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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas  
Roger M. Young, Sr., Circuit Court Judge

**RECEIVED**  
MAY 31 2012  
**SC Court of Appeals**

Case No. 2007-CP-97-3166

Jim Lancaster, Nancy Lancaster, Art Holland, Jeannette Holland  
Wendell Turner, Phyllis Turner, Jack Bennett, Joan Bennett,  
on behalf of themselves and others similarly situated, ..... Respondents,

v.

Georgia-Pacific Corporation and/or Georgia Pacific LLC,  
Grayco Home Center, Inc., Del Webb Communities, Inc.,  
an Arizona Corporation, Razor Component Systems, Inc.,  
a South Carolina Corporation, Razor Enterprises, Inc.,  
a Texas Corporation and DJ Construction Co., LLC, ..... Defendants,

OF WHOM Del Webb Communities, Inc.,  
an Arizona Corporation is ..... Appellant.

**APPELLANT’S EMERGENCY PETITION TO  
ENFORCE AUTOMATIC STAY, OR,  
IN THE ALTERNATIVE  
FOR SUPERSEDEAS OR TO IMPOSE STAY**

The trial court has usurped the exclusive jurisdiction of this Court in violation of the SCACR and established principles of South Carolina law by issuing an order styled “Order Regarding Interlocutory Appeals.” (Tab A). The trial court has ruled that this Court does not have appellate jurisdiction over the appeal pending before this Court, because the trial court has concluded that the appealed orders are not immediately appealable under S.C. Code Ann. § 14-3-

330 (1976 & Supp. 2011). Based on its view of this Court's appellate jurisdiction, the trial court has refused to recognize the automatic stay imposed by Rule 241(a), SCACR, and is proceeding with the case in violation of that automatic stay. All of this is error for the following reasons:

1. The question of whether the appealed orders are immediately appealable under § 14-3-330 is manifestly a "matter affected by the appeal" and is therefore within the "exclusive jurisdiction" of this Court pursuant to Rule 205, SCACR. Moreover, no trial court has the power, authority, or jurisdiction to determine the jurisdiction of an appellate court but, here, the trial court has done precisely that and ruled that this Court does not have appellate jurisdiction over the appealed orders.

2. The only authority cited by the trial court to support its usurpation of this Court's exclusive jurisdiction is a 1986 Supreme Court opinion that stands for precisely the opposite result – there, the trial court did not proceed with the matter until after the Supreme Court had granted the respondent's motion to dismiss appeal.

3. The question of whether the appealed orders are immediately appealable was and remains pending before this Court pursuant to the Respondents' Motion to Dismiss Appeal, a fact known to the trial court at the time it usurped this Court's exclusive jurisdiction under Rule 205, SCACR, and refused to recognize the automatic stay imposed by Rule 241(a), SCACR.

4. The trial court issued its order in the absence of any motion by any party, including the absence of any application by Respondents to lift the automatic stay as required by Rule 241, SCACR.

Based on these errors, and other errors noted later, Del Webb requests the following relief on an emergency and immediate basis:

1. The next act to take place in violation of the automatic stay is scheduled for Friday, June 1, 2012. Accordingly, Del Webb requests an emergency and immediate order that all matters in the appealed orders are and have been stayed since the service of the Notice of Appeal and remain stayed until further order of this Court. If necessary, Del Webb request that this relief be granted *ex parte* upon a temporary basis by a single judge until a full panel can hear this matter or until the issue of appealability is finally resolved by the appellate courts.

2. Del Webb requests an order that the “Order Regarding Interlocutory Appeals” is void *ab initio* as having been issued without jurisdiction and in violation of this Court’s exclusive jurisdiction and the automatic stay.

3. Del Webb requests an order of this Court finding that the automatic stay has been in place since the service of the notice of appeal and remains in place until such time as it is lifted upon proper application to do so.

4. Del Webb requests an order that the injunction prohibiting contact between class counsel and the putative class members, to which the named plaintiffs and class counsel had consented, has been and remains in place until a full panel can hear this matter or until the issue of appealability is finally resolved by the appellate courts.

5. Assuming the “Order Regarding Interlocutory Appeals” was properly issued, Del Webb requests supersedeas of that order pursuant to Rule 241, SCACR and moves to impose a stay and to continue the injunction as set forth above.

**NOTE:** In an abundance of caution, and due to the unusual nature of the “Order Regarding Interlocutory Appeals,” both factually and procedurally, Del-Webb has appealed this order and the Notice of Appeal is filed contemporaneously herewith, though an appeal appears unnecessary

pursuant to Rule 241, SCACR. Also in an abundance of caution, this Petition is accompanied by a verification pursuant to Rule 241, SCACR, though the relief of supersedeas and imposition of a stay is sought in the alternative – the primary relief sought is an order that the automatic stay is and always has been in place. The verification attached to this Petition is a scanned copy – the original has been mailed from out of state for overnight delivery and will be filed with this Court upon receipt.

### **PROCEDURAL HISTORY**

This class action involves construction defect claims against Del Webb as the builder of the class members' houses for the alleged failure to properly install the trim board (PrimeTrim) on the class members' houses. It also involves product defect claims made solely against Defendant Georgia-Pacific as the manufacturer of PrimeTrim that allege the trim board is inherently defective.

Del Webb appealed the following orders: Order Denying Del Webb Communities, Inc.'s Motion to Stay Action Pending Compliance with SC Code § 40-59-810, *et seq.*; Preliminary Case Management and Scheduling Order; Order Approving Notice of Class Action; Order Denying Del Webb Communities, Inc.'s Motion to Conduct Discovery as to Individual Class Members; Order Granting Class Certification; and Order Denying Del Webb Communities, Inc.'s Motion for Reconsideration and/or Clarification. The Respondents moved in this Court to dismiss Del Webb's appeal, contending that none of the orders are immediately appealable. At the same time, the Respondents filed a motion in the Supreme Court to certify the appeal and to expedite a decision by the Supreme Court on the motion to dismiss appeal. Del Webb filed a Return to both motions – the Return in this Court was supported by a separately filed Appendix. The Respondents have moved for an extension of time to file their Reply in support of their

motion to dismiss – Del Webb has consented to the requested extension. As of the date of this Petition, the Supreme Court had not ruled on the motion to certify and expedite.<sup>1</sup>

While the motion to dismiss was pending in this Court, Del Webb’s trial counsel received a voice mail message left by a Sun City resident seeking information about the class action. (Tab C at 5). Del Webb’s trial counsel requested a conference call with the trial judge and all counsel to discuss the possibility of sending a letter in response to this voice mail message. (Tab C at 5). This conference call took place on Friday, May 11, 2012 at 10:30 a.m. (Tab C at 3). During this call, there was also a general discussion about the status of the case and the impact of the appeal on the future of the case. Del Webb stated the appealed orders were automatically stayed by the appeal – the Respondents asserted that the appeals were improper and therefore no stay was in place. Importantly, no party had made any motion for any relief of any type, including but not limited to any relief relating in any manner to the automatic stay that arose upon Del Webb’s appeal.

