



Katon E. Dawson, Jr.
Associate
Telephone: 803.253.6854
Direct Fax: 803.255.8017
katondawson@parkerpoe.com

Atlanta, GA
Charleston, SC
Charlotte, NC
Columbia, SC
Greenville, SC
Raleigh, NC
Spartanburg, SC

April 10, 2019

Via Hand Delivery

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

RECEIVED
APR 10 2019
SC Court of Appeals

Re: *Six Fifty Six Owners v. WCB, LLC*
Appellate Case No. 2019-000562

Dear Mrs. Kitchings:

Prior to filing the Notice of Appeal, The Ryland Group, Inc. received the transcript for the September 21, 2018 hearing before the Honorable R. Lawton McIntosh on The Ryland Group, Inc.'s Motion to Compel Arbitration. Please accept this letter in satisfaction of the Rule 207, SCACR, requirements related to the ordering of the transcript for the underlying proceeding.

In response to the Court's letter dated April 8, 2019, enclosed please find a copy of the most recent responsive pleading filed in the above-referenced matter, "AR Services Co.'s Answer to The Ryland Group, Inc.'s Cross-Claims Asserted in the The Ryland Group, Inc.'s Reply to Jeffrey M. Thomas' Counterclaims Filed October 23, 2018." This pleading contains the most recent caption for the underlying action.

Additionally, the signature block on the Notice of Appeal should state "Attorneys for Appellant The Ryland Group, Inc." The Notice of Appeal was filed on behalf of The Ryland Group, Inc. The other entity previously identified is not a party to this action.

With kindest regards,

Sincerely,

Katon E. Dawson, Jr.

KED:bg

Enclosure

cc: Justin O'Toole Lucey (via U.S. Mail)
Joshua Fletcher Evans (via U.S. Mail)
James L. Floyd, III (via U.S. Mail)
Collin H. Fuller (via U.S. Mail)

PPAB 4825215v1

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

SIX FIFTY SIX OWNERS ASSOCIATION,
INC. AND ROBERT JOHN NUTLEY,
INDIVIDUALLY AND ON BEHALF OF
ALL OTHERS SIMILARLY SITUATED,

PLAINTIFFS,

vs.

WCB, LLC; 656 COLEMAN, LLC; AND
THE RYLAND GROUP,

DEFENDANTS.

THE RYLAND GROUP, INC.,

THIRD -PARTY PLAINTIFF,

vs.

AC HEATING AND AIR CONDITIONING
SERVICE, INC., ACME DOORS, INC.,
ALPA OMEGA CONSTRUCTION GROUP,
INC., ATLANTIC CONSTRUCTION
SERVICES, INC., BUCK LUMBER AND
BUILDING SUPPLY, INC., BUILDERS
FIRSTSOURCE, INC., BUILDERS
FIRSTSOURCE-ATLANTIC GROUP, LLC,
BUILDERS FIRSTSOURCE-FLORIDA, LLC
A/K/A BUILDERS FIRSTSOURCE-
FLORIDA DESIGN CENTER, LLC,
BUILDERS FIRSTSOURCE-SOUTHEAST
GROUP, LLC, CAROLINA SHELVING
AND MIRROR CO., INC.; CHARLOTTE
FLOORING, INC., DIRIA TAWI PAINTING,
INC., EAST COAST WALL SYSTEMS,
INC., FOGEL SERVICES, INC., G&S HOME
REMODELING, LLC, GUARANTEED
FRAMING, LLC, J. MORA BRICK &
BLOCK MASON, LLC, JEFREY M.
THOMAS; JONATHAN J. THOMAS; AND
LAND/SITE SERVICES, INC., LANDMARK
CONSTRUCTION COMPANY, INC.,

) IN THE COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT
) CASE NO.: 2018-CP-10-02152

) **AR SERVICES CO.'s ANSWER TO**
) **THE RYLAND GROUP, INC.'S**
) **CROSS-CLAIMS ASSERTED IN THE**
) **RYLAND GROUP, INC.'S REPLY TO**
) **JEFFREY M. THOMAS'**
) **COUNTERCLAIMS FILED**
) **OCTOBER 23, 2018**

BY _____
JULIE J. ARMSTRONG
CLERK OF COURT
2019 MAR 29 PM 2:29

FILED

LUTZEN CONSTRUCTION, INC., NEW)
HORIZON SHUTTERS, INC. A/K/A NEW)
HORIZON SHUTTERS INTERNATIONAL,)
LLC, NOVAC CONSTRUCTION, INC.; PJ)
SANCHEZ MASONRY, LLC, SCREENS)
PLUS, INC., SIMONS CONSTRUCTION)
COMPANY, LLC, STUCCO BY DESIGN,)
LLC, WCM CONSTRUCTIONS, LLC;)
WINSOR SOUTH, LLC,)

THIRD-PARTY DEFENDANTS.)

