

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Mikell R. Scarborough, Master-in-Equity

Case No. 2017-001205

Triad Mechanical Contractors, Inc., Respondent,

v.

Built Right Construction, LLC; Austin-HITT Contracting, a Corporation; Allison Smith Company, LLC; Charleston County Aviation Authority, A Body Politic; Jesse L. Blewer; Christopher Pelletier; Gene Pelletier; Federal Insurance Company/Travelers Casualty and Surety/Liberty Mutual Company; Defendants,

of which,

Built Right Construction, LLC, Chris Pelletier, and Jesse Blewer are Appellants.

RECORD ON APPEAL

William K. Austin
Post Office Box 62551
N. Charleston, SC 29419
843-822-3877
Attorney for Appellant

William R. Runyon
3 Gamecock Ave., Suite 303
Charleston, SC 29407
(843) 571-3515
Attorney for Respondent

RECEIVED
MAR 21 2018
SC Court of Appeals

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2014- CP-10-7501

Triad Mechanical Contractors

Built Right Construction LLC

PLAINTIFF(S)

DEFENDANT(S)

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

DISPOSITION TYPE (CHECK ONE)

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

FILED
 2016 JUL 26 PM 2:55
 JULIE L. ARMSTRONG
 CLERK OF COURT
 BY

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: By consent of the parties, and pursuant to Rule 53, this court hereby refers this case to the equity division of the court for final disposition. The Master-In-Equity shall enter final judgment with any appeals to be taken in accordance with 14-11-85. The reference fee shall be paid directly to the office of the Master-In-Equity; upon a failure to do so, the Master shall order the case to be dismissed without prejudice for failure to comply with the court's order.

ORDER INFORMATION This order ends does not end the case.

Additional Information for the Clerk : _____

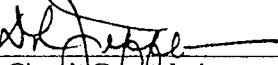
INFORMATION FOR THE PUBLIC INDEX

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)
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.


 Circuit Court Judge

2128
 Judge Code

7/26/16
 Date

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
) TRIAD MECHANICAL CONTRACTORS,)
) INC.)
) PLAINTIFF,)
))
) VS.)
))
) BUILT RIGHT CONSTRUCTION, LLC;)
) AUSTIN-HITT CONTRACTING, A)
) CORPORATION; ALLISON SMITH)
) COMPANY, LLC; CHARLESTON)
) COUNTY AVIATION AUTHORITY,)
) A BODY POLITIC; JESSE L. BLEWER;)
) CHRISTOPHER PELLETIER; GENE)
) PELLETIER; FEDERAL INSURANCE)
) COMPANY/TRAVELERS)
) CASUALTY AND SURETY/LIBERTY)
) MUTUAL COMPANY)
) DEFENDANTS.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
Case No.: 2014-CP-10-7501

ORDER OF REFERENCE

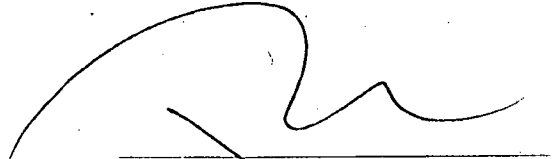
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JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

IT APPEARING THAT the matter herein involves issues appropriate for resolution by the Master-in-Equity, therefore, this action should be referred to the Honorable Mikell R. Scarborough, Master-In-Equity for Charleston County, with such Master-in-Equity being empowered to fully dispose of all issues in accordance with the law. Any appeal therefrom shall be to the South Carolina Court of Appeals/ South Carolina Supreme Court, without further review by the Court of Common Pleas;

NOW, on motion of counsel for the Defendants identified as "Austin-HITT Contracting, a Corporation;" "Charleston County Aviation Authority, A Body Politic; and "Federal Insurance Company/Travelers Casualty and Surety/Liberty Mutual Company" with the consent of all parties to this action it is therefore;

ORDERED that this action is referred to the Honorable Mikell R. Scarborough, Master-in-Equity for Charleston County, to take testimony arising under the pleadings, and to make his

findings of fact and conclusions of laws, with authority to dispose of all issues.



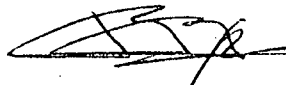
Presiding Judge
Ninth Judicial Circuit

Charleston, South Carolina

Dated: 8/11/16

WE SO MOVE:

POPE FLYNN, LLC




R. Patrick Flynn
Michael W. Allen
177 Meeting Street, Suite 320
Charleston, SC 29401
Attorneys for the Defendants identified as
"Austin-HITT Contracting, a
Corporation;" "Charleston County
Aviation Authority, A Body Politic; and
"Federal Insurance Company/Travelers
Casualty and Surety/Liberty Mutual
Company"

Date: 7/29/2016

WE CONSENT:

WILLIAM L. RUNYON, JR.

 WT permissib

William L. Runyon, Jr.
#3 Gamecock Avenue, Suite 303
Charleston, SC 29407
Attorney for the Plaintiff

Date: 7/29/2016

Date: 7/29/16 PAID
Amount: \$50
By: MIKELL R. SCARBOROUGH
ABS MASTER IN EQUITY

WE CONSENT:

RICHTER LAW FIRM

 by permission

Lawrence E. Richter, Jr.
Aaron E. Edwards
622 Johnnie Dodds Blvd.
Mount Pleasant, SC 29646
**Attorneys for the Defendants Built Right
Construction, LLC; Christopher Pelletier**

Date: 7/29/2016

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

Triad Mechanical Contractors, Inc.)

Plaintiff(s))

vs.)

Built right Construction, LLC; Austin-Hitt Contracting, a Corporation; Allison Smith Company, LLC; Charleston County Aviation Authority, A Body Politic; Jesse L. Blewer; Christopher Pelletier; Gene Pelletier; Federal Insurance Company/Travelers Casualty and Surety/ Liberty Mutual Company)

Defendant(s))

Submitted By: William L. Runyon, Jr., Esquire
Address: #3 Gamecock Avenue, Suite 303
Charleston, SC 29407

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2014-CP - 10- 7501

FILED
2014 DEC - 9 PM 3:47
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

SC Bar #: 4838
Telephone #: (843)571-3515
Fax #: (843)766-5085
Other:

E-mail:runyonwilliamjr1@bellsouth.net

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

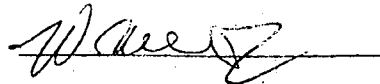
*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), Employment (120), General (130), Breach of Contract (140), Other (199)
- Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Previous Notice of Intent Case # 20-NI-_____, Notice/ File Med Mal (230), Other (299)
- Torts - Personal Injury: Assault/Slander/Libel (300), Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Other (399)
- Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
- Inmate Petitions: PCR (500), Mandamus (520), Habeas Corpus (530), Other (599)
- Administrative Law/Relief: Reinstate Drv. License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order (850), Other (899)
- Special/Complex /Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650), Motion to Quash Subpoena in an Out-of-County Action (660), Sexual Predator (510)
- Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Transfer of Structured Settlement Payment Rights Application (760), Confession of Judgment (770), Petition for Workers Compensation Settlement Approval (780), Other (799)
- Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Public Service Comm. (990), Employment Security Comm (991), Other (999)

Submitting Party Signature:



Date:

12-9-14

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Triad Mechanical Contractors, Inc.)
)
 Plaintiff,)
)
 Vs.)
)
 Built Right Construction, LLC. ;)
 Austin -Hitt Contracting, a Corporation;)
 Allison Smith Company, LLC.,)
 Charleston County Aviation Authority,)
 A Body Politic; Jessé L. Blewer;)
 Christopher Pelletier; Gene Pelletier;)
 Federal Insurance Company/ Travelers)
 Casualty and Surety/Liberty Mutual)
 Company)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT
 Case No.: 2014-CP-10- 7501

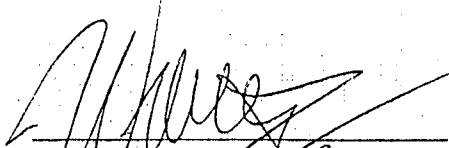
SUMMONS

BY _____
 JULIE J. ARMS IRONG
 CLERK OF COURT
 2014 DEC -9 PM 3:47

FILED

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to appear and defend the action(s) set forth in the Complaint herein, a copy of which is served upon you, and to serve a copy of your answer or other response to the said Complaint on **William L. Runyon, Jr., Esquire** , at #3 Gamecock Avenue, Charleston, SC 29407, within thirty (30) days after the service hereof if service upon you was in person and thirty five (35) after service hereof if served upon you by United States Mail, exclusive of the day of such service. If you fail to answer, appear and defend the Complaint within the time aforesaid, judgment by default will be entered against you for the relief demanded in said Complaint.


 William L. Runyon, Jr., Esquire
 #3 Gamecock Avenue, Suite 303
 Charleston, SC 29407
 (843)571-3515
 SC Bar No.: 4838

Dated this 9th day of December, 2014
 at Charleston, South Carolina.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Triad Mechanical Contractors, Inc.)
)
 Plaintiff,)
)
 Vs.)
)
 Built Right Construction, LLC. ;)
 Austin -Hitt Contracting, a Corporation;)
 Allison Smith Company, LLC.,)
 Charleston County Aviation Authority,)
 A Body Politic; Jesse L. Blewer;)
 Christopher Pelletier; Gene Pelletier;)
 Federal Insurance Company/ Travelers)
 Casualty and Surety/Liberty Mutual)
 Company)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT
 Case No.: 2014-CP-10- 7501

COMPLAINT

FILED
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 JULIE J. ARMS IRONG
 CLERK OF COURT
 BY _____

Now comes the Plaintiff complaining of the Defendants and says:

I. AS TO PARTIES AND EVENTS

1. That Plaintiff Triad Mechanical Contractors, Inc. (hereafter "Triad") is a South Carolina Corporation which maintains its principle place of business in Charleston County, south Carolina.
2. That Triad was a subcontractor to Defendant Built Right Construction, LLC, a South Carolina Corporation (hereafter "Built Right") on the project referred to as the Charleston International Airport project.
3. That Defendants Austin-Hitt Contracting and Allison Smith Company, LLC are corporate bodies doing business in Charleston County and in positions relating to being General Contractors and Construction Managers on said project.

