

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Mikell R. Scarborough

Case No. 2018-CP-10-00749
Appellate Case No. 2019-002044

RECEIVED

Jul 27 2020

SC Court of Appeals

CAHOC 8, LLC, Respondent,

v.

King and Calhoun, LLC a/k/a King and Calhoun, LLC a/k/a K&C, LLC, Curtis Corp., and
Werner Real Estate Holdings, LLC, and Thalhimer Charleston, LLC, Defendants,

Of which King and Calhoun, LLC a/k/a King and Calhoun, LLC a/k/a K&C, LLC, Curtis Corp.,
and Werner Real Estate Holdings, LLC are the Appellants.

**RESPONDENT'S DESIGNATION OF MATTERS
TO BE INCLUDED IN THE RECORD ON APPEAL**

Justin O'Toole Lucey, Esquire
SC Bar No.: 15438
JUSTIN O'TOOLE LUCEY, P.A.
415 Mill Street
Mount Pleasant, South Carolina 29464
(843) 849-8400
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Attorney for the Respondent

Respondent designates the following matter to be included in the Record on Appeal, including, unless expressly stated otherwise, any/all attachments thereto (e.g., exhibits to motions or memoranda), except insofar as their inclusion in the record would be duplicative:

ORDERS

1. July 6, 2018, Consent Scheduling Order.
2. March 14, 2019, Consent Order of Reference.
3. June 13, 2019, Master's Scheduling Order.
4. November 4, 2019, Order Revising Scheduling Order.
5. December 10, 2019, Form 4 Order denying Appellants' Motion for Summary Judgment and granting Respondent's Breach of Contract to exclude Landlord's claim for Buildout Costs.

MOTIONS AND SUPPORTING MEMORANDUMS

6. October 16, 2019, Plaintiffs' Motion to Compel, Confirm Trial Schedule and for an Expedited Hearing.
7. November 15, 2019, Respondent's Motion to Dismiss and/or Motion for Summary Judgment.
8. November 22, 2019, Appellants' Motion for Partial Summary Judgment.
9. November 25, 2019, Respondent's Second Motion for Summary Judgment as to Portions of Both Parties' Contract Claims.
10. December 5, 2019, Appellants' Memorandum in Support for Partial Summary Judgment.
11. December 5, 2019, Respondent's Memorandum in Support of its Second Motion for Summary Judgment.

PLEADINGS

12. February 12, 2018, Summons and Complaint.
13. March 29, 2018, Amended Summons and Amended Complaint.
14. April 26, 2018, Appellants' Answer and Counterclaim.

15. May 9, 2018, Respondent's Answer to Appellants' Counterclaim.
16. March 8, 2019, Stipulation of Dismissal of Thalhimer.
17. November 25, 2019, Joint Stipulation Withdrawing Respondent's Fourth Cause of Action.
18. December 1, 2019, Notice of Appeal.

TRANSCRIPTS

19. 30(b)(6) Deposition of King & Calhoun, LLC (Trent Watts) taken October 29, 2019; November 6, 2019; and November 21, 2019.
20. Deposition of Chris Sullivan taken November 13, 2019.
21. Hearing Transcript December 6, 2019.

EXHIBITS

22. Plaintiff's Exhibits:
 - Ex. 1 – 12/11/12 Letter from NAI Avant to JR Dill Assoc. with Revised Non-Binding Proposal to CAH
 - Ex. 2 – 11/21/13 K&C, LLC Lease Agreement with CAHOC 8
 - Ex. 3 – 9/30/14 Curtis Corp. Letter to Chris Sullivan with Summary of Lease Amendment
 - Ex. 6 – 2/7/15 Curt Werner Directing Choate to Stop Work
 - Ex. 7 – 11/12/15 Curtis Corp. Letter to Chris Sullivan with Revised List of Outstanding Items
 - Ex. 21 – 5/21/17 Jessica King Email to CAH Regarding Continued Problems with Elevators and Plan for Handling Same
 - Ex. 67 – 6/12/17 Email – Werner Coaching Trent Watts Proposing to Remove Trash
 - Ex. 112 – 9/8/15 Treanor Email to Chris Sullivan regarding Revised Letter from Curt Werner re: COP32
 - Ex. 120 – 2/19/15 Johrendt Email to Werner, Calabro, Gray Taylor re: Stop Work Letter
 - Ex. 138 – 10/16/15 Chris Sullivan Email to Watts re: COPs
 - Ex. 140 – 11/6/15 Watts email to Chris Sullivan re: Payment for COPs
 - Ex. 144 – 1/6/16 Watts Email to Chris Sullivan with Corrected Invoice
 - Ex. 149 – 2/2/16 Angel Kinard Email to Chris Sullivan re: Charges and Payment Mailed
 - Ex. 160 – 9/14/15 Chris Sullivan Email to Steinbock re: \$3,500 Credit on COP 60
 - Ex. 194 – 11/4/14 Steinbock Email to Treanor, Johrendt, and Werner re: General Conditions/Walgreens and Chipotle are Responsible and Charges
 - Ex. 211 – 2/8/15 Chris Sullivan Surprised Werner – Threaten Stop Work
 - Ex. 212 – 2/11/15 Trevor tells Chris Sullivan rent is going to up \$5.16 sq. ft. (note 11.6k sq. ft)
 - Ex. 224 – 2/21/15 Email from Sullivan – Rent needs to increase by \$5.17 sq. ft regardless
 - Ex. 226 – 2/16/15 Email Chris to Werner re: Rent Increase

