

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

Appeal from the Court of Common Pleas
For Charleston County
Honorable Roger M. Young, Circuit Judge
Civil Action No.: 2009-CP-10-267

3 Chisolm Street Homeowners Association, Inc., Plaintiff-Appellant,

v.

Chisolm Street Partners, LLC, Murray School Partners, LLC,
Genoa Construction Services, Inc., Masterpiece Millwork, Inc.,
Allen Roper, Jr. d/b/a Masonry Brickwork and Stucco, John Doe #1,
John Doe #2, and Brock Green Architects and Planners, LLC, Defendants

Of whom Genoa Construction Services, Inc., Masterpiece
Millwork, Inc., and Brock Green Architects and Planners, LLC,
are the Respondents.

Genoa Construction Services, Inc., Third-Party Plaintiff,

v.

The Fox Steel Company, Carolina Services, Inc., Lesco
Restoration, Inc., Ferst Plastering, Inc., Charleston Glass &
Mirror Company, 3d Renovations, Williams Mechanical,
Mastercraft Interior & Exterior, Coastal Glass and Block,
Adams Davis & Partners, and Troy Pardee Heating and Air
Conditioning (d/b/a Pardee Heating and Air), CT Windows
Limited, and Architectural Materials & Systems,
Third-Party Defendants,

Lesco Restoration, Inc., Fourth-Party Plaintiff,

v.

Coastal Waterproofing, Inc. n/d/b/a Wards Waterproofing, Inc.,
Fourth-Party Defendants.

**SUPPLEMENTAL RECORD ON
APPEAL**

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2009-CP-10-267

3 CHISOLM STREET HOMEOWNERS
ASSOCIATION, INC,

Plaintiff,

vs.

CHISOLM STREET PARTNERS, L.L.C.
MURRAY SCHOOL PARTNERS, L.L.C,
GENOA CONSTRUCTION SERVICES,
INC., MASTERPIECE MILLWORK, INC.,
ALLEN ROPER, JR., d/b/a R. MASONRY-
BRICKWORK AND STUCCO, CAROLINA
ROOFING SYSTEMS, INC., AND LACY
PAINTING,

Defendants.

**AFFIDAVIT OF
SCOTT A. HARVEY, AIA**

GENOA CONSTRUCTION SERVICES,
INC.,

Third-Party Plaintiff

v.

THE FOX STEEL COMPANY, CAROLINA
SERVICES, INC., LESCO RESTORATION,
INC., FERST PLASTERING, INC.,
CHARLESTON GLASS & MIRROR
COMPANY, 3D RENOVATIONS,
WILLIAMS MECHANICAL,
MASTERCRAFT INTERIOR & EXTERIOR,
BONIFAY MASONRY, COASTAL GLASS
AND BLOCK, ADAMS DAVIS &
PARTNERS, TROY PARDEE HEATING
AND AIR CONDITIONING (d/b/a PARDEE
HEATING AND AIR) AND BROCK GREEN
ARCHITECTS AND PLANNERS,

Third-Party Defendants.

PERSONALLY APPEARED before me, the undersigned, Scott Harvey, who first be duly sworn, deposes and says:

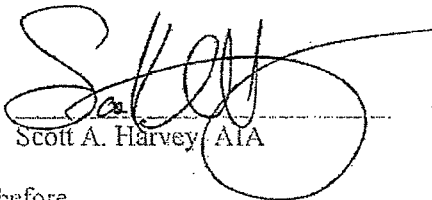
1. I am a resident of Charleston County, South Carolina.
2. I am over the age of eighteen years of age and make this Affidavit based on my personal knowledge of the facts and information set forth in this Affidavit.
3. I am a licensed architect in the State of South Carolina.
4. I have actual professional knowledge and experience in the area of architecture as a result of having been regularly engaged in the active practice of architecture and design for a least three of the past five years.
5. I am currently employed by Applied Buildings Sciences, Inc. in Charleston, South Carolina, as an architect.
6. I have reviewed the drawings prepared by Brook Green Architect & Planners ("Brook Green") titled "Three Chisolm Street Condominium" and dated "permit issue date 6-16-00" for the project known as the Three Chisolm Street Condominiums in Charleston, South Carolina.
7. I have reviewed the AIA B141 contract between Chisolm Street Partners, LLC, and Brook Green dated December 1, 1999, for the Three Chisolm Street Condominiums. Pursuant to that contract, Brook Green provided contract administrative services for this project.
8. I have visited the project site, inspected the conditions of the property, and witnessed destructive testing at the property.
9. Based on the information that I have received and reviewed to date, it is my professional opinion, to reasonable degree of professional certainty, that Brook Green breach the professional standard of care of an architect for this project in the following respects:
 - a. By failing to observe deviations between the drawings and the as-built structure in that a layer of gypsum drywall on the fire walls between the