ATLANTIC CONSTRUCTION SERVICES,)
INC.,)

FOURTH-PARTY PLAINTIFF,)

vs.)

FINE BUILDERS, LLC, SPEEDTRUSS, INC.)
AND AS CONSTRUCTION,)

FOURTH-PARTY DEFENDANTS.)

DIRIA TAWI PAINTING, INC.,)

FOURTH- PARTY PLAINTIFF,)

vs.)

MIGUEL PAINTING, LLC AND HORACIO)
JASSO,)

FOURTH- PARTY DEFENDANTS.)

STUCCO BY DESIGN, LLC,)

FOURTH-PARTY PLAINTIFF,)

vs.)

JAVIER MORALES MERINO,)

FOURTH- PARTY DEFENDANT.)

GUARANTEED FRAMING, LLC,)

FOURTH- PARTY PLAINTIFF,
vs.
JORGE DIAZ,
FOURTH- PARTY DEFENDANT.

WINSOR SOUTH, LLC AND JEFFRY M.
THOMAS,

FOURTH-PARTY PLAINTIFFS,
vs.
MJG CONSTRUCTION, INC.; ADVANCED
PLUMBING, HEATING & AIR, INC.;
CAHILL CONTRACTING, COHEN'S
DRYWALL, INC.; BOB PORTER d/b/a
INTERIOR CONSTRUCTION, RB TRIM,
INC.; SHARON'S PAINTING AND
CONSTRUCTION a/k/a SHARON'S
PAINTING, LLC; DAVIS TILE; TIMOTHY
MITCHELL, ELECTRICAL DESIGN &
CONSTRUCTION, INC.; AND STANDARD
PRECAST WALLS, LLC,

FOURTH- PARTY DEFENDANTS,

ALPHA OMEGA CONSTRUCTION
GROUP,

FOURTH- PARTY PLAINTIFF,
vs.
GARCIA ROOFING, LC AND ESPINO
ROOFING,

FOURTH- PARTY DEFENDANTS.

BUILDERS FIRSTSOURCE-SOUTHEAST
GROUP, LLC,

FOURTH- PARTY PLAINTIFF,
vs.

HURLEY SERVICES, LLC, CHARLESTON)
 EXTERIORS, LLC, AND DVS, INC.,)
)
 FOURTH- PARTY DEFENDANTS.)
)
 _____)
 FOGEL SERVICES, INC.,)
)
 FOURTH- PARTY PLAINTIFF,)
 vs.)
)
 AR SERVICES CO. AND ALFONSO)
 RODRIGUEZ VASQUEZ,)
)
 FOURTH- PARTY DEFENDANTS.)
)
 _____)

TO: THE RYLAND GROUP, INC. AND THEIR COUNSEL, JAMES L. WERNER, ESQUIRE AND KATON E. DAWSON, JR. ESQUIRE

Defendant AR Services Co. (hereinafter “AR Services”), through their undersigned counsel, answers The Ryland Group, Inc.’s (hereinafter “Ryland”) Cross-Claims asserted in Ryland’s Reply to Jeffery M. Thomas’s Counter-Claims filed October 23, 2018 as follows:

FOR A FIRST DEFENSE AND BY WAY OF MOTION TO DISMISS
(S.C.R.C.P. 12(b)(6))

1. AR Services moves for a dismissal of Ryland’s Cross-Claims in accordance with South Carolina Rule of Civil Procedure 12(b)(6). Specifically, Ryland’s pleading served on AR Services does not contain specific allegations against AR Services. Further, Ryland had no relationship with AR Services during construction of the project at issue in this matter: “special”, contractual, or otherwise. Therefore, Ryland’s causes of action against AR Services should be dismissed.

