

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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May 09 2022

APPEAL FROM GEORGETOWN COUNTY
In the Court of Common Pleas

SC Court of Appeals

Michael G. Nettles, Circuit Court Judge

Common Please Case No. 2018-CP-22-824

Appellate Case No. 2021-000325

Evarista Juan Lorenzo, Appellant,

v.

Port City Elevator, Inc.; Alan Topper d/b/a All Construction; 2020 Custom Contractors a/k/a 2020 Custom Contractors, LLC; Citadel Site Management, LLC; DVBT Construction a/k/a DVBT Construction, LLC, DVBT Multiservices, LLC; Beverly Construction Group, LLC; Beverly Homes, LLC; Beverly Homebuilders, LLC; Strand Pain Contractors, LLC; Depaz Painting, LLC; Enhanced Heating & Air Conditioning, LLC; Carlton Pender, and Joan Pender, Defendants,

Of Which,

Alan Topper d/b/a All Construction; Citadel Site Management, LLC; DVBT Construction a/k/a DVBT Construction, LLC, DVBT Multiservices, LLC; Beverly Homes, LLC; Beverly Homebuilders, LLC; Strand Paint Contractors, LLC; Depaz Painting, LLC and Enhanced Heating & Air Conditioning, LLC are the Respondents.

**RESPONDENT BEVERLY HOMES, LLC'S RESPONSE TO
APPELLANT'S MOTION TO STRIKE**

Respondent Beverly Homes, LLC replies to Appellant's Motion to Strike Certain Matter Designated to be Included in the Record on Appeal as follows:

(1) Respondent agrees that the cited excerpts from the deposition of Forrest Beverly (pages 12-18, 20, 34-37, 58-61, 125, and 158-164) are the proper pages from

his deposition to be included with the Record on Appeal. In addition, pages 147-149 of Forrest Beverly's deposition transcript also need to be included in this Record on Appeal because of a scrivener's error found on page 7 of Respondent's Initial Brief. The deposition citation should have attributed the testimony on page 7 to Forrest Beverly and not to Randy Beverly. That change will be made on the final brief.

(2) With regards to the pay records for Jonathan Martin, the trial court Order Dismissing Defendant Beverly Homes, LLC From This Lawsuit filed January 13, 2021, contained the following sentence at page 29 of the Order as a further example of how Beverly Homes, LLC had no employees or subcontractors who worked on the construction of the Pender residence: "Further, payroll records provided by Beverly Construction Group, LLC to Plaintiff showed that Beverly Construction Group, LLC paid Martin at all times during the construction of the Pender residence." Appellant did not object to this sentence in the Order (or its inclusion in Respondent's motion and brief filed with the trial court). Respectfully, Rule 210(c), SCACR, says "matter" presented to the lower court can be included as part of the Record on Appeal. Thus, Respondent respectfully argues that the pay records for Jonathan Martin can be included as part of the Record on Appeal.

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PROOF OF SERVICE

The undersigned, certifies that she served a copy of **Respondent Beverly Homes, LLC's Response to Appellant's Motion to Strike** upon all other counsel of record by emailing a copy to:

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s/Heather Hagen
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