At 2:37 p.m. that same day, May 11, without any prior consultation with Del Webb, and without having made any motion for any relief of any nature whatsoever, the Respondents sent a proposed order entitled “Order Regarding Interlocutory Appeals” to the trial court. (Tab C at 2). Del Webb immediately objected to the proposed order, noting *inter alia* that no motion had been made by any party, that the Respondents had sent the order without consulting with Del Webb, and that Del Webb objected to the entry of any order until there had been a motion and opportunity to be heard. (Tab C at 1-2). The trial court signed and entered the Respondent’s

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<sup>1</sup> Defendant Georgia-Pacific also appealed from several orders of the trial court. The Respondents also moved in this Court to dismiss the appeal upon the same grounds, and also moved in the Supreme Court to certify and expedite. Georgia-Pacific has filed its Return in both Courts, and has also consented to an extension for the Respondents to file their Reply in this Court.

proposed order on Monday, May 14, 2012, and emailed a copy to all parties that same day. (Tab A; Tab C at 1).

Del Webb immediately served and filed a motion for reconsideration on Tuesday, May 15, 2012, and requested an expedited hearing on the motion. The next day, Wednesday, May 16, 2012, the trial judge responded that his trial schedule did not permit an expedited hearing but stated that he would decide the motion on briefs and that detailed briefs should be submitted in support of and in opposition to the motion. (Tab D). Two days later, on Friday, May 18, 2012, Del Webb served its memorandum in support and emailed a copy to the trial judge and all counsel on Monday, May 21, 2012. Unbeknownst to Del Webb, and despite the trial court's May 16 request for detailed briefs, the trial court entered an order denying the motion to reconsider on May 17, 2012. (Tab B). Del Webb received this order on Wednesday, May 23, 2012. (Tab B). Del Webb served a notice of appeal from this order and the "Order Regarding Interlocutory Appeals" on May 25, 2012, and May 31, 2012.

### **BACKGROUND FACTS**

Two undisputed facts permeate the appeals pending in this Court. First, the Respondents' construction and engineering experts agree that determining the existence, nature, location, and extent of any trim board (PrimeTrim) installation defect, as well as the existence, extent, and causation of any damage to the PrimeTrim or the house requires a house-by-house inspection and testing. They also agree that inspection and testing of any house cannot establish the existence, nature, extent, or location of any installation defect at any other house, nor can it establish the existence, extent, and causation of any damage at any other house. Finally, they also agree that two experts could inspect the same house and have different opinions on the cause

of any damage revealed in the inspection and testing, and this was likely to happen in this case. Thus, this case will require a house-by-house “battle of experts.”<sup>2</sup>

Second, the named plaintiffs and class counsel have knowingly and intentionally waived claims known to be held by putative class members in order to achieve certification of the class to the benefit of the named plaintiffs and class counsel. Adding injury to insult, by successfully advocating the Class Notice approved by the trial court, the named plaintiffs and class counsel have knowing and intentionally refused and failed to advise the class members that they will be waiving claims if they do not opt out of the class. All of this results in a manifest breach of fiduciary duty owed by the named plaintiffs and class counsel to the putative class, and it creates a conflict of interest between the named plaintiffs and the putative class, as well as class counsel and their clients, the putative class. As a result, there is an undisclosed conflict of interest between the named plaintiffs and class members, yet class counsel purports to represent all of them without disclosing the conflict or obtaining any waiver of the conflict.<sup>3</sup>

## **ARGUMENTS**

### I. Introduction – the SCACR and the “Order Regarding Interlocutory Appeals”

#### A. The SCACR

The service of a notice of appeal has two principal effects. First, the appellate court acquires “*exclusive* jurisdiction over the appeal” and matters affected by the appeal. Rule 205, SCACR (emphasis added). Second, the appeal “acts to *automatically* stay matters *decided* in the order . . . on appeal, and to *automatically* stay the *relief* ordered in the appealed order.” Rule 241(a), SCACR (all emphasis added). The “automatic stay continues in effect for the

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<sup>2</sup> For a detailed explanation of the expert’s testimony and supporting excerpts from their depositions, as well as related matters, see Del Webb’s Return to Motion to Dismiss and Appendix, all of which is incorporated herein by reference.

<sup>3</sup> For a detailed explanation of these conflicts of interest and related matters, see Del Webb’s Return to Motion to Dismiss and Appendix, all of which is incorporated herein by reference.

duration of the appeal unless lifted by order of the lower court [or] the appellate court.” *Id.* Thus, when Del Webb served its notice of appeal, this Court acquired “exclusive jurisdiction” over the appealed orders and those orders were automatically stayed.

There is no automatic stay if there is a specific exception for the type of order on appeal established by statute, court rule, or case law. Rule 241(b), SCACR. No exception applies to the appealed orders in this case. The trial court did not cite any statute or rule in support of its order, and no statute or court rule excepts the appealed orders from the automatic stay. The trial court cited only one authority in its order – a 1986 Supreme Court opinion – and as shown later, that case fully supports the position Del Webb.

After the notice of appeal, the trial court’s jurisdiction is limited to “matters not affected by the appeal [and] any matters not stayed by the appeal.” Rule 241(a), SCACR; Rule 205, SCACR. The trial court may also entertain motions under Rule 241, SCACR to lift the automatic stay, to impose a stay if there is no automatic stay, and to supersede the appealed order in whole or part. Rule 205, SCACR. Here, there is an automatic stay, and the Respondents have never moved to lift the automatic stay.

B. The “Order Regarding Interlocutory Appeals”

The Order opens with three correct observations: (1) Del Webb requested a conference call with the parties and the trial court; (2) the Respondents have moved in this Court to dismiss Del Webb’s appeal, contending the appealed orders were “interlocutory and not immediately appealable”; and (3) the Respondents have moved in the Supreme Court to certify (transfer) the appeal to the Supreme Court and to expedite a decision on their motion to dismiss Del Webb’s appeal. (Tab A, Order at 1-2). It was thus clear to the trial court that one of the

appellate courts would soon decide whether the appealed orders were “interlocutory and not immediately appealable.”

The Order next observes that Del Webb asked the trial court to rule that all appealed orders are stayed. (Tab A, Order at 2). This is not correct. The purpose of the requested conference call was to discuss the possibility of Del Webb’s counsel send a sending a letter in response to a message left by a Sun City resident seeking information about this class action. Del Webb never asked this Court to rule there was a stay in place, and it never asked this Court to impose a stay – rather, Del Webb asserted that there was an automatic stay already in place and that Respondents had not moved to lift the stay.

The Order then makes the following findings: (1) if the appealed orders are not immediately appealable, then there is no stay; (2) a stay is not necessary to preserve the jurisdiction of the appeal, to prevent any issues from becoming moot, or to serve the interests of justice or judicial economy; and (3) therefore, the trial court declined the request to stay the appealed orders. (Tab A, Order at 2). Since the Respondents never to moved to lift the automatic stay, the trial court necessarily found there was no automatic stay because the appealed orders were not immediately appealable. The trial court then refused to impose a stay – Del Webb, however, never requested the trial court to impose a stay, because the automatic stay was already in place and the Respondents never moved to lift the stay.

II. The trial court’s “Order Regarding Interlocutory Appeals” is an invasion and usurpation of this Court’s jurisdiction, because the question of whether Del Webb’s appeal is proper or should be dismissed is a matter affected by the appeal and therefore within this Court’s exclusive jurisdiction.

The question of whether an order is immediately appealable is manifestly a “matter affected by the appeal” and, therefore, it is within the “exclusive jurisdiction” of this Court. Rules 205 and 241(a), SCACR. Moreover, no trial court ever has the power, authority, or

jurisdiction to determine the appellate jurisdiction of an appellate court, but that is precisely what the trial court did in its “Order Regarding Interlocutory Appeals.” Thus, the trial court had no jurisdiction to determine whether the appeals are proper, and the “Order Regarding Interlocutory Appeals” should be vacated as void *ab initio*. *Arnal v. Frasier*, 641 S.E.2d 419, 422 & 423 (S.C. 2007) (lower court has no jurisdiction to act or issue orders that affect an issue on appeal; any such action or order is void for lack of jurisdiction). Accordingly, the automatic stay imposed by Rule 205, SCACR, is and always has been in effect since the service of Del Webb’s notice of appeal.

