

IN THE STATE OF SOUTH CAROLINA

In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM BERKELEY COUNTY  
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Civil Action No.: 2014-CP-08-2424

Appellate Case No. 2020-001048

Patricia Damico and Lenna Lucas, Individually and on behalf of all others similarly situated, Joshua and Brettany Buetow, Edward and Sylvia Dengg, Jonathan and Theresa Douglass, Anthony and Stacey Ray, Danny and Ellen Davis Morrow, Czara and Chad England, Bryan and Cynthia Camara, and Matthew Collins,.....Respondents,

v.

Lennar Carolinas, LLC, Spring Grove Plantation Development, Inc., Manale Landscaping, LLC, Super Concrete of SC, Inc., Southern Green, Inc. TJB Trucking/Leasing, LLC, Paragon Site Constructors, Inc., Civil Site Environmental and Rick Bryant, Individually,.....Defendants,

Of which

Spring Grove Plantation Development, Inc., Manale Landscaping, LLC, Super Concrete of SC, Inc., Southern Green, Inc. TJB Trucking/Leasing, LLC, and Civil Site Environmental are.....Respondents.

And

Lennar Carolinas, LLC, ..... Appellant,

v.

The Earthworks Group, Inc., Volkmar Consulting Services, LLC, Geometrics Consulting, LLC, Land/Site Services,

Inc., Myers Landscaping, Inc., A.C. & A. Concrete, Inc., Knight's Concrete Products, Inc., Knight's Redi-Mix, Inc., Coastal Concrete Southeast, LLC, Coastal Concrete Southeast II, LLC, Guaranteed Framing, LLC, Ozzy Construction, LLC, Construction Applicators Charleston, LLC, LA New Enterprises, LLC, Decor Corporation, DVS, Inc., Raul Martinez Masonry, LLC, Alpha Omega Construction Group, Inc., South Carolina Exteriors, LLC, Builders Firstsource-Southeast Group, LLC, and Low Country Renovations and Siding, LLP, ..... Third-Party Defendants,

Of which

Volkmar Consulting Services, LLC, Land/Site Services, Inc., Myers Landscaping, Inc., A.C. & A. Concrete, Inc., Knight's Concrete Products, Inc., Knight's Redi-Mix, Inc., Coastal Concrete Southeast, LLC, Coastal Concrete Southeast II, LLC, Guaranteed Framing, LLC, Ozzy Construction, LLC, Construction Applicators Charleston, LLC, LA New Enterprises, LLC, Decor Corporation, DVS, Inc., Raul Martinez Masonry, LLC, Alpha Omega Construction Group, Inc., South Carolina Exteriors, LLC, Builders Firstsource-Southeast Group, LLC, are also ..... Respondents.

And

Decor Corporation, ..... Fourth Party Plaintiff,

v.

Baranov Flooring, LLC, DJ Construction Services, LLC, Creative Wood Floors, LLC, Geraldo Cunha, Ebenezer Flooring, LLC, Emmanuel Flooring and Siding, LLC, Eusi Flooring and Covering, LLC, Nicolas Flores, Alexander Martinez, Isidru Mejia, Juan Perez, N&B Construction, LLC, Jose Dias Rodrigues, Livia Sousa, Jose Paz Castro Hernandez, Divinio Aperecido Corgosinho, Ricardo Chiche, CEBS Construction, Bayshore Siding and Flooring, Sebastio Luiz de Araujo, and John Does 1-4, ..... Fourth-Party Defendants.

Of whom

Patricia Damico, Joshua and Brettany Beutow, Bryan and Cynthia Camara, Matthew Collins, Jonathan and Teresa Douglas, Czarra and Chad England, Lena Lucas, and Danny and Ellen Davis Morrow are the ..... Petitioners.

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**RETURN TO PETITIONERS' PETITION TO LIFT  
STAY AS TO DISCOVERY AND SUBCONTRACTOR CLAIMS  
ON BEHALF OF RESPONDENT  
ALPHA OMEGA CONSTRUCTION GROUP, INC.**

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Respondent Alpha Omega Construction Group, Inc. (hereinafter “Alpha Omega”) opposes Petitioners’ Petition to Lift Stay as to Discovery and Subcontractor Claims (the “Petition”), dated February 28, 2022, and would show that it should be denied as to Alpha Omega.

Alpha Omega joins the well-reasoned Return submitted by Respondents Coastal Concrete Southeast, LLC, Coastal Concrete Southeast II, LLC, Knight’s Concrete Products, Inc., and Knight’s Redi-Mix, Inc. (hereinafter collectively “Coastal and Knight’s”) on March 8, 2022, and joins Coastal and Knight’s arguments fully as if set forth herein verbatim.

As with Coastal and Knight’s, Petitioners have not filed direct claims against Alpha Omega. (See Coastal and Knight’s Return, pp. 3-4.) Despite being identified as an entity that Lennar alleged worked on the subject property in Lennar’s Answer to Plaintiffs’ First Amended Complaint, Cross-Claims, and Third-Party Complaint, filed November 15, 2015 (R. pp. 109-164), Petitioners never amended their complaint nor sought leave in the trial court to assert direct claims against Alpha Omega. The Petition should be denied as to Alpha Omega because Petitioners have no pending claims against Alpha Omega; therefore, there is nothing for this Court to stay.

### **CONCLUSION**

As with Coastal and Knight’s argument, Alpha Omega submits that Petitioners’ attempt to lift the stay to proceed with discovery should be denied as to Alpha Omega because Petitioners have not asserted direct claims against Alpha Omega. Petitioners have not sought leave in the trial court to assert direct claims against Alpha Omega. Petitioners did not ask the Court of Appeals to limit its rulings to claims to which

Lennar is a party. The issue of whether discovery as to Petitioners' potential claims against Alpha Omega should proceed is not properly before this Court.

Respectfully submitted,

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