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Mar 14 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County
Court of Common Pleas

Jennifer B. McCoy, Circuit Court Judge

Case No. 2016-CP-10-01833
Appellate Case No. 2021-001055

Andrew and Kimberly McIntire,

Appellants,

v.

Sequest Development Company, Inc.; Red Bay Constructors Corp.; Benzenberg Custom Cabinets, Inc.; Jonathan Marshall Construction; Coastal Window & Door Center of Charleston, LLC; Carolina Window & Millwork, LLC n/k/a Carolina Window & Millwork-Omni Glass Industries, LLC; Southcoast Exteriors, Inc.; Michael Casteen d/b/a Michigan Prestain Co.; Coastal Plumbing & Gas, LLC; Foam Insulation Co., Inc.; Jerry Comer d/b/a Jerry's Tile & Marble, LLC; Lowcountry Fireplaces, Inc.; Carolina Pest Solutions, Inc.; and New South Construction Supply, LLC,

Defendants,

AND

Sequest Development Company, Inc.,

Third-Party Plaintiff/Appellant,

v.

Architectural Products of Charleston, LLC; and Sealtight of South Carolina, LLC,

Third-Party Defendants,

Of which Red Bay Constructors Corp.; Benzenberg Custom Cabinets, Inc.; Jonathan Marshall Construction; Coastal Window & Door Center of Charleston, LLC; Carolina Window & Millwork, LLC n/k/a Carolina Window & Millwork-Omni Glass Industries, LLC; Southcoast Exteriors, Inc.; Michael Casteen d/b/a Michigan Prestain Co.; Coastal Plumbing & Gas, LLC; Foam Insulation Co., Inc.; Jerry Comer d/b/a Jerry's Tile & Marble, LLC; Lowcountry Fireplaces, Inc.; Carolina Pest Solutions, Inc.; and New South Construction Supply, LLC are

Respondents.

DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

The Respondents designate the following additional matter for inclusion in the Record on Appeal:

Orders and Decisions

1. Form 4 and attached Order of Dismissal filed May 1, 2017 (14 pages total).
2. Court of Appeals Op. No. 2019-UP-413 filed Dec. 31, 2019 (Appellate Case No. 2017-001270) (6 pages).
3. Court of Appeals Order dated March 27, 2020 denying rehearing (Appellate Case No. 2017-001270) (2 pages).
4. Supreme Court Order dated December 11, 2020 denying the petition for writ of certiorari (Appellate Case No. 2020-000648) (2 pages).
5. Remittitur from the Court of Appeals and filed in the trial court December 17, 2020 (7 pages).
6. Form 4 Order denying Plaintiffs' and Seaquest's joint motion for clarification filed August 19, 2021 (3 pages).
7. Order Denying Plaintiffs' and Seaquest Development Company, Inc.'s Joint Motion for Clarification filed August 23, 2021 (13 pages).

Pleadings

1. Summons and Complaint filed April 8, 2016 (16 pages total).
2. Defendant Seaquest Development Company, Inc.'s Answer, Cross-Claims, and Third-Party Complaint filed June 17, 2016 (26 pages).

Motions, Memoranda, and Exhibits

1. Notice of Motion and Motion to Dismiss or Stay Proceedings filed June 17, 2016 (7 pages).
2. Defendant Red Bay Constructors Corp.'s Notice of Motion and Motion to Dismiss or for Stay of Proceedings filed June 17, 2016 (7 pages).
3. Plaintiff's Motion to Stay & to Compel Arbitration filed July 27, 2016 with attached exhibit A (contract) (26 pages total).

