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Mar 11 2022

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA

In the 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, Décor 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, Décor Corporation, DVS, Inc., Raul Martinez Masonry, LLC, Alpha Omega Construction Group, Inc., South Carolina Exteriors, LLC, BuildersFirstSource-Southeast Group, LLC, are also..... Respondents.

And

Décor 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, Ernesto M. 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.

**SOUTH CAROLINA EXTERIORS, LLC’S RETURN
TO THE PETITIONERS’ PETITION TO LIFT STAY AS TO DISCOVERY
AND SUBCONTRACTOR CLAIMS**

Respondent South Carolina Exteriors, LLC 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 South Carolina Exteriors, LLC.

South Carolina Exteriors, LLC 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 South Carolina Exteriors, LLC. (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 South Carolina Exteriors, LLC. The Petition should be denied as to South Carolina Exteriors, LLC because Petitioners have no

pending claims against South Carolina Exteriors, LLC; therefore, there is nothing for this Court to stay.

CONCLUSION

As with Coastal and Knight's argument, South Carolina Exteriors, LLC submits that Petitioners' attempt to lift the stay to proceed with discovery should be denied as to South Carolina Exteriors, LLC because Petitioners have not asserted direct claims against South Carolina Exteriors, LLC. Petitioners have not sought leave in the trial court to assert direct claims against South Carolina Exteriors, LLC. 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 South Carolina Exteriors, LLC should proceed is not properly before this Court.

Respectfully submitted,

COSTA HONEYCUTT, LLC

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March 11, 2022
Charleston, South Carolina

Attorney for South Carolina Exteriors, LLC

CERTIFICATE OF SERVICE Appellate Case No. 2020-001048

I certify that on March 11, 2022, I have served South Carolina Exteriors, LLC's Return to the Petitioners' Petition to Lift Stay as to Discovery and Subcontractor Claims by electronic mail in accordance with this Court's August 25, 2021 Order re: Methods of Electronic Filing and Service under Rule 262 of the South Carolina Appellate Court Rules, Appellate Case No. 2020-000447 at § (d)(1) on all counsel of record, sent to their AIS-registered email addresses.

By: s/Jenny C. Honeycutt

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Subject: Patricia Damico v. Lennar Carolinas, et al. - Appellate Case # 2020-001048
Date: Friday, March 11, 2022 3:34:00 PM
Attachments: [SC Ext Return to the Petition to Lift Stay.pdf](#)

Counsel:

Please find attached **South Carolina Exteriors, LLC's Return to the Petitioners' Petition to Lift Stay as to Discovery and Subcontractor Claims** in the above matter, being served upon you as attorneys of record, in accordance with § (d)(1) of the Supreme Court's August 25, 2021, Order re: Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules, Appellate Case No. 2020-000447.

Kindly,

Jenny Costa Honeycutt
Attorney for the Respondent
South Carolina Exteriors, LLC

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