

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from Charleston County
Court of Common Pleas

Jennifer B. McCoy, Circuit Court Judge

RECEIVED

Case No. 2015-CP-10-00955
Appellate Case No. 2019-000238

MAY 02 2019

SC Court of Appeals

Ex Parte:

Builders Mutual Insurance Company,
Nationwide Mutual Fire Insurance Company,
Nationwide Mutual Insurance Company, and
Nautilus Insurance Company,

Appellants,

In Re:

Palmetto Pointe at Peas Island Condominium
Property Owners Association, Inc., and Jack Love,
Individually, and on behalf of all others similarly
situated,

Plaintiffs,

v.

Island Pointe, LLC; Leonard T. Brown; Complete
Building Corporation; TriCounty Roofing, Inc.;
Creekside, Inc.; American Residential Services,
LLC d/b/a Rescue Rooter Charleston; Andersen
Windows, Inc.; Atlantic Building Construction
Services, Inc. n/k/a Atlantic Construction Services,
Inc.; Christopher N. Union; Builder Services
Group, Inc. d/b/a Gale Contractor Services;
Novus Architects, Inc. f/k/a SGM Architects, Inc.;
Tallent and Sons, Inc.; WC Services, Inc.; CRG
Engineering, Inc.; Certainteed Corporation; Kelly
Flooring Products, Inc. d/b/a Carpet Baggers and
John Doe 1-60,

Defendants,

Tri-County Roofing, Inc.,

Third-Party Plaintiff,

v.

Cornerstone Construction and Mark Malloy d/b/a
Cornerstone Construction; Gutter Works, Inc. and
Michael L. Segars d/b/a Gutter Works; Mr. Gutter;
Litchfield Seamless Gutters & Windows, LLC
and Thomas Litchfield d/b/a Litchfield Seamless
Gutter; Miracle Siding, LLC and Wilson Lucas
Sales d/b/a Miracle Siding, LLC; Mark Palpoint
a/k/a Micah Palpoint; Elroy Alonzo Vasquez; and
Chris a/k/a John Doe 61,

Third-Party Defendants,

And

Complete Building Corporation, Inc.,

Third-Party Plaintiff,

v.

Alderman Construction; Stanley's Vinyl Fence
Designs; Cohen's Drywall; and Mosley Concrete,

Third-Party Defendants,

Of Whom Palmetto Pointe at Peas Island
Condominium Property Owners Association, Inc.
and Jack Love, Individually, and on behalf of all
others similarly situated, Tri-County Roofing, Inc.,
Stanley's Vinyl Fence Designs, and WC Services,
Inc. are the

Respondents.

**PLAINTIFFS-RESPONDENTS' RESPONSE IN OPPOSITION
TO APPELLANT NAUTILUS INSURANCE COMPANY'S PETITION
FOR REVIEW OF CIRCUIT COURT ORDER LIFTING STAY**

**Counsel identified on following page*

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Palmetto Pointe at Peas Island
Condominium Property Owners
Association, Inc., and Jack Love,
Individually, and on behalf of all
others similarly situated*

Appellant Nautilus Insurance Company (“Nautilus”) has submitted a petition to the Court entitled “Appellant Nautilus Insurance Company’s Petition for Expedited Review of Order Lifting Stay with Regard to Trial Scheduled for May 6, 2019” (the “Nautilus Petition”).

The Nautilus Petition follows the petition of Appellant Builders Mutual Insurance Company (“Builders Mutual”) entitled “Petition Pursuant to Rule 241(d)(7), SCACR on behalf of Appellant Builders Mutual Insurance Company to Review Circuit Court Order Lifting Appeal Stay” (the “Builders Mutual Petition”).

Plaintiffs-Respondents, Palmetto Pointe at Peas Island Condominium Property Owners Association, Inc., and Jack Love, Individually, and on behalf of all others similarly situated (collectively, “Plaintiffs”), have already responded to the Builders Mutual Petition via “Plaintiffs-Respondents’ Return to Petition of Appellant Builders Mutual Insurance Company for Review of Circuit Court Order Lifting Stay and/or Cross-Motion to Dismiss Appeal, Grant Limited Remand, or Otherwise Confirm that Trial May Proceed as Scheduled” (“Plaintiffs’ Opposition to the Builders Mutual Petition”).

The Nautilus Petition is substantially identical to the Builders Mutual Petition.


WHEREFORE, for the reasons set forth in Plaintiffs’ Opposition to the Builders Mutual Petition (which are incorporated herein by reference, and which,

Plaintiffs respectfully submit, amply rebut both Builders Mutual and Nautilus's positions¹), Plaintiffs ask the Court to deny the Nautilus Petition, too, and/or grant Plaintiffs' cross-motion (which, though made in Plaintiffs' Opposition to the Builders Mutual Petition, seeks relief that is case wide in scope) as may be necessary for the circuit court (the Honorable Jennifer B. McCoy, presiding) to proceed as scheduled with the trial of this case set to begin May 6, 2019.

<SIGNED ON THE FOLLOWING PAGE>

¹ If, however, the Court would rather Plaintiffs provide some other or further response to the Nautilus Petition, they will gladly do as the Court directs.