- Ex. 227 – 2/6/15 Curt Werner Giggling, Bragging over Trevor’s Threats to Chris Sullivan
- Ex. 228 – 1/6/15 Treanor Email to Johrendt re: Invoice and 1st Amendment to Lease
- Ex. 232 – 11/3/14 Change Order Proposal Summary
- Ex. 242 – 11/26/15 Returned Mail Email
- Ex. 252 – January through November 2019 Thalhimer Receivables Ledger
- Ex. 265 – 8/11/17 Letter from Thalhimer to Sullivan Management
- Ex. 266 – 10/4/17 Letter from Richardson Plowden to Taylor
- Ex. 267 – 10/6/17 Email from Taylor to Richardson Plowden
- Ex. 268 – 11/16/17 Letter from Richardson Plowden to Taylor
- Ex. 269 – 12/4/17 Email from Taylor to Robinson
- Ex. 270 – 12/6/17 Thalhimer Official Delinquency Notice
- Ex. 271 – 1/11/18 Letter from JOLPA to Taylor
- Ex. 272 – 2/6/18 Email to/from JOLPA to O’Kelley (tolling agreement)

Defendants’ Exhibits

23. Ex. 31 – Photos of Atrium and CAHOC Space May 13, 2019.

Respondent’s counsel certifies that this Designation contains no matter that is irrelevant to this appeal.

Respectfully submitted,

By: /s/Justin O’Toole Lucey
Justin O. Lucey (SC Bar No. 15438)
JUSTIN O’TOOLE LUCEY, P.A.
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July 27, 2020
Mount Pleasant, South Carolina

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Of which King and Calhoun, LLC a/k/a King and Calhoun, LLC a/k/a K&C, LLC, Curtis Corp.,
and Werner Real Estate Holdings, LLC are the Appellants.

PROOF OF SERVICE

I, Justin O'Toole Lucey, counsel for Respondent CAHOC 8, LLC, certify that the **RESPONDENT'S DESIGNATION OF MATTER** was served on all other parties to this appeal on July 27, 2020, via email and by copy thereof deposited in the U.S. Mail properly posted for delivery to G. Hamlin O'Kelley, III, Esq., Buist, Byars & Taylor, LLC, 652 Coleman Blvd., Suite 200, Mt. Pleasant, SC 29464.

Respectfully submitted,

By: /s/Justin O'Toole Lucey
Justin O. Lucey (SC Bar No. 15438)
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415 Mill Street
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(843) 849-8400

Dated: July 27, 2020
Mt. Pleasant, South Carolina

From: [Lee Weiland](#)
To: [G. Hamlin O'Kelley](#); [Amanda Taylor](#)
Cc: [Justin Lucey](#); [Sohayla Townes](#); [Collin Fuller](#); [Jennifer Zambriczki](#); [Lee Weiland](#)
Subject: CAHOC 8 v King & Calhoun et al. (Appellate Case No. 2019-002044) / Respondent's Initial Brief, Designation of Matter, and Proofs of Service
Date: Monday, July 27, 2020 1:35:34 PM
Attachments: [CAHOC 8, LLC v. King & Calhoun, LLC, et al. - Respondent's Initial Brief \(Appellate Case No. 2019-002044\).pdf](#)
[CAHOC 8, LLC v. King & Calhoun, LLC, et al. - Respondent's Proof of Service of Initial Brief \(Appellate Case No. 2019-002044\).pdf](#)
[CAHOC 8, LLC v. King & Calhoun, LLC, et al. - Respondent's Designation of Matter \(Appellate Case No. 2019-002044\).pdf](#)
[CAHOC 8, LLC v. King & Calhoun, LLC, et al. - Respondent's Proof of Service for Designation of Matter \(Appellate Case No. 2019-002044\).pdf](#)

Mr. O'Kelley,

Attached please find and hereby served upon you Respondent's Initial Brief, Designation of Matter, and Proofs of Service in the above-referenced Appellate matter, which will be filed following this email.

Thank you,
Lee

Lee Weiland
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