4. That the Charleston County Aviation Authority is a body politic under the Laws of the Sovereign State of South Carolina and the owners of the Charleston International Airport and the beneficiaries of the work performed by the Plaintiff.
5. That Defendant Jesse L. Blewer is a former employee of the Plaintiff and a current employee of the Defendant "Built Right."
6. That the Defendant Christopher Pelletier is an officer of the Defendant "Built Right."
7. That the Defendant Gene Pelletier is a resident of Charleston County.
8. That the Federal Insurance Company/ Travelers Casualty and Surety/Liberty Mutual Company are the duly licensed and qualified bonding company on the aforesaid project and are hereafter referenced as Bonding Company.

FIRST CAUSE OF ACTION
Action on payment Bond Pursuant to S.C. Code §11-35-3030

9. That Paragraphs 1 through 8 are realleged as if set out verbatim herein.
10. As required by S. C. Code Ann. §11-35-3030, Defendant Bonding Company issued a payment bond for the protection of all persons supplying labor and materials to the said project in the prosecution of the work provided for in the contracts for construction on the said project.
11. Venue is proper because the work was performed in Charleston County, South Carolina.
12. As a direct and proximate result of Defendant "Built Right", Austin-Hitt, Allison Smith and Charleston County Aviation Authority failure to pay Triad for its labor, material and services provided in connection with the aforesaid project and pursuant to S. C. Code Ann. § 11-35-3030, Triad is entitled to payment from these Defendant's in an amount equal to One Hundred Ninety-Two Thousand (\$192,000.00) Dollars in connection with the work performed under the subcontract between Triad and "Built Right". This amount is exclusive of consensual and incidental costs, damages or attorneys fees to which Triad is entitled.

SECOND CAUSE OF ACTION
Breach of Contract as to Built Right

13. That Paragraphs 1 through 12 are realleged as of set pit verbatim.
14. That Triad and Built Right entered into a fixed price subcontract agreement which was subsequently increased by way of several change orders and change directives.
15. Triad has performed all of its material obligations under the subcontract.
16. "Built Right" has failed to pay Triad money owed for work performed pursuant to the terms of the subcontract between Built Right and Triad.
17. "Built Right" has breached the subcontract between "Built Right" and Triad in failing to pay money due per the terms of the subcontract or within a reasonable time.
18. As a direct and proximate result of this breach of contract by "Built Right", Triad has incurred actual damages in an amount equal to One Hundred Ninety Two (\$192,000.00) Dollars; exclusive of consequential and incidental damages, interest, costs, or attorney fees to which Triad is entitled.

THIRD CAUSE OF ACTION
Quantum Meruit

19. The allegations contained in the preceding paragraphs 1 through 18 are realleged as of repeated verbatim herein.
20. That Built Right, Austin-Hitt, Allison Smith and the Charleston County Aviation Authority has benefitted from materials, labor, and services provided by Triad and has been enriched by the provisions of these services and materials, and is unjustly retaining the benefit of these services and materials, as well as the payment thereof, without paying the Plaintiff the reasonable value, an amount equal to One Hundred Ninety Two (\$192,000.00) Dollars.
21. That these Defendant's are liable to the Plaintiff for the reasonable value of materials and services provided, in an amount equal to One Hundred Ninety Two (\$192,000.00) Dollars

plus statutory and prejudgment interest from the date said materials and services were supplied.

FOURTH CAUSE OF ACTION
Interest SC Code 29-6-50

22. The allegations contained in the preceding paragraphs are realleged as if repeated verbatim herein.
23. Defendants Bonding Company, Built Right, Austin-Hitt, Allison Smith Company and Charleston County Aviation Authority were served with notice of Triad's rights pursuant to SC Code 29-6-50 on November 19, 2012 and Triad was not paid within the time specified by SC Code 26-6-50.
24. As a result, Defendants owe Triad interest at the rate of 1% per month until payment is made.

FIFTH CAUSE OF ACTION
Attorney Fees SC Code 27-1-15

25. The allegations contained in the preceding paragraphs are realleged as if repeated verbatim herein.
26. Defendant Bonding Company was served with notice of non-payment for which it is responsible under the terms of its payment bond on November 19, 2012.
27. Defendants have not responded. Upon information and belief, Defendants have failed and will fail to investigate and pay the claim as required by SC Code 27-1-15 within 45 Days of Service and Plaintiff is entitled to recover attorney's fees.

SIXTH CAUSE OF ACTION
Civil Conspiracy as to Defendants "Built Right", Jesse L. Blewer, Christopher Pelletier and Gene Pelletier

28. That Paragraphs 1 through 27 are realleged as if set out verbatim.

29. That the Defendant "Built Right", Christopher Pelletier, acting individually and on behalf of "Built Right" and Gene Pelletier acting individually did combine, confederate and/or conspire to do injury to the Plaintiff by utilizing Plaintiff's resources, employees and funds to acquire an account receivable and then convert same together with property of the Plaintiff to the use, benefit and profit of these Defendant's.
30. That these actions inflicted special damages on the Plaintiff.

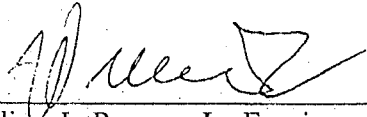
SEVENTH CAUSE OF ACTION

Conversion as to Defendants "Built Right", Jesse L. Blewer, Christopher Pelletier and Gene Pelletier

31. That Paragraphs 1 through 30 are hereby realleged as if set out verbatim.
32. That the Defendant's "Built Right", Jesse L. Blewer, Christopher Pelletier and Gene Pelletier did wrongfully take and convert to their own use and profit the lawful property, goods and intellectual property of the Plaintiff and thereby caused damage to the Plaintiff.

WHEREFORE Plaintiff prays judgment against the Defendant's as follows:

1. As to Causes First through Fifth the Plaintiff prays judgment against all Defendants save Jesse Blewer, Christopher Pelletier and Gene Pelletier for the sum of One Hundred Ninety Two (\$192,000.00) Dollars together with attorneys fees and Statutory Interest.
2. As to Causes Sixth and Seventh for judgment against the Defendants for damages in a sum to be determined by the Court together with attorneys fees, actual damages and all special damages.
3. For such other and further relief as may be afforded in Law or Equity.



William L. Runyon, Jr., Esquire
#3 Gamecock Avenue, Suite 303
Charleston, SC 29407
(843)571-3515
SC Bar No.: 4838

Dated this 9th day of December, 2014
In Charleston, South Carolina.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Triad Mechanical Contractors, Inc.,)
)
 Plaintiff,)
)
 vs.)
)
 Built Right Construction, LLC;)
 Austin-Hitt Contracting, a Corporation;)
 Allison Smith Company, LLC,)
 Charleston County Aviation Authority,)
 A Body Politic; Jesse L. Blewer;)
 Christopher Pelletier; Gene Pelletier;)
 Federal Insurance Company/Travelers)
 Casualty and Surety/Liberty Mutual)
 Company,)
)
 Defendants.)
)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2014-CP-10-7501

**ANSWER AND COUNTERCLAIMS OF
 BUILT RIGHT CONSTRUCTION, LLC
 AND CHRIS PELLETIER**

(Jury Trial Demanded)

FILED
 15 AUG 26 PM 3:16
 J. ARMSTRONG
 CLERK OF COURT

Defendants Built Right Construction, LLC and Christopher Pelletier (hereinafter "Defendants") respond to the numbered allegations of the Complaint and shows the Court as follows:

1. Each and every allegation contained in Plaintiff's Complaint not specifically admitted, qualified, or explained is hereby denied.
2. References to paragraphs contained in this Answer are references to the paragraphs in Plaintiff's Complaint unless specifically stated otherwise.

FOR A FIRST DEFENSE
(General Denial)

3. Upon information and belief, Paragraph 1 of the Plaintiff's Complaint is admitted.
4. Paragraph 2 is denied.
5. Defendants are without sufficient information to admit or deny the allegations contained in paragraphs 3, 4, and 8, and therefore deny the same.

6. Paragraphs 5-7 are admitted.
7. Paragraphs 9, 13, 19, 22, 25, 28, and 31 require no response.
8. Paragraph 10 is denied.
9. Paragraph 11 is admitted, upon information and belief.
10. Paragraph 12 is denied. Defendant Built Right denies that Plaintiff was ever its subcontractor.
11. Paragraphs 14-18, 20-21, 23-24, 26-27, 29-30, and 32 are denied.
12. The paragraphs 1, 2, and 3 constituting the Plaintiff's prayer for relief are denied.

FURTHER ANSWERING PLAINTIFF'S COMPLAINT
AND AS AN AFFIRMATIVE DEFENSE THERETO
(Unclean Hands)

13. The claims against these Defendants are barred by the doctrine of unclean hands.

FURTHER ANSWERING PLAINTIFF'S COMPLAINT
AND AS AN AFFIRMATIVE DEFENSE THERETO
(Laches)

14. The claims against these Defendants are barred by the doctrine of laches.

FURTHER ANSWERING PLAINTIFF'S COMPLAINT
AND AS AN AFFIRMATIVE DEFENSE THERETO
(Waiver/Estoppel)

15. The claims against these Defendants are barred by the doctrines of waiver and/or estoppel.

FURTHER ANSWERING PLAINTIFF'S COMPLAINT
AND AS AN AFFIRMATIVE DEFENSE THERETO
(Failure to State a Claim)

16. The claims against these Defendants are barred because Plaintiff fails to state facts sufficient to constitute a cause of action against these Defendants.

FURTHER ANSWERING PLAINTIFF'S COMPLAINT
AND AS AN AFFIRMATIVE DEFENSE THERETO
(Sole Negligence of Plaintiff)

17. The claims against these Defendants are barred because the alleged damages suffered by Plaintiff, which are specifically denied, were solely due and caused by the negligence, carelessness, recklessness, willfulness, and wantonness of Plaintiff and/or its agents.

