

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

RECORDED
APR 29 2013

Alexander S. Macaulay, Presiding Judge Seventh Judicial Circuit

SG Court of Appeals

Appellate Case No. 2012-213237

Stoneledge at Lake Keowee Owners' Association, Inc., C. Dan Carson, Jeffrey J. Dauler, Joan W. Davenport, Michael Furnari, Donna Furnari, Jessy B. Grasso, Nancy E. Grasso, Robert P. Hayes, Lucy H. Hayes, Ty Hix, Jennifer D. Hix, Paul W. Hund, III, Ruth E. Isaac, Michael D. Plourde, Mary Lou Plourde, Carol C. Pope, Steven B. Taylor, Bettie J. Taylor, and Robert White, Individually, and on behalf of all others similarly situated Plaintiffs,

v.

IMK Development Co., LLC, Keowee Townhouses, LLC, Ludwig Corporation, LLC, SDI Funding, LLC, Medallion At Keowee, LLC, Intergrys Keowee Development, LLC, Marick Home Builders, LLC, Bostic Brothers Construction, Inc., Miller/Player & Associates, Bradford D. Seckinger, John Ludwig, William Cox, Larry D. Lollis, Rick Thoennes, M Group Construction and Development, LLC, Mel Morris, Joe Bostic., Jeff Bostic, Clear View Construction, Michael Franz, MHC Contractors, Miguel Porras Choncoas, Builders FirstSource Southeast Group, Mike Green, Southern Concrete Specialties, Carl Compton d/b/a Compton Enterprise d/b/a Compton Enterprises, Gunter Heating & Air, All Pro Heating, A/C & Refrigeration, LLC, Coleman Waterproofing, Heyward Electrical Services, Inc. Tinsley Electrical, LLC, Hutch N Son Construction, Inc., Upstate Utilities, Inc., Southern Basements, Inc., Carl Catoe Construction, Inc., T.G. Construction, LLC, Delfino Construction, Francisco Jaview Zarate d/b/a Zarate Construction, Alejandro Avalos Cruz, Herberito Acros Hernandez, Martin Hernandez-Aviles, Francisco Villalobox Lopez, Ambrosio Martinez-Ramirez, Ester Moran Mentado, Socorro Castillo, Montel, Upstate Utilities, Inc. MJG Construction and Homebuilders, Inc. d/b/a MJG Construction, KMAC of the Carolinas, Inc., Eufacio Garcia, Everado Jarmamillo, Garcia Parra Insulation, Inc., J&J Construction, Jose Niño, Jose Manuel Garcia, Eason Construction, Inc., and Vincent Morales d/b/a Morales Masonry, and Miller/Player & Associates, Defendants,

Of Whom Marick Home Builders, LLC and Rick ThoennesAppellants,

And

Of Whom Hutch N Son Construction, Inc., and Upstate Utilities, Inc. Respondents.

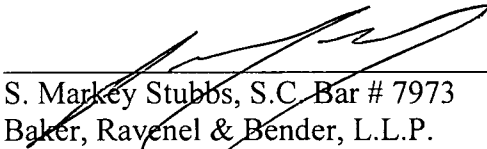
**UPSTATE UTILITIES, INC.'S REPLY
TO THE RETURN OF APPELLANT**

The Respondent, Upstate Utilities, Inc., (hereinafter "Upstate") replies to the Return of Appellants Marick Home Builders, LLC and Rick Thoennes (hereinafter "Marick") in accordance with Rule 240(g) SCACR.

Marick in this action makes numerous assertions and claims as to what they maintain the record contains. Appellant attempts to include arguments made against other counsel on other motions after Respondents had left the hearing. Marick failed to comply with Rule 240(c)(3) SCACR. Appellant has failed to file affidavit(s) or other documents which support his inaccurate positions.

The South Carolina Supreme Court has made it clear that "the South Carolina Appellate Court rules are not mere technicalities, but provided the parties in this court with an orderly mechanism through which to guide appeals in this state. Henning v. Kaye, 307 S.C. 436, 437-38, 415 S.E.2d 794, 794-95 (1992). Upstate prays for dismissal of the appeal on the grounds set forth in its original Motion and Memorandum and due to numerous procedural errors. See, Talley v. S.C. Higher Education Tuition Grants Committee, 289 S.C. 483, 347 S.E.2d 99 (1986).

In the alternative, Upstate renews its motion that the materials designated by Marick and objected to by Upstate in its Motion to Dismiss or in the Alternative to Strike and supporting memorandum be excluded from this appeal and Appellant be ordered to file a brief removing all references to the same.



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(803) 799-9091
Our File No.: 7603.336

April 29, 2013

Attorneys for Respondent Upstate Utilities, Inc.

APPELLANT'S COUNSEL OF RECORD:

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Of Whom Marick Home Builders, LLC and Rick ThoennesAppellants,

And

Of Whom Hutch N Son Construction, Inc., and Upstate Utilities, Inc. Respondents.

PROOF OF SERVICE

I, S. Markey Stubbs, attorney for Respondent Upstate Utilities, Inc., do hereby certify that I have this 29th day of April 2013 served all counsel of record with copies of **Upstate Utilities, Inc.'s Reply to the Return of Appellant** by mailing said copies by United States Mail, first class postage pre-paid, to said counsel at the following addresses:

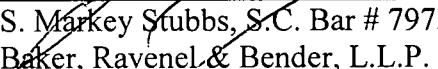
APPELLANT'S COUNSEL OF RECORD:

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April 29, 2013



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CHARLES E. BAKER
(1935-2010)

¹OF COUNSEL
²ALSO ADMITTED IN GEORGIA
³ALSO ADMITTED IN VIRGINIA

April 29, 2013

Via Hand Delivery:
The Honorable Jenny Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

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RE: Stoneledge at Lake Keowee Owners' Association, et al v.
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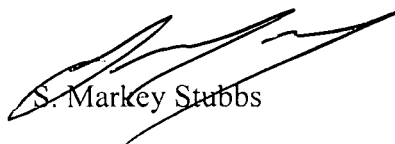
Dear Ms. Kitchings:

Please find enclosed for filing an original and seven (7) copies of a Upstate Utilities, Inc.'s Reply to the Return of Appellant. Please return a stamped copy to me via the courier delivering same.

By copy hereof, I am serving the same upon counsel for Appellant and Respondent Hutch N Son Construction, Inc.

Your assistance in this matter is greatly appreciated.

Yours truly,



S. Markey Stubbs

Enclosures

cc: Jason M. Imhoff, Esquire (w/enclosure)
Shelley S. Montague, Esquire (w/enclosure)