FOR A SECOND DEFENSE AND BY WAY OF MOTION TO DISMISS
(S.C.R.C.P. 12(b)(8))

2. AR Services moves for a dismissal of this action pursuant to South Carolina Rule of Civil Procedure 12(b)(8) as AR Services is a named defendant in another pending matter, Case No. 2016-CP-10-3455, involving the same Plaintiffs, the same project, the same work, and the same alleged construction defects.

FOR A THIRD DEFENSE
(General Denial)

3. Each and every allegation of Ryland's Cross-Claims not expressly and specifically admitted is hereby denied and strict proof is demanded thereof.
4. Paragraphs 1 – 50 of Ryland's Cross-Claims are not directed toward AR Services and therefore no response is required. To the extent a response is required, the allegations are denied, and strict proof is demanded thereof.
5. Paragraphs 51 – 83 of Ryland's Cross-Claims refer to Fourth-Party Defendants of which AR Services 1) is not listed or referenced by name and 2) is not listed in the caption of the pleading served on AR Services. Therefore, no response is required. To the extent a response is required, the allegations are denied, and strict proof is demanded thereof.
6. AR Services denies the allegations and relief sought in the "WHEREFORE" paragraph of Ryland's Cross-Claims and demands strict proof thereof.

FOR A FOURTH DEFENSE
(Contributory/Comparative Negligence)

7. Ryland's damages, if any, were due to, caused solely or partly by, and were the direct and proximate result of Ryland, and therefore Ryland's recovery, if any, should be barred, or reduced, in proportion to the amount of their own negligence.

FOR A FIFTH DEFENSE
(Sole, Intervening and Superseding Negligence of Ryland)

8. Ryland's damages, if any, were due to and caused by the sole, intervening and superseding negligence, willfulness, wantonness and recklessness of Ryland, over whom AR Services had no control, so as to bar the claims against AR Services.

FOR A SIXTH DEFENSE
(Compliance with Industry Standard)

9. Any and all work or services provided by AR Services, if any, would have met all construction industry customs, practices and standards applicable to the alleged claims.

FOR A SEVENTH DEFENSE
(Doctrine of Estoppel and Waiver)

10. Ryland's claims may be barred by the doctrine of estoppel and waiver.

FOR AN EIGHTH DEFENSE
(Failure to Mitigate)

11. The injuries and/or damages alleged by Ryland, which are hereby specifically denied, could have been caused by Ryland's failure to mitigate. Such a failure to mitigate is a complete bar to the Ryland's recovery.

FOR A NINTH DEFENSE
(Spoliation of Evidence)

12. To the extent that repairs have been made to the subject structure and AR Services has not been afforded the opportunity to inspect and examine the alleged defective products and/or their components, AR Services pleads the Spoliation of Evidence Doctrine as a complete defense to this action.

FOR A TENTH DEFENSE
(Sole Superseding and Intervening Negligence of Others)

13. Whatever damages were sustained by Plaintiffs or Ryland, which AR Services expressly denies, were due to and caused by the sole intervening and superseding negligence of others and/or other forces, over whom AR Services had no control, so as to bar the claims against AR Services.

FOR AN ELEVENTH DEFENSE
(Set-off)

14. Should Plaintiffs or Ryland reach a settlement with any of the Defendants or other entities, then AR Services is entitled to a set-off at the trial of this matter.

FOR A TWELFTH DEFENSE
(Acceptance)

15. Any work performed by AR Services on the subject property, if any, would have been accepted by Ryland, and said acceptance is a complete defense to this action.

FOR A THIRTEENTH DEFENSE
(Statute of Limitations, Statute of Repose, and Laches)

16. This action is barred by the applicable statute of limitations and/or statute of repose since it was not commenced within the statutory period of time. Further, Ryland's claims are barred by the doctrine of laches.

FOR A FOURTEENTH DEFENSE
(Unconstitutionality of Punitive Damages)

17. Ryland may be seeking punitive or exemplary damages which violate AR Services' right to substantive due process as provided by the Fifth and Fourteenth Amendment of the U.S. Constitution and the Constitution of the State of South Carolina and Ryland fails to state a cause of action for which exemplary or punitive damages may be awarded.

FOR A FIFTEENTH DEFENSE
(Election of Remedies)

18. Ryland must elect a remedy to proceed on against AR Services.

FOR A SIXTEENTH DEFENSE
(Exclusion/Disclaimer/Limitation/Modification of Remedies)

19. Any and all available remedies have been properly and effectively excluded, disclaimed, limited, and/or modified by AR Services.