III. The trial court’s “Order Regarding Interlocutory Appeals” relies solely upon a 1986 Supreme Court opinion to justify its invasion of this Court’s exclusive jurisdiction, but that case demonstrates that the trial court erred in reaching the issue of appealability before a ruling by this Court on the pending motion to dismiss appeal.

The only authority cited by the trial court in its “Order Regarding Interlocutory Appeals” is the Supreme Court’s opinion in *South Carolina Public Service Authority v. Arnold*, 340 S.E.2d 535 (S.C. 1986). (Tab A, Order at 2). It was error for the trial to rely on this opinion for two related reasons. First, the opinion was issued in 1986, before the adoption of the SCACR in 1990. The SCACR controls here and it expressly provides that matters affected by the appeal are in the exclusive jurisdiction of the appellate courts. The question of appealability is manifestly a matter affected by the appeal. Thus, the trial court was without jurisdiction to determine the question of appealability, and the Respondents never made a motion to lift the stay.

Second, the “stay” issue in *Arnold* was whether the trial court properly proceeded to trial before the Supreme Court issued the remittitur to the trial court. Importantly, the Supreme Court had granted the respondent’s motion to dismiss the appeal before the trial court proceeded to trial. Prior to that time, the trial court had respected and obeyed the automatic stay. After the dismissal, the appellant petitioned for rehearing. The trial court proceeded to trial while the

rehearing petition was pending – the Supreme Court thereafter denied rehearing and issued the remittitur to the trial court. The appellant argued the trial was conducted without jurisdiction, because it occurred before the Supreme Court issued the remittitur. The Supreme Court rejected this argument: “*Since this Court granted respondents' motion to dismiss* on the grounds that the consolidation order was interlocutory, and not appealable, the Circuit Court never lost jurisdiction and properly proceeded to trial.” *Id.* at 536 (emphasis added). Here, the Respondents’ motion to dismiss remains pending in this Court and has not been granted by either appellate court – a fact known to the trial court. Thus, as in *Arnold*, the trial court was and remains constrained to obey the automatic stay until this Court rules on the Respondents’ motion to dismiss, or until the automatic stay is lifted upon proper motion and showing.

IV. To the extent the “Order Regarding Interlocutory Appeals” grants a motion to lift the automatic stay, it was issued without notice or opportunity to be heard and, therefore, it is void for lack of jurisdiction or otherwise improper and should be vacated.

The most fundamental requirements of due process are notice and an opportunity to be heard. To the extent the Order lifts the automatic stay in this case, Del Webb has been deprived of these due process rights. The Respondents never moved to lift the stay, so Del Webb had no notice that any such issue was before the trial court or being considered by the trial court. Moreover, since Respondents never moved to lift the stay, Del Webb did not have and still does not have any notice of the grounds being asserted by Respondents. As a result, Del Webb has not had any opportunity to be heard on the question, and does not know the grounds upon which it must be heard. If Respondents want to lift the stay, they are required by the SCACR to make an application for that relief with stated grounds, and Del Webb is entitled to notice of those grounds and an opportunity to be heard on them.

As the Supreme Court recently observed, “[A]ppellate courts in this state, like well-behaved children, do not speak unless spoken to and do not answer questions they are not asked.” *Atlantic Coast Builders and Contractors, LLC v. Lewis*, Op. No. 27044 (S.C.Sup.Ct. re-filed May 17, 2012) (Shearouse Adv. Sh. No. 17 at 15, 22 n.4) (citations omitted), *aff’g in part and rev’g in part* Op. No. 2009-UP-042 (S.C. Ct. App. filed Jan. 15, 2009). Manifestly, the same rule applies to a trial court, particularly with respect to an issue controlled by the SCACR. The Respondents never moved to lift the automatic stay as required by the SCACR and, therefore, the trial court had no authority to lift the automatic stay.

In summary, the Order should be vacated to the extent it lifts the automatic stay imposed by Del Webb’s appeal, because the Respondents never moved to lift the stay.

V. Assuming the trial court had jurisdiction to do so, and assuming a proper request was made, and further assuming the trial court lifted the stay or properly considered whether a stay was in place, Del Webb respectfully requests this Court to supersede the “Order Regarding Interlocutory Appeals” and/or impose a stay on those appealed orders, and further requests this Court to continue the injunction previously entered by the trial court with the Respondents’ consent.

A. Superseding the “Order Regarding Interlocutory Appeals” and/or Imposing a Stay on the Appealed Orders

As noted earlier, the Order finds that “a stay of the appealed orders is not necessary to preserve the jurisdiction of the appeal or to prevent a contested issue from becoming moot” and also finds that “a stay is not in the interests of justice or judicial economy.” (Tab A, Order at 2). These considerations are relevant if, and only if, a party moves to lift the automatic stay or moves to impose a stay in the absence of an automatic stay. No party has made any such motion in this case and, therefore, there is no basis for this finding. As shown earlier, there is an automatic stay in this case, and Respondents have not moved to lift that stay. Thus, the trial

court had no authority to make these findings or disobey the automatic stay. In any event, the trial court's findings are wrong.

Del Webb has appealed the trial court's orders that there be "representative compliance" with the Right to Cure Act. Del Webb contends that representative compliance is not possible in this case because, as repeatedly admitted by Respondents' experts: (1) determining the existence, location, nature, and extent of any installation defect requires a house-by-house inspection; (2) determining the existence, nature, extent, and causation of any damage requires a house-by-house inspection and testing; and (3) the inspection and testing of one house cannot and will not be informative about any other house.<sup>4</sup> If this "representative compliance" goes forward during the appeal, and Del Webb prevails on appeal, then the issue will have become moot. Accordingly, a stay is necessary in this case.

Del Webb has appealed the trial court's order approving the class notice. The injunction previously entered by the trial court, with Respondents' consent, expires upon the opt-out date in the class notice. If the opt-out date is not stayed, and class counsel contacts the class members during the pendency of the appeal, it may be impossible to remedy the due process harm caused to the class members and Del Webb if Del Webb prevails on appeal.<sup>5</sup> Thus, a stay is needed to preserve jurisdiction over these questions and to prevent them from becoming moot. Moreover, as noted later, if Del Webb prevails on appeal and class counsel has been in contact with the class members, it may be necessary to disqualify class counsel, exclude the contacted persons from the class, or grant other special and complicated relief. It is not in the best interests of the class or judicial economy to incur these risks. Accordingly, a stay is necessary in this case.

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<sup>4</sup> For a detailed discussion of this issue, as well as related matters, see Del Webb's Return to Motion to Dismiss and Appendix, all of which is incorporated herein by reference.

<sup>5</sup> For a detailed discussion of this issue, as well as related matters, see Del Webb's Return to Motion to Dismiss and Appendix, all of which is incorporated herein by reference.

Del Webb has appealed the order granting class certification and requested this Court to exercise its discretion to review this order under its pendent appellate jurisdiction in connection with the appeal of the other orders.<sup>6</sup> If Del Webb prevails and class certification is reversed, the issue will become moot if the trial court has continued to trial and the resources of the courts and the parties will have been wasted.