FURTHER ANSWERING PLAINTIFF'S COMPLAINT
AND AS AN AFFIRMATIVE DEFENSE THERETO
(Sole Negligence of Others)

18. The claims against these Defendants are barred because the alleged damages suffered by Plaintiff, which are specifically denied, were solely due and caused by the negligence, carelessness, recklessness, willfulness, and wantonness of an entity or entities other than these Defendants.

FURTHER ANSWERING PLAINTIFF'S COMPLAINT
AND AS AN AFFIRMATIVE DEFENSE THERETO
(Comparative Negligence)

19. The claims against these Defendants are barred or must be reduced because even if these Defendants were negligent, these Defendants negligence must be measured against the negligence of Plaintiff and/or its agents.

FURTHER ANSWERING PLAINTIFF'S COMPLAINT
AND AS AN AFFIRMATIVE DEFENSE THERETO
(Intervening/Superseding Cause)

20. The claims against these Defendants are barred because even if these Defendants were negligent as alleged by Plaintiff, which is specifically denied, the intervening and/or superseding negligence of some person or entity other than these Defendants was the direct and proximate cause of the damages allegedly suffered by the Plaintiff.

FURTHER ANSWERING PLAINTIFF'S COMPLAINT
AND AS AN AFFIRMATIVE DEFENSE THERETO
(No Special Relationship)

21. These Defendants have no special relationship with the Plaintiff sufficient to support a claim for indemnity under South Carolina law and, thus, its claims against these Defendants must be dismissed.

FURTHER ANSWERING PLAINTIFF'S COMPLAINT
AND AS AN AFFIRMATIVE DEFENSE THERETO
(Failure to Mitigate)

22. The claims against these Defendants are barred by Plaintiff's failure to properly mitigate its damages.

FURTHER ANSWERING PLAINTIFF'S COMPLAINT
AND AS AN AFFIRMATIVE DEFENSE THERETO
(Absence of Duty)

23. The claims against these Defendants are barred because these Defendants had no duty, contractual or otherwise, to Plaintiff.

FURTHER ANSWERING PLAINTIFF'S COMPLAINT
AND AS AN AFFIRMATIVE DEFENSE THERETO
(Failure to Comply with Statutory Requirements)

24. The claims against these Defendants are barred because the Plaintiff failed to comply with applicable statutory and other procedural requirements in asserting these claims.

FURTHER ANSWERING PLAINTIFF'S COMPLAINT
AND AS AN AFFIRMATIVE DEFENSE THERETO
(Incorporation of Defendants in SCRCR Rule 8, Reservation, and Non-Waiver)

25. These Defendants specifically incorporate by reference all other affirmative defenses in SCRCR Rule 8 and reserve and do not waive the right to amend these responses as additional information becomes available.

FURTHER ANSWERING PLAINTIFF'S COMPLAINT AND AS AN
AFFIRMATIVE DEFENSE THERETO
(Failure to Plead Special Damages)

26. The claims against these Defendants for conspiracy are barred for failure to allege special damages.

FURTHER ANSWERING PLAINTIFF'S COMPLAINT AND BY COUNTERCLAIM

27. Defendants Built Right Construction, LLC and Christopher Pelletier hereby reallege and incorporate the allegations of paragraphs 1 through 26 of the Answer and Counterclaims as fully and effectively as if set forth herein verbatim.
28. Defendant/Counterclaim Plaintiff Built Right Construction, LLC is a South Carolina corporation with its principal place of business in Charleston, South Carolina.
29. Defendant/Counterclaim Plaintiff Chris Pelletier is a citizen and resident of Charleston, South Carolina.
30. Upon information and belief, Plaintiff/Counterclaim Defendant Triad Mechanical Contractors, Inc. (hereinafter "Triad") is a registered South Carolina corporation, and in fact does conduct business in Charleston County, South Carolina on a regular basis and maintains a place of business in Charleston County.
31. The parties hereto and subject matter of this action are within the jurisdiction of this Honorable Court and the acts and omissions complained of by Defendants/Counterclaim Plaintiffs occurred in Charleston County, South Carolina. Venue is proper in Charleston County, South Carolina.
32. Defendant/Counterclaim Plaintiff Built Right Construction, LLC is a Disadvantaged Business Enterprise in which socially and economically disadvantaged individuals control management and daily business operations.
33. Upon information and belief, Triad Mechanical Contractors, Inc. is not a Disadvantaged Business Enterprise.
34. Chris Pelletier is an officer of Built Right Construction, LLC.
35. Triad Mechanical Contractors, Inc. agreed to act as a professional mentor for Built Right Construction, LLC and Chris Pelletier on select projects.

36. As a part of the parties' agreement, each acknowledged and agreed that Triad would act as a mentor to Chris Pelletier and Built Right Construction, LLC on select projects which would be known as "mentor projects"; Delbert A. Laquiere, president of Triad Mechanical Contractors, Inc. would open a project specific bank account; all receipts by Built Right Construction, LLC for work on "mentor projects" would be deposited into project specific bank accounts and all payments of expenses would be taken from the project specific bank account; and that there would be no comingling of money between "mentor projects" and non-mentor projects, among other terms.
37. As part of Built Right Construction, LLC's status as a Disadvantaged Business Enterprise, it was entitled to bid and/or be part of bids submitted on projects requesting that a certain percentage of work be performed by Disadvantaged Business Enterprises. Typically, jobs that seek bids with a DBE reject bids that do not meet the desired DBE threshold.
38. Without the knowledge, permission, or consent of Built Right Construction, LLC or Chris Pelletier, Triad Mechanical Contractors, Inc. absconded with Chris Pelletier's signature stamp and submitted bids to bid solicitors and others that had solicited the same.
39. Triad Mechanical Contractors, Inc. used the signature stamp of Chris Pelletier in order to deceive bid solicitors and others into believing Triad Mechanical Contractors, Inc. was a Disadvantaged Business Enterprise or could meet the bid solicitor's requirements for a Disadvantaged Business Enterprise and so would increase the chances of its bids being selected.

40. Believing Triad Mechanical Contractors, Inc. was a Disadvantaged Business Enterprise or could meet the requirements set out by bid solicitors regarding the same, contractors and others selected bids submitted to them by Triad Mechanical Contractors, Inc.
41. Triad Mechanical Contractors, Inc. did not inform Built Right Construction, LLC or Chris Pelletier that it had won bids from bid solicitors and others.
42. Triad Mechanical Contractors, Inc. was paid by bid solicitors and others on jobs it performed and won using Chris Pelletier's signature stamp.
43. In breach of their agreement, Triad Mechanical Contractors, Inc. did not share the profits earned on these jobs with Built Right Construction, LLC or Chris Pelletier and did not deposit money received into project specific bank accounts in violation of the parties' agreement.
44. One such instance where Triad Mechanical Contractors, Inc. submitted and won a bid using Built Right Construction, LLC's Disadvantaged Business Enterprise status involved the 2014 terminal mechanical improvements at the Columbia Metropolitan Airport.
45. An August 20, 2014 letter from the Columbia Metropolitan Airport acknowledging Triad Mechanical Contractors, Inc.'s winning bid is attached hereto as Exhibit "A.". Additionally, an August 26, 2014 Notice of Intent to Award Terminal Mechanical Improvements letter from Columbia Metropolitan Airport is attached hereto as Exhibit "B."
46. Exhibits "A" and "B" demonstrate that Triad Mechanical Contractors, Inc. deceived the Columbia Metropolitan Airport into believing it was a Disadvantaged Business Enterprise or could meet the requirements of the same.

47. Triad Mechanical Contractors, Inc. deceived the Columbia Metropolitan Airport by using the signature stamp of Chris Pelletier, among other acts and/or omissions.
48. The money earned by Triad Mechanical Contractors, Inc. on the Columbia Metropolitan Airport job was not shared with Built Right Construction, LLC or Chris Pelletier and was not deposited into a project specific bank account in violation of the parties' agreement.
49. Upon information and belief, Triad Mechanical Contractors, Inc. has submitted and has been awarded numerous other bids that utilized Built Rights/ Chris Pelletier's DBE status without authorization or compensation to these Defendants/Counterclaim Plaintiffs.

FIRST COUNTERCLAIM AGAINST
TRIAD MECHANICAL CONTRACTORS, INC.
(Breach of Contract)

50. Built Right Construction, LLC and Christopher Pelletier hereby reallege and incorporate the allegations of the above paragraphs of the Answer and Counterclaims as fully and effectively as if set forth herein verbatim.
51. There existed a legally enforceable obligation between Triad Mechanical Contractors, Inc., Built Right Construction, LLC, and Christopher Pelletier to conduct business in certain manners, including, but not limited to opening a new bank account each time a new job was acquired; depositing all receipts from "mentor projects" into project specific bank accounts; refraining from comingling "mentor project" funds with non-mentor project funds; selecting and bidding jobs bilaterally; not using Built Right Construction, LLC's status as a Disadvantaged Business Enterprise without Built Right Construction, LLC's knowledge, permission, and consent; sharing in the profits from jobs performed for contractors and others; among other obligations.

52. Triad Mechanical Contractors, Inc. violated and breached their obligations to Built Right Construction, LLC and/or Chris Pelletier when, among other things, it unilaterally selected what jobs to bid, used Built Right Construction, LLC's status as a Disadvantaged Business Enterprise without Built Right Construction, LLC's knowledge, permission, and/or consent; failed to open a new bank account for each "mentor project"; failed to deposit all receipts of "mentor projects" into project specific bank accounts; failed to share in the profits from jobs; among other failures.
53. As a direct and proximate result of Triad Mechanical Contractors, Inc.'s breach of contract, Built Rights Construction, LLC and/or Chris Pelletier have been damaged in an amount to be determined at trial, and is entitled to an award of all attorneys fees, expenses as costs for this action.