condominium units in the gym building was not installed as reflected on the plans.

- b. By failing to observe deviations between the drawings and the as-built structure in that fire sealant/caulking was not installed in the fire walls between the condominium units in the gym building as called for on the UL ratings on the drawings.
- c. By failing to observe deviations between the drawings and the as-built structure in that insulation is missing in locations in the fire walls between the condominium units in the gym building as called for on the drawings.
- d. By failing to consider that the installation of non-insulated, single pane, metal frame exterior windows in the main building would lead to a condition whereby, due to temperature and humidity differences inside and outside the windows, condensation will form on the windows to various degrees at certain times of the year, resulting in a slow migration of condensation into the wall cavity under the windows and resulting moisture and water damage in the wall system in portions of the building.

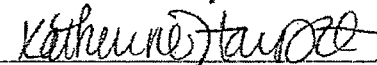
10. I reserve the right to supplement or amend this affidavit and/or my professional opinion upon receipt of additional documents or information pertaining to this matter.

FURTHER AFFIANT SAYETH NOT.



Scott A. Harvey AIA

SWORN TO AND SUBSCRIBED before
me this 5th of April, 2010



Notary Public for South Carolina (L.S.)
My Commission Expires: April 20, 2015

1 Q. And is it an issue in the winter more than in
2 the summer, or is it a year-round issue?

3 A. Primarily in the winter and in the change of
4 seasons.

5 Q. Have you hired anybody independently to come in
6 and examine what the cause of that condensation issue is?

7 A. No.

8 Q. Have you hired anybody independently to come in
9 and try and fix the condensation issue?

10 A. No.

11 Q. On the terrace doors -- let me ask you this one
12 last question on the condensation issue. You say you can't
13 recall specifically, but was it within the first year of
14 moving in that you noticed that as an issue?

15 A. Yes.

16 Q. On the fitting issue with the terrace doors,
17 when did you notice that?

18 A. Early on.

19 Q. Within that first year?

20 A. Difficulty in closing and locking, sure.

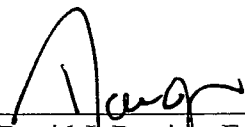
21 Q. Is it that they don't fit flush, or is there
22 some other issue?

23 A. We could never determine whether it was a
24 manufacturing issue or an installation issue, but it's
25 almost like warpage. Even though they were steel frame,

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Signed: _____


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Attorneys for the Appellant

Charleston, South Carolina

July 9, 2013

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

Appeal from the Court of Common Pleas
For Charleston County
Honorable Roger M. Young, Circuit Judge
Civil Action No.: 2009-CP-10-267

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Plaintiff-Appellant,

SC Court of Appeals

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Genoa Construction Services, Inc., Masterpiece Millwork, Inc.,
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Defendants

Of whom Genoa Construction Services, Inc., Masterpiece
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Adams Davis & Partners, and Troy Pardee Heating and Air
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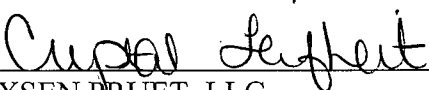
**Proof Of Service for the
SUPPLEMENTAL RECORD ON
APPEAL**

I, hereby certify that on July 10, 2013, I served one copy each of the Supplemental Record on Appeal on counsel for the parties of record in this case via United States Mail, postage pre-paid, as addressed shown below or via hand delivery.

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