

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Cynthia Graham Howe
Master-in-Equity, Fifteenth Judicial Circuit

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SEP 18 2018

SC Court of Appeals

Case No.: 2009-CP-26-620
Appellate Case No.: 2016-001075

Ellis E. Smith, individually and on behalf of A&E Constructors and Consultants, Inc., a South Carolina Corporation Plaintiffs,

vs.

Arthur Wayne Vereen, Park Place Properties of Myrtle Beach, LLC, Parkway Offices, LLC, Arthur Vereen Construction, Inc., Linda C. Vereen, Arthur W. Vereen, as Trustee of the Arthur W. Vereen Residence Trust, and Linda C. Vereen, as Trustee of the Linda C. Vereen Residence Trust, Defendants,

AND

Arthur Wayne Vereen, individually and on behalf of A&E Constructors and Consultants, Inc. and 29th Place Developers, Inc., Third-Party Plaintiffs,

vs.

E. Smith and Sons Construction, LLC, EES Construction and Consulting, Inc. and Ellis E. Smith, individually, Third-Party Defendants.

OF WHOM Arthur Wayne Vereen, individually and on behalf of A&E Constructors and Consultants, Inc., Park Place Properties of Myrtle Beach, LLC, Parkway Offices, LLC, Arthur Vereen Construction Company, Inc., Linda C. Vereen, Arthur W. Vereen, as Trustee of the Arthur W. Vereen Residence Trust, Linda C. Vereen, as Trustee of the Linda C. Vereen Residence Trust and 29th Place Developers, Inc. are Appellants,

AND

Ellis E. Smith, individually and on behalf of A&E Constructors and Consultants, Inc., a South Carolina Corporation and E. Smith and Sons Construction, LLC, EES Construction and Consulting, Inc. and Ellis E. Smith, individually are Respondents.

**DESIGNATION OF MATTER TO BE INCLUDED IN
RECORD ON APPEAL**

The Appellants designate the following materials to be included in the record on appeal pursuant to Rule 209 of the South Carolina Appellate Court Rules:

ORDERS

- a. Order signed by the Honorable Cynthia Graham Howe dated March 23, 2015 and entitled "Judgment Against the Defendants Arthur W. Vereen, individually and as trustee of the Arthur W. Vereen Residence Trust, Linda C. Vereen, Individually, and as trustee of the Linda C. Vereen Residence Trust, Park Place Properties of Myrtle Beach, LLC, Parkway Offices, LLC, and Arthur Vereen Construction Company, Inc., Jointly and Severally."
- b. Form 4 signed by the Honorable Cynthia Graham Howe dated March 23, 2015.
- c. Nunc Pro Tunc Order Amending Judgment Total signed by the Honorable Cynthia Graham Howe dated March 24, 2015.
- d. Form 4 signed by the Honorable Cynthia Graham Howe dated March 25, 2015.
- e. Order Disposing of Post-Trial Motions signed by the Honorable Cynthia Graham Howe dated April 25, 2016.
- f. Order of Reference signed by the Honorable Larry J. Hyman, Jr. dated June 23, 2009.

MOTIONS

- a. Defendants' and Third-Party Plaintiffs' Motions to Reconsider Order dated April 20, 2015.
- b. Defendants' Motion to Reopen Hearing for Taking Testimony and Evidence Effecting Subject Matter and Relief Sought in Case, dated August 21, 2014, and attached exhibits A & B attached thereto.

PLEADINGS

- a. Complaint of Ellis E. Smith.
- b. Answer, Counterclaims, and Third Party Complaint filed by Appellants.

- c. Reply of Third-Party Complaint and Answer to Counterclaims.

TRANSCRIPTS

- a. Complete and entire trial transcript before the Honorable Cynthia Graham Howe. According to the information provided, the complete and entire trial transcript includes testimony taken on February 15 and 16, 2011, June 13, 14, and 15, 2011, October 11, 12, and 13, 2011, and on August 27, 28, 29, and 30, 2012.
- b. Transcript of hearing before the Honorable Cynthia Graham Howe on May 11, 2015.
- c. Transcript of hearing before the Honorable Cynthia Graham Howe on November 17, 2014.

EXHIBITS

- a. Defendant's Exhibit #15: Check from Vereen in amount of \$50,000.
- b. Defendant's Exhibit #18: E. Smith and Sons Construction, LLC filing with South Carolina Secretary of State.
- c. Defendant's Exhibit #19: E. Smith and Sons Construction, LLC application to LLR.
- d. Defendant's Exhibit #21: Land Sales Contract between 29th Place Developers, Inc. and Ellis E. Smith.
- e. Defendant's Exhibit #22: Cost of Construction Materials.
- f. Defendant's Exhibit # 24: Applications for Permit for construction for Perez, Davis, McMillan, and Sealy
- g. Defendant's Exhibit #41: Building Permit for Condolux.
- h. Defendant's Exhibit #48: Building Permit for Condolux.
- i. Defendant's Exhibit #49: Documents reflecting work performed for Cari Ann Davis.
- j. Defendant's Exhibit #50: Certificate of Occupancy for Cari Ann Davis' house.
- k. Defendant's Exhibit #51: Documents reflecting work performed for Robert Sealy.
- l. Defendant's Exhibit #53: Documents reflecting work performed for McMillans.