B. Continuing the Prior Injunction

Assuming the “opt-out” date was not stayed by the appeal or the trial court lifted the stay, Del Webb requests this Court to continue the prior injunction against class counsel having contact with the class members. A fundamental issue in the appeal is the “due process” problems with the class notice and the resulting conflict of interest between the named plaintiffs and the class members, and the resulting conflict of interest between class counsel and the class members. If Del Webb prevails on this issue in the appeal, any contact between class counsel and the class members during the appeal will exacerbate the due process problems and may make it impossible to remedy the harm upon any remand. As a result, it may be necessary to disqualify class counsel, remove the contacted class members from the class, or give some special notice to the class that any contact during the appeal was improper and the class member may wish to consider this in deciding whether to remain in the class.<sup>7</sup> To avoid these complications, and to best protect the interest of the class members and their due process rights, as well as the due process of Del Webb, it is requested that this Court continue or re-impose the prior injunction until the appellate courts resolve the appeal.

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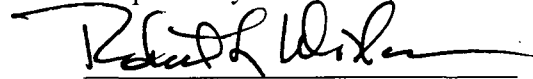
<sup>6</sup> For a detailed discussion of this issue, as well as related matters, see Del Webb’s Return to Motion to Dismiss and Appendix, all of which is incorporated herein by reference.

<sup>7</sup> For a detailed discussion of this issue, as well as related matters, see Del Webb’s Return to Motion to Dismiss and Appendix, all of which is incorporated herein by reference.

## CONCLUSION

For all of the foregoing reasons, it is respectfully submitted that this Court should vacate the "Order Regarding Interlocutory Appeals" and find that the automatic stay imposed by the SCACR is and has always been in place, and that it remains in place until further order of this Court. Del Webb further requests that, if necessary, a single judge issue this relief on a temporary and *ex parte* basis by Friday, June 1, 2012, until a full panel can consider this Petition or this Court rules on the pending motion to dismiss. In the alternative, Del Webb respectfully requests the other relief sought in this Petition, including if necessary, an order imposing a stay on the appealed orders and/or continuing or re-imposing the injunction against class counsel having contact with the class members until further order of this Court.

Respectfully Submitted,



Robert L. Widener  
A. Victor Rawl, Jr.  
MCNAIR LAW FIRM, P.A.  
Post Office Box 11390  
Columbia, South Carolina 29211  
(803) 799-9800

May 31, 2012  
Columbia, SC

ATTORNEYS FOR APPELLANT,  
DEL-WEBB COMMUNITIES, INC.

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

Roger M. Young, Sr., Circuit Court Judge

Case No. 2007-CP-97-3166

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Grayco Home Center, Inc., Del Webb Communities, Inc.,  
an Arizona Corporation, Razor Component Systems, Inc.,  
a South Carolina Corporation, Razor Enterprises, Inc.,  
a Texas Corporation and DJ Construction Co., LLC,..... Defendants,

OF WHOM Del Webb Communities, Inc.,  
an Arizona Corporation is.....Appellant.

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**VERIFICATION**

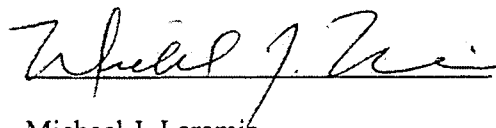
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PERSONALLY APPEARED BEFORE ME, Michael J. Laramie, who first being duly  
sworn on May 30, 2012, does depose and state as follows:

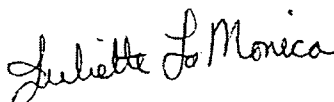
1. That he is the Assistant Secretary for Defendant/Appellant Del Webb  
Communities, Inc., and that he has direct responsibility for managing the above-captioned  
litigation and appeal for Del-Webb.

2. That he has reviewed the foregoing "APPELLANT'S EMERGENCY PETITION TO ENFORCE AUTOMATIC STAY, OR, IN THE ALTERNATIVE FOR SUPERSEDEAS OR TO IMPOSE STAY," and that the matters set forth therein are true and accurate to the best of his knowledge and belief.

FURTHER DEPONENT SAYETH NOT.



Michael J. Laramie  
Assistant Secretary  
Del Webb Communities, Inc.  
An Arizona Corporation



NOTARY

JULIETTE LAMONICA  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF WAYNE  
MY COMMISSION EXPIRES Dec 9, 2017  
ACTING IN COUNTY OF OAKLAND

# TAB A

## Widener, Robert

---

**From:** Young, Roger Law Clerk (Mary B. Ramsay) [ryounglc@sccourts.org]  
**Sent:** Monday, May 14, 2012 11:57 AM  
**To:** Rawl, Vic  
**Cc:** Ryan Earhart; adisbrow@mullenwylie.com; ameede@mullenwylie.com; atmduke@aol.com; GCulpepper@rh-law.com; DTAA - Sterling Davies; sgladden@pritchard-elliott.com; JElliott@pritchard-elliott.com; Karl Brehmer; christle.turner@brownandbrehmer.com; darby.plexico@brownandbrehmer.com; rmitchell@diamondbaker.com; Buckley, Edward D. (Ed); DaPore, Joseph E. (Joe); RRemar@rh-law.com; Mark Phillips; Brown, Denise; DeMato, Amanda; Widener, Robert; 'Hines, Russell'; Jolley, Pam; Miller, Dana  
**Subject:** RE: Request for Conference Call Jim Lancaster, Nancy Lancaster, Art Holland, Jeannette Holland, (13376-20070735) - Request for Conference Call  
**Attachments:** Lancaster Order.PDF

Counsel,

Judge Young reviewed all materials (letters, proposed orders, emails) submitted regarding Friday's conference call discussion.

A copy of the signed filed order is attached for your reference.

All the best,

Mary

Mary B. Ramsay, Esq.  
Law Clerk to Judge Roger M. Young  
Ninth Judicial Circuit  
100 Broad Street, Suite 368  
Charleston, SC 29401  
Tel: (843) 958-2015  
Fax: (843) 958-5108

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

**From:** Rawl, Vic [mailto:VRawlJr@mcnair.net]  
**Sent:** Friday, May 11, 2012 6:07 PM  
**To:** Young, Roger Law Clerk (Mary B. Ramsay)  
**Cc:** Ryan Earhart; adisbrow@mullenwylie.com; ameede@mullenwylie.com; atmduke@aol.com; GCulpepper@rh-law.com; DTAA - Sterling Davies; sgladden@pritchard-elliott.com; JElliott@pritchard-elliott.com; Karl Brehmer; christle.turner@brownandbrehmer.com; darby.plexico@brownandbrehmer.com; rmitchell@diamondbaker.com; Buckley, Edward D. (Ed); DaPore, Joseph E. (Joe); RRemar@rh-law.com; Mark Phillips; Brown, Denise; DeMato, Amanda; Widener, Robert; 'Hines, Russell'; Jolley, Pam; Miller, Dana  
**Subject:** RE: Request for Conference Call Jim Lancaster, Nancy Lancaster, Art Holland, Jeannette Holland, (13376-20070735) - Request for Conference Call

Dear Judge Young and Mary,

Del Webb objects to the court entering any order at this time. It was my understanding that the court would consider entering an order next week if 1) it was first circulated to all parties, and also 2) if it was consented to by all parties. Del Webb neither had the occasion to review the proposed order before it was sent to the court, nor does it consent to the order. Further, it was my understanding that I was to circulate a proposed order if I thought it was necessary.