Respectfully submitted,

By: 
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*Attorneys for Respondents
Palmetto Pointe at Peas Island
Condominium Property Owners
Association, Inc., and Jack Love,
Individually, and on behalf of all
others similarly situated
Charleston, South Carolina*

Dated: 4/30/19

**THE STATE OF SOUTH CAROLINA
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Jennifer B. McCoy, Circuit Court Judge

Case No. 2015-CP-10-00955
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Individually, and on behalf of all others similarly
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Plaintiffs,

v.

Island Pointe, LLC; Leonard T. Brown;
Complete Building Corporation; TriCounty
Roofing, Inc.; Creekside, Inc.; American
Residential Services, LLC d/b/a Rescue Rooter
Charleston; Andersen Windows, Inc.; Atlantic
Building Construction Services, Inc. n/k/a Atlantic
Construction Services, Inc.; Christopher N. Union;
Builder Services Group, Inc. d/b/a Gale Contractor
Services; Novus Architects, Inc. f/k/a SGM
Architects, Inc.; Tallent and Sons, Inc.;
WC Services, Inc., CRG Engineering, Inc.;
Certainteed Corporation; Kelly Flooring Products,
Inc. d/b/a Carpet Baggers and John Doe 1-60,

Defendants,

Tri-County Roofing, Inc.,

Third-Party Plaintiff,

v.

Cornerstone Construction and Mark Malloy d/b/a
Cornerstone Construction; Gutter Works, Inc. and
Michael L. Segars d/b/a Gutter Works; Mr. Gutter;
Litchfield Seamless Gutters & Windows, LLC and
Thomas Litchfield d/b/a Litchfield Seamless
Gutter; Miracle Siding, LLC and Wilson Lucas
Sales d/b/a Miracle Siding, LLC; Mark Palpoint
a/k/a Micah Palpoint; Elroy Alonzo Vasquez; and
Chris a/k/a John Doe 61,

Third-Party Defendants,

And

Complete Building Corporation, Inc.,

Third-Party Plaintiff,

v.

Alderman Construction; Stanley's Vinyl Fence
Designs; Cohen's Drywall; and Mosley Concrete,

Third-Party Defendants,

Of Whom Palmetto Pointe at Peas Island
Condominium Property Owners Association, Inc.
and Jack Love, Individually, and on behalf of all
others similarly situated, Tri-County Roofing, Inc.,
Stanley's Vinyl Fence Designs, and WC Services,
Inc. are the

Respondents.

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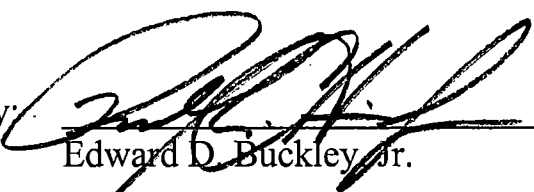
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Association, Inc., and Jack Love,
Individually, and on behalf of all
others similarly situated*

Additionally, a copy of the aforementioned document is being emailed to counsel of record for all other parties to this case, i.e., to counsel of record for the parties to the circuit court proceeding who are neither Appellants nor Respondents in this appeal.

Respectfully submitted,
YOUNG CLEMENT RIVERS, LLP

By: 
Edward D. Buckley, Jr.

*Attorneys for Respondents
Palmetto Pointe at Peas Island
Condominium Property Owners
Association, Inc., and Jack Love,
Individually, and on behalf of all
others similarly situated*

Dated: 4/20/15

I, Edward D. Buckley, Jr., of Young Clement Rivers, LLP, counsel for Plaintiffs-Respondents, Palmetto Pointe at Peas Island Condominium Property Owners Association, Inc., and Jack Love, Individually, and on behalf of all others similarly situated, hereby certify that the foregoing **PLAINTIFFS-RESPONDENTS' RESPONSE IN OPPOSITION TO APPELLANT NAUTILUS INSURANCE COMPANY'S PETITION FOR REVIEW OF CIRCUIT COURT ORDER LIFTING STAY** was served on all Appellants and all other Respondents in this matter by depositing a copy of the same in the U.S. Mail on April 30, 2019, properly posted for delivery to the following addressees, with a copy also emailed to their counsel of record:

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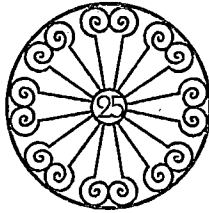
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April 30, 2019

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings, Clerk of Court
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Fax No: (803)734-1839

Re: Palmetto Pointe at Peas Island Condominium Property Owners Association, Inc.,
et al. v. Island Pointe, LLC, et al.
Charleston County Case No.: 2015-CP-10-0955
Appellate Case No.: 2019-000238
YCR File: 15491-20150066

Dear Ms. Kitchings:

Enclosed please find an original and six (6) copies of Plaintiffs-Respondents' Response in Opposition to Appellant Nautilus Insurance Company's Petition for Review of Circuit Court Order Lifting Stay in the above-referenced matter.

With kindest regards, I am

Sincerely,

YOUNG CLEMENT RIVERS, LLP

Edward D. Buckley, Jr.

EDB/akd
Enclosure(s)

cc:

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Palmetto Pointe at Peas Island Condominium Property Owners Association, Inc., et al. v. Island Pointe, LLC, et al.
Circuit Court Case No.: 2015-CP-10-00955
Appellate Case No.: 2019-000238

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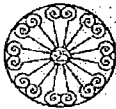
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