

STATE OF NORTH CAROLINA

WAKE County

File No. 08-CVS-08-04920928

Film No.

Plaintiff's Name

Hunter Roberts Construction Group

Address
c/o Kenneth Lautenschlager
P.O. Box 36469

City, State, Zip

Charlotte, NC 28236

In The General Court of Justice
 District Court Division Superior Court Division

CIVIL SUMMONS

Defendant(s) **VERSUS**
GLEN-TREE INVESTMENTS, LLC

ALIAS AND PLURIES SUMMONS
The summons originally issued against you was returned not served.

Date Last Summons Issued

Disregard this section unless the block is checked

TO: Name & Address of Defendant
Glen-Tree Investments, LLC
c/o Dicky S. Walia, Registered Agent
4901 Glenwood Avenue, Suite 210
Raleigh, NC 27612

TO: Name & Address of Defendant
Glen-Tree Investments, LLC
c/o Officers, Directors or Managing Agents
4901 Glenwood Avenue, Suite 210
Raleigh, NC 27612

A CIVIL ACTION HAS BEEN COMMENCED AGAINST YOU!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or his attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to him or by mailing it to him at his last known address, and
2. File an original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint the plaintiff will apply to the court for the relief demanded in the complaint.

Name and Address of Plaintiff's Attorney. If none, Address of Plaintiff
Kenneth Lautenschlager
JOHNSTON, ALLISON & HORD, P.A.
P.O. Box 36469
Charlotte, NC 28236
(704) 332-1181

Date Issued
12-01-2008

Time Issued
2 AM PM

Signature

Jayce H.

Deputy CSC Assistant CSC CSC

08-CVS-20928

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Jupia H

Deputy CSC Assistant CSC CSC

FILED

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
WAKE COUNTY FILE NO: 08-CVS-_____

HUNTER ROBERTS CONSTRUCTION GROUP,
LLC,

Plaintiff,

vs.

GLEN-TREE INVESTMENTS, LLC,
Defendant.

COMPLAINT

NOW COMES the Plaintiff, Hunter Roberts Construction Group, LLC, complaining of the Defendant Glen-Tree Investments, LLC, and alleges and states as follows:

PARTIES AND JURISDICTION

1. Hunter Roberts Construction Group, LLC ("Hunter Roberts") is a limited liability company organized and existing under the laws of the State of Delaware, and is duly authorized to conduct business in North Carolina and maintains an office in Wake County, North Carolina.
2. Upon information and belief, Glen-Tree Investments, LLC ("Glen-Tree Investments") is a North Carolina limited liability company with a principal place of business located in Wake County, North Carolina.
3. Venue is proper in Wake County, North Carolina.
4. This Court has jurisdiction over the parties and the subject matter of this dispute.
5. Glen-Tree Investments is the owner of real property located in Wake County, North Carolina.
6. This action involves work and improvements to real property owned by Glen-Tree Investments and located in Wake County, North Carolina.

FACTUAL BACKGROUND

7. Paragraphs 1-6 above are hereby realleged and incorporated herein by reference.

8. Hunter Roberts is in the business of providing general contracting services for construction of commercial construction projects.

9. Upon information and belief, Glen-Tree Investments is the owner of real property and improvements thereon commonly referred to as the Westin Raleigh Soleil Center Mixed-Use Development ("Soleil Center") located at 4501 Creedmoor Road, Raleigh, North Carolina 27612 with Parcel Identification No. 0796315688. The Real Property is more specifically described in the Substitute Trustee's Deed recorded at Book 10591, Page 1818 at the Wake County Register of Deeds consisting of approximately 4.88 acres and being owned by the record owner Glen-Tree Investments, LLC (the "Real Property").

10. On or about August 31, 2007, Glen-Tree Investments entered into an agreement with Hunter Roberts pursuant to which Hunter Roberts would act as a general contractor for the construction of improvements on the Real Property ("Project").

11. In exchange for Hunter Roberts providing various general contracting services for the Project, Glen-Tree Investments agreed to pay Hunter Roberts for the labor, materials, equipment and services provided.

12. Hunter Roberts in fact provided substantial general contracting services in the form of labor, materials, equipment and related services to the Project for which it is owed pursuant to its agreement with Glen-Tree Investments.

13. The total amount owed is \$918,320.00 plus interest.

14. Glen-Tree Investments has admitted that said amounts are owed, but did not have available funding to pay the amount due.

15. On October 12, 2008, Hunter Roberts filed a Claim of Lien against the Real Property at File No. 08-M-6875.

16. Hunter Roberts filed the aforementioned Claim of Lien against the Real Property due to Glen-Tree Investments refusal to pay Hunter Roberts for work performed on the Real Property.

