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Jun 02 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Case No: 2022-000016

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Case No. 2018-CP-07-00911

Richard W. and Rebecca A. Drier; Sarmed and Jessica M. Shafi; *et al.*,

Plaintiffs of whom Sarmed and Jessica M. Shafi are Respondents,

v.

Advanced Flooring & Design Division of ISI, LLC f/k/a Advanced Flooring and Design; LLC,
D.R. Horton, Inc.; East Coast Construction Cleanup Corp. f/k/a S. C. Cleanup Co., Inc.; Hutton's
Landscapes, Inc.; Lather Construction SC, Inc.; Lather Construction, Inc.; *et al.*,

Defendants of whom D. R. Horton, Inc. is Appellant,

And

D. R. Horton, Inc.,

Cross-claimant and Appellant,

v.

East Coast Construction Cleanup Corp. f/k/a S. C. Cleanup Co., Inc.; Hutton's Landscapes, Inc.;
Lather Construction SC, Inc.; Lather Construction, Inc.,

Cross-defendants and Respondents

NOTICE MOTION TO BE RELIEVED AS COUNSEL

Come Now, S. Michael Nail, Esquire and Kirsten M. Peterson, Esquire of Ogletree Deakins Nash Smoak & Stewart, PC, and hereby give notice of its motion to be relieved as counsel from the above-mentioned case, as to cross claimant/appellant, D. R. Horton, Inc. All counsel of record have been notified of this motion and do not oppose this notice motion to be relieved as counsel. *See* Exhibit 1.

Dated this 2nd day of June 2022.

Respectfully submitted,

s/ S. Michael Nail

S. Michael Nail, Esq. (SC Bar 101818)
Kirsten Peterson, Esq.(SC Bar 104226)

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

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300 North Main Street, Suite 500
(29601)

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carl@carlmullerlaw.com

Co-Counsel Attorney for Cross Claimant/Appellant
D. R. Horton, Inc

Tyler E. Cloud (S.C. Bar#103155)
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843-722-2867 FAX
tcloud@clawsonandstaubes.com
Attorney for Respondent East Coast Construction
Cleanup Corp.
f/k/a S. C. Cleanup Co., Inc

Emily Gifford Lucey, (S.C. Bar# 72785)
Megan C. White, (S.C. Bar#101895)
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MWhite@richardsonplowden.com
Attorney for Respondent Hutton's Landscapes, Inc.

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Scott H. Winograd, (SC. Bar# 103483)
Ross & Cristaldi, LLC
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pcristaldi@rclawsc.com
swinograd@rclawsc.com
Attorneys for Respondent Lather Construction, Inc.,
and
Lather Construction SC, Inc.

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Alexandra Scott Williams, (S.C. Bar#102862)
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Attorneys for the Respondent Plaintiff

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Inc.; Lather Construction SC, Inc.; Lather Construction, Inc.,

Cross-defendants and Respondents

Exhibit 1 to Notice Motion to be Relieved as Counsel

Stambaugh, Montana

From: Traywick, Ben <ben@bentraywicklaw.com>
Sent: Wednesday, May 25, 2022 5:48 PM
To: Nail, Michael; Alexandra Williams
Subject: Re: Notice of Appeal (2)

[Caution: Email received from external source]

We consent, with the aforementioned regret.

BENTRAYWICK [B]
LAW [L]

Benjamin A. C. Traywick, Esquire
Ben Traywick Law Firm, LLC

171 Church Street | Suite 340
Charleston, South Carolina 29401

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F | 843.695.7839

www.bentraywicklaw.com



On Wed, May 25, 2022 at 5:42 PM Nail, Michael <michael.nail@ogletree.com> wrote:

Good evening, everyone. My firm will be filing a motion to be relieved of counsel in this matter. In order to do so, we will need consent from all parties to the appeal. At your earliest convenience, I'd appreciate it if you'd reply with your consent. Thank you.

