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May 31, 2012

Hand Delivered

The Honorable Daniel E. Shearouse
Clerk of Court, South Carolina Supreme Court
1231 Gervais Street
Columbia, SC 29201

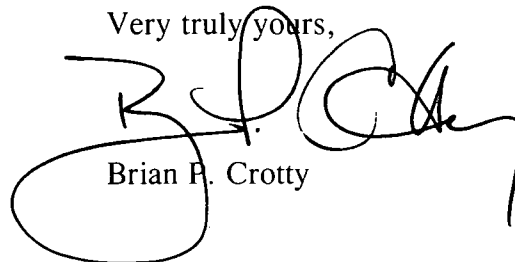
RE: Magnolia North Property Owners' Association, Inc. v. Heritage Communities,
Inc., Heritage Magnolia North, Inc., and Buildstar Corporation
Civil Action No. 2003-CP-26-3202
Court of Appeals Case Tracking No. 2009147806
Our File No. 00470/01576

Dear Mr. Shearouse:

Pursuant to our conversation with Brenda Shealy, enclosed is the original and 7 "substituted" page 4's to Magnolia North's Petition for Writ of Certiorari filed with the Court on May 21, 2012. Respondent counsel, John P. Henry, Esquire, was provided a copy of the substituted page 4 via email and has consented, via email, to its substitution in the Court's file. A copy of the consent communication is attached. As directed by Ms. Shealy, our courier will substitute the pages in the Court's copies of the petition.

Also enclosed is a Proof of Service, serving Respondent with a copy of the substituted page 4 to the Petition for Certiorari.

Very truly yours,



Brian P. Crotty

BPC:mws
Enclosures
cc: John P. Henry, Esquire

fiduciary duty and the damages under the negligence and breach of the implied warranty of workmanlike service claims. The jury found for the Respondent on the breach of fiduciary duty claim, and awarded \$6,500,000.00 in actual damages and \$2,000,000.00 in punitive damages. (App. 22). After the Trial Court granted a setoff but denied other post-trial motions, the total judgment was \$6,968,936.85. (App. 12). Upon Appellants' timely appeal, the Court of Appeals affirmed.

Summary of Grounds for Certiorari

The Court of Appeals' Opinion raises novel questions of law. It also conflicts with prior decisions of this Court. See Rule 242(b)(1) & (3), SCACR. Specifically, after erroneously holding the Appellants were "amalgamated" and thus liable for the actions of each other, the Trial Court improperly directed a verdict against them on the negligence and warranty of workmanlike service claims. (App. 1056). Additionally, the Trial Court erroneously charged the jury that it had a *duty* to award punitive damages, and thus was required to award punitive damages, if it found that Plaintiff was entitled to such damages. (App. 987-88). Certiorari should be granted. The law regarding corporate separateness is imperiled by the Court of Appeals' opinion. The jury instructions did not comport with due process of law. Finally, this Court's standards on when a directed verdict is proper in a case involving multiple specifications of negligence have been violated by the Court of Appeals opinion.

Lisa Whitehurst

From: Pat Henry [PHenry@thompsonlaw.com]
Sent: Thursday, May 31, 2012 12:13 PM
To: Mitch Brown
Subject: Re: 00470 01576 Page 4 of Cert Petition with edits - 4814-4310-0943 v 1.docx

No problem.

Sent from my Verizon Wireless 4G LTE DROID

-----Original message-----

From: Mitch Brown <mitch.brown@nelsonmullins.com>
To: Pat Henry <PHenry@thompsonlaw.com>
Sent: Thu, May 31, 2012 12:10:55 EDT
Subject: FW: 00470 01576 Page 4 of Cert Petition with edits - 4814-4310-0943 v 1.docx

Hi Pat, here is the page we would substitute. Okay by you?

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