

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

G. Thomas Cooper Jr., Circuit Court Judge

---

Case No. 2013-CP-40-7729

---

The Gates at Williams-Brice  
Condominium Association  
and Katharine Swinson,  
individually, and on behalf of  
all others similarly situated,

Appellants,

v.

Quality Built, LLC and Coast  
To Coast Engineering  
Services, Inc. D/B/A  
Criterium Engineers,

Respondents.

**RECEIVED**

AUG 13 2018

SC Court of Appeals

---

**APPELLANTS' RETURN TO RESPONDENT QUALITY BUILT'S  
NOTICE OF DEFICIENCY OF RECORD ON APPEAL AND  
MOTION TO CORRECT RECORD ON APPEAL**

---

Pursuant to Rule 240(e) of the South Carolina Appellate Court Rules ("SCACR"), Appellants The Gates at Williams-Brice Condominium Association and Katharine Swinson, individually, and on behalf of all others similarly situated, hereby file this Return To Respondent Quality Built LLC's Notice of Deficiency of Record on Appeal and Motion to Correct Record on Appeal. Appellants oppose Respondent's Motion as it seeks to include two documents in the Record on Appeal that were

not presented to the lower court, which would be a violation of Rule 210(c), SCACR.

### **SUMMARY OF FACTS**

On June 1, 2018, Respondent filed its Designation of Matter with the Court and included three designations that were not presented to the lower court. These items are:

- Designation Number 2: Appellants' Third Amended Complaint - Gates I (Filed 08/07/2014);
- Designation Number 22: Motion for Order Approving Sale of Property of the Estate Free and Clear of All Liens, Claims, and Encumbrances, Subject to Overbid; and Memorandum of Points and Authorities in Support Thereof (Filed 01/29/10); United States Bankruptcy Court (SDC); Case 09-12113-CL, Docket 110; and
- Designation Number 28: Reply Declaration to "U.S. Trustee's Response to Debtor's Motion, etc" (Filed 02/18/2010); United States Bankruptcy Court (SDC); Case 09-12113-CL, Docket 124.

On July 10, 2018, Appellants wrote to Respondent, requesting confirmation that these three documents were presented to the lower court. (See email thread attached as Exhibit A).

On July 11, 2018, Appellants again wrote to Respondent, requesting confirmation that these three documents were presented to the lower court. Respondent wrote back and agreed that Designation Number 2 should be excluded from the Record because it had been included in a filing that was withdrawn. As to Designation Numbers 22 and 28, Respondent maintained these documents should be included in the Record without pointing to any instance where those documents were presented to the lower court. (See Exhibit A and Quality Built Memorandum Excerpt attached as Exhibit B).

In response, Appellants wrote to Respondent to express their concern that Designation Numbers 22 and 28 were not documents presented to the lower court and should be excluded from

the Record on Appeal.

On July 12, 2018, Stephanie Drawdy (counsel for Appellants) initiated a teleconference with Elizabeth Weikers (counsel for Respondent) to confirm whether Designation Numbers 22 and 28 had been presented to the lower court. During this teleconference, it was agreed that Appellants did not believe these two documents could be included in the Record pursuant to Rule 210(c), SCACR. Appellants then memorialized this teleconference with an email. (Exhibit A).

### DISCUSSION

Rule 210, SCACR, provides that the Record on Appeal shall not include any matter that “was not presented to the lower court”:

**(c) Content.** The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. **The Record shall not, however, include matter which was not presented to the lower court** or tribunal (emphasis added).

The Supreme Court of this State has held that “[i]t would be utterly inappropriate for an appellate court to reverse a trial court's decision in reliance on evidence never submitted to the trial court for its consideration.” *Hofer v. St. Clair*, 298 S.C. 503, 513, 381 S.E.2d 736, 742 (1989); *Noorai v. Sch. Dist. of Pickens Cty.*, No. 2014-001282, 2016 WL 1367066, at \*1, FN2 (S.C. Ct. App. Apr. 6, 2016) (“We considered only the portions of Appellant's deposition that were actually presented to the circuit court. See Rule 210(c), SCACR”); *State v. White*, 372 S.C. 364, 387, 642 S.E.2d 607, 619 (Ct. App. 2007), *aff'd but criticized*, 382 S.C. 265, 676 S.E.2d 684 (2009) (statement not presented to lower court could not “properly” be included in record on appeal); *Ffrench v. Ffrench*, No. 2006-UP-079, 2006 WL 7285695, at \*2 (S.C. Ct. App. Feb. 10, 2006) (affidavit given “no efficacy” because it had not been presented to the lower court).