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )

IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT  
CASE NO. 2007-CP-07-3166

JIM LANCASTER, NANCY )  
LANCASTER, ART HOLLAND, )  
JEANNETTE HOLLAND, WENDELL )  
TURNER, PHYLLIS TURNER, JACK )  
BENNETT, JOAN BENNETT, ON )  
BEHALF OF THEMSELVES AND )  
OTHERS SIMILARLY SITUATED, )

PLAINTIFFS, )

vs. )

GEORGIA-PACIFIC CORPORATION )  
AND/OR GEORGIA-PACIFIC LLC, )  
GRAYCO HOME CENTER, INC., DEL )  
WEBB COMMUNITIES, INC., AN )  
ARIZONA CORPORATION, RAZOR )  
COMPONENT SYSTEMS, INC., A )  
SOUTH CAROLINA CORPORATION, )  
RAZOR ENTERPRISES, INC., A )  
TEXAS CORPORATION, AND DJ )  
CONSTRUCTION CO., LLC, )

DEFENDANTS. )

**ORDER REGARDING  
INTERLOCUTORY APPEALS**

2012 MAY 14 AM 11:51  
JERRI ANN ROSENEAU  
BEAUFORT COUNTY, S.C.  
CLERK OF COURT

THIS MATTER COMES BEFORE THE COURT via Defendant Del Webb Communities, Inc.'s ("Del Webb") request for a conference call. The requested conference call was held on May 11, 2012, during which the impact of the appeals recently taken by Del Webb and Defendant Georgia-Pacific Corporation and/or Georgia-Pacific LLC ("Georgia-Pacific") was discussed.

Both Del Webb and Georgia-Pacific have appealed six interlocutory orders that the Court has entered in the conduct of this class action. The Plaintiffs have filed motions in the Court of Appeals to dismiss the appeals taken by Del Webb and Georgia-Pacific on the grounds that the orders identified in their respective notices of appeal are interlocutory and not immediately

appealable. The Plaintiffs have also moved the Supreme Court to certify and expedite the appeals for its direct and immediate review; particularly, immediate and expedited consideration and disposition of their motions to dismiss the appeals.

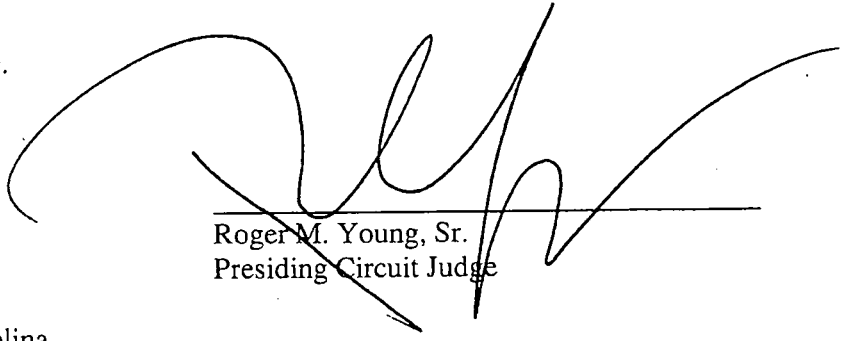
Del Webb asks this Court to rule that all of the orders identified in its notice of appeal are stayed because of its appeal, to include the present May 15, 2012 opt-out deadline set forth in the class notice, which notice was mailed to the putative class members by the Plaintiffs' counsel following this Court's order approving and authorizing class notice. Georgia-Pacific does not ask that the opt-out deadline be stayed, but asks for a stay of the Court's preliminary case management and scheduling order with respect to matters after the opt-out deadline.

After due consideration of this matter, I find that a legitimate question exists as to whether any of the interlocutory orders appealed by Del Webb and Georgia-Pacific is immediately appealable, and I am concerned that they are not. If the appeals are improperly taken, they should have no rightful impact upon the continued progress of this now four-plus-year old case. See S.C. Pub. Serv. Auth. v. Arnold, 287 S.C. 584, 340 S.E.2d 535 (1986) ("Where an order is interlocutory, and thus not appealable, the notice of intent to appeal does not transfer jurisdiction to this Court, nor does it stay proceedings in the lower court.") Moreover, I find that a stay of the appealed orders is not necessary to preserve the jurisdiction of the appeal or to prevent a contested issue from becoming moot. Further still, I find that, under the circumstances, a stay of the appealed orders is not in the interests of justice or judicial economy. Accordingly, I find that the orders identified in Del Webb and Georgia-Pacific's notices of appeal are and should be operative and decline the requests to stay these orders.

<SIGNED ON THE FOLLOWING PAGE>

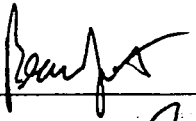
A handwritten signature in black ink, appearing to be the initials 'R' followed by a stylized flourish.

AND IT IS SO ORDERED.



A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Roger M. Young, Sr.  
Presiding Circuit Judge

 \_\_\_\_\_, South Carolina

Dated: 5/14/12

**TAB B**

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2007 CP-07-3166

LANCASTER et al

GEORGIA-PACIFIC CORP. et al

RECEIVED  
 MAY 20 2012  
 MCNAIR LAW FIRM, PA.

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), SCRCP;  Rule 41(a), SCRCP (Vol. Nonsuit);  Rule 43(k), SCRCP (Settled);  Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRCP;  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

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: Del Webb's Motion to Reconsider, Alter, Amend or Vacate "Order Regarding Interlocutory Appeals," for Continuation of Injunction, and for Supersedeas is DENIED.

**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

2134

Judge Code

Date

5/17/12

**For Clerk of Court Office Use Only**

5/18/12  
This judgment was entered on, and a copy mailed first class or placed in the appropriate attorney's box on, 5/18/12 to attorneys of record or to parties (when appearing pro se) as follows:

Joseph Edwin Dapore PO Box 993 Charleston, SC 29402

Karl Stephen Brehmer PO Box 7966 Columbia, SC 29202  
Ryan A. Earhart PO Box 1806 Charleston, SC 29402  
Courtney Camp Enloe Georgia-Pacific Llc 133 Peachtree Street, N.E. Atlanta, GA 30303  
A. Victor Rawl Jr. PO Box 11390 Columbia, SC 29211  
James H. Elliott Jr. 129 Broad St. Charleston, SC 29401  
Robert L. Widener PO Box 11390 Columbia, SC 29211  
G. Mark Phillips PO Box 1806 Charleston, SC 29402  
Robert B Remar 2700 International Tower, Peachtree Cent 229 Peachtree Street, N.E Atlanta, GA 30303 1601

---

ATTORNEY(S) FOR THE PLAINTIFF(S)

---

ATTORNEY(S) FOR THE DEFENDANT(S)

Jamie Thompson

---

**Jerri Ann Roseneau - Clerk of Court**

Court Reporter-N/A

**TAB C**

## Widener, Robert

---

**From:** Young, Roger Law Clerk (Mary B. Ramsay) [ryounglc@sccourts.org]  
**Sent:** Monday, May 14, 2012 11:57 AM  
**To:** Rawl, Vic  
**Cc:** Ryan Earhart; adisbrow@mullenwylie.com; ameede@mullenwylie.com; atmduke@aol.com; GCulpepper@rh-law.com; DTAA - Sterling Davies; sgladden@pritchard-elliott.com; JElliott@pritchard-elliott.com; Karl Brehmer; christle.turner@brownandbrehmer.com; darby.plexico@brownandbrehmer.com; rmitchell@diamondbaker.com; Buckley, Edward D. (Ed); DaPore, Joseph E. (Joe); RRemar@rh-law.com; Mark Phillips; Brown, Denise; DeMato, Amanda; Widener, Robert; 'Hines, Russell'; Jolley, Pam; Miller, Dana  
**Subject:** RE: Request for Conference Call Jim Lancaster, Nancy Lancaster, Art Holland, Jeannette Holland, (13376-20070735) - Request for Conference Call  
**Attachments:** Lancaster Order.PDF

Counsel,

Judge Young reviewed all materials (letters, proposed orders, emails) submitted regarding Friday's conference call discussion.