SECOND COUNTERCLAIM AGAINST
TRIAD MECHANICAL CONTRACTORS, INC.
(Wrongful Appropriation of Personality)

54. Built Right Construction, LLC and Christopher Pelletier hereby reallege and incorporate the allegations of the above paragraphs of the Answer and Counterclaims as fully and effectively as if set forth herein verbatim.
55. By intentionally using Chris Pelletier's signature stamp and the name of Built Right Construction, LLC without either's knowledge or consent, to bid on projects requiring a Disadvantaged Business Enterprise, of which Triad Mechanical Contractors, Inc. was not, it did so for its own benefit.
56. By doing so, Triad Mechanical Contractors, Inc. deprived Chris Pelletier and Built Right Construction, LLC of their exclusive right to publicize and profit from their names, likenesses, and other aspects of personal identity.

57. As a direct and proximate result of Triad Mechanical Contractors, Inc.'s wrongful appropriation, Built Rights Construction, LLC and/or Chris Pelletier have been damaged in an amount to be determined at trial, and is entitled to an award of all attorneys fees, expenses as costs for this action.

WHEREFORE having fully pled, these Defendants pray for dismissal of all claims made against them with prejudice, and for judgment against the Plaintiff/Counterclaim Defendant for actual, consequential, statutory, treble, special, future, and punitive damages, as well as lost profits and pre and post-judgment interest against Plaintiff/Counterclaim Defendant for the acts and omissions alleged herein, for attorneys' fees, costs, expenses, and interest where allowed by law, for a trial by jury, and for such other relief as the court deems just, prudent, and proper

THE RICHTER FIRM, LLC

By: 

Lawrence E. Richter, Jr.

Aaron E. Edwards

Patrick T. Napolski

622 Johnnie Dodds Blvd.

Mt. Pleasant, South Carolina 29464

*Attorneys for Defendants Built Right Construction,
LLC and Chris Pelletier*

Dated: 8/26, 2015
Mt. Pleasant, South Carolina

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Triad Mechanical Contractors, Inc.,)
)
 Plaintiff,)
 v.)
 Built Right Construction, LLC; Austin-HITT)
 Contracting, a Corporation; Allison Smith)
 Company, LLC, Charleston County Aviation)
 Authority, A Body Politic; Jesse L. Blewer;)
 Christopher Pelletier; Gene Pelletier;)
 Federal Insurance Company/Travelers)
 Casualty and Surety/Liberty Mutual)
 Company,)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT
 CASE NUMBER: 2014-CP-10-7501

ANSWER OF
 JESSE L. BLEWER

BY _____
 JULIE J. ARMSTRONG
 CLERK OF COURT

2017 JAN -6 PM 1:06

FILED

Defendant Jesse L. Blewer hereby answers the Complaint of Plaintiff Triad Mechanical Contractors, Inc. ("Triad") *ad seriatim*. Defendant Blewer expressly denies each and every allegation set forth by Plaintiff but for those allegations to which he specifically and clearly admits to be true.

FOR A FIRST DEFENSE

1. Admitted.
2. Denied.
3. Denied.
4. Admitted upon information and belief.
5. Admitted.
6. Denied.
7. Denied.
8. Denied. Defendant does not know if this is true or false.

9. Denied. No response necessary.
10. Denied.
11. Denied. This is a legal conclusion that requires no response.
12. Denied.
13. Denied. No response required.
14. Denied.
15. Denied.
16. Denied.
17. Denied.
18. Denied.
19. Denied. No response required.
20. Denied.
21. Denied.
22. Denied. No response required.
23. Denied.
24. Denied.
25. Denied. No response required.
26. Denied. Defendant Blewer does not know whether this is true or false.
27. Denied.
28. Denied. No response required.
29. Denied.
30. Denied.
31. Denied. No response required.

32. Denied.

PLAINTIFF'S PRAYER

1. Denied.

2. Denied.

3. Denied.

ADDITIONAL AFFIRMATIVE DEFENSES

FOR A SECOND DEFENSE
(Failure to State a Claim)

The Complaint fails to state a cause of action upon which relief can be granted and should be dismissed pursuant to Rule (b)(6) of the South Carolina Rules of Civil Procedure.

FOR A THIRD DEFENSE
(Comparative Negligence)

Plaintiff's damages, if any, should be proportionately barred or reduced under the doctrine of comparative fault for injuries caused by her own negligence, recklessness, willfulness, and wantonness.

FOR A FOURTH DEFENSE
(Assumption of Risk)

Expressly preserving and without waiving all defenses previously stated, Defendants are informed and believe that if Plaintiff was damaged as alleged, Plaintiff assumed the risk of the injury as is, therefore, bared from recovery.

FOR A FIFTH DEFENSE
(Mitigation of Damages)

The damages sustained by Plaintiff, if any, were proximately caused and occasioned by its failure to exercise reasonable care to minimize the damages allegedly sustained, and

therefore, the doctrine of mitigation of damages acts as a bar to Plaintiff's claim for damages.

FOR A SIXTH DEFENSE
(Intervening and Superseding Negligence)

Plaintiff's injuries and damages, if any, may have been due to, caused, and occasioned by the intervening and superseding negligence, recklessness, willfulness, and wantonness of entities other than these Defendants.

FOR A SEVENTH DEFENSE
(Unconstitutionality of Punitive Damages)

Plaintiff's claims for punitive damages, separately and severally, are unconstitutional under federal law: the imposition of punitive damages in this case would violate the Due Process Clause of Amendments V and XIV to the United States Constitution and the Equal Protection Clause of Amendments V and XIV of the United States Constitution.

FOR A EIGHTH DEFENSE
(Punitive Damages)

Defendants' conduct does not give rise to liability for punitive damages under the laws controlling this action.

FOR A NINTH DEFENSE
(Ongoing Investigation and Reservation of Rights)

Defendants have not had an opportunity to conduct a sufficient investigation or to engage in adequate discovery regarding the circumstances of Plaintiff's allegations. Defendants intend to act as best as they can to inform themselves of the pertinent facts and prevailing circumstances surrounding any reported injury or damage to Plaintiff as alleged in the Complaint and hereby give notice of their intent to assert any further affirmative defenses

that their information gathering process may indicate are supported by fact and/or law.

FOR A TENTH DEFENSE
(Waiver)

Plaintiff waived its right to complain by virtue of its refusal or failure to abide by the terms of the contracts entered into between the various parties.

FOR A ELEVENTH DEFENSE
(Equitable Estoppel)

Plaintiff should be equitably estopped due to its refusal and/or failure to abide by the terms of the controlling agreements relevant to this action.

FOR A TWELFTH DEFENSE
(Misrepresentation)

Plaintiff knowingly and deliberately misrepresented and concealed material facts to Defendants and other material parties and is therefore not entitled to relief.

FOR A THIRTEENTH DEFENSE
(Estoppel)

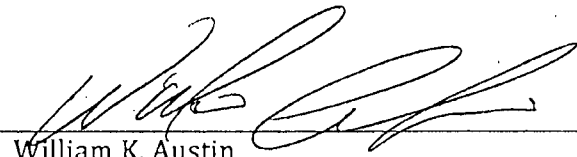
Plaintiff, by its own misconduct, is estopped from seeking the relief demanded in its Complaint.

FOR FOURTEENTH DEFENSE
(Unclean Hands)

Plaintiff is barred in equity from claiming or recovering any relief set forth in its Complaint due to its own unbecoming conduct under the doctrine of unclean hands.

(Signature Next Page)

Respectfully submitted,



William K. Austin
Austin Law Firm, LLC
Post Office Box 13437
Charleston, SC 29422
(p): 843.532.3323
(f): 843.284.3943
waustin@austinlawsc.com

Charleston, South Carolina
January 6, 2017

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
9TH JUDICIAL CIRCUIT

CASE NO.: 2014-CP-10-7501

TRIAD MECHANICAL CONTRACTORS,)
INC.)

MOTION AND ORDER INFORMATION

Plaintiff,)
vs.)

FORM AND COVERSHEET


BUILT RIGHT CONSTRUCTION, LLC; ET)
AL)
Defendant.)

Plaintiff's Attorney: William L. Runyon Jr., Bar No. _____ Address: #3 Gamecock Avenue, Suite 303 Phone: 843-571-3515 Fax _____ E-mail: runyonwilliamjr@gmail.com Other: _____	Defendant's Attorney: R. Patrick Flynn, Bar No. <u>065599</u> Address: 177 Meeting Street, Ste. 320 Phone: 843-834-3426 Fax _____ E-mail: pflynn@popeflynn.com Other: _____
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input checked="" type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input checked="" type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: <u>Consent Order Attached</u> Estimated Time Needed: <u>15 min</u> Court Reporter Needed: <input type="checkbox"/> YES / <input checked="" type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
SECTION III: Motion Fee	
<input checked="" type="checkbox"/> PAID - AMOUNT: \$ _____ <input type="checkbox"/> EXEMPT (check reason): <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> 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: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____ <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
TRIAD MECHANICAL CONTRACTORS,)
INC.)
)
PLAINTIFF,)
)
VS.)
)
BUILT RIGHT CONSTRUCTION, LLC;)
AUSTIN-HITT CONTRACTING, A)
CORPORATION; ALLISON SMITH)
COMPANY, LLC; CHARLESTON)
COUNTY AVIATION AUTHORITY,)
A BODY POLITIC; JESSE L. BLEWER;)
CHRISTOPHER PELLETIER; GENE)
PELLETIER; FEDERAL INSURANCE)
COMPANY/TRAVELERS CASUALTY)
AND SURETY/LIBERTY MUTUAL)
COMPANY)
)
DEFENDANTS.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
Case No.: 2014-CP-10-7501

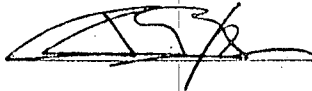
**NOTICE OF MOTION AND MOTION
TO REFER ACTION THE MASTER-
IN EQUITY**

FILED
2016 JUL 29 PM 3:17
JULIE J. KANSTRONG
CLERK OF COURT
BY 

YOU WILL PLEASE TAKE NOTICE, that the undersigned, as attorney for the Defendants identified as “Austin-HITT Contracting, a Corporation;” “Charleston County Aviation Authority, A Body Politic; and “Federal Insurance Company/Travelers Casualty and Surety/Liberty Mutual Company,” will move before the Presiding Judge for the Ninth Judicial Circuit, within ten (10) days from the service of this Notice of Motion and Motion, or as soon thereafter as Counsel may be heard, for an Order of Reference to the Master-In-Equity. This action involves issues and matters which are suitable for resolution by the Master-In-Equity, and all parties hereby consent to this request for an Order of Reference. A Consent Order is attached hereto as Exhibit “A”

WE SO MOVE:

POPE FLYNN, LLC.