FOR A SEVENTEENTH DEFENSE
(Exclusion/Disclaimer/Limitation/Modification of Warranties)

20. Any and/or all applicable warranties may have been properly and effectively excluded, disclaimed, limited, and/or modified by AR Services.

FOR AN EIGHTEENTH DEFENSE
(Failure to Give Notice of Breach of Warranty)

21. Ryland failed to give reasonable notice of any alleged breach of warranty, which breach of warranty or warranties is hereby specifically denied.

FOR A NINETEENTH DEFENSE
(Payment and Release)

22. Ryland's claims against AR Services are barred as a result of payment and release.

FOR A TWENTIETH DEFENSE
(Substantial Performance)

23. AR Services substantially performed the requirements of their contract, if any, and all work in question was done in a good and workmanlike manner, within the limitations of material and design provided.

FOR A TWENTY-FIRST DEFENSE
(S.C. Code Annotated § 40-59-800 et seq.)

24. AR Services moves to have this action stayed in accordance with S.C. Code Annotated § 40-59-830 for failure to comply with the South Carolina Notice and Opportunity to Cure

Construction Dwelling Defects Act, S.C. Code Annotated § 40-59-800 *et seq.*

FOR A TWENTY-SECOND DEFENSE
(Breach of Implied Warranties-Plans and Specifications)

25. Ryland expressly and impliedly warranted that the plans and specifications were adequate for construction and in conformance with the generally accepted principles in the industry.

26. Ryland's claims should be denied if they were negligent in planning and designing the project and/or in failing to adequately supervise or inspect the design of the project.

FOR A TWENTY-THIRD DEFENSE
(Unconscionability)

27. The alleged contractual terms upon which the claimant relies are so one-sided and oppressive as to be unconscionable and, thus, unenforceable.

FOR A TWENTY-FOURTH DEFENSE
(Mistake)

28. The alleged contractual terms should not be enforced because of a mistake about their meaning.

FOR A TWENTY-FIFTH DEFENSE
(Impossibility/Impracticability)

29. Conformity with alleged contractual terms upon which Ryland relies is excused under the defenses of impossibility and/or impracticability.

FOR A TWENTY-SIXTH DEFENSE
(Reformation)

30. The alleged contract between the parties should be reformed to reflect the true intent of the parties.

FOR A TWENTY-SEVENTH DEFENSE
(Impossibility of Performance)

31. If AR Services failed to perform its contract, which is denied, it was because Ryland made it impossible for them to do so.

FOR A TWENTY-EIGHTH DEFENSE
(Joint Tortfeasor/Equitable Indemnification)

32. Ryland's claims against AR Services for equitable indemnification are barred, as Ryland is not without fault, and therefore not entitled to equitable indemnification.

FOR A TWENTY-NINTH DEFENSE
(Merger)

33. If any representations were made to Ryland during the course of negotiations between the parties, which representations are hereby specifically denied, then all representations merged into the contract between the parties.

FOR A THIRTIETH DEFENSE
(Unclean Hands)

34. Ryland's claims against AR Services are barred by the doctrine of unclean hands.

FOR A THIRTY-FIRST DEFENSE
(Lack of Privity)

35. Ryland has alleged breach of contract claims against AR Services which are barred due to a lack of privity between the parties.

FOR A THIRTY-SECOND DEFENSE
(Joint and Several Liability Not Applicable)

36. Joint and several liability does not apply to this defendant.

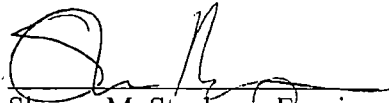
FOR A THIRTY-THIRD DEFENSE
(Reservation of additional defenses)

37. AR Services reserves any additional and further defenses as may be revealed by additional information through the course of discovery and investigation in a manner that is consistent with the South Carolina Rules of Civil Procedure.

WHEREFORE, AR Services prays:

- a. That Ryland's Cross-Claims be dismissed with prejudice;
- b. That this matter be tried by jury on all issues so triable;
- c. That they be awarded their costs and expenses of this action; and
- d. That they be granted such other and further relief as this Court deems just and proper.

ANDERSON REYNOLDS & STEPHENS, LLC



Shanna M. Stephens, Esquire

Thomas F. Drazan, Esquire

37 ½ Broad Street (29401)

P.O. Box 87

Charleston, SC 29402

Tel: (843) 723-0185

Fax: (843) 723-0977

sstephens@arlawsc.com

tdrazan@arlawsc.com

Attorneys for AR Services Co.