Michael Nail | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

The Ogletree Building, 300 North Main Street, Suite 500 | Greenville, SC 29601 | Telephone: 864-240-8213
michael.nail@ogletree.com | www.ogletree.com | [Bio](#)

From: Kay Kelly <kay@carlmullerlaw.com>
Sent: Tuesday, April 19, 2022 12:08 PM

To: tcloud@clawsonandstaubes.com; egiffordlucey@richardsonplowden.com; MWhite@richardsonplowden.com; jross@rcaawsc.com; pcristaldi@rclawsc.com; swinograd@rclawsc.com; ben@bentraywicklaw.com; ali@bentraywicklaw.com; lin@mlf.law; tom@mlf.law; Nail, Michael <Michael.Nail@ogletreedeakins.com>; Peterson, Kirsten <kirsten.peterson@ogletreedeakins.com>
Subject: Notice of Appeal (2)

[Caution: Email received from external source]

Dear all,

Please see attachments of Certificate of Service and Notice of Appeal in the DR Horton case.

Thanks,

Kay Kelly

--

D. Kay Kelly

kay@carlmullerlaw.com

864.991.8904

864.751.2831 fax

607 Pendleton Street Suite 201

Greenville, SC 29601

Stambaugh, Montana

From: Carl Muller <carl@carlmullerlaw.com>
Sent: Thursday, May 26, 2022 10:09 AM
To: Nail, Michael
Subject: Re: Notice of Appeal (2)

[Caution: Email received from external source]

Horton consents.

On Wed, May 25, 2022 at 5:42 PM Nail, Michael <michael.nail@ogletree.com> wrote:

Good evening, everyone. My firm will be filing a motion to be relieved of counsel in this matter. In order to do so, we will need consent from all parties to the appeal. At your earliest convenience, I'd appreciate it if you'd reply with your consent. Thank you.

Michael Nail | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

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michael.nail@ogletree.com | www.ogletree.com | [Bio](#)

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Greenville, SC 29601

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Carl F. Muller

carl@carlmullerlaw.com

864.991.8904

864.751.2831 fax

607 Pendleton Street Suite 201


Greenville, SC 29601

Stambaugh, Montana

From: Emily Gifford Lucey <egiffordlucey@richardsonplowden.com>
Sent: Thursday, May 26, 2022 2:55 PM
To: Nail, Michael
Cc: Megan White; Peterson, Kirsten
Subject: RE: Notice of Appeal (2)

[Caution: Email received from external source]

Hutton's consents. I am sorry we won't be working together any more on this one. Best of luck to you and Kirsten.

HOME	VCARD	BIO	LOCATION
		Emily Gifford Lucey Attorney at Law egiffordlucey@RichardsonPlowden.com	Richardson, Plowden & Robinson, P.A. 235 Magrath Darby Blvd., Ste 100 Mt. Pleasant, SC 29464 Tel: 803.253.8709 Fax: 803.779.0016
			1900 Barnwell Street Columbia, SC 29201 www.RichardsonPlowden.com

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Statement of Operations: Richardson Plowden & Robinson, P.A. is monitoring the Covid-19 outbreak and conducting its operations with respect to government mandates. We have executed policies and procedures to ensure the safety of our firm and clients. With remote access securely implemented, we are able to serve our clients with the same level of attention as we are under normal circumstances.

From: Nail, Michael <michael.nail@ogletree.com>
Sent: Wednesday, May 25, 2022 5:42 PM
To: Kay Kelly <kay@carlmullerlaw.com>; tcloud@clawsonandstaubes.com; Emily Gifford Lucey <egiffordlucey@richardsonplowden.com>; Megan White <MWhite@RichardsonPlowden.com>; jross@rcaawsc.com; pcristaldi@rclawsc.com; swinograd@rclawsc.com; ben@bentraywicklaw.com; ali@bentraywicklaw.com; lin@mlf.law; tom@mlf.law; Peterson, Kirsten <kirsten.peterson@ogletreedeakins.com>
Cc: Carl Muller <carl@carlmullerlaw.com>; Stambaugh, Montana <Montana.Stambaugh@OgletreeDeakins.com>
Subject: RE: Notice of Appeal (2)

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Good evening, everyone. My firm will be filing a motion to be relieved of counsel in this matter. In order to do so, we will need consent from all parties to the appeal. At your earliest convenience, I'd appreciate it if you'd reply with your consent. Thank you.