R. Patrick Flynn
Michael W. Allen
177 Meeting Street, Suite 320
Charleston, SC 29401

**Attorneys for the Defendants identified as
"Austin-HITT Contracting, a Corporation;"
"Charleston County Aviation Authority, A
Body Politic; and "Federal Insurance
Company/Travelers Casualty and
Surety/Liberty Mutual Company"**

Date: 7/29/2016

WE CONSENT:

RICHTER LAW FIRM

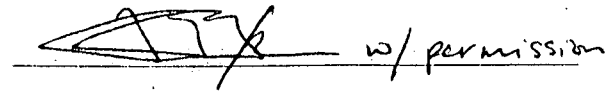
 w/ permission

Lawrence E. Richter, Jr.
Aaron E. Edwards
622 Johnnie Dodds Blvd.
Mount Pleasant, SC 29646
**Attorneys for the Defendants Built Right
Construction, LLC; Christopher Pelletier**

Date: 7/29/2016

WE CONSENT:

WILLIAM L. RUNYON, JR.

 w/ permission

William L. Runyon, Jr.
#3 Gamecock Avenue, Suite 303
Charleston, SC 29407
Attorney for the Plaintiff

Date: 7/29/2016

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 TRIAD MECHANICAL CONTRACTORS,)
 INC.)
)
 PLAINTIFF,)
)
 VS.)
)
 BUILT RIGHT CONSTRUCTION, LLC;)
 AUSTIN-HITT CONTRACTING, A)
 CORPORATION; ALLISON SMITH)
 COMPANY, LLC; CHARLESTON)
 COUNTY AVIATION AUTHORITY, A)
 BODY POLITIC; JESSE L. LEWER;)
 CHRISTOPHER PELLETIER; GENE)
 PELLETIER; FEDERAL INSURANCE)
 COMPANY/TRAVELERS CASUALTY)
 AND SURETY/LIBERTY MUTUAL)
 COMPANY)
)
 DEFENDANTS.)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT
 Case No.: 2014-CP-10-7501

CERTIFICATE OF SERVICE

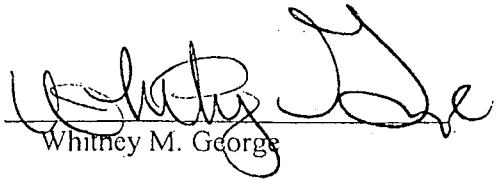
FILED
 2016 JUL 29 PM 3:47
 JULIE J. ARMSTRONG
 CLERK OF COURT
 BY _____

I certify on this date a copy of the foregoing Notice of Motion and Motion to Refer Action to the Master-In-Equity was served by mailing, hand delivery, or electronic mail on the following:

WILLIAM L. RUNYON, JR.
 William L. Runyon, Jr.
 #3 Gamecock Avenue, Suite 303
 Charleston, SC 29407
 (843) 571-3515
 runyonwilliamjr1@bellsouth.net

RICHTER LAW FIRM
 Lawrence E. Richter, Jr.
 Aaron E. Edwards
 622 Johnnie Dodds Blvd.
 Mount Pleasant, SC 29646-3013
 (843) 849-6000
 Aaron@RichterFirm.com

July 29, 2016


 Whitney M. George

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

COUNTY OF CHARLESTON)

CASE NO.: 2014-CP-10-7501

Triad Mechanical Contractors, Inc.)

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff,)

vs.)

Built Right Construction, LLC; Austin-Hitt Contracting, a Corporation; Allison Smith Authority, A Body Politic; Jesse L. Blewer; Christopher Pelletier; Gene Pelletier; Federal Insurance Company/Travelers Casualty and Surety/Liberty Mutual Company)

Defendant.)

Plaintiff's Attorney: William L. Runyon, Jr., Bar No. 4838 Address: #3 Gamecock Avenue, Suite 303 Charleston, SC 29407 Phone: (843)571-3515 Fax (843)766-5085 E-mail: runyonwilliamjr1@bellsouth.net Other:	Defendant's Attorney: N/A Pro-se, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____
---	---

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)

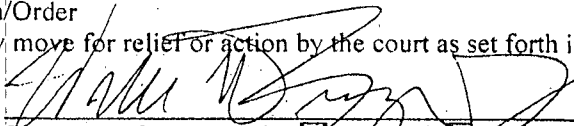
SECTION I: Hearing Information

Nature of Motion: Default
 Estimated Time Needed: 15 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 / Defendant

Date submitted: 12-29-16

SECTION III: Motion Fee

PAID - AMOUNT: \$ 25.00
 EXEMPT: (check reason)

Rule to Show Cause in Child or Spousal Support
 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, SCRCP)
 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: _____

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: \$ _____

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
Case No.: 2014-CP-10-7501

Triad Mechanical Contractors, Inc.)
)
Plaintiff,)

Vs.)

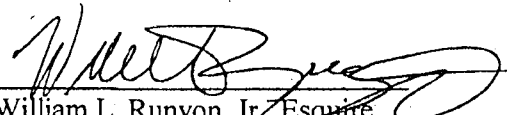
Built Right Construction, LLC. ;)
Austin -Hitt Contracting, a Corporation;)
Allison Smith Company, LLC.,)
Charleston County Aviation Authority,)
Body Politic; Jesse L. Blewer;)
Christopher Pelletier; Gene Pelletier;)
Federal Insurance Company/ Travelers)
Casualty and Surety/Liberty Mutual)
Company)
Defendants.)

NOTICE OF MOTION TO
HOLD DEFENDANT
JESSE L. BLEWER IN DEFAULT

FILED
2016 DEC 30 4:11:01 PM
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

To: Jesse L. Blewer, Defendant

The Plaintiff hereby serves Notice that it will move the Honorable Court of Common Pleas for the Relief sought in the attached Motion Ten (10) Days after service hereof and said Motion will be heard at the Charleston County Judicial Center in such Court Room and at such time as will be designated by the Court and this will be at 100 Broad Street, Charleston, South Carolina.


William L. Runyon, Jr., Esquire
#3 Gamecock Avenue, Suite 303
Charleston, SC 29407
(843)571-3515
SC Bar No.: 4838
Attorney for Plaintiff

Dated this 27th day of December, 2016
in Charleston, South Carolina.

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

Triad Mechanical Contractors, Inc.)
)
Plaintiff,)

Vs.)

Built Right Construction, LLC. ;)
Austin -Hitt Contracting, a Corporation;)
Allison Smith Company, LLC.,)
Charleston County Aviation Authority,)
Body Politic; Jesse L. Blewer;)
Christopher Pelletier; Gene Pelletier;)
Federal Insurance Company/ Travelers)
Casualty and Surety/Liberty Mutual)
Company)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
Case No.: 2014-CP-10-7501

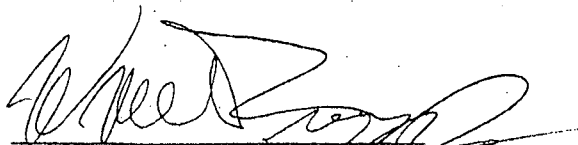
FILED
2016 DEC 30 AM 11:07
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

MOTION TO HOLD DEFENDANT
JESSE L. BLEWER IN DEFAULT

Now comes the Plaintiff Triad Mechanical Contractors and moves this Honorable Court as follows:

1. To hold the Defendant Jesse L. Blewer in Default based on the Affidavit of Service herein and the Affidavit of Default herein and enter an Order in favor of the Plaintiff Triad.

AND IT IS SO MOVED THIS 24th DAY OF DECEMBER, 2016 AT CHARLESTON, SOUTH CAROLINA.


William L. Runyon, Jr., Esquire
#3 Gamecock Avenue, Suite 303
Charleston, SC 29407
(843)571-3515
SC Bar No.: 4838
Attorney for Plaintiff

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Triad Mechanical Contractors, Inc.)
)
 Plaintiff,)
)
 Vs.)
)
 Built Right Construction, LLC. ;)
 Austin -Hitt Contracting, a Corporation;)
 Allison Smith Company, LLC.,)
 Charleston County Aviation Authority,)
 Body Politic; Jesse L. Blewer;)
 Christopher Pelletier; Gene Pelletier;)
 Federal Insurance Company/ Travelers)
 Casualty and Surety/Liberty Mutual)
 Company)
 Defendants.)

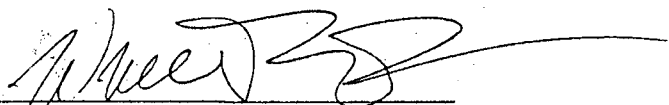
IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT
 Case No.: 2014-CP-10-7501

FILED
 2016 DEC 30 AM 11:07
 JULIE J. ARMSTRONG
 CLERK OF COURT
 BY _____

CERTIFICATE OF MAILING

Now comes the undersigned and hereby certifies that in the above captioned case under the caption of Trial Mechanical Contractors, Inc. vs. the above captioned Defendants there was made a due and proper service by mail of the **MOTION TO HOLD DEFENDANT JESSE L. BLEWER IN DEFAULT, NOTICE OF MOTION TO HOLD DEFENDANT JESSE L. BLEWER IN DEFAULT, and AFFIDAVIT OF DEFAULT** together with filed stamped copy of **AFFIDAVIT OF SERVICE** by depositing same in the United States Mail, together with good and sufficient postage to:

Jesse L. Blewer
 526 Longleaf Road
 Summerville, SC 29483


 WILLIAM L. RUNYON, JR
 #3 Gamecock Avenue, Suite 303
 Charleston, SC 29407
 Telephone: (843) 571-3515
 Facsimile: (843) 766-5085
 Attorney For Plaintiff

Dated this 29th day of December, 2016
 in Charleston, South Carolina

William L. Runyon, Jr.