March 28, 2019

Charleston, South Carolina

CERTIFICATE OF SERVICE

2018-CP-10-02152

I hereby certify that I have this day served a copy of AR Services Co.'s Answer to The Ryland Group, Inc.'s Cross-Claims Asserted in The Ryland Group, Inc.'s Reply to Jeffrey M. Thomas's Counterclaims Filed October 23, 2018 enclosed herein, upon all parties to these matters via hand delivery, electronic mail and/or by depositing a true copy of same in the U. S. Mail, proper postage prepaid, addressed to counsel of record as follows:

Thomas O. Sanders, IV, Esquire
Sanders Law Firm, LLC
1738 Three Oaks Avenue
Charleston, SC 29464

Justin O. Lucey, Esquire
Joshua F. Evans, Esquire
James L. Floyd, III, Esquire
Collin H. Fuller, Esquire
Justin O'Toole Lucey, P.A.
P.O. Box 806
Mt. Pleasant, SC 29465-0806

Stephen L. Brown, Esquire
Catherine H. Chase, Esquire
25 Calhoun Street, Suite 400 (29401)
P.O. Box 993
Charleston, SC 29402

James L. Werner, Esquire
Katon E. Dawson, Jr., Esquire
Parker Poe Adams & Bernstein, LLP
1221 Main Street, Suite 1100
Columbia, SC 29201

Paul R. Rahn, Esquire
Jillian S. Barton, Esquire
Robertson Hollingsworth Manos and Rahn, LLC
550 King Street, Suite 300
Charleston, SC 29403

James D. Smith, Jr., Esquire
McAngus Goudelock & Courie LLC
735 Johnnie Dodds Blvd., Ste. 200
Mt. Pleasant, SC 29464

John E. Rogers, II, Esquire
C. Reed Teague, Esquire
Ginger Goforth, Esquire
Chad M. Graham, Esquire
The Ward Law Firm, P.A.
P.O. Box 5663
Spartanburg, SC 29304

Alan R. Belcher, Jr., Esquire
Derek M. Newberry, Esquire
Hall Booth Smith, P.C.
111 Coleman Blvd. Suite 301
Mount Pleasant, SC 29464

R. Michael Ethridge, Esquire
Robert B. Hawk, Esquire
Ethridge Law Group, LLC
P.O. Box 20969
Charleston, SC 29413

David A. Anderson, Esquire
James B. Robey, III, Esquire
Richardson Plowden & Robinson, PA
1900 Barnwell Street (29201)
P.O. Drawer 7788
Columbia SC 29202

Joshua D. Shaw, Esquire
Soroush "Surge" Moghaddassi, Esquire
Hedrick Gardner Kincheloe & Garofalo, LLP
1301 Gervais Street, suite 1900
Columbia, SC 29202

Neil S. Haldrup, Esquire
Thomas B. Boger, Esquire
Wall Templeton & Haldrup, P.A.
145 King Street - Suite 300
Charleston, SC 29401

L. Dean Best, Esquire
Best Honeycutt, PA
102 Wappoo Creek Drive, Suite 8 (29412)
P.O. Box 13466
Charleston, SC 29422

John A. "Jay" Jones, Esquire
Paige C. Ornduff, Esquire
Gallivan, White & Boyd, P.A.
40 Calhoun Street, Suite 315
P.O. Box 22768
Charleston, SC 29413-2768

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JULIE J. ARMSTRONG
CLERK OF COURT

Allen Leland DuPre, Esquire
Lee Anne Walters, Esquire
Lyles & Associates, LLC
342 East Bay Street (29401)
P.O. Box 773
Charleston, SC 29402

Kevin W. Mims, Esquire
Whidbee S. Perrin, Esquire
Luzuriaga Mims, LLP
50 Immigration Street, Suite 200
Charleston, SC 29403

Danielle F. Payne, Esquire
McAngus Goudelock & Courie LLC
735 Johnnie Dodds Blvd, Suite 200 (29464)
P.O. Box 650007
Mt. Pleasant, SC 29465

Patrick J. McDonald, Esquire
Resnick & Louis, P.C.
234 Seven Farms Drive, Suite 128
Charleston, SC 29492