FIRST CAUSE OF ACTION
(Breach of Contract)

17. Paragraphs 1-16 above are hereby realleged and incorporated herein by reference.

18. In exchange for Glen-Tree Investments promise to pay Hunter Roberts for labor, equipment, materials and other general contracting services provided to the Project site, Hunter Roberts provided said labor, equipment, materials and other general contracting services necessary for certain improvements to the Real Property.

19. Glen-Tree Investments has failed and refused to remit payment to Hunter Roberts for the labor, equipment, materials and general contracting services provided pursuant to the parties' agreement.

20. Glen-Tree Investments' failure and refusal to pay amounts due constitutes a breach of contract.

21. As a direct result of Glen-Tree Investments' breach of contract, Hunter Roberts has been damaged in an amount to be proven at trial, but believed to be at least \$918,320.00.

SECOND CAUSE OF ACTION
(Alternatively Unjust Enrichment)

22. Paragraphs 1-21 above are hereby realleged and incorporated herein by reference.

23. At the specific request of Glen-Tree Investments and for its use and benefit, Hunter Roberts provided Glen-Tree Investments with labor, equipment and materials necessary to improve the Real Property, including without limitation, the provision of labor, materials and equipment related to the installation of foundations, caissons, tower crane foundations, footings, pile caps, elevator pits and other general construction work.

24. The labor, equipment, materials and services provided by Hunter Roberts have substantial value and were not provided as a gift, gratuity or in satisfaction of any debt then or now due and owing to Glen-Tree Investments.

25. The labor, equipment, materials and services provided by Hunter Roberts for which it has not been paid are worth the sum of at least \$918,320.00.

26. To allow Glen-Tree Investments to retain the benefit of Hunter Roberts' labor, materials, equipment and services without compensating Hunter Roberts would unjustly enrich Glen-Tree Investments.

27. Hunter Roberts is therefore entitled to recover the value of its labor, materials, equipment and services provided to Glen-Tree Investments in an amount of at least \$918,320.00.

THIRD CAUSE OF ACTION
(Enforcement of Mechanic's Lien N.C. Gen. Stat. § 44A-12)

28. Paragraphs 1-27 above are hereby realleged and incorporated herein by reference.

29. On June 4, 2008, Plaintiff Hunter Roberts last provided labor, materials, equipment and services to improve the subject Real Property.

30. Plaintiff Hunter Roberts has not been paid all amounts due for the labor, materials, equipment and services provided to improve the subject Real Property.

31. On October 12, 2008, Plaintiff Hunter Roberts filed a Claim of Lien against the subject Real Property within 120 days of the last date of labor, materials, equipment and services beings provided to improve the subject Real Property.

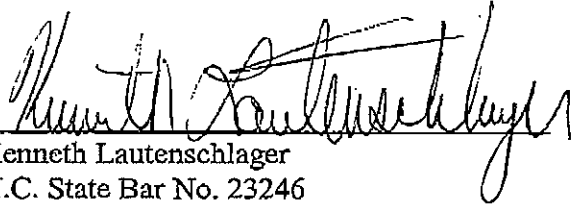
32. Hunter Roberts, as a result of Claim of Lien, and by reason of Glen-Tree Investments' failure to pay amounts owed, is entitled to a mechanics lien against the Real Property in the amount of not less than \$918,320.00 and to have said Lien enforced by a sale of the Real Property with said lien relating back to Hunter Roberts first date of work, September 7, 2007.

33. Hunter Roberts has complied with the conditions precedent to the filings of this lawsuit, including those requirements of perfecting and enforcing its mechanics lien rights in the Real Property pursuant to N.C. Gen. Stat. § 44A-7 et seq.

WHEREFORE, Hunter Roberts Construction Group, LLC prays the Court for the following relief:

1. Award Plaintiff its damages for Defendant's breach in an amount to be proven at trial, but believed to be at least \$918,320.00;
2. Award Plaintiff its damages to prevent Defendant's unjust enrichment in an amount to be proven at trial, but believed to be at least \$918,320.00;
3. Enter judgment against Defendant granting Plaintiff a Lien in the subject Real Property in an amount of at least \$918,320.00 and that the judgment direct the sale of Real Property to satisfy Plaintiff's Lien;
4. Enter judgment against the Defendant for Plaintiff's attorneys' fees pursuant to N.C. Gen. Stat. § 44A-35;
5. All costs of this action be taxed to Defendant; and
6. For such other and further relief as the Court deems just and proper.

This the 26th day of November, 2008.



Kenneth Lautenschlager
N.C. State Bar No. 23246
JOHNSTON, ALLISON & HORD, P.A.
Post Office Box 36469
Charlotte, North Carolina 28236
Tel: 704/332-1181 Fax: 704/376-1628
*Attorney for Plaintiff Hunter Roberts Construction
Group, LLC*