Attorney At Law

#3 Gamecock Avenue, Suite 303

Charleston, SC 29407

Telephone: (843) 571-3515 Facsimile: (843) 766-5085

December 29, 2016

Clerk of Common Pleas Court
Charleston County
100 Broad St., Suite 106
Charleston, SC 29401

RE: Triad Mechanical Contractors, Inc. v. Built Right Construction, LLC, etal
Case No.: 14-CP-10-7501

Dear Madame Clerk:

Enclosed please find **CERTIFICATE OF MAILING, MOTION TO HOLD JESSE L. BLEWER IN DEFAULT, NOTICE OF MOTION TO HOLD JESSE L. BLEWER IN DEFAULT, AFFIDAVIT OF DEFAULT** (*Jesse L. Blewer*) and **PROOF OF SERVICE** together with **MOTION AND ORDER INFORMATION FORM AND COVERSHEET** in the above-referenced matter. Please file original and return certified copies to me in the stamped, self-addressed envelope provided for your convenience.

Please make note that my Trust Account Check #2294 in the amount of \$50.00 is attached with the correspondence sent in with Motions herewith. The amount is for Jesse L. Blewer and Gene Pelletier at \$25.00 each.

Thanking you for your usual courtesy and cooperation, I remain

Sincerely,


William L. Runyon, Jr.

WLR, JR. /bb

Enclosures

cc: Honorable Mikell R. Scarborough
Mr. Jesse L. Blewer
Mr. Gene Pelletier

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Triad Mechanical Contractors, Inc.)
)
 Plaintiff,)
)
 Vs.)
)
 Built Right Construction, LLC. ;)
 Austin -Hitt Contracting, a Corporation;)
 Allison Smith Company, LLC.,)
 Charleston County Aviation Authority,)
 Body Politic; Jesse L. Blewer;)
 Christopher Pelletier; Gene Pelletier;)
 Federal Insurance Company/ Travelers)
 Casualty and Surety/Liberty Mutual)
 Company)
 Defendants.)

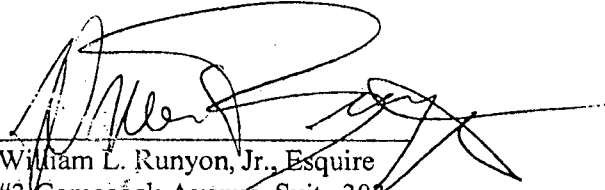
IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT
 Case No.: 2014-CP-10-7501

FILED
 2016 DEC 30 AM 11:07
 JULIE J. ARMSTRONG
 CLERK OF COURT

AFFIDAVIT OF DEFAULT

Now comes the undersigned who being duly sworn deposes and says:

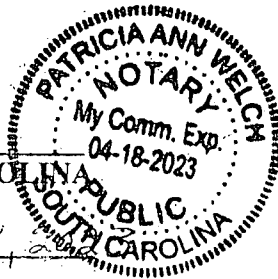
1. That he is the attorney in the above captioned matter for the Plaintiff.
2. That he caused the Defendant Jesse L. Blewer to be served by the Honorable Sheriff with the Summons & Complaint which is evidenced by the Honorable Sheriff's Affidavit which is attached hereto and incorporated herein by reference.
3. That since said service the Defendant has served no Answer, Motion nor made an appearance herein and said Defendant is in default.


 William L. Runyon, Jr., Esquire
 #3 Gamecock Avenue, Suite 305
 Charleston, SC 29407
 (843)571-3515
 SC Bar No.: 4838
 Attorney for Plaintiff

Sworn and subscribed to before me on
this 27th day of December, 2016.

Patricia Ann Welch
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: April 18, 2023



STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

AFFIDAVIT OF SERVICE

2014-CP-10-7501

TRIAD MEEHANICAL CONTRACTORS, INC.

Plaintiff(s)

vs.

BLEWER, JESSE L.

Defendant(s)

FILED
2015 JAN 12 PM 2:58
JULIE J. ARNSTROM
CLERK OF COURT

Hearing Date: 08/20/2000

The undersigned DEPUTY C E DREW, being duly sworn, says

~~on oath that he/she served the CIVIL ACTION COVERSHEET, SUMMONS,~~
COMPLAINT

in this action on the

Defendant BLEWER, JESSE L.

by delivering same to

() The Defendant

personally

(X) BLEWER, TRACIE
WIFE

(relation) a person of discretion residing at
the defendants residence

() the (title)
(person served if corporate defendant)
at its place of business

and leaving with him/her one copy of same at 526 LONGLEAF RD.

SUMMERVILLE, SC 29483 on the 30 day of DECEMBER, 2014 at 17:39PM

and that the Deponent knows the person so served to be the Defendant

~~mentioned and described in the pleadings served, and that the Deponent~~

is not a party to, nor interested in the action.

Signed

Sgt CDrew
Deputy Sheriff
BERKELEY County, S.C.

Sworn to me this

30 day of DECEMBER 2014

[Signature]

Notary Public For South Carolina

Entered

My Commission expires: April 12, 2016

Book _____ Page _____ Number _____

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STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF CHARLESTON

Triad Mechanical Contractors, Inc.,
Plaintiff,

vs. CASE NO. 2014-CP-10-7501

Built Right Construction, LLC; Austin-HITT
Contracting, a Corporation; Allison Smith
Company; Charleston County Aviation Authority;
A Body Politic; Jesse L. Blewer; Christopher
Pelletier; Gene Pelletier; Federal Insurance
Company/Travelers Casualty and Surety/Liberty
Mutual Company,

Defendants.

Hearing before the Honorable Mikell
R. Scarborough, reported by Christine A. Smith, Court
Reporter and Notary Public, at 3:01 p.m. on
April 27, 2017 at 100 Broad Street, Charleston,
South Carolina.

Christine A. Smith, Court Reporter
Master-in-Equity
P.O. Box 30276
Charleston, South Carolina, 29417
(843) 958-5071
casmith@charlestoncounty.org

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APPEARANCES OF COUNSEL:

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P R O C E E D I N G S

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THE COURT: We are here today in the case captioned Triad Mechanical Contractors, Inc., as Plaintiff, versus Built Right Construction, LLC and Austin-HITT Contracting Corporation. The Plaintiff is represented by Mr. Bill Runyon. The Defendant, Built Right, by Mr. Will Austin and the Defendant, Austin-HITT, by Mr. --

MR. FLYNN: Patrick Flynn.

THE COURT: -- Patrick Flynn. So we're up today on the Defendant, Built Right Construction's, Motion to Amend the Counterclaim. Is that correct, Mr. Austin?

MR. AUSTIN: Yes, Your Honor.

THE COURT: All right.

MR. AUSTIN: We have had significant discussions since that time, and we have agreed that we do not wish to bring in the individuals as they're not interested parties to this case. I have drafted up a different amended Complaint that reduces the facts. What I would like to discuss first, and I think it's --

THE COURT: So I've been looking at this proposed amended answer and counterclaims and

1 third-party claims, and that's not what you're now
2 going to move on, right?

3 MR. AUSTIN: Well, after talking -- that
4 was -- after talking -- if you recall we had a
5 hearing in January and went to mediation afterwards.
6 Then we had a scheduling error and I brought that up
7 at that hearing and we haven't talked about it since.

8 At the outset one of the things that I wanted
9 to bring up in the scheduling order is an error that
10 slipped past quite a while back, and that was that my
11 client wanted a jury trial hearing. He did not
12 consent to the reference when Richter was his
13 attorney, and we wish to withdraw the reference and
14 go back to a jury trial. I think that's just the
15 first issue that needs to be discussed.

16 THE COURT: Okay. Mr. Runyon? I've got
17 you-all on the trial docket coming up in May, so that
18 might have some impact on it, but let me hear from
19 you, Mr. Runyon.

20 MR. RUNYON: Judge, with all due respect,
21 prior counsel for Built Right, Mr. Pelletier, entered
22 into a consent order. It was referred to the
23 Honorable Magistrate for Charleston County, who is
24 underpaid and overworked I know, and what have you.
25 After two years now we hear, Now, we want a jury

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trial.

First of all, that motion is not before the Court. We would object to that. We're ready to go to trial. We would respectfully object to that procedure. We got close to a jury trial before, and as a matter of fact that's when the -- there were discussions about referring it.

We had scheduling orders and what have you, and then we finally ended up with a reference. I would respectfully object to the same being referred back to the -- I mean, frankly, if we went to a jury trial, we're at the head of the docket which would be fine with me in one sense, but I don't think that's going to give them what they want due to the simple fact that we're here, and we're ready to be scheduled to go to trial.

THE COURT: All right. I was looking for that order, but I think -- I saw in here earlier that Judge Jefferson referred this thing over here last July. By consent of the parties and pursuant to Rule 53 the Court hereby refers this case to the equity division for final disposition. That was from Judge Jefferson in July 26 of '16. That was nine months ago. I'm hearing this for the first time.

1 MR. AUSTIN: Yes, Your Honor, I understand.
2 My client is here. He was, for lack of a better
3 word, deceived about this. He will testify today
4 that he gave no such permission, nor was he ever told
5 about it. The idea of being bound by Richter -- we
6 have serious issues with the way he conducted his
7 representation.

8 THE COURT: Well, that's another matter for
9 another day I'm afraid.

10 MR. AUSTIN: I understand.

11 THE COURT: You know?

12 MR. AUSTIN: And then --

13 THE COURT: You only represent the
14 corporation; is that right? Or some individual?

15 MR. AUSTIN: And two individuals.

16 THE COURT: And those are?

17 MR. AUSTIN: Chris Pelletier and Jesse Blewer.

18 THE COURT: Is Mr. Pelletier in default?

19 MR. RUNYON: No. No. There are two persons.
20 Mr. Pelletier is not in default. Mr. Blewer has been
21 in default for over two years. We've filed a motion
22 to the same. The only Pelletier mentioned who has
23 never answered is Mr. Pelletier's father, who
24 unfortunately has died.

