

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Honorable Larry B. Hyman, Circuit Court Judge

Case No. 2020-000528

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JUL 24 2020
SC Court of Appeals

Vista Del Mar Condominium Association;
Dennis M. Merritt, Trustee of the Dennis M.
Merritt Living Trust; John J. Hawkins;
Eleanor N. Hawkins, Plaintiffs,

v.

Vista Del Mar Condominiums, LLC;
Atlantic Development Company, LLC;
Atlantic Coast Funding, LLC; and
John Doe, a Nominal Defendant
Representing all Persons or Entities
Unknown Who May Claim an Interest in
the Property that is the subject of this action,
Defendants,

And

Vista Del Mar Condominiums, LLC;
Atlantic Development Company, LLC;
Third-Party Plaintiffs,

v.

Barbara P. Swartz; Nancy S. Case; Winston-
Salem Daly Development, LLC; Charles F.
Weber; Mark L. Skowron, as Trustee of
Mark L. Skowron Revocable Trust dated
April 24, 2002 and Gail L. Skowron, as
Trustee of the Gail L. Skowron Revocable
Trust dated 04/24/2002; Norman W. Taylor,
Trustee of the Norman W. Taylor Revocable
Living Trust dated April 28, 2008; Tim

Mitchell Development, LLC; Eric R. Sklut and Lori Levine Sklut; Fred C. Warehime and Patricia F. Warehime; James W. Blackburn, III and Peggy S. Blackburn; Barbara I. Bowser; KHDH, LLC; Beth G. Bauknight; Roderick D. Sanders (or his successor), as Trustee of the Amended and Restated Revocable Declaration of Trust of Anne Mallard Sanders u/a/d January 16, 2015; GGK Properties, LLC; Leon Levine and Sandra Levine; Joseph Moglia and Amy H. Moglia; Angela M. Mason, as Trustee of the Angela Mason Revocable Trust dated June 9, 2003 and amended and restated May 27, 2007; Dexter R. Barbee, Sr.; Daniel M. Talbert, Sr.; Craig W. Lawton; Craig W. Lawton; David N. Dalton; Janet W. Weed, Trustee of the Janet W. Weed Revocable Trust under Trust Instrument dated April 17, 2013; Robert H. Messier, Jr. and Janice H. Messier; Jeffrey Schneider, Trustee for the Jeffrey Schneider Revocable Trust dated August 1, 2017; Phillip Kleinman and Charisse D. Kleinman; Stephen Gatto and Camille Gatto; Lutz Real Estate, LP; Astorg Imports, Inc.; ABLP Properties, LLC; Sutton Children, LLC; Daniel C. Schuster and Mardell J. Schuster; Roy C. Putrino and Eileen M. Putrino; Spencer Squier and Sherri Squier; VDM 1004, LLC; Roger B. Matherly and Bonnie V. Matherly; ITAC 203, LLC; Rebecca R. Shroff and Kersi S. Shroff; Sandra P. Levine and Lori Ann Sklut, Co-Trustees of the Irrevocable Trust F/B/O Amy Beth Levine dated September 18, 1986; David E. Lukowski; Richard B. Kline and Leslie Kline; James P. Aplington and Carol D. Aplington; Michael L. Van Glish and Judith K. Van Glish; Anna A. Olsen; Anne Marie Murray; William J. Pridemore and Irina V. Pridemore; William B. Davidson and Julia Davidson; Bruce Alexander Henderson and Valerie Sokolov; Mark W. Lee; Sue David Kline; Thomas Mckiernan and Anne Mckiernan; Philip H. Strobl and Amy Mott Strobl; James M. Faircloth and Sylvia Faircloth; Cheryl Jackson and Phillip

H. Jackson; Weldon Riggs and Tiffany Riggs; Janet P. Merritt, Trustee of the Janet P. Merritt Living Trust U/A dated March 24, 2000; Melia Mooney Pavoris; William L. Mansfield and Patricia S. Mansfield; Stuart W. Gibbs and Helen R. Gibbs; Michael R. Blackburn and Pamela M. Blackburn; Jeffrey G. Edwards and Teresa T. Edwards; and Michael J. Wilk, Third-Party Defendants,