In its Motion, Respondent fails to address Rule 210(c)'s mandate that the Record "shall not [...] include matter which was not presented to the lower court". South Carolina's Supreme Court has held that, under Rule 210(c), a document that was "neither received nor considered" by the lower court should not be included in the record. *Hofer*, 298 S.C. at 512-513 (deed that was "never presented" to referee and "neither received nor considered" by circuit court was recognized as inappropriately before the court on appeal). Under *Hofer*, any appellate decision made in reliance on Designation Numbers 22 or 28 would be inappropriate. The plain wording of Rule 210 requires that Designation Numbers 22 and 28 not be included in the Record on Appeal.

### CONCLUSION

For the reasons set forth above, Respondent Quality Built LLC's Notice of Deficiency of Record on Appeal and Motion to Correct Record on Appeal should be denied in full. Pursuant to Rule 210, SCACR, the Record on Appeal should be finalized without Respondent's Designation Numbers 22 and 28.

JUSTIN O'TOOLE LUCEY, PA

By:

  
Justin O'Toole Lucey, Esquire (Bar No. 15438)  
Stephanie D. Drawdy, Esquire (Bar No. 70205)  
415 Mill Street  
Mt. Pleasant, SC 29464  
Telephone: 843.849.8400  
Facsimile: 843.849.8406  
Email: jlucey@lucey-law.com  
Email: sdrawdy@lucey-law.com

*Attorneys for the Appellants.*

Mount Pleasant, South Carolina  
August 8, 2018

Other Counsel of Record:

Alan R. Belcher, Esquire  
Elizabeth F. Wieters, Esquire  
Hall Booth Smith, PC  
111 Coleman Boulevard, Suite 301  
Mount Pleasant, South Carolina 29464  
[abelcher@hallboothsmith.com](mailto:abelcher@hallboothsmith.com)  
[eweiters@hallboothsmith.com](mailto:eweiters@hallboothsmith.com)  
Tel: 843-720-3460  
*Attorneys for Respondent*

Kent Stair, Esq.  
Robin Graham, Esq.  
Carlock Copeland  
40 Calhoun Street, Suite 400  
Charleston, SC 29401  
[kstair@carlockcopeland.com](mailto:kstair@carlockcopeland.com)  
[rgraham@carlockcopeland.com](mailto:rgraham@carlockcopeland.com)  
Tel: 843.266.8224  
*Attorneys for Coast to Coast Engineering  
Services, Inc. d/b/a Criterium Engineers*

**Laura Knight**

---

**From:** Stephanie Drawdy  
**Sent:** Thursday, July 12, 2018 11:12 AM  
**To:** Elizabeth F. Wieters  
**Cc:** Laura Knight; Alan Belcher  
**Subject:** RE: Gates at WB v. Quality Built [IWOV-chdms.FID22392]

Hi Elizabeth,

It was so nice to speak with you this morning. As discussed, we do not believe the following documents were presented to the lower court and thus should not be included in the ROA pursuant to Rule 210(c):

- Motion for Order Approving Sale of Property of the Estate Free and Clear of All Liens, Claims, and Encumbrances, Subject to Overbid; and Memorandum of Points and Authorities in Support Thereof (Filed 01/29/10); United States Bankruptcy Court (SDC); Case 09-12113-CL, Docket 110;
- Reply Declaration to "U.S. Trustee's Response to Debtor's Motion, etc." (Filed 02/18/2010); United States Bankruptcy Court (SDC); Case 09-12113-CL, Docket 124; and
- Declaration Reply Declaration of Elizabeth R. Michaelis to U.S. Trustee's Response to Debtor's Motion for Order Approving Sale of Property of the Estate Free and Clear of All Liens, Claims and Encumbrances, Subject to Overbid United States Bankruptcy Court (SDC); Case 09-12113-CL, Docket 124-2.

My paralegal spoke with the case manager for this matter, Jessica, this morning. Jessica confirmed that you may file a motion if you disagree about these documents not being included.

Thanks so much.