25 THE COURT: Okay.

1 MR. RUNYON: He has not answered.

2 THE COURT: He's the Pelletier that's in
3 default?

4 MR. RUNYON: He's seriously in default because
5 he passed away with all due respect. I mean no
6 disrespect.

7 THE COURT: Okay. I just saw that. I was
8 trying to make sure I was clear on that one.

9 MR. AUSTIN: Yes, Your Honor.

10 THE COURT: So I think that's been consented
11 and sent over here. I looked and I saw two
12 scheduling orders in there. Neither one of those got
13 followed and got sent over here, and then Mr. Richter
14 gets off the case and now you're on the case, it
15 looks like, since January?

16 MR. AUSTIN: Yes, Your Honor.

17 THE COURT: And I'm assuming you-all have been
18 working on this thing. Of course this Motion to
19 Amend was filed in February, so here we are in April
20 and I'm not so -- what is my trial date?

21 MR. AUSTIN: Your Honor, we had a scheduling
22 error. Somehow we came to Court, and we don't know
23 why there was no hearing.

24 THE COURT: There's a roster meeting on the
25 15th, so I'm setting it for the trial term on the

1 22nd of May. We're right about a month out. Okay?

2 MR. AUSTIN: Yes, Your Honor. Well, I still
3 believe that we're entitled to a jury trial, but
4 absent that the other issues are admitted in the
5 Complaint, and I do wish to amend the Complaint to
6 certain cross claims. When we talked we were going
7 to have a --

8 THE COURT: Cross claims against --

9 MR. AUSTIN: Austin-HITT.

10 THE COURT: All right.

11 MR. AUSTIN: They were not served discovery we
12 found out despite the fact that there was a Motion to
13 Compel. Mr. Flynn just now got interrogatories. I
14 need that today -- those interrogatories and his
15 answers so I can therefore have depositions. I can't
16 find any of the facts out of this case. I realize
17 it's been going on for two years, Your Honor, and how
18 frustrating that is for everybody, but there's also
19 other proceedings against Larry Richter and his law
20 firm for how they handled this case. I just feel
21 that my client would be extremely prejudiced if he is
22 forced to go into a trial without any of the normal
23 legal protections allowed, and although he had an
24 attorney that attorney did not do anything for him.

25 THE COURT: Mr. Flynn, let me hear from you.

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MR. FLYNN: Your Honor, as far as the Motion to Amend -- I don't know. I saw the initial proposed amended Complaint, but I have not seen any revision, and we've had some discussions about that, but I don't know what the current amendment is, so that's going to affect my argument I suppose at this hearing on that motion.

As far as the facts of the case, just by way of brief background, Austin-HITT, of course, was the general contractor on this project. Triad had a separate contract for mechanical work, and that's unrelated to this matter.

Built Right had a contract for concrete and other work, and that is the subject of this matter. In October of 2014 Triad comes in and files a bond claim and a purported Mechanic's Lien, and my client receives it and says, Okay. Wait a minute. What do we do now? So stop paying on this subcontract until we figure out who's owed what.

THE COURT: And that was when?

MR. FLYNN: That was October of 2014.

THE COURT: October of '14. All right.

MR. FLYNN: So there was still work to be done on the contract, so my client then hired a separate contractor, Gulf Stream, to finish up that work. As

1 of right now, we have -- we at Austin-HITT have
2 \$90,459.40 held -- it's not in my escrow but it is
3 being held in trust for the Court to pay or direct us
4 to pay whoever.

5 We've had settlement discussions really for
6 the last two years about that, and I have partly --
7 the reason why, on behalf of Austin-HITT, I have not
8 paid it into Court as an interpleader was just
9 because up until fairly recently they weren't
10 completed, and I didn't know how much money was going
11 to be left to pay to the Court, so I didn't want to
12 pay \$150,000 into the Court and then have my client
13 self pay.

14 So as of right now my client does have
15 \$90,459.40, and we are ready to pay that to whomever
16 the Court directs.

17 THE COURT: And otherwise ready for trial?

18 MR. FLYNN: Your Honor, I think under the --
19 yes, sir. I think we're basically ready to go on
20 that basis.

21 THE COURT: Okay. That's what's left under
22 the contract after the third party has been paid; is
23 that right?

24 MR. FLYNN: Yes, sir.

25 THE COURT: And Mr. Runyon, what was you-all's

1 claim for when you brought this action?

2 MR. RUNYON: Well, we brought this action --
3 first you have three pleadings, but basically we
4 claimed the contract with Built Right -- and civil
5 conspiracy and several other causes of action, and so
6 we have been chasing this fox, so to speak, through
7 the woods, and now we have the fox in the open field.
8 Every time we get him up the tree they tap the tree.

9 Our situation is contrary to what's been
10 represented. Built Right went into a sitting member
11 of -- the Charleston Aviation Authority hired them
12 for legal representation. They got legal
13 representation. They got representation within the
14 authority which we could not control. I don't know.
15 I think they got their money's worth. That's for
16 another day. We're ready to try the case.

17 Now, I understand about falling out between
18 lawyers and all that, but we had nothing to do with
19 that. We've been ready to go to trial. We've been
20 to mediation. A lot of the matters which they claim
21 to want to amend their answer and counterclaim on,
22 quite frankly, could be separate causes of action
23 elsewhere.

24 Your Honor, for the Court's edification, we
25 litigated in Circuit Court, HD Supply Corporation

1 versus Built Right Corporation and Chris Pelletier
2 and a third-party action against the president of
3 Triad as a guarantor for the HD Supply account, which
4 some of these things, I believe, went to the Aviation
5 Authority job.

6 We reached the top of the docket last month.
7 The Payne Firm came in and said, We give up. And so
8 Judge Jefferson dismissed that case without
9 prejudice. I'm not suggesting prejudice. The simple
10 fact is that we're ready to go to trial. We were
11 ready last month. That third party action -- we're
12 ready now, and to come in now -- with all due respect
13 to Mr. Austin, I understand where he's coming from,
14 but his e-mails say, I want to amend, but I want six
15 months, 180 days, because I want to take depositions.

16 We've been at this for two years, Judge. We
17 can't be blamed because they're not happy with
18 whatever strategic decisions their counsel made or
19 didn't make. I don't know.

20 I can assure you that there was no
21 collusion over here. Mr. Flynn has been involved.
22 Two years ago I told, Mr. Flynn, Pay the money to the
23 Court and let us fight it out, and Mr. Richter's firm
24 said, No. We're not going to do that. And so we had
25 meeting and what have you. I don't know about all of

1 this other stuff.

2 The simple fact is that we're ready to go to
3 trial, and we would like it set for trial. Most of
4 the things which they complain of, they can bring
5 separate independent causes of action here or over in
6 Federal Court. They're not compulsory counterclaims.
7 We would like our day in Court, win, lose, or draw.

8 The tree is there. I've got the coon going up
9 the tree so to speak, Judge, and there aren't any
10 other trees for them to tap to. Win, lose, or draw I
11 would like to do our trial.

12 THE COURT: Okay. I was going to get to that
13 because I couldn't see where these were -- if they
14 were compulsory counterclaims I couldn't see it, and
15 I was wondering about the statute, and then on the
16 issue of permissive counterclaims you can present
17 those at any time.

18 MR. AUSTIN: Yes, Your Honor. I understand it
19 was more with the adjoining parties that we wanted to
20 take out so we didn't add 180 days. We're not
21 looking for a lot of time. I can't try a case
22 without discovery. As to prior counsel, I mean we
23 could almost be instructed to wait until we hear
24 disciplinary counsel.

25 THE COURT: That's certainly not going to

1 happen. That's not going to happen. What is it that
2 you seek to amend? What you're required to do is put
3 these people on notice.

4 MR. AUSTIN: Today I have it with me, yes,
5 Your Honor. It is just the -- just the claims, the
6 wording of the claims really. It's not much. I just
7 need discovery. I have Rick here with me.

8 THE COURT: Well, I read your proposed amended
9 answer and counterclaim, and the premise of the
10 motion was you've gotten additional information
11 having gone through discovery is the way I read it.
12 Through the course of --

13 MR. AUSTIN: There has been some discovery.

14 THE COURT: I'm reading from Paragraph 4 on
15 the motion filed February 27th. Due to the course of
16 the discovery exchange and investigation, we
17 obviously learned that the parties and facts giving
18 rise to the injuries are much more extensive than
19 initially believed. So you say in your motion you've
20 done discovery. I don't know what needs to be done.

21 MR. AUSTIN: I have discovery from Mr. Runyon
22 and not from Mr. Flynn, and that's half the battle.

23 THE COURT: Mr. Flynn's willing to pay some
24 money into the Court. That satisfies you or does not
25 satisfy you?

1 MR. AUSTIN: It absolutely satisfies me. We
2 were just out there trying to discuss the exact
3 amount. We would love to see them be able to adjourn
4 from this litigation.

5 THE COURT: But you still want to bring them
6 in on a cross claim?

7 MR. AUSTIN: Until we -- we're hopefully going
8 to figure that out right before this hearing, and I
9 don't think it will take us very long. I would just
10 ask for the discovery responses.

11 MR. FLYNN: I just want to clarify what their
12 position is. If we take this amount of money that we
13 have left and pay it into the Court, then that would
14 be an interpleader, and the Court will determine as a
15 result of it -- then we can extract ourselves from
16 this. You guys fight it out. At the end of that
17 time the Judge will say, You get "X" and you get "Y",
18 or You get zero and he gets "Z".

19 MR. AUSTIN: I understand, but --

20 THE COURT: They don't want the cheese. They
21 want out of the trap.

22 MR. AUSTIN: It's when -- that's correct. We
23 were just on the phone with his client in the hallway
24 trying to make sure that's the correct number.

