

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

Appeal from Charleston County
Court of Common Pleas

Jennifer B. McCoy, Circuit Court Judge

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

RECEIVED

MAY 07 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 NATIONWIDE APPELLANTS'¹ PETITIONS
FOR REVIEW OF CIRCUIT COURT ORDER LIFTING STAY**

**Counsel identified on following page*

¹ The "Nationwide Appellants" are Appellants Nationwide Mutual Insurance Company and Nationwide Mutual Fire Insurance Company.

Edward D. Buckley, Jr.
YOUNG CLEMENT RIVERS, LLP
25 Calhoun Street, Suite 400
Charleston, SC 29401
P.O. Box 993 (29402)
(843) 724-5446

-and-

Justin O. Lucey
Stephanie D. Drawdy
Joshua F. Evans
JUSTIN O'TOOLE LUCEY, P.A.
415 Mill Street
Mt. Pleasant, SC 29464
P.O. Box 806 (29465)
(843) 849-8400

*Attorneys 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*

Between them, the Nationwide Appellants have submitted two substantially identical “Petition[s] for Review Pursuant to Rule 241(d)(2) and (d)(7), SCACR” (the “Nationwide Petitions”).

The Nationwide Petitions follow—and are themselves substantially identical to—Appellant Builders Mutual Insurance Company’s (“Builders Mutual”) “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”).

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 Builders Mutual and the Nationwide

Appellants' positions²), Plaintiffs ask the Court to deny the Nationwide Petitions, 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>

² If, however, the Court would rather Plaintiffs provide some other or further response to the Nationwide Petitions, they will gladly do as the Court directs.

Respectfully submitted,

By:  _____

Edward D. Buckley, Jr.
YOUNG CLEMENT RIVERS, LLP
25 Calhoun Street, Suite 400
Charleston, SC 29401
P.O. Box 993 (29402)
(843) 724-5446

-and-

Justin O. Lucey
Stephanie D. Drawdy
Joshua F. Evans
JUSTIN O'TOOLE LUCEY, P.A.
415 Mill Street
Mt. Pleasant, SC 29464
P.O. Box 806 (29465)
(843) 849-8400

*Attorneys 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*

Dated: 5/1/19 _____

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

Appeal from Charleston County
Court of Common Pleas

Jennifer B. McCoy, Circuit Court Judge

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

RECEIVED

MAY 07 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.

PROOF OF SERVICE

**Counsel identified on following page*

Edward D. Buckley, Jr.
YOUNG CLEMENT RIVERS, LLP
25 Calhoun Street, Suite 400
Charleston, SC 29401
P.O. Box 993 (29402)
(843) 724-5446

-and-

Justin O. Lucey
Stephanie D. Drawdy
Joshua F. Evans
JUSTIN O'TOOLE LUCEY, P.A.
415 Mill Street
Mt. Pleasant, SC 29464
P.O. Box 806 (29465)
(843) 849-8400

*Attorneys 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*

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, certify that **PLAINTIFFS-RESPONDENTS' RESPONSE IN OPPOSITION TO NATIONWIDE APPELLANTS' PETITIONS FOR REVIEW OF CIRCUIT COURT ORDER LIFTING STAY** was served on all other parties to this appeal on May 1, 2019, a copy thereof deposited in the U.S. Mail properly posted for delivery to the following addressees (and also emailed to their counsel of record, as well as to counsel of record for the parties to *the case* who are not parties to *this appeal*):

John Lucius McCants, Esquire
ROGERS LEWIS JACKSON
MANN & QUINN, LLC
P.O. Box 11803
Columbia, SC 29211
*Attorneys for Appellant
Builders Mutual Insurance Company*

J.R. Murphy, Esquire
Timothy J. Newton, Esquire
MURPHY GRANTLAND, P.A.
P.O. Box 6648
Columbia, SC 29260
*Attorneys for Appellants
Nationwide Mutual Insurance Company
and Nationwide Mutual Fire
Insurance Company*

