

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Dec 23 2020

SC Court of Appeals

The Honorable Jennifer B. McCoy, Circuit Court Judge

Case No. 2015-CP-10-00955
Appellate Case No. 2019-001790

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,

Of which Palmetto Pointe at Peas Island Condominium Property Owners Association, Inc. and Jack Love, Individually, and on behalf of all others similarly situated are the Respondents.

and

Tri-County Roofing, Inc.,Appellant.

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

Justin O'Toole Lucey, Esquire
(SC Bar No.: 15438)
Anna McCann, Esquire
(SC Bar No.: 102314)
JUSTIN O'TOOLE LUCEY, P.A.
415 Mill Street
Mount Pleasant, South Carolina 29464
(843) 849-8400
jlucey@lucey-law.com
amccann@lucey-law.com
Attorneys for Respondents

Edward D. Buckley, Jr., Esq.
(SC Bar No.: 994)
YOUNG CLEMENT RIVERS, LLP
P.O. Box 993
Charleston, SC 29402
(843) 724-5446
ebuckley@ycriaw.com
Attorneys for Respondents

Respondents designate 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. May 16, 2019, Order enrolling jury verdict;
2. June 6, 2019, Consent Order of Dismissal;
3. July 23, 2019, Form 4 Order Denying Defendant Tri-County Roofing, Inc.'s Motions for Judgment Not Withstanding the Verdict, New Trial Absolute, and New Trial Nisi Remittitur; and Entering Judgment Against TCR in the Amount of \$5,330,000.00;
4. September 25, 2019, Order Denying Tri-County Roofing, Inc.'s Motion to Reconsider;

MOTIONS AND MEMORANDUMS

5. May 3, 2019, Tri-County Roofing, Inc.'s Motions in Limine;
6. May 3, 2019, Plaintiffs' Motion in Limine;
7. May 6, 2019, CBC's Motion in Limine;
8. May 28, 2019, Tri-County Roofing, Inc.'s Post-Trial Motions Following the Trial on May 6-16, 2019;
9. June 7, 2019, Plaintiffs' Memorandum in Opposition to Defendant Tri-County Roofing's Post-Trial Motions Following the Trial on May 6-16, 2019;
10. August 5, 2019, Tri-County Roofing, Inc.'s Rule 59(e), SCRCF Motion to Reconsider the Form 4 Order Filed July 23, 2019;
11. August 15, 2019, Plaintiffs' Memorandum in Opposition to Defendant Tri-County Roofing's Motion to Reconsider the Court's Final Order with Exhibit "A" (Settlement Amounts);

PLEADINGS

12. February 13, 2015, Summons and Complaint;
13. November 4, 2016, Amended Summons and Amended Complaint with Affidavits of Doug Smits, Robert Castles, and David VanDommelen);

14. November 2, 2017, Second Amended Summons and Second Amended Complaint;

TRANSCRIPTS

15. May 6, 2019, through May 16, 2019 Trial Transcript – Week One Transcript Pages 115-116, 189, 219, 318, 339, 382, 394, 445, 448-452, 555, 591-593, 600, 606, 609-611, 623, 626-628, 663-664;

16. May 6, 2019, through May 16, 2019 Trial Transcript – Week Two Transcript Pages 179, 261-262, 376-377, 425, 586-589, 591, 594-595, 664-666, 668-700, 725-726, 735, 738-751, 755, 760-761, 763, 826, 836-859;

17. June 7, 2019, Post-Trial Motion Hearing Transcript;

EXHIBITS

Plaintiffs' Exhibits:

18. Exhibit 5-A – December 27, 2005 Owner Contractor [CBC] Agreement;

19. Exhibit 9 – April 17, 2006, CBC and Tri-County Subcontract;

20. Exhibit 340 – November 4, 2005, Project Manual;

21. Exhibit 583 – 1997 A201-1997 AIA Gen Conditions;

22. Exhibit 619 – Construction Set Plans;

23. Exhibit 677 – December 2017 Handegan Estimate;

24. Exhibit 931 – February 13, 2019, Watkins Preliminary Draft Estimate;

25. Exhibits 962-997 – Mease Photographs;

26. Exhibits 1040-1043 – Mease Photographs;

27. Exhibit 1049 – May 8, 2019, Handegan New Estimate;

MISCELLANEOUS

28. Settlements:

a. July 12, 2018, Cohen Drywall Company Inc's Settlement;

b. July 24, 2018, Builder Services Group, Inc. d/b/a Gale Contractor Services Settlement and Mutual Release;

c. July 10, 2018, CBC Pre-Trial Settlement;

- d. April 5, 2019, Atlantic Construction Pre-Trial Settlement;
- e. June 6, 2019, CBC Post-Trial Settlement;
- 29. May 3, 2019, Joint Voir Dire;
- 30. May 5, 2019, Plaintiffs' Pretrial Brief;
- 31. TCR's Pretrial Brief;
- 32. TCR's Proposed Jury Verdict Form with cover email dated May 15, 2019;
- 33. Plaintiff's first proposed Verdict Form with cover email dated May 15, 2019 at 7:58 a.m.;
- 34. Plaintiffs' revised Verdict Form with cover email dated May 15, 2019 at 1:58 p.m.;
- 35. May 16, 2019, Verdict Form;
- 36. June 10, 2019, Email from Jennifer Zambriczki to Judge McCoy's Clerk Serving Plaintiffs' Settlement and Release Chart;
- 37. August 15, 2019, Email from Laura Knight to J. McCoy's Clerk Serving Plaintiffs' Memorandum in Opposition to Motion to Reconsider;

Respondents' counsel certify that this Designation contains no matter that is irrelevant to this appeal.

Respectfully submitted,

By: */s/Justin O'Toole Lucey*
Justin O'Toole Lucey (Bar No. 15438)
Anna McCann (Bar No. 102314)
415 Mill Street
Mt. Pleasant, SC 29464
Telephone: (843) 849-8400
jlucey@lucey-law.com
amccann@lucey-law.com

-and-

Edward D. Buckley, Jr., Esq.
Young Clement Rivers, LLC
P.O. Box 993
Charleston, SC 29402
(843) 724-5446
ebuckley@ycrlaw.com

Attorneys for Respondents

December 23, 2020
Mt. Pleasant, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Jennifer B. McCoy, Circuit Court Judge



Case No. 2015-CP-10-00955
Appellate Case No. 2019-001790

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,

Of which Palmetto Pointe at Peas Island Condominium Property Owners Association, Inc. and Jack Love, Individually, and on behalf of all others similarly situated are the Respondents.

and

Tri-County Roofing, Inc.,Appellant.

PROOF OF SERVICE

I, Justin O’Toole Lucey, counsel for Respondents certify that the **RESPONDENTS’ DESIGNATION OF MATTERS** was served on all other parties to this appeal on December 23, 2020, via email to Andrew N. Cole, Esq. at acole@collinsandlacy.com.

Respectfully submitted,

By: /s/Justin O'Toole Lucey
Justin O'Toole Lucey (Bar No. 15438)
Anna McCann (Bar No. 102314)
415 Mill Street
Mt. Pleasant, SC 29464
Telephone: (843) 849-8400
Facsimile: (843) 849-8406
jlucey@lucey-law.com
amccann@lucey-law.com

-and-

Edward D. Buckley, Jr., Esq.
Young Clement Rivers, LLC
P.O. Box 993
Charleston, SC 29402
(843) 724-5446
ebuckley@ycrlaw.com

Attorneys for Respondents

December 23, 2020
Mt. Pleasant, South Carolina