A copy of the signed filed order is attached for your reference.

All the best,

Mary

Mary B. Ramsay, Esq.  
Law Clerk to Judge Roger M. Young  
Ninth Judicial Circuit  
100 Broad Street, Suite 368  
Charleston, SC 29401  
Tel: (843) 958-2015  
Fax: (843) 958-5108

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

**From:** Rawl, Vic [mailto:VRawlJr@mcnair.net]  
**Sent:** Friday, May 11, 2012 6:07 PM  
**To:** Young, Roger Law Clerk (Mary B. Ramsay)  
**Cc:** Ryan Earhart; adisbrow@mullenwylie.com; ameede@mullenwylie.com; atmduke@aol.com; GCulpepper@rh-law.com; DTAA - Sterling Davies; sgladden@pritchard-elliott.com; JElliott@pritchard-elliott.com; Karl Brehmer; christle.turner@brownandbrehmer.com; darby.plexico@brownandbrehmer.com; rmitchell@diamondbaker.com; Buckley, Edward D. (Ed); DaPore, Joseph E. (Joe); RRemar@rh-law.com; Mark Phillips; Brown, Denise; DeMato, Amanda; Widener, Robert; 'Hines, Russell'; Jolley, Pam; Miller, Dana  
**Subject:** RE: Request for Conference Call Jim Lancaster, Nancy Lancaster, Art Holland, Jeannette Holland, (13376-20070735) - Request for Conference Call

Dear Judge Young and Mary,

Del Webb objects to the court entering any order at this time. It was my understanding that the court would consider entering an order next week if 1) it was first circulated to all parties, and also 2) if it was consented to by all parties. Del Webb neither had the occasion to review the proposed order before it was sent to the court, nor does it consent to the order. Further, it was my understanding that I was to circulate a proposed order if I thought it was necessary.

As plaintiffs repeatedly pointed out on our conference call; there was (and is) no motion pending before the court. Specifically, Del Webb did not make a motion to stay the case. A motion to stay would not make sense because the stay is automatic and was in place as soon as Del Webb served the notice of appeal. I only requested a conference call to see if the Court was ok with me responding to Mr. Glatzer (an issue that I thought was very straightforward as the stay is automatic and as no motion to lift the stay has been filed.)

The plaintiffs raised the point that they hoped that the court of appeals would dismiss the appeal (arguably indicating that the automatic stay on appeal was never in place). However, until the issue of appealability is decided with finality, the general rule requires that the circuit court case be stayed (unless the stay is lifted upon motion). It is my understanding that the court's options are to lift the stay upon proper motion made (or not). The plaintiffs have not made a motion to lift the stay. And, if they do make a motion to lift the stay, Del Webb would want the opportunity to be heard on the issue on the record.

Additionally, Del Webb requests that the court not making any rulings about lifting the stay until after all arguments are heard because the stay directly effects the injunction in place restricting the communication between plaintiffs counsel and putative class members. As argued earlier, plaintiffs counsel have a conflict of interest with absent class members and should be enjoined from communicating with the class members until after the FINAL opt-out date. As the Final opt-out date could clearly be changed by the Court of Appeals decision, in order to protect due process rights, the injunction must stay in place, and plaintiffs counsel must remain enjoined from communicating with class members until the appeal is resolved. This would be the standard outcome if the stay is not lifted by this court. However, if the court entertains a motion to lift the stay and decides to grant the motion, then Del Webb will request that the court leave the injunction in place for a sufficient amount of time to allow Del Webb to appeal the order lifting the stay.

Finally, the proposed order submitted by plaintiffs goes far beyond anything discussed in the conference call.

Again, Del Webb requests that no order be entered by the court.

Respectfully submitted,

Vic

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

From: Hines, Russell [mailto:RHines@ycrlaw.com]  
Sent: Friday, May 11, 2012 2:37 PM  
To: Young, Roger Law Clerk (Mary B. Ramsay)  
Cc: Rawl, Vic; Ryan Earhart; adisbrow@mullenwylie.com; ameeder@mullenwylie.com; atmduke@aol.com; GCulpepper@rh-law.com; DTAA - Sterling, Davies; sgladden@pritchard-elliott.com; JElliott@pritchard-elliott.com; Karl Brehmer; christle.turner@brownandbrehmer.com; darby.plexico@brownandbrehmer.com; rmitchell@diamondbaker.com; Buckley, Edward D. (Ed); DaPore, Joseph E. (Joe); RRemar@rh-law.com; Mark Phillips; Brown, Denise; DeMato, Amanda; Widener, Robert  
Subject: RE: Request for Conference Call Jim Lancaster, Nancy Lancaster, Art Holland, Jeannette Holland, (13376-20070735) - Request for Conference Call

M <<Letter to Judge Young - May 11, 2012.pdf>> a <<Proposed Order Regarding Interlocutory Appeals.pdf>> r <<Proposed Order Regarding Interlocutory Appeals.doc>> y,

Attached please find a letter to Judge Young and proposed order regarding the above-referenced matter.

Thank you very much.

Russ

Russ Hines  
Associate  
Young Clement Rivers, LLP  
Telephone: (843) 720-5488  
Facsimile: (843) 579-1327  
Email: rhines@ycrlaw.com

Please note our law firm has moved to its new location. The firm's mailing address (P.O. Box), telephone numbers and e-mail addresses have remained the same. The new street address is below.

Thank you.

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

From: Young, Roger Law Clerk (Mary B. Ramsay) [mailto:ryounglc@sccourts.org]  
Sent: Thursday, May 10, 2012 11:27 PM  
To: Mark Phillips; Brown, Denise; DeMato, Amanda  
Cc: VRawlJr@mcnair.net; Ryan Earhart; adisbrow@mullenwylie.com; ameede@mullenwylie.com; atmduke@aol.com; GCulpepper@rh-law.com; DTAA - Sterling Davies; sgladden@pritchard-elliott.com; JElliott@pritchard-elliott.com; Karl Brehmer; christle.turner@brownandbrehmer.com; darby.plexico@brownandbrehmer.com; rmitchell@diamondbaker.com; Buckley, Edward D. (Ed); DaPore, Joseph E. (Joe); Hines, Russell; RRemar@rh-law.com  
Subject: RE: Request for Conference Call Jim Lancaster, Nancy Lancaster, Art Holland, Jeannette Holland, (13376-20070735) - Request for Conference Call

Thanks for your prompt responses.

A 10:30 conf call is confirmed.