Best,  
Stephanie

---

**From:** Elizabeth F. Wieters <EWieters@hallboothsmith.com>  
**Sent:** Wednesday, July 11, 2018 3:53 PM  
**To:** Laura Knight <lknight@lucy-law.com>; Alan Belcher <ABelcher@hallboothsmith.com>  
**Cc:** Stephanie Drawdy <sdrawdy@lucy-law.com>  
**Subject:** RE: Gates at WB v. Quality Built [IWOV-chdms.FID22392]

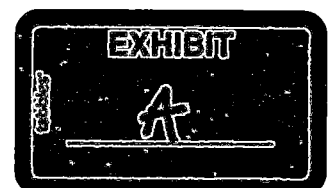
Laura, we respectfully disagree and submit that #2 and #3 should be included in the Record. We do not object to exclusion of #1.

Thank you,  
Elizabeth

**Elizabeth F. Wieters**

**Hall Booth Smith, P.C.**  
111 Coleman Boulevard, Suite 301  
Mount Pleasant, South Carolina 29464  
T: 843.720.3460  
D: 843.720.3463 F: 843.720.3458  
[ewieters@hallboothsmith.com](mailto:ewieters@hallboothsmith.com) [www.hallboothsmith.com](http://www.hallboothsmith.com)

Atlanta - Albany - Athens - Brunswick - Charlotte - Columbus  
Charleston - Memphis - Nashville - North Palm Beach - Tifton



---

**From:** Laura Knight [mailto:lknight@lucey-law.com]  
**Sent:** Wednesday, July 11, 2018 2:05 PM  
**To:** Elizabeth F. Wieters; Alan Belcher  
**Cc:** Stephanie Drawdy  
**Subject:** RE: Gates at WB v. Quality Built [IWOV-chdms.FID22392]

Elizabeth-

We believe that items 2 and 3 should not be included in the ROA. We do not see where those actual documents were provided to the lower court. If you have any basis for your belief that they should be, please forward to us. If not, we will exclude them from the ROA.

Thanks, Laura

---

**From:** Elizabeth F. Wieters [mailto:EWieters@hallboothsmith.com]  
**Sent:** Wednesday, July 11, 2018 1:55 PM  
**To:** Laura Knight <lknight@lucey-law.com>; Alan Belcher <ABelcher@hallboothsmith.com>  
**Cc:** Stephanie Drawdy <sdrawdy@lucey-law.com>  
**Subject:** RE: Gates at WB v. Quality Built [IWOV-chdms.FID22392]

Laura, see below where I typed in the responses.

**Elizabeth F. Wieters**

Hall Booth Smith, P.C.  
111 Coleman Boulevard, Suite 301  
Mount Pleasant, South Carolina 29464  
T: 843.720.3460  
D: 843.720.3463 F: 843.720.3458  
[ewieters@hallboothsmith.com](mailto:ewieters@hallboothsmith.com) [www.hallboothsmith.com](http://www.hallboothsmith.com)

Atlanta - Albany - Athens - Brunswick - Charlotte - Columbus  
Charleston - Memphis - Nashville - North Palm Beach - Tifton

---

**From:** Laura Knight [mailto:lknight@lucey-law.com]  
**Sent:** Wednesday, July 11, 2018 10:51 AM  
**To:** Elizabeth F. Wieters; Alan Belcher  
**Cc:** Stephanie Drawdy  
**Subject:** RE: Gates at WB v. Quality Built [IWOV-chdms.FID22392]

Elizabeth-

I hope you're having a good day! I just wanted to touch base and see if you were able to locate those documents in the lower court record?

Thanks for your help!

Thanks, Laura

---

**From:** Elizabeth F. Wieters [mailto:EWieters@hallboothsmith.com]  
**Sent:** Tuesday, July 10, 2018 4:41 PM  
**To:** Laura Knight <lknight@lucey-law.com>; Alan Belcher <ABelcher@hallboothsmith.com>

Cc: Stephanie Drawdy <[sdrawdy@lucey-law.com](mailto:sdrawdy@lucey-law.com)>  
Subject: RE: Gates at WB v. Quality Built [IWOV-chdms.FID22392]

Laura,  
I will look into this and get right back to you. Thanks!