Of which Vista Del Mar Condominium Association; Dennis M. Merritt, Trustee of the Dennis M. Merritt Living Trust; John J. Hawkins; Eleanor N. Hawkins; Barbara P. Swartz; Nancy S. Case; Winston-Salem Daly Development, LLC; Charles F. Weber; Mark L. Skowron, as Trustee of Mark L. Skowron Revocable Trust dated April 24, 2002 and Gail L. Skowron, as Trustee of the Gail L. Skowron Revocable Trust dated 04/24/2002; Norman W. Taylor, Trustee of the Norman W. Taylor Revocable Living Trust dated April 28, 2008; Tim Mitchell Development, LLC; Eric R. Sklut and Lori Levine Sklut; Fred C. Warehime and Patricia F. Warehime; James W. Blackburn, III and Peggy S. Blackburn; Barbara I. Bowser; KHDH, LLC; Beth G. Bauknight; Roderick D. Sanders (or his successor), as Trustee of the Amended and Restated Revocable Declaration of Trust of Anne Mallard Sanders u/a/d January 16, 2015; GGK Properties, LLC; Leon Levine and Sandra Levine; Joseph Moglia and Amy H. Moglia; Angela M. Mason, as Trustee of the Angela Mason Revocable Trust dated June 9, 2003 and amended and restated May 27, 2007; Dexter R. Barbee, Sr.; Daniel M. Talbert, Sr.; Craig W. Lawton; Craig W. Lawton; David N. Dalton; Janet W. Weed, Trustee of the Janet W. Weed Revocable Trust under Trust Instrument dated April 17, 2013; Robert H. Messier, Jr. and Janice H. Messier; Jeffrey Schneider, Trustee for the Jeffrey Schneider Revocable Trust dated

August 1, 2017; Phillip Kleinman and Charisse D. Kleinman; Stephen Gatto and Camille Gatto; Lutz Real Estate, LP; Astorg Imports, Inc.; ABLP Properties, LLC; Sutton Children, LLC; Daniel C. Schuster and Mardell J. Schuster; Roy C. Putrino and Eileen M. Putrino; Spencer Squier and Sherri Squier; VDM 1004, LLC; Roger B. Matherly and Bonnie V. Matherly; ITAC 203, LLC; Rebecca R. Shroff and Kersi S. Shroff; Sandra P. Levine and Lori Ann Sklut, Co-Trustees of the Irrevocable Trust F/B/O Amy Beth Levine dated September 18, 1986; David E. Lukowski; Richard B. Kline and Leslie Kline; James P. Aplington and Carol D. Aplington; Michael L. Van Glish and Judith K. Van Glish; Anna A. Olsen; Anne Marie Murray; William J. Pridemore and Irina V. Pridemore; William B. Davidson and Julia Davidson; Bruce Alexander Henderson and Valerie Sokolov; Mark W. Lee; Sue David Kline; Thomas Mckiernan and Anne Mckiernan; Philip H. Strobl and Amy Mott Strobl; James M. Faircloth and Sylvia Faircloth; Cheryl Jackson and Phillip H. Jackson; Weldon Riggs and Tiffiany Riggs; Janet P. Merritt, Trustee of the Janet P. Merritt Living Trust U/A dated March 24, 2000; Melia Mooney Pavoris; William L. Mansfield and Patricia S. Mansfield; Stuart W. Gibbs and Helen R. Gibbs; Michael R. Blackburn and Pamela M. Blackburn; Jeffrey G. Edwards and Teresa T. Edwards; and Michael J. Wilk, are the Appellants,

And

Of which Vista Del Mar Condominiums, LLC;
Atlantic Development Company, LLC;
Atlantic Coast Funding, LLC; and
John Doe, a Nominal Defendant
Representing all Persons or Entities
Unknown Who May Claim an Interest in
the Property that is the subject of this action
are the Respondents.

**APPELLANTS' DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Respondent proposes that the following be included in the Record on Appeal:

- I. Notice of Appeal filed March 23, 2020;
- II. Order Granting Defendants Atlantic Development Company, LLC's and Atlantic Coast Funding, LLC's Motion To Reconsider Vacating This Court's Prior Order Denying Summary Judgment, and Granting Summary Judgment, dated February 20, 2020, and filed on both February 20, 2020 and March 20, 2020;
- III. Memorandum in Opposition To Atlantic Development Company, LLC's and Atlantic Coast Funding, LLC's Motion To Reconsider, filed January 25, 2020;
- IV. Defendants/Third-Party Plaintiffs Atlantic Development Company, LLC's and Atlantic Coast Funding, LLC's Notice of Motion and Motion To Reconsider, dated November 18, 2019 and filed November 18, 2019;
- V. Order Denying Atlantic Development Company, LLC's and Atlantic Coast Funding, LLC's Motion For Summary Judgment, dated November 07, 2019 and filed November 08, 2019;
- VI. Memorandum in Opposition To Atlantic Development Company, LLC's and Atlantic Coast Funding, LLC's Motion For Summary Judgment, together with Exhibits A through E, filed August 09, 2019;
- VII. Defendant Atlantic Coast Funding, LLC's Answer To Amended Complaint, filed September 11, 2017;

- VIII. Defendant Vista Del Mar Condominiums, LLC's Answer To Plaintiff's Amended Complaint, filed April 20, 2017;
- IX. Amended Complaint, filed April 05, 2017
- X. Lis Pendens filed January 25, 2017;
- XI. Transcript of Record dated August 13, 2019, pages 3-43;
- XII. Transcript of Record dated January 27, 2020, pages 3-27; and
- XIII. Transcript of Record dated February 18, 2020, pages 3-27

I certify that this designation contains no matter which is irrelevant to this appeal.