---

From: Mark Phillips [mark.phillips@nelsonmullins.com]  
Sent: Thursday, May 10, 2012 7:49 PM  
To: Young, Roger Law Clerk (Mary B. Ramsay); dbrown@ycrlaw.com; ADemato@ycrlaw.com  
Cc: VRawlJr@mcnair.net; Ryan Earhart; adisbrow@mullenwylie.com; ameede@mullenwylie.com; atmduke@aol.com; GCulpepper@rh-law.com; DTAA - Sterling Davies; sgladden@pritchard-elliott.com; JElliott@pritchard-elliott.com; Karl Brehmer; christle.turner@brownandbrehmer.com; darby.plexico@brownandbrehmer.com; rmitchell@diamondbaker.com; ebuckley@ycrlaw.com; jdapone@ycrlaw.com; RHines@ycrlaw.com; RRemar@rh-law.com  
Subject: Request for Conference Call Jim Lancaster, Nancy Lancaster, Art Holland, Jeannette Holland, (13376-20070735) - Request for Conference Call

YES, for Georgia-Pacific.

-----  
Sent from my BlackBerry Wireless Device

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

From: Young, Roger Law Clerk (Mary B. Ramsay) [mailto:ryounglc@sccourts.org]  
Sent: Thursday, May 10, 2012 04:50 PM

To: Brown, Denise <dbrown@ycrlaw.com>; DeMato, Amanda <ADemato@ycrlaw.com>  
Cc: Rawl, Vic <VRawlJr@mcnair.net>; Ryan Earhart; adisbrow@mullenwylie.com  
<adisbrow@mullenwylie.com>; ameeder@mullenwylie.com <ameeder@mullenwylie.com>;  
atmduke@aol.com <atmduke@aol.com>; GCulpepper@rh-law.com <GCulpepper@rh-law.com>; Mark  
Phillips; DTAA - Sterling Davies; sgladden@pritchard-elliott.com <sgladden@pritchard-  
elliott.com>; JElliott@pritchard-elliott.com <JElliott@pritchard-elliott.com>; Karl Brehmer;  
christle.turner@brownandbrehmer.com <christle.turner@brownandbrehmer.com>;  
darby.plexico@brownandbrehmer.com <darby.plexico@brownandbrehmer.com>;  
rmitchell@diamondbaker.com <rmitchell@diamondbaker.com>; Buckley, Edward D. (Ed)  
<ebuckley@ycrlaw.com>; DaPore, Joseph E. (Joe) <jdapore@ycrlaw.com>; Hines, Russell  
<RHines@ycrlaw.com>; RRemar@rh-law.com <RRemar@rh-law.com>  
Subject: RE: Request for Conference Call Jim Lancaster, Nancy Lancaster, Art Holland,  
Jeannette Holland, (13376-20070735) - Request for Conference Call

Counsel,

Judge Young is available at 10:30 tomorrow (Friday).

Does that work for everyone?

Please provide conference details!

Thanks,

Mary

---

From: Brown, Denise [dbrown@ycrlaw.com]  
Sent: Wednesday, May 09, 2012 3:00 PM  
To: Young, Roger Law Clerk (Mary B. Ramsay); DeMato, Amanda  
Cc: Rawl, Vic; ryan.earhart@nelsonmullins.com; adisbrow@mullenwylie.com;  
ameeder@mullenwylie.com; atmduke@aol.com; GCulpepper@rh-law.com;  
mark.phillips@nelsonmullins.com; sdavies@mgclaw.com; sgladden@pritchard-elliott.com;  
JElliott@pritchard-elliott.com; karl.brehmer@brownandbrehmer.com;  
christle.turner@brownandbrehmer.com; darby.plexico@brownandbrehmer.com;  
rmitchell@diamondbaker.com; Buckley, Edward D. (Ed); DaPore, Joseph E. (Joe); Hines, Russell;  
RRemar@rh-law.com  
Subject: RE: Request for Conference Call Jim Lancaster, Nancy Lancaster, Art Holland,  
Jeannette Holland, (13376-20070735) - Request for Conference Call

Mary,

Please see Atty. DaPore's correspondence in connection with the above subject matter.

Thank you,

L. Denise Brown  
Young Clement Rivers, LLP  
Legal Secretary to Joseph E. DaPore  
and Joshua P. Cantwell  
Direct Dial: 843-720-5446  
Direct Fax: 843-579-1360  
dbrown@ycrlaw.com

\* \* Please note that our law firm has moved to 25 Calhoun Street, Suite 400, Charleston; SC 29401. \* \*

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

From: Rawl, Vic [mailto:VRawlJr@mcnair.net]

Sent: Wednesday, May 09, 2012 12:42 PM

To: 'Young, Roger Law Clerk (Mary B. Ramsay)'; DeMato, Amanda; Brown, Denise

Cc: 'ryan.earhart@nelsonmullins.com'; 'adisbrow@mullenwylie.com'; 'ameeder@mullenwylie.com';

'atmduke@aol.com'; 'GCulpepper@rh-law.com'; 'mark.phillips@nelsonmullins.com';

'sdavies@mgclaw.com'; 'sgladden@pritchard-elliott.com'; 'JElliott@pritchard-elliott.com';

'karl.brehmer@brownandbrehmer.com'; 'christle.turner@brownandbrehmer.com';

'darby.plexico@brownandbrehmer.com'; 'rmitchell@diamondbaker.com'; Buckley, Edward D. (Ed);

DaPore, Joseph E. (Joe); Hines, Russell; 'RRemar@rh-law.com'

Subject: Request for Conference Call Jim Lancaster, Nancy Lancaster, Art Holland, Jeannette Holland, (13376-20070735) - Request for Conference Call

Dear Mary,

Would it be possible to have a brief conference call with Judge Young about the homeowner that has tried to contact me about the GP class notice. Apparently, there is some confusion as to whether the 5/15/2012 opt-out deadline is still in place. As Del Webb has appealed several orders including the order approving class notice, all issues affected by that order and class notice (including the deadlines therein) are stayed on appeal. Del Webb does not want to keep its customers in the dark about this issue. Accordingly, I would like permission to send the attached letter to the homeowners representative council informing them that the deadline is stayed. Please note that Plaintiffs do not agree.

Please see the letter attached hereto.

Again, will you please check to see if the Judge will talk with us about this issue this week? I would be happy to set up a call-in number at the court's convenience.

Thanks!

Vic

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

From: Young, Roger Law Clerk (Mary B. Ramsay) [mailto:ryounglc@sccourts.org]

Sent: Monday, April 02, 2012 1:36 PM

To: Rawl, Vic; 'ADemato@ycrlaw.com'; 'dbrown@ycrlaw.com'

Cc: 'ryan.earhart@nelsonmullins.com'; 'adisbrow@mullenwylie.com'; 'ameeder@mullenwylie.com';

'atmduke@aol.com'; 'GCulpepper@rh-law.com'; 'mark.phillips@nelsonmullins.com';

'sdavies@mgclaw.com'; 'sgladden@pritchard-elliott.com'; 'JElliott@pritchard-elliott.com';

'karl.brehmer@brownandbrehmer.com'; 'christle.turner@brownandbrehmer.com';

'darby.plexico@brownandbrehmer.com'; 'rmitchell@diamondbaker.com'; 'ebuckley@ycrlaw.com';

'jdapore@ycrlaw.com'; 'RHines@ycrlaw.com'; 'RRemar@rh-law.com'

Subject: Jim Lancaster, Nancy Lancaster; Art Holland; Jeannette Holland; (13376-20070735)

Per your request, attached please find signed copies of all the orders.