**Elizabeth F. Wieters**

Hall Booth Smith, P.C.  
111 Coleman Boulevard, Suite 301  
Mount Pleasant, South Carolina 29464  
T: 843.720.3460  
D: 843.720.3463 F: 843.720.3458  
[ewieters@hallboothsmith.com](mailto:ewieters@hallboothsmith.com) [www.hallboothsmith.com](http://www.hallboothsmith.com)

Atlanta - Albany - Athens - Brunswick - Charlotte - Columbus  
Charleston - Memphis - Nashville - North Palm Beach - Tifton

---

**From:** Laura Knight [<mailto:lknight@lucey-law.com>]  
**Sent:** Tuesday, July 10, 2018 1:02 PM  
**To:** Elizabeth F. Wieters; Alan Belcher  
**Cc:** Stephanie Drawdy  
**Subject:** RE: Gates at WB v. Quality Built [IWOV-chdms.FID22392]

Good Afternoon-

I am trying to get the ROA to the copier and have hit a snag. There are a couple of documents in your Designation of Matter that I'm unable to locate where it was presented to the lower court. Can you please point me to the lower court pleadings that contain the following documents on your Designation of Matter?

1. Appellants' Third Amended Complaint - Gates I (Filed 08/07/2014);  
**I believe this one was included in our MSJ which was withdrawn and not the DJ, so it can be excluded.**
2. Motion for Order Approving Sale of Property of the Estate Free and Clear of All Liens, Claims, and Encumbrances, Subject to Overbid; and Memorandum of Points and Authorities in Support Thereof (Filed 01/29/10); United States Bankruptcy Court (SDC); Case 09-12113-CL, Docket 110; and

**This one was before the circuit court via Quality Built, LLC's Memorandum in Support of its Motion for DJ/MSJ p. 4. Also, The Order (I) Authorizing the Sale of Substantially All of the Debtor's Assets Free and Clear of All Liens, Claims, Interests and Encumbrances, (II) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection Therewith and Related Procedures and (III) Granting Related Relief, was brought before the lower court in Quality Built, LLC's Motion for DJ/MSJ and Memorandum in Support. The Order provides "This matter is coming before the Court on the motion, dated January 29, 2010 (the "Sale Motion")(Docket No. [ 110])" and the Order encompasses the Motion.**

3. Reply Declaration to "U.S. Trustee's Response to Debtor's Motion, etc." (Filed 02/18/2010); United States Bankruptcy Court (SDC); Case 09-12113-CL, Docket 124.

**The Reply Declaration is part of the Motion for Order Approving Sale (Filed 01/29/2010). The Order (I) Authorizing the Sale of Substantially All of the Debtor's Assets Free and Clear of All Liens,**

**Claims, Interests and Encumbrances, (II) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection Therewith and Related Procedures and (III) Granting Related Relief, was brought before the lower court in Quality Built, LLC's Motion for DJ/MSJ and Memorandum in Support, and the Order encompasses the "Sale Motion"(Docket No. [ 110])".**

Thank you so much for your help!

Laura

**Laura W. Knight**

Senior Paralegal, Lucey Law Firm  
415 Mill Street, Mt. Pleasant, SC 29464

Direct: 843-375-0789

Main: 843-849-8400

[www.lucey-law.com](http://www.lucey-law.com)

Thanks, Laura

---

**From:** Elizabeth F. Wieters [<mailto:EWieters@hallboothsmith.com>]

**Sent:** Tuesday, June 26, 2018 4:05 PM

**To:** Laura Knight <[lknight@lucey-law.com](mailto:lknight@lucey-law.com)>; Alan Belcher <[ABelcher@hallboothsmith.com](mailto:ABelcher@hallboothsmith.com)>

**Cc:** Stephanie Drawdy <[sdrawdy@lucey-law.com](mailto:sdrawdy@lucey-law.com)>

**Subject:** RE: Gates at WB v. Quality Built [IWOV-chdms.FID22392]

Laura,

I was out of the office last week and I believe our paralegal took care of this while I was away. Let me know if you need anything else.