4. Defendant Seaquest Development Company, Inc.'s Memorandum in Support of its Motion to Dismiss or Stay Proceedings filed October 13, 2016 with attached exhibits A (contract), B (Certificate of Occupancy), and C (Complaint) (31 pages total).
5. Defendant Seaquest Development Company, Inc.'s Memorandum in Opposition to Plaintiff's Motion to Stay and to Compel Arbitration filed October 13, 2016 with attached exhibits A (contract), B (Certificate of Occupancy), C (Complaint), and D (General Conditions) (78 pages total).
6. Defendant Seaquest Development Company, Inc.'s Supplemental Memorandum in Opposition to Plaintiff's Motion to Stay and to Compel Arbitration filed October 19, 2016 (4 pages).
7. Plaintiff's Reply in Support of their Motion to Stay and Compel Arbitration filed October 26, 2016 (13 pages total).
8. Joint Motion for Clarification filed February 16, 2021 (3 pages) with attached:
 - a. Exh. A – Form 4 and Order filed May 1, 2017 (15 pages total).
 - b. Exh. B – Notice of Appeal dated May 30, 2017 with attached Orders and Proof of Service (20 pages total).
 - c. Exh. C – Court of Appeals Opinion filed December 31, 2019 (7 pages).
9. Memorandum in Opposition to Plaintiffs' and Seaquest Development Company, Inc.'s Joint Motion for Clarification filed March 3, 2021 (13 pages).
10. Sealtight of South Carolina, LLC's Memorandum in Opposition to Joint Motion for Clarification filed March 4, 2021 (2 pages).
11. Plaintiffs and Seaquest Development Company, Inc.'s Joint Memorandum in Support of Motion for Clarification filed March 5, 2021 (4 pages) with attached:
 - a. Exh. A – Form 4 and Order filed May 1, 2017 (15 pages total).
 - b. Exh. B – Notice of Appeal dated May 30, 2017 with attached Orders and Proof of Service (20 pages total).
 - c. Exh. C – Court of Appeals Opinion filed December 31, 2019 (7 pages).
 - d. Joint Mot. for Clarif. (re-filed) (3 pages).
 - e. Mem. in Opp'n (re-filed) (13 pages).
 - f. Sealtight Mem. (re-filed) (2 pages).
 - g. E-mail from Judge Roger M. Young, Sr. to counsel for the parties dated February 19, 2021 and thread (11 pages).

12. Joint Reply Memorandum in Support of Motion for Clarification filed March 12, 2021 (4 pages) with attached:
 - a. Exh. A – Notice of Appeal dated May 30, 2017 (3 pages).
 - b. Exh. B – excerpt from Final Brief of Appellant dated Jan. 8, 2018 (4 pages).
 - c. Exh. C – Court of Appeals Opinion filed December 31, 2019 (7 pages).
 - d. Exh. D – E-mail from Angela Gross to Jason Daigle dated June 2, 2017 regarding copy of Notice of Appeal (2 pages).
 - e. Exh. E – Proof of Service of Appellant’s Notice of Appeal dated June 2, 2017 (3 pages).
13. Joint Reply Memorandum in Support of Motion for Clarification filed March 12, 2021 (4 pages).

Transcripts

1. Transcript of Record of hearing before The Honorable (Ret) Chief Justice Toal, Judge on Oct. 13, 2016 (53 pages).
2. Transcript of Record of hearing before The Honorable Jennifer B. McCoy, Judge on Apr. 22, 2016 (29 pages).

Briefs

1. Initial Brief of Appellants filed August 2, 2017 (Appellate Case No. 2017-001270) (21 pages).
2. Final Brief of Respondent filed January 10, 2018 (Appellate Case No. 2017-001270) (16 pages).

Other Materials or Documents

1. E-mail from Amelia Waring to counsel for the parties dated January 4, 2017 regarding Justice Toal’s ruling (ROA pp. 117-121, Appellate Case No. 2017-001270) (5 pages).
2. E-mail and attached letter from Andrew K. Epting, Jr., Esq. dated Jan. 20, 2017 with objections to proposed order (ROA pp. 154-157, Appellate Case No. 2017-001270) (4 pages).
3. E-mail from Andy Lacour, Esq. to Judge Young dated February 19, 2021 with complete thread (11 pages).

4. Complete thread of e-mails between Michael A. Monastra, Law Clerk to The Honorable Roger M. Young, Sr. and counsel for the parties dated May 3 and 4, 2021 regarding Judge Young's ruling and withdrawal (3 pages).
5. McIntire Notice of Appeal filed September 20, 2021 (4 pages).
6. Seaquest Notice of Appeal filed September 22, 2021 (8 pages).

CERTIFICATION OF COUNSEL

The undersigned certifies that this designation contains no matter which is irrelevant to this appeal.

Mar. 11, 2022

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Respondents.

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I certify that I have served the Designation of Matter to be Included on the Record of Appeal by electronic mail, March 11, 2022, addressed to the counsel of record at the following addresses:

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