Janice Holmes, Esquire
Shelley S. Montague, Esquire
GALLIVAN WHITE & BOYD, P.A.
P.O. Box 7368
Columbia, SC 29201
*Attorneys for Appellant
Nautilus Insurance Company*

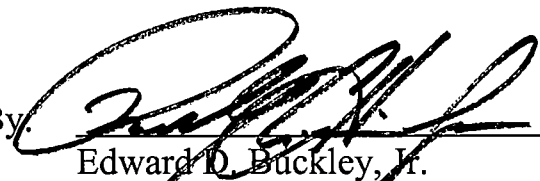
Steven L. Smith, Esquire
Zachary J. Closser, Esquire
Samuel M. Wheeler, Esquire
SMITH CLOSSER, P.A.
P.O. Box 40578
Charleston, SC 29423
*Attorneys for Respondent
Tri-County Roofing, Inc.*

G. Troy Thames, Esquire
WILSON, JONES, CARTER & BAXLEY, PA
421 Wando Park Blvd., Ste. 100
Mt Pleasant, SC 29464
*Attorneys for Respondent
Stanley's Vinyl Fence Designs*

James A. Atkins, Esquire
CLAWSON AND STAUBES, LLC
126 Seven Farms Dr., Ste. 200
Charleston, SC 29492
*Attorneys for Respondents
WC Services, Inc.*

<SIGNED ON THE FOLLOWING PAGE>

Respectfully submitted,

By:  _____

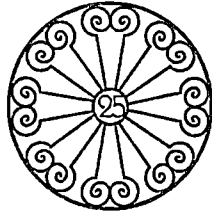
Edward D. Buckley, Jr.
YOUNG CLEMENT RIVERS, LLP
25 Calhoun Street, Suite 400
Charleston, SC 29401
P.O. Box 993 (29402)
(843) 724-5446

-and-

Justin O. Lucey
Stephanie D. Drawdy
Joshua F. Evans
JUSTIN O'TOOLE LUCEY, P.A.
415 Mill Street
Mt. Pleasant, SC 29464
P.O. Box 806 (29465)
(843) 849-8400

*Attorneys 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*

Dated: 5/1/19 _____



YCR LAW

Edward D. Buckley, Jr.

Direct Dial: (843) 724-6671
Direct Fax: (843) 579-1370
E-mail: ebuckley@ycrlaw.com

May 1, 2019

RECEIVED
MAY 07 2019
SC Court of Appeals

The Honorable Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211
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 Nationwide Appellants' Petitions 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:

John L. McCants, Esquire
Rogers Lewis Jackson Mann & Quinn, LLC
P.O. Box 11803
Columbia, SC 29211
jmccants@rogerslewis.com
Attorney for Builders Mutual Insurance Company
(803)978-2834

Janice Holmes, Esquire
Shelley S. Montague, Esquire
Gallivan White & Boyd, P.A.
Post Office Box 7368
Columbia, SC 29202
jholmes@GWBlawfirm.com
smontague@GWBlawfirm.com
Attorneys for Nautilus Insurance Company
(803)779-1833

Steven L. Smith, Esquire
Zachary J. Closser, Esquire
Samuel M. Wheeler, Esquire
Smith Closser, P.A.
P.O. Box 40578
Charleston, SC 29423
Attorneys for Tri County Roofing, Inc.
(843)760-0220

J.R. Murphy, Esquire
Timothy J. Newton, Esquire
Murphy Grantland, P.A.
P.O. Box 6648
Columbia, SC 29260
newton@murphygrantland.com
Attorneys for Nationwide Mutual Fire Insurance Company and Nationwide Mutual Insurance Company
(803)782-4100

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

G. Troy Thames, Esquire
Wilson, Jones, Carter & Baxley, PA
421 Wando Park Blvd., Ste. 100
Mt. Pleasant, SC 29464
tthames@wjlaw.net
Attorney for Stanley's Vinyl Fence Designs
(843)284-1080

James A. Atkins, Esquire
Clawson and Staubes, LLC
126 Seven Farms Drive, Suite 200
Charleston, SC 29492-8144
jatkins@clawsonandstaubes.com
Attorney for WC Services, Inc,
(800)774-8242