**Elizabeth F. Wieters**

**Hall Booth Smith, P.C.**

111 Coleman Boulevard, Suite 301  
Mount Pleasant, South Carolina 29464

T: 843.720.3460

[ewieters@hallboothsmith.com](mailto:ewieters@hallboothsmith.com) [www.hallboothsmith.com](http://www.hallboothsmith.com)

**\*\*Please note our address has changed\*\***

---

**From:** Laura Knight [<mailto:lknight@lucey-law.com>]

**Sent:** Wednesday, June 20, 2018 11:14 AM

**To:** Elizabeth F. Wieters; Alan Belcher

**Cc:** Stephanie Drawdy

**Subject:** RE: Gates at WB v. Quality Built [IWOV-chdms.FID22392]

Good Morning-

I am currently working on the ROA. Is there any way you could have your paralegal email me/ Dropbox me the documents you have designated? I just want to make sure I include the right documents. Thanks so much!

Thanks, Laura

---

**From:** Elizabeth F. Wieters [<mailto:EWieters@hallboothsmith.com>]  
**Sent:** Monday, March 12, 2018 10:58 AM  
**To:** Justin Lucey <[jlucey@lucey-law.com](mailto:jlucey@lucey-law.com)>  
**Cc:** Laura Knight <[lknight@lucey-law.com](mailto:lknight@lucey-law.com)>; Alan Belcher <[ABelcher@hallboothsmith.com](mailto:ABelcher@hallboothsmith.com)>  
**Subject:** Gates at WB v. Quality Built [IWOV-chdms.FID22392]

Justin and Laura:

Would you please email us a courtesy copy of Appellant's initial brief? Our address is as follows:

Hall Booth Smith, P.C.  
111 Coleman Boulevard, Suite 301  
Mount Pleasant, South Carolina 29464

I suppose the brief may have been mailed to our old address – we moved last July.

Thank you,  
Elizabeth

**Elizabeth F. Wieters**

**Hall Booth Smith, P.C.**  
111 Coleman Boulevard, Suite 301  
Mount Pleasant, South Carolina 29464  
T: 843.720.3460  
D: 843.720.3463 F: 843.720.3458  
[ewieters@hallboothsmith.com](mailto:ewieters@hallboothsmith.com) [www.hallboothsmith.com](http://www.hallboothsmith.com)

Atlanta - Albany - Athens - Brunswick - Charlotte - Columbus  
Charleston - Memphis - Nashville - North Palm Beach - Tifton

CONFIDENTIALITY NOTICE: This e-mail communication, including any attached files was sent by or on behalf of the firm and may contain material that is proprietary, privileged, confidential, or otherwise legally exempt from disclosure. This Communication is intended solely for the use of the individual or entity to which it is addressed. If you are not the intended recipient or the person responsible for delivering this Communication to the intended recipient, you are prohibited from retaining, using, disseminating, forwarding, printing, or copying this Communication. If you have received this Communication in error, please immediately notify the sender via return e-mail or telephone.

CONFIDENTIALITY NOTICE: This e-mail communication, including any attached files was sent by or on behalf of the firm and may contain material that is proprietary, privileged, confidential, or otherwise legally exempt from disclosure. This Communication is intended solely for the use of the individual or entity to which it is addressed. If you are not the intended recipient or the person responsible for delivering this Communication to the intended recipient, you are prohibited from retaining, using, disseminating, forwarding, printing, or copying this Communication. If you have received this Communication in error, please immediately notify the sender via return e-mail or telephone.

CONFIDENTIALITY NOTICE: This e-mail communication, including any attached files was sent by or on behalf of the firm and may contain material that is proprietary, privileged, confidential, or otherwise legally exempt from disclosure. This Communication is intended solely for the use of the individual or entity to which it is addressed. If you are not the intended recipient or the person responsible for delivering this Communication to the intended recipient, you are prohibited from retaining, using, disseminating,

forwarding, printing, or copying this Communication. If you have received this Communication in error, please immediately notify the sender via return e-mail or telephone.

CONFIDENTIALITY NOTICE: This e-mail communication, including any attached files was sent by or on behalf of the firm and may contain material that is proprietary, privileged, confidential, or otherwise legally exempt from disclosure. This Communication is intended solely for the use of the individual or entity to which it is addressed. If you are not the intended recipient or the person responsible for delivering this Communication to the intended recipient, you are prohibited from retaining, using, disseminating, forwarding, printing, or copying this Communication. If you have received this Communication in error, please immediately notify the sender via return e-mail or telephone.

