

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

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)
)

THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

CASE NO.: 2019-CP-10-03514

RONALD P. DEMPSEY AND TERESA F. DEMPSEY,)

)

Plaintiffs,

)

v.

)

)

OHLUND CUSTOM BUILDERS, LLC; BUILT

)

RIGHT CONSTRUCTION, LLC; FOGEL SERVICES,

)

INC.; ERIC C'S ELECTRIC CO., LLC; C&B

)

ELECTRICAL SERVICES, INC.; A+ PLUMBING

)

SERVICES, LLC; DURDEN PLUMBING F/K/A

)

DURDEN PLUMBING COMPANY; ALLURA USA

)

LLC; PLYCEM USA LLC D/B/A ALLURA, PLYCEM

)

USA, INC.; ELEMENTIA USA, INC.; AND

)

ELEMENTIA, S.A. DE C.V.; ANTHONY

)

BONGIOVANNI; MARK VALLARIO; DURDEN &

)

CHIPLEY CO a/k/a DURDEN & CHIPLEY, LLC;

)

GILBERTO RODRIGUEZ d/b/a GR ELECTRIC

)

SERVICE, LLC; J C CRAVEN ROOFING, LLC a/k/a

)

JOHN CRAVEN ROOFING; MAYPE

)

CONSTRUCTION, LLC A/K/A MAYPEE

)

CONSTRUCTION; SOUTHERN PLUMBING

)

CONTRACTORS, LLC; INSULATION BY COHEN'S,

)

LLC; EXPRESS SUNROOMS OF CHARLESTON,

)

LLC; AND DENNIS COBLENTZ D/B/A COBLENTZ

)

CONCRETE CONSTRUCTION, LLC, CAROLINA

)

SIDING CONTRACTORS, LLC; OLD

)

CHARLESTOWNE ASSOCIATES, LLC;

)

SA FLOOR COVERING, LLC; AND

)

M&R CONSTRUCTION, A/K/A M&R

)

CONSTRUCTION, INC.

)

)

Defendants.

)

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**MOTION TO DISMISS AND/OR
MOTION FOR SUMMARY
JUDGMENT**

Pursuant to SCRCP 12(b)(6) and/or 56 the defendant hereby moves this court for an order dismissing the plaintiff's complaint against this defendant or alternatively requests this court grant him judgment as a matter of law. The grounds for this motion are that the plaintiff has failed to set forth facts sufficient to constitute a cause of action against this defendant. Specifically, the plaintiff has named M&R Construction, Inc. as a defendant, but this defendant had nothing to do with the construction of the

building/residence in question nor has any connection with the building/residence in question. Therefore, the complaint should be dismissed as to this defendant as a matter of law.

This motion is supported by the South Carolina rules of Civil Procedure, the statutory and case law applicable hereto, any affidavits, memorandums or other documents submitted in support of the motion. The defendant specifically requests an award of attorney's fees and costs for having to file said motion given that counsel for the plaintiff has admitted that they named the wrong defendant in this action, but has refused to dismiss this defendant despite numerous requests to do so before filing this motion. Plaintiff's counsel was also provided adequate notice that such motion by the defendant would be made if Plaintiff failed to dismiss this defendant by November 20, 2020.

Respectfully Submitted,

KNIGHT & WHITTINGTON, LLC

S/Alexander C. Craven

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Attorney for Defendant M&R Construction, Inc.

November 25, 2020
Summerville, SC