Jeffrey M. Crudup, Esquire
Michelle Endemann, Esquire
Clarkson, Walsh, Terrell & Coulter, P.A.
1233 Ben Sawyer Blvd., Suite 900
P.O. Box 2219
Mt. Pleasant, SC 29464

Mark A. Mason, Esquire
The Mason Law Firm, P.A.
Tidewater Centre on Shem Creek
465 W. Coleman Blvd., Suite 302
Mount Pleasant, SC 29464

Bachman S. Smith, IV, Esquire
Haynsworth Sinkler Boyd, PA
134 Meeting Street, 3rd Floor (29401)
P.O. Box 340
Charleston, SC 29402

Saunders M. Bridges, Jr., Esquire
Jenny Smith, Esquire
Aiken Bridges Elliott Tyler & Saleeby, PA
181 East Evans Street, Suite 409
P.O. Drawer 1931
Florence, SC 29503

Brent M. Boyd, Esquire
Murphy & Grantland, P.A.
P.O. Box 6648
Columbia, SC 29260

Stephen P. Hughes, Esquire
William H. Cox, III, Esquire
Howell, Gibson & Hughes, P.A.
P.O. Box 40
Beaufort, SC 29901-0040

Patrick T. Morrissey, Esquire
Clawson & Staubes, LLC
126 Seven Farms Drive, Suite 200
Charleston, SC 29492-7595

Ian W. Freeman, Esquire
Walker Gressette Freeman & Linton, LLC
P.O. Box 22167
Charleston, SC 29413

Christine C. Varnado, Esquire
Mia L. Maness, Esquire
The Seibels Law Firm PA
38 Broad Street, Suite 200
Charleston, SC 29401

Jonathan J. Anderson, Esquire
Jonathan L. Anderson, Esquire
Anderson Reynolds & Stephens, LLC
37 ½ Broad Street (29401)
P.O. Box 87
Charleston, SC 29402

Everett A. Kendall, II, Esquire
Murphy & Grantland, P.A.
P.O. Box 6648
Columbia, SC 29260

Thomas F. Dougall, Esquire
William A. Collins, Jr., Esquire
Michal Kalwajtys, Esquire
Dougall & Collins
1700 Woodcreek Farms Road
Elgin, SC 29045

R. Michael Ethridge, Esquire
Robert B. Hawk, Esquire
Ethridge Law Group, LLC
PO Box 20969
Charleston, SC 29413

O. Carlisle Edwards, Jr., Esquire
McAngus Goudelock & Courie, LLC
735 Johnnie Dodds Blvd., suite 200
P.O. Box 650007
Mt. Pleasant, SC 29465

S. Markey Stubbs, Esquire
Baker Ravenel & Bender, LLP
3710 Landmark Drive, Suite 400 (29204)
P.O. Box 8057
Columbia, SC 29202

Sarah L. Fragale, Esquire
Turner Padget Graham & Laney, P.A.
40 Calhoun Street, Suite 200 (29401)
P.O. Box 22129
Charleston, SC 29413

James H. Elliott, Jr., Esquire
F. Heyward Grimball, Esquire
Richardson, Plowden & Robinson, P.A.
171 Church Street, Suite 150
Charleston, SC 29401

William J. Horvath, Esquire
Turner Padget Graham & Laney, PA
40 Calhoun Street, Suite 200 (29401)
P.O. Box 22129
Charleston, SC 29413

Robert B. Hawk, Esquire
Ethridge Law Group, LLC
P.O. Box 20969
Charleston, SC 29413

C. Clay Olson, Esquire
Harper Little, PLLC
164 Market Street, Suite 139
Charleston, SC 29401

L. Dean Best, Esquire
Best Honeycutt, PA
102 Wappoo Creek Drive, Suite 8 (29412)
P.O. Box 13466
Charleston, SC 29422

Christopher M. Adams, Esquire
Collins & Lacy, P.C
P.O. Box 12487
Columbia, SC 29202

Karl S. Brehmer, Esquire
Brown & Brehmer
P.O. Box 7966
Columbia, SC 29202

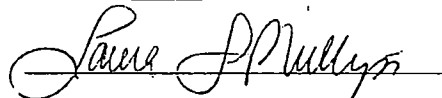
David S. Cobb, Esquire
Turner Padget Graham & Laney
40 Calhoun Street, Suite 200 (29401)
P.O. Box 22129
Charleston, SC 29413-2129