All the best,

Mary

**TAB D**

## Widener, Robert

---

**From:** Young, Roger Law Clerk (Mary B. Ramsay) [ryounglc@sccourts.org]  
**Sent:** Wednesday, May 16, 2012 9:34 AM  
**To:** Rawl, Vic  
**Cc:** DaPore, Joseph E. (Joe); Buckley, Edward D. (Ed); 'Hines, Russell'; ameeder@mullenwylie.com; GCulpepper@rh-law.com; 'Mitch Brown'; Ryan Earhart; JElliott@pritchard-elliott.com; DTAA - Sterling Davies; Jolley, Pam; Miller, Dana; Widener, Robert; Shuler, Ann; darby.plexico@brownandbrehmer.com  
**Subject:** RE: Lancaster v. GP and Del Webb Del Webb's Motion For Reconsideration - Expedited Hearing Requested

Counsel,

Judge Young is currently in a week long time trial in Beaufort and will be conducting GS trials in Berkeley next week. So unfortunately, his schedule does not allow for an expedited hearing on this motion.

However, we will consider this motion on briefs. Please submit detailed briefs outlining your arguments in support/opposition of this motion.

Thanks,

*Mary*

Mary B. Ramsay, Esq.  
Law Clerk to Judge Roger M. Young  
Ninth Judicial Circuit  
100 Broad Street, Suite 368  
Charleston, SC 29401  
Tel: (843) 958-2015  
Fax: (843) 958-5108

---

**From:** Rawl, Vic [mailto:VRawlJr@mcnair.net]  
**Sent:** Tuesday, May 15, 2012 5:25 PM  
**To:** Young, Roger Law Clerk (Mary B. Ramsay)  
**Cc:** DaPore, Joseph E. (Joe); Buckley, Edward D. (Ed); 'Hines, Russell'; ameeder@mullenwylie.com; GCulpepper@rh-law.com; 'Mitch Brown'; Ryan Earhart; JElliott@pritchard-elliott.com; DTAA - Sterling Davies; Jolley, Pam; Miller, Dana; Widener, Robert; Shuler, Ann; darby.plexico@brownandbrehmer.com  
**Subject:** Lancaster v. GP and Del Webb Del Webb's Motion For Reconsideration - Expedited Hearing Requested

Dear Judge Young and Mary,

Thank you for your recent attention to this case. While I think I understand your intentions by entering your most recent order, Del Webb nonetheless is compelled by the appellate and civil rules to make the attached motion and bring the issues therein to your attention in the attached procedural posture. Additionally, Del Webb is specifically making the attached motion prior to the expiration of your order enjoining Plaintiffs' Counsel from communicating with class members/putative class members. As no motion to lift the stay has been made, it is Del Webb's position that the automatic stay is still in place (and that pursuant to the appellate court rules that the injunction will stay in place.) However, in an abundance of caution and to protect its due process rights, Del Webb also requests that the injunction be left in place even if the stay is lifted.

In order to avoid significant possible procedural issues that could arise if plaintiffs' counsel communicate with putative class members before the appellate court rules on the appealability issues, Del Webb requests an expedited hearing on the attached motion.

Respectfully Submitted,

Vic

**MCNAIR**  
ATTORNEYS

A. Victor Rawl Jr.  
Shareholder  
vrawl@mcnair.net

McNair Law Firm, P.A.  
Charleston Office 100 Calhoun Street | Suite 400 | Charleston, SC 29401  
843 723 7831 Main | 843 805 6577 Fax  
Mailing Post Office Box 11390 | Columbia, SC 29211  
VCard | Bio URL | Web site

CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any US Federal Tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (I) avoiding penalties under the internal revenue code or (II) promoting, marketing or recommending to another party any transaction or matter addressed herein. This advice may not be forwarded (other than within the taxpayer to which it has been sent) without our express written consent. To read more about this disclosure, please see [http://www.mcnair.net/D1D330/portalsresource/IRS\\_Circular\\_230.pdf](http://www.mcnair.net/D1D330/portalsresource/IRS_Circular_230.pdf)

PRIVILEGE AND CONFIDENTIALITY NOTICE: This communication (including any attachments) is being sent by or on behalf of a lawyer or law firm and may contain confidential or legally privileged information. The sender does not intend to waive any privilege, including the attorney-client privilege, that may attach to this communication. If you are not the intended recipient, you are not authorized to intercept, read, print, retain, copy, forward or disseminate this communication. If you have received this communication in error, please notify the sender immediately by email and delete this communication and all copies.

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

---

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

Roger M. Young, Sr., Circuit Court Judge

---

Case No. 2007-CP-97-3166

---

Jim Lancaster, Nancy Lancaster, Art Holland, Jeannette Holland  
Wendell Turner, Phyllis Turner, Jack Bennett, Joan Bennett,  
on behalf of themselves and others similarly situated, ..... Respondents,

v.

Georgia-Pacific Corporation and/or Georgia Pacific LLC,  
Grayco Home Center, Inc., Del Webb Communities, Inc.,  
an Arizona Corporation, Razor Component Systems, Inc.,  
a South Carolina Corporation, Razor Enterprises, Inc.,  
a Texas Corporation and DJ Construction Co., LLC, ..... Defendants,

OF WHOM Del Webb Communities, Inc.,  
an Arizona Corporation is ..... Appellant.

---

**PROOF OF SERVICE**

---

I, Sherrod T. McGowan, an employee of the McNair Law Firm, P.A., certify that I have served Appellant Del Webb's "Emergency Petition to Enforce Automatic Stay, or, in the Alternative for Supersedeas or to Impose Stay" on the above-named Respondents and above-named Defendants by depositing a copy of it in the United States Mail, postage prepaid, on May 31, 2012, addressed to their attorneys of record:

Joseph DaPore  
Edward D. Buckley  
Amanda K. DeMato  
YOUNG CLEMENT RIVERS, LLP  
Post Office Box 993  
Charleston, South Carolina 29402

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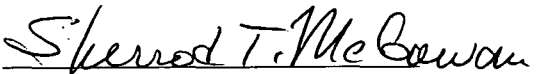
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May 31, 2012

  
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May 31, 2012

Robert L. Widener

Via courier

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Honorable Jenny Kitchings  
Clerk of Court  
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Re: Lancaster, Jim v. Georgia-Pacific  
Case No. 2007-CP-07-3166  
Ct. App. Case Tracking No. 2012210927

RECEIVED  
MAY 31 2012  
SC Court of Appeals

Dear Madam Clerk:

Enclosed for filing, please find the original and seven copies of Appellant Del Webb's Emergency Petition to Enforce Automatic Stay, or, in the Alternative, for Supersedeas or to Impose Stay, along with the original and one copy of the Certificate of Service for same. Our check for \$25 to cover the filing fee is also enclosed. Please return the file stamped extra copies to me via our courier.

**PLEASE NOTE:** The Petition requests emergency and immediate relief, including if necessary, temporary *ex parte* relief from a single judge. Please deliver the Petition as soon as possible to the appropriate judge or panel. We have emailed a copy of the Petition to all counsel prior to filing the Petition with this Court.

Also enclosed for filing, please find the original and one copy of Del Webb's Notices of Appeal, along with the original and one copy of the Certificate of Service for same. The two Notices relate to the same order, one being from the underlying order and the other being from the order denying reconsideration of the underlying order. Our check for \$100 to cover the filing fee is also enclosed. Please return the file stamped extra copies to me via our courier.

There was no hearing for these appealed orders, so there are no transcripts to be ordered. These appealed orders are directly related to the above-referenced appeal, involving the same case and issued by the same circuit court judge.

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Honorable Jenny Kitchings  
May 31, 2012  
Page 2

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Respectfully yours,

McNAIR LAW FIRM, P.A.



Robert L. Widener

RLW/rlw

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