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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
In the Supreme Court of South Carolina

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

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; Tri-County 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.; W C 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 behalf of all others similarly situated, Tri-County Roofing, Inc., Stanley’s Vinyl Fence Designs, and W C Services, Inc. are the Respondents.

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**Return by Appellant Builders Mutual Insurance Company  
to Hartford Fire Insurance Company’s, Hartford Casualty Insurance Company’s and  
Hartford Underwriters Insurance Company’s Motion to File Amicus Curiae Brief**

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Appellant Builders Mutual Insurance Company (“Builders Mutual”) submits the following return to Hartford Fire Insurance Company’s, Hartford Casualty Insurance Company’s and Hartford Underwriters Insurance Company’s (together, “Hartford”) Motion to File Amicus Curiae Brief.

The filing of an amicus curiae brief is provided for by Rule 213, SCACR. Rule 213, SCACR provides that a brief of an amicus curiae may be filed only by leave of the appellate court granted on motion, or at the request of the appellate court. Rule 213, SCACR states that the amicus curiae brief may be conditionally filed with the motion.

Builders Mutual submits that Hartford’s motion to file an amicus curiae brief is premature. As an initial matter, Hartford’s motion states that its conditional brief accompanies its motion. Builders Mutual does not believe a brief was attached to the Motion. Second, an amicus curiae

brief must comply with Rule 208(b), SCACR and 211, SCACR.<sup>1</sup> Rule 208(b), SCACR addresses the content of an initial brief, and Rule 211, SCACR addresses the requirements for final briefs. At this point in the appeal, Builders Mutual and Respondent Tri-County Roofing, Inc. (“Tri-County”) have each filed an initial brief. The reply time for Builders Mutual to respond to Tri-County Roofing’s initial brief has not expired. Respondents Palmetto Pointe at Peas Island Condominium Property Owners Association, Inc. and Jack Love (“Palmetto Pointe and Love”) sought an extension to file their initial brief until August 14, 2019, which the Supreme Court granted pursuant to an Order entered on July 15, 2019.<sup>2</sup>

The Record on Appeal will be due thirty (30) days after the service of the last brief. Rule 210, SCACR. Final briefs will be due twenty (20) days after the service of the Record on Appeal. Rule 211, SCACR. The amicus curiae brief must be compliant with Rule 213, SCACR. Thus, Hartford must wait until after the Record on Appeal has been prepared and the final briefs of Builders Mutual and Tri-County Roofing have been served in the appeal. Until such time, an amicus curiae brief simply cannot comply with requirements of Rule 211, SCACR and thus Rule 213, SCACR. Respectfully, the Supreme Court can consider Hartford’s motion to file an amicus curiae brief and conditional brief at a later point in the appeal after the briefing is completed by the parties to the appeal. Accordingly, Builders Mutual submits that Hartford’s motion is premature and should be denied at this point in the appeal.

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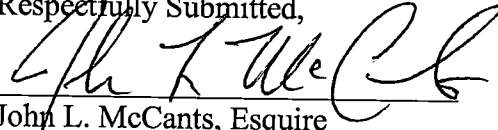
<sup>1</sup> The amicus curiae brief is limited to the argument of the issues on appeal as presented by the parties. Rule 213, SCACR.

<sup>2</sup> Palmetto Pointe and Jack Love have not filed their initial brief.

*Palmetto Pointe at Peas Island Condominium Property Owners Association, Inc., et al. v. Island Pointe, LLC, et al.; Appellate Case No.: 2019-000238*

*Return by Appellant Builders Mutual Insurance Company to Hartford Fire Insurance Company's, Hartford Casualty Insurance Company's and Hartford Underwriters Insurance Company's Motion to File Amicus Curiae Brief*

Respectfully Submitted,



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September 16, 2019

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In Re:

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v.

Island Pointe, LLC; Leonard T. Brown; Complete Building Corporation; Tri-County 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.; W C 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,

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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

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Of whom Palmetto Pointe at Peas Island Condominium Property Owners Association, Inc. and Jack Love, individually, and behalf of all others similarly situated, Tri-County Roofing, Inc., Stanley's Vinyl Fence Designs, and W C Services, Inc. are the Respondents.

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**APPELLANT BUILDERS MUTUAL INSURANCE COMPANY'S PROOF OF SERVICE OF RETURN BY APPELLANT BUILDERS MUTUAL INSURANCE COMPANY TO HARTFORD FIRE INSURANCE COMPANY'S, HARTFORD CASUALTY INSURANCE COMPANY'S AND HARTFORD UNDERWRITERS INSURANCE COMPANY'S MOTION TO FILE AMICUS CURIAE BRIEF**

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I certify that I have served Return by Appellant Builders Mutual Insurance Company to Hartford Fire Insurance Company's, Hartford Casualty Insurance Company's and Hartford Underwriters Insurance Company's Motion to File Amicus Curiae Brief by depositing a copy of it in the United States Mail, postage prepaid, on **September 16, 2019** addressed to their attorneys of record, listed as follows:

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