Michael Nail | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

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michael.nail@ogletree.com | www.ogletree.com | [Bio](#)

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D. Kay Kelly

kay@carlmullerlaw.com

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864.751.2831 fax

607 Pendleton Street Suite 201

Greenville, SC 29601

Stambaugh, Montana

From: Tyler E. Cloud <tcloud@clawsonandstaubes.com>
Sent: Monday, May 30, 2022 2:53 PM
To: Nail, Michael; jross@rcaawsc.com; swinograd@rclawsc.com
Subject: RE: Notice of Appeal (2)

[Caution: Email received from external source]

No objection

Tyler E. Cloud
Licensed in SC

126 Seven Farms Drive, Suite 200 | Charleston SC | 29492-8144
Phone: 843 577 2026 Ext. 2239 | Fax: 843 722 2867

Website: www.clawsonandstaubes.com | **Email:** tcloud@clawsonandstaubes.com | **Location:** [Map](#)

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From: Nail, Michael <michael.nail@ogletree.com>
Sent: May 30, 2022 12:52 PM
To: Tyler E. Cloud <tcloud@clawsonandstaubes.com>; jross@rcaawsc.com; swinograd@rclawsc.com
Subject: RE: Notice of Appeal (2)

Good afternoon, and I hope all is well. Please let me know if you consent to the below. Thank you

Michael Nail | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
The Ogletree Building, 300 North Main Street, Suite 500 | Greenville, SC 29601 | Telephone: 864-240-8213
michael.nail@ogletree.com | www.ogletree.com | [Bio](#)

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D. Kay Kelly

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Stambaugh, Montana

From: Scott Winograd <swinograd@rclawsc.com>
Sent: Tuesday, May 31, 2022 8:02 AM
To: Tyler E. Cloud; Nail, Michael
Cc: Jeff Ross; Bobbi Myers
Subject: RE: Notice of Appeal (2)

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This is fine with us Michael.

Thanks,



Scott Winograd
Associate
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(843) 329-4040
swinograd@rclawsc.com

Admitted in SC, NC, & OH

Please note our email address change – our entire firm will now be “first initial, last name @rclawsc.com”

Please note our firm address change

Please note our firm is paperless – please request hard copies if desired

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No objection

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Cross-defendants and Respondents

CERTIFICATE OF SERVICE AND FILING

The undersigned does hereby certify that on June 2nd 2022, a copy of the Notice Motion to be Relieved as Counsel was served by email and first-class mail on all counsel of record as follows:

Carl F. Muller, Attorney at Law PA
607 Pendleton Street, Suite 201
Greenville, SC 29601
864-991-8904
carl@carlmullerlaw.com
Co-Counsel Attorney for Cross-claimant/Appellant D.R Horton, Inc

Tyler E. Cloud
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Attorney for Respondent East Coast Construction Cleanup Corp.
f/k/a S. C. Cleanup Co., Inc

Emily Gifford Lucey
Megan C. White
Richardson Plowden & Robinson, PA
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Attorney for Respondent Hutton's Landscapes, Inc.

Jeffery A. Ross
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swinograd@rclawsc.com
Attorneys for Respondent Lather Construction, Inc., and
Lather Construction SC, Inc.

Benjamin A. C. Traywick
Alexandra Scott Williams
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843-872-1709 Phone
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and

J. Olin McDougall, II
William Thomas Bacon, IV
McDougall Law Firm, LLC
PO Box 1336
Beaufort, South Carolina 29901-1336
843-379-7000 Phone
lin@mlf.law
tom@mlf.law

Attorneys for the Respondent Plaintiffs

s/S. Michael Nail _____