CONFIDENTIALITY NOTICE: This e-mail communication, including any attached files was sent by or on behalf of the firm and may contain material that is proprietary, privileged, confidential, or otherwise legally exempt from disclosure. This Communication is intended solely for the use of the individual or entity to which it is addressed. If you are not the intended recipient or the person responsible for delivering this Communication to the intended recipient, you are prohibited from retaining, using, disseminating, forwarding, printing, or copying this Communication. If you have received this Communication in error, please immediately notify the sender via return e-mail or telephone.

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS  
) FIFTH JUDICIAL CIRCUIT  
) CIVIL ACTION NO.: 2013-CP-40-7729

THE GATES AT WILLIAMS-BRICE  
CONDOMINIUM ASSOCIATION and  
KATHARINE SWINSON, Individually, and  
on behalf of all others similarly situated,

Plaintiffs,

vs.

QUALITY BUILT, LLC and COAST TO  
COAST ENGINEERING SERVICES, INC.  
d/b/a CRITERIUM ENGINEERS,

Defendants.

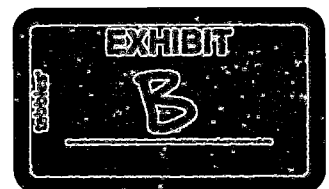
)  
)  
)  
) DEFENDANT QUALITY BUILT, LLC'S  
) MEMORANDUM IN SUPPORT OF ITS  
) MOTION FOR DECLARATORY  
) RELIEF,  
) OR IN THE ALTERNATIVE,  
) MOTION FOR SUMMARY JUDGMENT

NOW COMES the Defendant Quality Built, LLC ("Defendant"), and respectfully submits the following Memorandum of Law in support of its Motion for Declaratory Relief, or in the Alternative, Motion for Summary Judgment, filed on January 17, 2017.

#### PRELIMINARY STATEMENT

In this lawsuit, the Plaintiffs are suing Defendant and Coast to Coast Engineering Services, Inc. d/b/a Criterium Engineers ("Criterium") alleging construction defects in connection with the construction of The Gates at Williams-Brice Condominiums. Defendant contends it is not a proper party to this action, as it is not the entity which provided quality control services at The Gates project. The entity that purportedly undertook this role is no longer a viable corporation and was once called Qualitybuilt.com.

Pursuant to the Order (I) Authorizing the Sale of Substantially All of the Debtor's Assets Free and Clear of All Liens, Claims, Interests and Encumbrances, (II) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in



## OPERATIVE FACTS

Qualitybuilt.com was a California corporation formed on or around July 12, 1999. See Exhibit D, Qualitybuilt.com Articles of Incorporation. On August 14, 2009, Qualitybuilt.com filed for Chapter 11 Bankruptcy in the United States Bankruptcy Court for the Southern District of California. See Exhibit E, Notice of Bankruptcy Filing. The Motion for Order Approving Sale<sup>1</sup> was filed on January 29, 2010. During that time and as part of the bankruptcy proceedings, Defendant Quality Built, LLC, a Delaware limited liability company<sup>2</sup>, entered into the Purchase Agreement with Qualitybuilt.com for the purchase of various assets and liabilities, which was attached as an exhibit to the Motion for Order Approving Sale. Purchase Agreement, ¶¶ 1.1–2.2.

As part of the contract, Defendant assumed only those liabilities identified in Schedule 2.1 of the Purchase Agreement. Defendant expressly disclaimed all other liabilities, including "any liabilities or obligations with respect to . . . litigation or threatened litigation, claim, obligation, damages, costs and expenses relating to or arising out of or relating to any actions or omissions of, or services performed by, Seller . . . whether arising under contract, tort, civil or criminal law or otherwise[.]" Purchase Agreement, ¶ 2.2(e). Additionally, at the time the parties consummated the Purchase Agreement, the subject action had not been filed, nor had Qualitybuilt.com even been notified of a pending claim. Purchase Agreement, Schedule 5.10.

On March 11, 2010, by order of the United States Bankruptcy Court for the Southern District of California, Defendant purchased certain assets of Qualitybuilt.com from the trustee in bankruptcy pursuant to 11 U.S.C. §§ 101, 105, 363, and 365. See Sale Order. As a prerequisite

---

<sup>1</sup> Full title of the motion filed is: "Motion for Order Approving Sale of Property of the Estate Free and Clear of All Liens, Claims, and Encumbrances, Subject to Overbid; and Memorandum of Points and Authorities in Support Thereof."

