

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Deadra L. Jefferson, Circuit Court Judge

Case No.: 2013-CP-10-03326
Appellate Case No. 2017-000474

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OCT 12 2017

SC Court of Appeals

Ex Parte: Liberty Mutual Fire Insurance Company..... Appellant

v.

In Re: Waverly at Hamlin Plantation Townhome
Association, Inc., Respondents,

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., Respondents,

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., Respondents,

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, George Medina, George Medina 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,Respondents.

RESPONDENT BENJAMIN MORA D/B/A MORA CONSTRUCTION A/K/A BENJAMIN MORA CONSTRUCTION, LLC'S MOTION TO DISMISS

Comes Now the Respondent Benjamin Mora d/b/a Mora Construction a/k/a Benjamin Mora Construction, LLC (hereinafter "Mora") and respectfully moves this Court for an Order pursuant to Rule 240, SCACR, for a dismissal from this appeal. As Mora settled with Plaintiffs and the John Wieland Homes entities prior to trial, it is not a proper party to this appeal.

Liberty Mutual Fire Insurance Company ("Liberty Mutual") filed its appeal stemming from the trial of *Waverly and Hamlin Plantation Townhome Association, Inc.* (Civil Action No. 2013-CP-10-3326), which was tried concurrently with *Jeffrey Sills, as Class Representative, et. al.* (Civil Action No 2014-CP-10-4335). These cases were tried in January 2017, with Liberty Mutual filing an appeal in February 2017 as to the trial court's denial of its motion to intervene. In its appeal, Liberty Mutual has named various defendants as Respondents, including Mora.

Mora settled with Plaintiffs and the John Wieland Homes entities prior to trial, and thus should be dismissed as a Respondent. Stipulations of dismissal between

Plaintiffs and Mora were filed on July 11, 2017, with a formal settlement agreement executed on September 5, 2017. Stipulations of dismissal as to claims by the John Wieland Homes entities against Mora were filed on April 7, 2017. Accordingly, all claims against Mora have been resolved.

Therefore, Mora respectfully requests this Court to dismiss Mora as a Respondent to this appeal.

ANDERSON REYNOLDS & STEPHENS,
LLC



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Services of the Carolinas, Inc. and Wheelock Street Capital,
LLC d/b/a John Wieland Homes and neighborhoods, Inc.,.....Respondents,

And

John Wieland Homes and Neighborhoods of the Carolinas, Inc.,
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Services of the Carolinas, Inc.,Respondents,

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, 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,Respondents.

PROOF OF SERVICE

I certify that I have served Respondent Benjamin Mora d/b/a Mora Construction a/k/a Benjamin Mora Construction, LLC's Motion to Dismiss upon all counsel of record in this matter by depositing a copy in the U. S. mail, postage paid on October 11, 2017 addressed to counsel of record as set forth below:

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Attorney for Barr Construction, Inc.

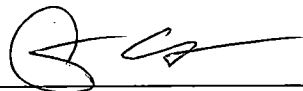
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October 10, 2017

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OCT 12 2017

SC Court of Appeals

The 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
Case #: 2013-CP-10-3326
Claim #72-39-320545 (PEG)
AR & S #: 20140.32

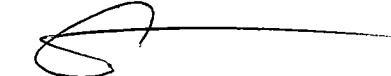
APPELLATE CASE NO. 2017-000474

Dear Ms. Kitchings:

Please find enclosed the original and seven (7) copies of Respondent Benjamin Mora Construction, LLC's Motion to Dismiss with regard to the above-reference Appeal. Also enclosed is our Proof of Service and one (1) copy. Please find enclosed a self-addressed, postage paid envelope to return one (1) clocked copy of Respondent's Motion and one (1) clocked copy of the Proof of Service for our file.

Also enclosed is our firm's check in the amount of \$25.00 for the corresponding fee for the filing of this motion. Your assistance in this matter is greatly appreciated.

Sincerely,



Curtis B. Martin

CBM/jcd

Enclosures

cc: C. Mitchell Brown, Esquire

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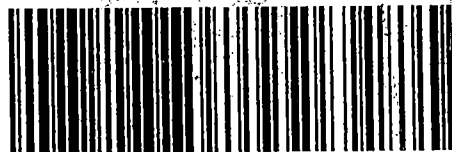


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SC Court of Appeals



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