

RECEIVED

Oct 04 2021

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Common Pleas Court Case No.: 2018-22-00824
Appellate Case No.: 2021-000325

Evarista Juan Lorenzo, Appellant,

v.

Port City Elevator, Inc.; Alan Topper d/b/a All Construction; 2020 Custom Contractors a/k/a 2020 Custom Contractors, LLC; Citadel Site Management, LLC; DVBT Construction a/k/a DVBT Construction, LLC; DVBT Multiservices, LLC; Beverly Construction Group, LLC; Beverly Homes, LLC; Beverly Homebuilders, LLC; Strand Paint Contractors, LLC; DePaz Painting, LLC; Enhanced Heating & Air Conditioning, LLC; Carlton Pender; and Joan Pender, Defendants,

Of Which

Port City Elevator, Inc.; Alan Topper d/b/a All Construction; 2020 Custom Contractors a/k/a 2020 Custom Contractors, LLC; Citadel Site Management, LLC; DVBT Construction a/k/a DVBT Construction, LLC; DVBT Multiservices, LLC; Beverly Construction Group, LLC; Beverly Homes, LLC; Beverly Homebuilders, LLC; Strand Paint Contractors, LLC; DePaz Painting, LLC and Enhanced Heating & Air Conditioning, LLC are the Respondents.

**UNOPPOSED MOTION FOR DISMISSAL OF
RESPONDENT BEVERLY CONSTRUCTION GROUP, LLC, ONLY
(NOT ENDING APPEAL)**

NOW COMES Respondent Beverly Construction Group, LLC (hereinafter "BCG"), by and through its undersigned counsel, and hereby moves for its dismissal from this action before the South Carolina Court of Appeals pursuant to Rule 260 of the South Carolina Appellate Court Rules.

BCG filed its Motion to Dismiss which was fully briefed and heard on September 11, 2020. Thereafter, the trial court found that BCG was acting as Appellant's statutory employer at all times

relevant to this litigation. (**Exhibit A:** 9.11.20 Form 4 Order). Accordingly, Appellant's sole remedy against BCG are those provided under the South Carolina Worker's Compensation Act. (Id.). On March 4, 2021, the trial court denied Appellant's Motion to Reconsider its September 11, 2020 order. (**Exhibit B:** 3.4.2021 Form 4 Order). In doing so, the trial court affirmed Respondent BCG's dismissal based on its status as Appellant's statutory employer.

Consequently and without objection from Appellant, Respondent Beverly Construction Group, LLC respectfully requests an order of dismissal from this appellate action and a dismissal from the caption in this case as to *only* Respondent Beverly Construction Group, LLC with each party to bear its own costs and expenses with regards to claims against Respondent BCG. (**Exhibit C:** Email dated 9.15.2021). This dismissal does not affect any other party and the appeal and underlying case continues as to all other parties.

This 4th day of October, 2021.

Respectfully submitted,

COPELAND, STAIR, KINGMA & LOVELL, LLP

40 Calhoun Street, Suite 400
Charleston, South Carolina 29401-3531
lweatherly@cskl.law
kbrown@cskl.law
kthompson@cskl.law
Ph: 843-727-0307

By: *s/Lee C. Weatherly*
LEE C. WEATHERLY
State Bar No.: 71109
KIERRA N. BROWN
State Bar No.: 103143
KRISTEN K. THOMPSON
State Bar No.: 100659

And

The Pearce Law Group, P.C.
1314 Professional Drive
Myrtle Beach, South Carolina 29577
cpearce@pearcelawgroup.com
rwells@pearcelawgroup.com
Ph: 843-839-3210

CHRISTOPHER H. PEARCE
State Bar No.: 71083
RAYMOND WELLS
State Bar No.: 102622
***Attorneys for Defendant Beverly Construction
Group, LLC***

Evarista Juan Lorenzo
PLAINTIFF(S)

Port City Elevator Inc et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED** (*CHECK REASON*): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN** (*CHECK REASON*): Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

The Motion to Dismiss by Beverly Construction Group, LLC, pursuant to Rule 12(b)(1), SCRPC, is GRANTED. The defendant is a statutory employer of the plaintiff and, therefore, plaintiff's recovery against this defendant is limited to the Workers' Compensation Act.

Defendant Beverly Construction Group, LLC's Motion to Strike Stipulation of Dismissal is MOOT. Defendant Beverly Construction Group, LLC's Motion to Reconsider is MOOT.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/11/2020 .

2020 Custom Contractors LLC
All Construction
DVBT Multiservices LLC
DVBT Construction LLC
DVBT Construction
Enhanced Heating & Air Conditioning LLC
DePaz Painting LLC

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Georgetown Common Pleas

Case Caption: Evarista Juan Lorenzo VS Port City Elevator Inc , defendant, et al

Case Number: 2018CP2200824

Type: Order/Electronic Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

Evarista Juan Lorenzo
PLAINTIFF(S)

Port City Elevator Inc et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED** (*CHECK REASON*): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN** (*CHECK REASON*): Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

Motion for Reconsideration by Attorney Wright is Denied.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 03/04/2021 .

2020 Custom Contractors LLC
All Construction
DVBT Multiservices LLC
Enhanced Heating & Air Conditioning LLC

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Georgetown Common Pleas

Case Caption: Evarista Juan Lorenzo VS Port City Elevator Inc , defendant, et al

Case Number: 2018CP2200824

Type: Order/Electronic Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

Richards, Cierra

From: Ritchie, Sierra <siritchie@sccourts.org>
Sent: Wednesday, September 15, 2021 10:51 AM
To: ian@maguirelawfirm.com; eaves@maguirelawfirm.com; thomas@tktlawyers.com; trey.watkins@walltempleton.com; john.dodds@walltempleton.com; morgan.templeton@walltempleton.com; tboger@pfluglaw.com; kwalker@ethridgelawgroup.com; methridge@ethridgelawgroup.com; Weatherly, Lee C.; Brown, Kierra N.; Thompson, Kristen K.; cpearce@pearcelawgroup.com; rwells@pearcelawgroup.com; dcobb@turnerpadget.com; christina.bisset@mgclaw.com; ege@aikenbridges.com; rruparelia@hsblawfirm.com; jshaw@hedrickgardner.com; bprice@hedrickgardner.com; ksb@brownandbrehmer.com; jdf@brownandbrehmer.com
Cc: barb@maguirelawfirm.com; brook@maguirelawfirm.com; scerone@tktlawyers.com; sandra.schultz@walltempleton.com; sarah.mock@walltempleton.com; sallie.york@pfluglaw.com; ksenseney@ethridgelawgroup.com; atranchida@ethridgelawgroup.com; Teague, Mebane A.; Richards, Cierra; jhergan@pearcelawgroup.com; tbarnett@pearcelawgroup.com; michael.johnson@mgclaw.com; clf@aikenbridges.com; efile_rruparelia@hsblawfirm.com; lstevens@hedrickgardner.com; mpritt@dmclaw.com; mg@brownandbrehmer.com
Subject: Evarista Lorenzo v. Port City Elevator // 2021-000325
Attachments: SR Lorenzo v. Port City Elevator - letter.pdf

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Counsel:

Attached please find correspondence from the Court of Appeals.

Respectfully,

Sierra Ritchie

Appeals Specialist
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201
Ph: (803) 734-1890
F: (803) 734-1839
Email: siritchie@sccourts.org
E-Filing Email: ctappfilings@sccourts.org

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.