<sup>2</sup> Quality Built, LLC was formed as a Delaware limited liability company on July 24, 2009. See Exhibit F.

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

G. Thomas Cooper Jr., Circuit Court Judge

---

Case No. 2013-CP-40-7729

---

The Gates at Williams-Brice  
Condominium Association  
and Katharine Swinson,  
individually, and on behalf of  
all others similarly situated,

Appellants,

v.

Quality Built, LLC and Coast  
To Coast Engineering  
Services, Inc. D/B/A  
Criterium Engineers,

Respondents.

**RECEIVED**  
AUG 13 2018  
SC Court of Appeals

---

**PROOF OF SERVICE**

---

JUSTIN O'TOOLE LUCEY, PA  
Justin O'Toole Lucey, Esquire (Bar No. 15438)  
Stephanie D. Drawdy, Esquire (Bar No. 70205)  
415 Mill Street  
Mt. Pleasant, SC 29464  
Telephone: 843.849.8400  
Facsimile: 843.849.8406  
Email: [jlucey@lucey-law.com](mailto:jlucey@lucey-law.com)  
Email: [sdrawdy@lucey-law.com](mailto:sdrawdy@lucey-law.com)  
*Attorneys for the Appellants*

August 8, 2018  
Mount Pleasant, South Carolina

I, Stephanie D. Drawdy, Esquire hereby certify that on August 8, 2018 I served a copy of the *Return To Respondent Quality Built's Notice of Deficiency of Record on Appeal and Motion to Correct Record on Appeal* on the following counsel, via the United States Mail, postage pre-paid, and addressed as follows:

Alan R. Belcher, Esquire  
Elizabeth F. Wieters, Esquire  
Hall Booth Smith, PC  
111 Coleman Boulevard, Suite 301  
Mount Pleasant, South Carolina 29464  
[abelcher@hallboothsmith.com](mailto:abelcher@hallboothsmith.com)  
[ewieters@hallboothsmith.com](mailto:ewieters@hallboothsmith.com)

Tel: 843-720-3460

*Attorneys for Quality Built, LLC*

Kent Stair, Esq.  
Robin Graham, Esq.  
Carlock Copeland  
40 Calhoun Street, Suite 400  
Charleston, SC 29401  
[kstair@carlockcopeland.com](mailto:kstair@carlockcopeland.com)  
[rgraham@carlockcopeland.com](mailto:rgraham@carlockcopeland.com)

Tel: 843.266.8224

*Attorneys for Coast To Coast  
Engineering Services, Inc. d/b/a  
Criterion Engineers*

Signed: \_\_\_\_\_

Stephanie D. Drawdy, Esquire

Mount Pleasant, South Carolina  
August 8, 2018

# JUSTIN O'TOOLE LUCEY, PA

Attorney at Law

415 Mill Street, Mount Pleasant, SC 29464

Phone: 843.849.8400 · Fax: 843.849.8406 · lknight@lucey-law.com

Justin Lucey  
Joshua F. Evans  
Stephanie D. Drawdy  
Dabny Lynn  
James L. Floyd, III

Reply to:  
P.O. Box 806  
Mt. Pleasant, SC 29465

August 8, 2018

**BY REGULAR MAIL**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court Of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

**RECEIVED**

AUG 13 2018

SC Court of Appeals

RE: *The Gates at Williams-Brice Condo Assoc., et al v. Quality Built, LLC*  
Appellate Case No.: 2017-002325

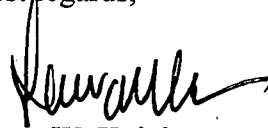
Dear Ms. Kitchings:

Enclosed please find the original and seven copies of *Appellants' Return to Respondent Quality Built's Notice of Deficiency of Record on Appeal and Motion to Correct Record on Appeal* in the above-referenced matter.

I would greatly appreciate you filing this pleadings with the Court of Appeals and returning a date stamped copy to my attention in the enclosed self-addressed, stamped envelope.

If you need anything else or I otherwise may be of any assistance to you or to the Court of Appeals regarding this matter, please feel free to contact me at your convenience.

Best regards,



Laura W. Knight



JUSTIN O'TOOLE LUCEY, PA  
ATTORNEYS AT LAW  
415 MILL STREET • P.O. BOX 806 • MT. PLEASANT, SC 29465-0806

RECEIVED

AUG 13 2018

SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court Of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

