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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Deadra L. Jefferson, Circuit Court Judge

**RECEIVED**

JUN 25 2018

**SC Court of Appeals**

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

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.

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**RESPONDENT THE MUHLER COMPANY, INC.'S MOTION TO DISMISS**

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Comes Now the Respondent The Muhler Company, Inc. (hereinafter "Muhler") and respectfully moves this Court for an Order pursuant to Rule 240, SCACR, for a dismissal from this appeal. As Muhler 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 Muhler.

Muhler 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 Muhler were filed on May 15, 2017 with a formal settlement agreement executed on February 28, 2017. Stipulations of dismissal as to claims by the John Wieland Homes entities

against Muhler were filed on June 9, 2017. Accordingly, all claims against Muhler have been resolved.

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

**GALLIVAN, WHITE & BOYD, P.A.**

By: 

John A. "Jay" Jones, SC Bar # 73091  
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*Attorneys for Respondent The Muhler  
Company, Inc.*

June 20, 2018

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

Waverly at Hamlin Plantation Townhome  
Association, Inc.,

Respondent,

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JUN 25 2018

SC Court of Appeals

v.

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

Defendants,

And

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

Third-Party  
Plaintiffs,

v.

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

Third-Party  
Defendants,

Of whom

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

Appellant,

And

George Medina, George Medina a/k/a JMC Construction, LLC a/k/a JMC Construction, Inc., Juan Luis Sanchez, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, and The Muhler Company, Inc.,

Defendants,

And

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

Plaintiffs,

v.

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

Defendants,

Of whom

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

Appellant,

And

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

Respondents,

And

George Medina, George Medina a/k/a JMC Construction, LLC a/k/a JMC Construction, Inc., Juan Luis Sanchez, Juan Luis Sanchez a/k/a Sanchez Brothers Painting, and The Muhler Company, Inc.,

Defendants.

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PROOF OF SERVICE

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I, the undersigned, certify that I have served Respondent The Muhler Company, Inc.'s Motion

to Dismiss to the attorneys of record by depositing a copy of it in the United States Mail, postage prepaid, on May 11, 2018, addressed to the following:

Jesse Sanchez, Esquire  
The Law Office of Jesse Sanchez, LLC  
98 ½ Broad Street, Suite B  
Charleston, SC 29401

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

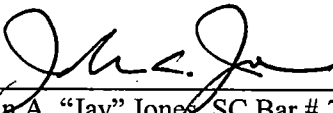
Andrew E. Haselden, Esquire  
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215 East Bay Street, Suite 303  
Charleston, SC 29401

Theodore L. Manos, Esquire  
Robertson Hollingsworth & Flynn, LLC  
550 King Street, Suite 300  
Charleston, SC 29403

***Attorneys for Appellant 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., and Builder Support Services of the Carolinas, Inc.***

*[signature page follows]*

GALLIVAN, WHITE & BOYD, P.A.

By:   
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*Attorneys for Respondent The Muhler  
Company, Inc.*

Charleston, South Carolina

June 20, 2018

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June 20, 2018

JUN 25 2018

**SC Court of Appeals**

**VIA US MAIL**

The Honorable Jenny Abbott Kitchings  
Clerk of Court, SC Court of Appeals  
PO Box 11629  
Columbia, SC 29211-1629


Re: Waverly at Hamlin Plantation Townhome Association, Inc. v. The Muhler  
Company, Inc., *et al.*  
Civil Action No. 2013-CP-10-03326  
Appellate Case No. 2017-000474  
GWB File No.: 4435-211

Dear Ms. Kitchings:

Enclosed please find the original and seven copies of Respondent The Muhler Company, Inc.'s Motion to Dismiss with regard to the above-referenced case. Please file the original and return a filed copy in the self-addressed stamped envelope. I have enclosed a check for \$25.00 to cover your administrative fee.

By copy of this letter to counsel on record, we are serving them with a copy of the Motion to Dismiss.

Sincerely,

  
John A. "Jay" Jones

JAJ/mmg  
Enclosures as stated

cc: Counsel of Record (w/enclosure)(via email)



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**US POSTAGE** \$006.70<sup>00</sup>



ZIP 29401  
041L11255602

**GWB**

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JUN 25 2018

**SC Court of Appeals**

The Honorable Jenny Abbott Kitchings  
Clerk of Court, SC Court of Appeals  
PO Box 11629  
Columbia, SC 29211-1629  
4435-211