**WRIGHT, WORLEY, POPE, EKSTER
& MOSS, PLLC**
Attorneys for Appellants

s/ Kenneth R. Moss
Kenneth R. Moss, SC Bar No. 15520
Paul J. Ekster, SC Bar No. 68799
628A Sea Mountain Highway
North Myrtle Beach, SC 29582
Telephone: (843) 281-9901
Email: kennethmoss@wwpmlaw.com

– and –

Robert E. Lee, Esquire
P.O. Box 1096
Marion, SC 29571
Telephone: (843) 423-1313
Email: rel@rellawfirm.com

July 22, 2020

PROOF OF SERVICE OF INITIAL BRIEF OF APPELLANTS &
DESIGNATION OF MATTER

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
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the Property that is the subject of this action
are the Respondents.

PROOF OF SERVICE

I certify that I have re-served the Initial Brief of Appellants and Designation of Matter upon James Christopher Clark, attorney for Respondent Vista Del Mar Condominiums, LLC, and Demetri K. Koutrakos, attorney for Respondents Atlantic Development Company, LLC and Atlantic Coast Funding, LLC, by emailing same and by depositing a copy by depositing copies of it in the United States Mail, postage prepaid, addressed to James Christopher Clark, Esquire 2411 N. Oak Street, Suite 401, P.O. Box 1349, Myrtle Beach, SC 29578 and to Demetri K. Koutrakos, Esquire 1812 Lincoln Street, Suite 200, P.O. Box 1390, Columbia, SC 29202-1390 on March 24, 2020.

July 22, 2020

**WRIGHT, WORLEY, POPE, EKSTER
& MOSS, PLLC**
Attorneys for Appellants

Kenneth R. Moss, Esquire
628A Sea Mountain Highway
North Myrtle Beach, SC 29582
Telephone: (843) 281-9901
Email: kennethmoss@wwpemplaw.com

– and –

Robert E. Lee, Esquire
P.O. Box 1096
Marion, SC 29571
Telephone: (843) 423-1313
Email: rel@rellawfirm.com

WRIGHT, WORLEY, POPE, EKSTER & MOSS, PLLC

ATTORNEYS AT LAW

628A SEA MOUNTAIN HWY

NORTH MYRTLE BEACH, SOUTH CAROLINA 29582

Telephone (843) 281-9901 - Fax (843) 281-9903

O. RICHARD WRIGHT, JR.
DENNIS T. WORLEY*
HAROLD G. "BUTCH" POPE
PAUL J. EKSTER*
KENNETH R. MOSS*
MICHAEL T. SMITH*
NAPOLEON B. BAREFOOT, JR.*
BOYD T. WORLEY
PRESTON B. HILTON
RICHARD S. "RICK" PARROTTE
CHRISTOPHER C. RUSSELL
BRITTANY C. MOORE*
THOMAS V. ALDRIDGE, JR.
LAURA A. HUNTER*
DAVID H. COOLEY*
MARTHA HENLEY SLEDGE (Retired)

D.F. McGOUGAN, JR.
(1921 - 1994)

OTHER OFFICES
TABOR CITY, NC
WHITEVILLE, NC
SUPPLY, NC

*licensed only in SC

**licensed in NC & SC

*licensed in NC, DC & SC

*DRC-Certified Family Financial Mediator

*Of Counsel

July 22, 2020

VIA U.S. CERTIFIED MAIL #7019 2970 0000 0199 9137;

RETURN RECEIPT REQUESTED

The Honorable Jenny Abbott Kitchings

Clerk of Court

South Carolina Court of Appeals

P.O. Box 11629

Columbia, SC 29211

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SC Court of Appeals

RE: Enclosed Initial Brief of Appellants
Vista Del Mar Condominium Association, et al, Appellants, v. Atlantic Development
Company, LLC, et al, Respondents, Case No. 2017-CP-26-00424
Appellate Case No. 2020-000528
Our file no. SC-6791-003

Dear Ms. Kitchings:

Please find enclosed for filing one (1) unbound original of Initial Brief of Appellants and Designation of Matter in the above referenced case. I have also enclosed a Certificate of Service evidencing that the same has been served upon all counsel of record.

Sincerely,


Kenneth R. Moss

cc: Robert E. Lee, Esquire
P.O. Box 1096
Marion, SC 29571
Co-Counsel for Plaintiffs / Appellants

James Christopher Clark, Esquire
MCANGUS GOUDELOCK & COURIE, LLC
2411 N. Oak Street, Suite 401
P.O. Box 1349
Myrtle Beach, SC 29578
Attorneys for Defendant / Respondent Vista Del Mar Condominiums, LLC

Demetri K. Koutrakos, Esquire
CALLISON TIGHE & ROBINSON, LLC
1812 Lincoln Street, Suite 200
P.O. Box 1390
Columbia, SC 29202-1390
*Attorneys for Defendants / Respondents Atlantic Development
Company, LLC and Atlantic Coast Funding, LLC*



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7/23

ORIGINAL RECEIPT
REQUESTED