- m. Defendant's Exhibit #54: Certificate of Occupancy for McMillans.
- n. Defendant's Exhibit #55: Documents reflecting work performed for Perez.
- o. Defendant's Exhibit #59: Contracting license to E. Smith and Sons Construction, LLC.
- p. Defendant's Exhibit #65: Agreement signed by Ellis Smith on behalf of A&E.
- q. Defendant's Exhibit #66: Building Permit for Condolux.
- r. Defendant's Exhibit #67: Building Permit for Condolux.
- s. Defendant's Exhibit #68: Building Permit for Condolux.
- t. Defendant's Exhibit #69: Building Permit for Condolux.
- u. Defendant's Exhibit #70: Building Permit for Condolux.
- v. Defendant's Exhibit #71: Building Permit for Condolux.
- w. Defendant's Exhibit #72: Building Permit applied for by Smith for Capital Partners IV, LLC.
- x. Defendant's Exhibit #74: Documents reflecting loan to Smith.
- y. Defendant's Exhibit #81: Letter from Turner Padgett dated July 30, 2007.
- z. Defendant's Exhibit #88: Ledger reflecting payments made in 2008 on behalf of A&E.
- aa. Defendant's Exhibit #89: Ledger reflecting payments made in 2008 on behalf of A&E.
- bb. Defendant's Exhibit #92: Letter from Grand Strand Builders to Smith dated May 17, 2011 and enclosed documents.
- cc. Defendant's Exhibit #93: Letter from Grand Strand Builders to Smith dated July 21, 2011 and enclosed documents.
- dd. Defendant's Exhibit #94: Letter from Grand Strand Builders to Smith dated October 3, 2011 and enclosed documents.
- ee. Plaintiff's Exhibit #8: Articles of Incorporation of A&E Constructors and Consultants, Inc.

- ff. Plaintiff's Exhibit #9: First & Second Demand Letters.
- gg. Plaintiff's Exhibit #10: A&E Constructors and Consultants, Inc. filing with South Carolina Secretary of State.

AFFIDAVITS

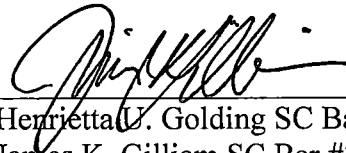
- a. Affidavit of Kathryn M. Cook, Esquire and accompanying exhibits, which was previously filed as Exhibit #6 to Appellants' Return to Motion to Dismiss.

CERTIFICATION

I certify that this Designation contains no matter which is irrelevant to this Appeal.

Respectfully submitted,

McNAIR LAW FIRM, P.A.



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Attorneys for Appellants

Myrtle Beach, South Carolina

September 17, 2018

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vs.

Arthur Wayne Vereen, Park Place Properties of Myrtle Beach, LLC, Parkway Offices, LLC, Arthur Vereen Construction, Inc., Linda C. Vereen, Arthur W. Vereen, as Trustee of the Arthur W. Vereen Residence Trust, and Linda C. Vereen, as Trustee of the Linda C. Vereen Residence Trust, Defendants,

AND

Arthur Wayne Vereen, individually and on behalf of A&E Constructors and Consultants, Inc. and 29th Place Developers, Inc., Third-Party Plaintiffs,

vs.

E. Smith and Sons Construction, LLC, EES Construction and Consulting, Inc. and Ellis E. Smith, individually, Third-Party Defendants.

OF WHOM Arthur Wayne Vereen, individually and on behalf of A&E Constructors and Consultants, Inc., Park Place Properties of Myrtle Beach, LLC, Parkway Offices, LLC, Arthur Vereen Construction Company, Inc., Linda C. Vereen, Arthur W. Vereen, as Trustee of the Arthur W. Vereen Residence Trust, Linda C. Vereen, as Trustee of the Linda C. Vereen Residence Trust and 29th Place Developers, Inc. are Appellants,

AND

Ellis E. Smith, individually and on behalf of A&E Constructors and Consultants, Inc., a South Carolina Corporation and E. Smith and Sons Construction, LLC, EES Construction and Consulting, Inc. and Ellis E. Smith, individually are Respondents.

PROOF OF SERVICE

I, Carole Koerner, an employee of McNair Law Firm, P.A., attorneys for Appellants, Arthur Wayne Vereen, individually and on behalf of A&E Constructors and Consultants, Inc., Park Place Properties of Myrtle Beach, LLC, Parkway Offices, LLC, Arthur Vereen Construction Company, Inc., Linda C. Vereen, Arthur W. Vereen, As Trustee of the Arthur W. Vereen Residence Trust, Linda C. Vereen, As Trustee of the Linda C. Vereen Residence Trust, and 29th Place Developers, Inc. in the above-entitled action, certify that I have served **Appellants' Initial Reply Brief, Appellants' Designation of Matter to be Included in Record** and Proof of Service on Counsel of Record to this matter by depositing a copy in the United States Mail, first class postage prepaid on the 17th day of September, 2018 as follows:

OTHER COUNSEL OF RECORD:

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