25 THE COURT: Verifying that.

1 MR. AUSTIN: It shouldn't take long to clarify
2 that.

3 MR. FLYNN: We're not going to. We're going
4 to agree to pay that into the Court as the Court
5 decides.

6 MR. AUSTIN: Yes. And what amount is paid
7 into Court?

8 MR. FLYNN: It will be dispensed.

9 THE COURT: It's whatever that is. Well,
10 you-all can work that out. You-all can get that, and
11 I'll sign a consent order if that's what you-all
12 decide to do. That's what you've been asking for all
13 along, I assume?

14 MR. RUNYON: Two years. I think Mr. Flynn and
15 I have for two years been in agreement that either he
16 can hold the money and hand it out or pay it into the
17 Court. That's not a problem. Then leave us to fight
18 it out. There again with this amendment we're ready
19 to go to trial.

20 MR. FLYNN: I'll prepare a consent order and
21 circulate it, Your Honor.

22 THE COURT: That will be fine.

23 MR. AUSTIN: I brought the proposed amendment
24 for you-all's review.

25 THE COURT: So what are you seeking to add?

1 MR. AUSTIN: Just separate claims.

2 THE COURT: Against?

3 MR. AUSTIN: Triad. I do have them against
4 Austin-HITT, but I believe those are all going to be
5 nixed, for lack of a better word, because we're going
6 to have them pay into Court and they're gone.

7 THE COURT: All right. Show that to
8 Mr. Runyon, and let's take a look at it.

9 MR. AUSTIN: Your Honor, may I approach?

10 THE COURT: So it sounds like you-all are
11 going to agree to release Austin-HITT from the
12 litigation in return for basically an interpleader
13 action. You're going to pay the money into the
14 Court, and these two parties can fight over it, or
15 whoever's left in the battle.

16 You're not looking to add any new parties at
17 this time. So you don't need any discovery from
18 them, so that sounds like you've only got -- we've
19 got two parties to go do battle with each other,
20 right? And they need to be put on notice as to what
21 your claims are.

22 MR. AUSTIN: May I approach, your Honor?

23 THE COURT: Sure. Thank you. That's what I
24 was doing when you-all walked in.

25 MR. AUSTIN: The facts have been modified

1 somewhat, and a few pages have been taken out.

2 THE COURT: Okay. I'm looking at the original
3 answer and counterclaim of Built Right, and the first
4 counterclaim against Triad was Breach of Contract. I
5 don't see that in here anymore. I see an appearance
6 with a contract; is that right?

7 MR. AUSTIN: Exactly, Your Honor. Yes. Yes.

8 THE COURT: Wrongful appropriation remains the
9 same, and then these other ones: Unfair trade
10 practices, fraud, conversion, breach of fiduciary
11 duty would all be new.

12 MR. AUSTIN: Yes, Your Honor.

13 THE COURT: Some of those, I think, were in
14 the previous motion.

15 MR. RUNYON: Yes, sir.

16 THE COURT: Any surprise to the Plaintiff?

17 MR. RUNYON: Judge, it's surprising that we're
18 two years into this thing and they're now asking for
19 more time.

20 THE COURT: Right. I'm not sure I'm going to
21 give them that, but they can amend up to and at the
22 time of trial.

23 MR. RUNYON: Judge, I was going to say,
24 particularly since we don't have a jury, the simple
25 fact of the matter is, they can always amend their

1 pleadings to conform to the facts, that I presented
2 during the thing. You know, it's going to be kind of
3 a morphous kind of situation, but the problem I have
4 is if we consent to -- number one, we don't consent
5 to a jury trial.

6 THE COURT: I think that's been waived.

7 MR. RUNYON: Number two, if we consent to his
8 amendments and what have you then we have to answer
9 those and that takes time, and then he's going to
10 want discovery, and we're back in the trick bag
11 again.

12 THE COURT: Well, these two parties have
13 engaged in discovery previously, have they not?

14 MR. RUNYON: We have.

15 THE COURT: Triad and Built Right have engaged
16 in discovery. Mr. Austin is new to the case. I
17 understand that.

18 MR. RUNYON: I gave prior counsel a whole
19 stack of things. I don't know if you've got it, but
20 I gave it to them.

21 MR. AUSTIN: The discovery I want is simple,
22 just a few depositions.

23 THE COURT: You-all can take depositions
24 between now and trial.

25 MR. RUNYON: We can take depositions without

1 amendments. We don't need amendments to take
2 depositions. As a matter of fact, I sent Mr. Austin
3 an e-mail and told him that other than a case with a
4 felon DUI that was supposed to be scheduled for the
5 week of April 10th -- I was pretty fluid about taking
6 depositions. I'm not opposed to taking depositions.

7 THE COURT: Okay.

8 MR. RUNYON: We can take the depositions,
9 Judge. I'll waive the formal notice of -- it's just
10 a question of scheduling. The fact is I'm not going
11 to demand ten days' notice or anything of that
12 nature.

13 THE COURT: All right.

14 MR. RUNYON: I do object to the formal
15 changing the of pleadings at this time and what have
16 you.

17 THE COURT: All right. Here's what we're
18 going to do. Now, as it relates to Mr. Flynn --
19 Mr. Flynn, did you get a copy of this? So you could
20 see it?

21 MR. FLYNN: I did, Your Honor.

22 THE COURT: I'm getting the representation
23 that you-all are going to work it out, but there may
24 well be new claims against you-all in here as well.

25 MR. FLYNN: And I would obviously take the

1 position that if we don't -- I think if we can work
2 it out -- if he's going to represent that we will
3 work it out for the 90,000 or some fraction above
4 that then there is no need for this to be amended.

5 MR. AUSTIN: For the Complaint to be amended?
6 We can amend it anytime up to trial. You mean as --
7 as it goes to you? Yes, there's no reason to amend
8 it if we work it out. I don't see why I should waive
9 that right until we do sign that piece of paper.

10 MR. FLYNN: So you want to hold this in
11 abeyance --

12 MR. AUSTIN: Yes.

13 MR. FLYNN: -- or withdraw the motion?

14 MR. AUSTIN: Hold the motion in abeyance until
15 we figure it out.

16 THE COURT: I'll let you-all work that out.
17 I'm going to deny the motion today. This is not the
18 same Motion to Amend that was in before the Court.
19 I'm going to keep you-all on the trial docket for the
20 May 22 term. I would suggest if you-all are going to
21 do some discovery, take depositions, you-all go ahead
22 and get on it. Next week's the 1st of May. That
23 gives you two weeks prior to May 15th.

24 On the 15th of May at 10:00 a.m. I have a
25 roster meeting of my cases up for trial the following

1 week. I will entertain any dispositive motions at
2 that time at the end of the roster meeting, and I
3 will get some idea from you-all at that time, at
4 10:00 a.m. on May 15th, as to how much time you need
5 for trial and figure out where during that week I
6 will be able to work you-all in. Okay? So that's
7 the best I can do for you from that standpoint.

8 You've put him on notice, you've provided him
9 with this motion, so in order for them -- you can
10 amend -- if you were to add -- I wasn't going to let
11 you add parties at this late stage. That wasn't
12 going to happen. I was going to deny that at any
13 rate. I'm going to deny it on his presence as it is
14 now.

15 You put them on the motion. You can file your
16 motion with the corrected pleadings if you like, and
17 you can amend up to and through trial to have your
18 pleadings conformed to the evidence. I allow people
19 to do that all the time. If what comes out is a
20 breach of fiduciary duty at trial, you've told them
21 you're going there prior to trial, they've got to
22 show some sort of surprise or prejudice for it not to
23 be admissible.

24 MR. AUSTIN: I really didn't have time to
25 formally get it into the file before --

1 THE COURT: I understand that, and I'm okay
2 with that, but you-all need to start -- if you want
3 to take depositions you need to notice them and let
4 them flow. He says he'll waive notice, so you-all
5 can just start taking them next week if you like.
6 Okay?

7 MR. FLYNN: Your Honor, I'll prepare a consent
8 order on the interpleader since we're going to work
9 out the number, and I'll circulate it and send it to
10 the Court.

11 THE COURT: That would be great.

12 MR. RUNYON: Just -- I'm not trying to confuse
13 this thing, but as a practical matter if it
14 simplifies things -- I have the utmost confidence in
15 Mr. Flynn. So as a practical matter, if it's just a
16 question of converting him to a stakeholder I have no
17 problem with that either.

18 THE COURT: I'm with you.

19 MR. RUNYON: So if it will speed things
20 along -- I'm not necessarily demanding that it be in
21 the Clerk of Court's hands.

22 THE COURT: I understand. Nobody is jumping
23 up and down to do anything with Mr. Flynn today
24 except pick up his money. So get the money straight
25 if you can. If you-all don't get it straight, then I

1 assume he's going to participate.

2 MR. FLYNN: And I'll be glad to send you a
3 bill for my fiduciary services.

4 (Off-the-record conference.)

5 THE COURT: All right, gentlemen. If you'll
6 send me that on the interpleader, I'll just do a
7 Form 4 on the Motion to Amend that it was essentially
8 withdrawn as to the proposal. If you've got another
9 one and you want to file it --

10 MR. AUSTIN: I'll file the formal motion just
11 so you have it on record.

12 THE COURT: That will be fine.

13 MR. AUSTIN: And then my motion is formally
14 denied?

15 THE COURT: It is denied, yes sir.

16 MR. AUSTIN: Yes, sir.

17 MR. RUNYON: Thank you, Your Honor.

18 MR. FLYNN: Thank you, Judge.

19 THE COURT: Thank you-all.

20 (The proceedings were concluded at 3:32 p.m.)
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State of South Carolina)
County of Charleston) C E R T I F I C A T E

I, Christine A. Smith, Court Reporter and
Notary Public for the State of South Carolina at
Large, do hereby certify that the foregoing
transcript is a true, accurate, and complete record.

I further certify that I am neither related to
nor counsel for any party to the cause pending or
interested in the events thereof.

Witness my hand, I have hereunto affixed my
official seal this 13th day of June, 2017 at
Charleston, Charleston County, South Carolina.

Christine A. Smith
Notary Public
My Commission Expires
May 12, 2021