and Mary Kathleen Jenkins, Linda M. and Earl K. Rigler, Jr., John Twomey, Joe and Anita Brittain, Gilbert J. Hager and Kelly Hager Holmes, Carol and Chris Gillespie, Jared D. Overcash, Plaintiffs,

v.

John Wieland Homes and Neighborhoods of the Carolinas, Inc., as Successory by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc. John Wieland Homes of Charleston, Inc., John Wieland Hoems, Inc., Builders Support Services of the Carolinas, Inc., Wheelock Street Capital, LLC d/b/a Jon Wieland Homes and Neighborhoods, Inc. Barr Construction, Inc. Benjamine Mora d/b/a Mora Construction, a/k/a Builders FirstSource-Atlantic Group, LLC, DBC Construction Services, LLC, Gerardo Rosette Sanchez a/ka/a GR Painting, George Medina a/k/a JMC Construction, LLC, JMC Construction, Inc., Jesus Mora a/k/a J. Mora Brick and Block Mason, LLC, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, Latitude Construction Services, LLC, The Muhler Company, Inc., Paul M. Vaquez, Richard Ditullio, Richard Ditullio a/k/a ROT Contracting, LLC Defendants,

Of whom John Wieland Homes and Neighborhoods of the Carolinas, Inc. as Successor by Statutory Merger to John Wieland Homes and Neighborhoods of South Carolina, Inc., John Wieland Homes of Charleston, Inc., John Wieland Hoems, Inc.,

Builders Support Services of the Carolinas, Inc., is the Appellant,

And

Jeffrey Sills, individually and as Class Representative, Marie Labarawoksi, Edward and Nancy Peyser, Francis Sills, Daniel and Suzanne Ruth, Stephani Adili, Marc and Brady Lynn, Russel Robinson, George Busnach, Helen Furtado, Jessica Baucom, Nancy S. Coleman, Linda Glitz, Peggy Gerou, Shannon Bebout, Maryann Walsh, Patty Whitmire, Donald L. Tomasello and Patricia Kelly, Chris Leigh-Jones, Edward Ray and Kathy Joe Feagins, Cindy Hund for Bentgrass Limited, LLC, Adam A. and Susan S. Sokoloski, William and Carolyn Barone, Michelle Ray, Eugene and Cynthia Ray, William Abel, Dean and Conny Mason, David McCartney, Paul and Patricia Waters, James and Andrea Lowry, R. Robinson, Jr. Thaddeus R. and Barbara A. Kuczynski, Beverly Sanders Carlson, Lisa Roeck, Elizabeth Jackson, Charles and Mary Kathleen Jenkins, Lind M. and Earl K. Rigler, Jr., John Twomey, Joe and Anita Brittain, Gilbert J. Haver and Kelly Hager Holes, Carol and Chris Gillespie, Jared D. Overcash, Jeorge Medina, Jeorge Medina a/k/a JMC Construction, LLC a/k/a JMC Construction, Inc., Juan Luis Sanchez, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, and The Muhler Company, Inc., are the Respondents.

Proof of Service

I, the undersigned, certify that I have served the Motion to Dismiss Appeal to the attorneys of record by depositing a copy of it in the United States Mail on May 22nd, 2017, addressed to the following:

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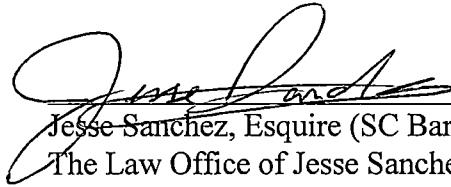
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May 22, 2017

VIA CERTIFIED MAIL

Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

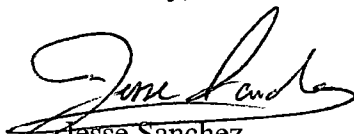
Re: Waverly at Hamlin Plantation Townhome Association, Inc. v. John Wieland
Homes and Neighborhoods of the Carolinas, Inc., et al.
Appellate Case No: 2017-000542

Dear Ms. Kitchings,

Enclosed herewith please find an original and seven (7) copies of Respondents' Motion to Dismiss Appeal and Proof of Service for the above-referenced case. Please file the same and return one (1) file-stamped copy in the enclosed prepaid envelope. Also enclosed is our check for \$25.00 for the filing fee for this motion.

Thank you for your assistance with this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,


Jesse Sanchez

P

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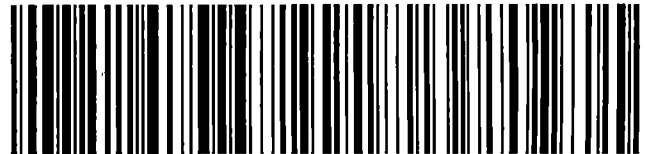
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CLERK OF COURT
SC COURT OF APPEALS
PO BOX 11629
COLUMBIA, SC 29211

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