

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

The Honorable J. Cordell Maddox, Jr.

Case No. 2016-CP-02-00263
Appellate Case No. 2020-001103

RECEIVED
Nov 19 2020
SC Court of Appeals

Robin Napier, individually and on behalf of all others similarly situated,.....Appellant,

v.

Mundy's Construction, Inc. d/b/a Mundy Construction,..... Respondent.

**DESIGNATION OF MATTERS
TO BE INCLUDED IN THE RECORD OF APPEAL**

Appellant Robin Napier, individually and on behalf of all others similarly situated, propose the following be included in the Record on Appeal:

Orders, Judgments, and Decisions

1. Order Granting Class Certification filed January 12, 2018
2. Form 4 Order Denying Motion for Partial Summary Judgment filed May 20, 2019
3. Order Denying Respondent's Motion to Decertify Class filed May 20, 2019
4. Judgment and Order filed April 14, 2020
5. Order Denying Appellant's Motion to Reconsider filed July 20, 2020
6. Order Granting Appellant's Motion to Intervene filed July 20, 2020

Pleadings and Related Matters

7. Summons and Complaint
8. Third Amended Summons and Third Amended Complaint filed July 28, 2017
9. Respondent's Answer to Third Amended Complaint filed July 28, 2017

10. Respondent's Motion for Partial Summary Judgment filed March 13, 2019
11. Respondent's Memorandum in Support of Partial Summary Judgment filed April 10, 2019
12. Appellant's Memorandum in Opposition for Partial Summary Judgment filed April 11, 2019
13. Affidavit of Tony Mundy, Jr. filed April 22, 2019
14. Response Affidavit of Dr. Rhett Whitlock, P.E.
15. Appellant's Jury Charges filed May 23, 2019
16. Appellant's Pre-Trial Brief filed May 24, 2019
17. Respondent's Pre-Trial Brief
18. Appellant's Post Trial Position Statement
19. Appellants Post Trial Power Point Submitted to Court (Extracted from Opening PPT)
20. Respondent's Post Trial Position Statement
21. Appellants Amended Post Trial Position Statement (with citations to trial transcript)
22. Appellant's Motion to Intervene filed April 24, 2020
23. Appellant's Motion to Reconsider filed April 24, 2020
24. Respondent's Memorandum in Opposition to Motion to Intervene filed May 4, 2020
25. Respondent's Memorandum in Opposition to Motion to Reconsider filed May 4, 2020

Transcripts

26. May 28 and 29, 2019, Trial Transcript Volume I: Whitlock and Mundy Testimony
27. May 29 and 29, 2019, Trial Transcript, Volume 2: Balance of Trial Transcript
28. June 15, 2020, Transcript of Intervention Hearing

Exhibits

Appellant's Exhibits

29. Exh. 472 – November 1, 2015, Google Earth Image
30. Exh. 505 - 20050517-20050712 Maddox Construction Invoices

31. Exh. 608 - 20070124-20070807 Mundy Construction Invoices
32. Exh. 609 - 20070411-20080115 Maddox Constr. Draw Requests Bennington
33. Exh. 668 - 20071029-20090216 Mundy Construction Invoices
34. Exh. 669 - 20080115-20080122 Maddox Constr. Draw Requests HB
35. Exh. 708 - 2017-07-25 WDP Napier Report
36. Exh. 709 - 2017-8-31 WDP Scope of Repairs
37. Exh. 722 – Numbered Map with
38. Exh. 767 – Mundy Lien Waivers
39. Exh. 768 – Mundy New Haven Invoices
40. Exh. 821 – WDP Measurements
41. Exh. 926 - FOIA Response re Mundy Construction
42. Exh. 936 - Hillsborough Sitework Instruction (p. 3 of Ex. 1C to Whitlock Affidavit)
43. Exh. 938 - Mundy Work Experience Affidavit
44. Exh. 940 - Updated WDP Cost Estimate (vertical damages removed)
45. Exh. 949 - Ex. C to Whitlock Appellant's Opposition to Respondent's Partial Summary Judgment (Site Plans Notes)
46. Exh. 951 - Ex. C to Whitlock Affidavit to Appellant's Opposition to Respondent's Motion to Decertify Class (Map Showing Units measured and inspected)
47. Exh. 963 – WDP Crack Survey
48. Exh. 977 - Interior Damage Photograph Exemplar/115 Hillsborough
49. Exh. 978 - Interior Damage Photograph Exemplar/151 Bennington
50. Exh. 979 - Interior Damage Photograph Exemplar/211 New Haven
51. Exh. 980 - Interior Damage Photograph Exemplar/139 Hillsborough
52. Exh. 981 - Interior Damage Photograph Exemplar/110 Amity
53. Exh. 991 - Table of Building Permits and Certificate of Occupancies

- 54. Exh. 993 - Honeycutt 248 New Haven Lane Photographs
- 55. Exh. 995 - Herschler 116 Hillsborough Lane Photographs
- 56. Exh. 997 - VonBieberstein 234 New Haven Lane Photographs

Respondent's Exhibits

- 57. Exh. 1 Mundy Invoices
- 58. Exh. 2 Invoice Summary

Court Exhibits

- 59. Appellant's Listing of Exhibits
- 60. Appellant's Designation of excerpts from the May 18, 2018, Rule 30(b)(6) deposition of Hallum, LLC (Hal Trotter)
- 61. Respondent's Designation of excerpts from the May 18, 2018, Rule 30(b)(6) deposition of Hallum, LLC (Hal Trotter)
- 62. Deposition of Hal Trotter (Only pages published)

Special Consideration for Motions, Objections, Rulings and Proffers

- 63. Emails between Respondent's Counsel, and Appellant's Counsel, and the Honorable J. Cordell Maddox, Jr., regarding trial time constraints dated May 26, 2019
- 64. Email from Appellant's Counsel to the Honorable J. Cordell Maddox, Jr., accepting offer to go forward as a non-jury trial dated May 27, 2019
- 65. Email from Respondent's Counsel to the Honorable J. Cordell Maddox, Jr., accepting offer to go forward as a non-jury trial and concerned about sufficient time to present defense dated May 27, 2019
- 66. November 20, 2019 Court Email Inquiry
- 67. November 26, 2019, Appellant's Response to November 20, 2019 Court Email Inquiry
- 68. Email from the Law Clerk for the Honorable J. Cordell Maddox, Jr., regarding Judge Maddox preparing to rule on the case and conforming order to Judge Maddox's specifications dated February 4, 2020
- 69. Email from the Law Clerk for the Honorable J. Cordell Maddox, Jr., regarding Post Submission Follow-Up to Proposed Final Order & Judgment dated February 5, 2020
- 70. June 18, 2020, Emailed Court Instruction

71. Email from the Law Clerk for the Honorable J. Cordell Maddox, Jr., regarding Appellant's Response to Respondent Mundy's Memo in Opposition to Motion to Reconsider dated June 24, 2020

JUSTIN O'TOOLE LUCEY, P.A.

/s/Justin Lucey

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Mount Pleasant, SC

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PROOF OF SERVICE

I certify that I have served the Appellant's Designation of Matters to be included in the Record on Appeal on Other Counsel of Record via U.S. Mail, postage prepaid, on July 30, 2020, addressed to:

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Mount Pleasant, SC
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