Andrew N. Cole, Esquire
James L. Williams, Esquire
Collins & Lacy, P.C.
P.O. Box 12487
Columbia, SC 29211

L. Gregory Horton, Esquire
Dana W. Lang, Esquire
Womble Bond Dickinson (US), LLP
5 Exchange Street
P.O. Box 999
Charleston, SC 29402

G. Hamlin O'Kelley, III, Esquire
Buist, Byars & Taylor, LLC
652 Coleman Blvd, Suite 200
Mt. Pleasant, SC 29464

This, the 28 Day of March, 2019



ANDERSON REYNOLDS & STEPHENS, LLC

ATTORNEYS AT LAW
37 ½ BROAD STREET
POST OFFICE BOX 87
CHARLESTON, SOUTH CAROLINA 29402

JONATHAN J. ANDERSON
LISA A. REYNOLDS
SHANNA M. STEPHENS
THOMAS F. DRAZAN
W. COLEMAN LAWRIMORE
JONATHAN L. ANDERSON

TEL. 843-723-0185
FAX. 843-405-0313
E-MAIL: sstephens@arlawsc.com

March 28, 2019

Charleston County Clerk of Court
Court of Common Pleas
100 Broad Street, Suite 106
Charleston, South Carolina 29401-2258

RE: Six Fifty Six Owners Association, Inc. and Robert John Nutley, Individually and on Behalf of all Others similarly situated v. The Ryland Group, Inc.; et al... AR Services
Case No.: 2018-CP-10-02152
AR&S File # 20190.06
MSA Claim #: 01-MPG7028G-100001

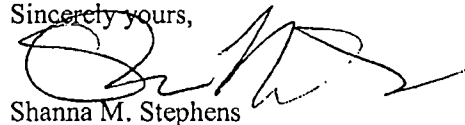
Dear Sir or Madam:

Please find enclosed the original and two (2) copies of the following in the above matter:

- AR Services Co.'s Answer to The Ryland Group, Inc.'s Cross-Claims Asserted in The Ryland Group, Inc.'s Reply to Winsor South, LLC's Counterclaims Filed October 23, 2018; and
- AR Services Co.'s Answer to The Ryland Group, Inc.'s Cross-Claims Asserted in The Ryland Group, Inc.'s Reply to Jeffrey M. Thomas's Counterclaims Filed October 23, 2018.

Please file the originals and return the clocked copies to me in the enclosed self-addressed stamped envelope provided. By copy of this letter, I am serving all parties with the enclosed. Thank you for your attention to this matter.

Sincerely yours,



Shanna M. Stephens

SMS/llp
Enclosures

cc: VIA EMAIL AND U.S. MAIL
James L. Werner, Esquire/Katon E. Dawson, Jr., Esquire

VIA EMAIL ONLY

Justin O. Lucey, Esquire/Joshua F. Evans, Esquire/James L. Floyd, III, Esquire/Collin H. Fuller, Esquire
Stephen L. Brown, Esquire/Catherine H. Chase, Esquire
Thomas C. Hildebrand, Jr., Esquire/Olesya V. Bracey, Esquire
Paul R. Rahn, Esquire/Jillian S. Barton, Esquire
James D. Smith, Jr., Esquire
John E. Rogers, II, Esquire/C. Reed Teague, Esquire/Ginger Goforth, Esquire/Chad M. Graham, Esquire
Alan R. Belcher, Jr., Esquire/Derek M. Newberry, Esquire
R. Michael Ethridge, Esquire/Robert B. Hawk, Esquire
David A. Anderson, Esquire/James B. Robey, III, Esquire
Joshua D. Shaw, Esquire/Soroush "Surge" Moghaddassi, Esquire
Neil S. Haldrup, Esquire/Thomas B. Boger, Esquire
L. Dean Best, Esquire
John A. "Jay" Jones, Esquire/Paige C. Ornduff, Esquire
Allen Leland DuPre, Esquire/Lee Anne Walters, Esquire
Kevin W. Mims, Esquire/Whidbee S. Perrin, Esquire
Danielle F. Payne, Esquire
Patrick J. McDonald, Esquire
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Everett A. Kendall, II, Esquire
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L. Gregory Horton, Esquire/Dana W. Lang, Esquire
G. Hamlin O'Kelley, III, Esquire
Thomas O. Sanders, IV, Esquire



Parker Poe

1221 Main Street, Suite 1100
Columbia, SC 29201

To: The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

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