

IN THE SUPREME COURT OF THE STATE OF MONTANA

Case No. DA 21-0532

DARRELL LEE CONSTRUCTION,
LLC,

Third Party Plaintiff and Appellant,

v.

SUPERIOR HARDWOODS AND
MILLWORK, INC. d/b/a GRIZZLY
FLOORING INSTALLATION,

Third Party Defendant and Appellee.

SELECTION OF MEDIATOR

COME NOW the parties and advise that they have stipulated to and selected Mike Lilly of Berg Lilly, PC as mediator for purposes of complying with the requirements of M. R. App. P. 7(4)(c).

Counsel for Aspen American Insurance Company takes no position as to the mediator the parties select. *See* August 18, 2022 Email from Mr. MacIntyre to Mr. Beal attached hereto as Exhibit 1.

Counsel for Jon Williams and Darrell Lee Construction, LLC, in the underlying District Court case DV-18-109, takes no position as to the appellate mediator.

See August 18, 2022 Email from Mr. Erickson to Counsel attached hereto as Exhibit
2.

The undersigned has been authorized by counsel to affix their electronic
signature.

DATED this 18th day of August, 2022.

BEAL LAW FIRM, PLLC
Attorneys for Appellee Superior Hardwoods
and Millwork, Inc. d/b/a Grizzly Flooring
Installation

By: /s/ Jon G. Beal
Jon G. Beal

DATED this 18th day of August, 2022.

BOHYER, ERICKSON, BEUADETTE &
TRANEL, P.C.
Attorneys for Wagner & Lyons, PLLC f/k/a
Sullivan, Wagner & Lyons, PLLC, Nathan
Wagner, Zane Sullivan and Jenna Lyons

By: /s/ Jesse Beaudette
Jesse Beaudette
Ryan Heuwinkel

//

DATED this 18th day of August, 2022.

CROWLEY FLECK, PLLP
Attorneys for Maddux Real Estate Group,
Inc., Dawn Maddux and Raleigh Ward

By: /s/ Jeffrey Roth
Jeffrey Roth
Jeffrey Kuchel

CERTIFICATE OF SERVICE

I, the undersigned, an employee of Beal Law Firm, PLLC, hereby certify that a true and correct copy of the foregoing was forwarded as set forth below, at Missoula, Montana this 18th day of August, 2022, to:

Jeffrey M. Roth
Jeffrey R. Kuchel
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305 South 4th Street East, Suite 100
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Missoula, MT 59807-7099

jroth@crowleyfleck.com

jkuchel@crowleyfleck.com

Attorneys for Defendants/Counterclaimants Maddux Real Estate, Dawn Maddux and Raleigh Ward

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☐ Facsimile
☐ Email
☒ **E-File**

Jesse Beaudette
Ryan Heuwinkel
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Attorneys for Wagner & Lyons, PLLC f/k/a Sullivan, Wagner & Lyons, PLLC, Nathan Wagner, Zane Sullivan and Jenna Lyons

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Attorneys for Datsopoulos, MacDonald, & Lind, P.C.

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Attorneys for Datsopoulos, MacDonald, & Lind, P.C.
Requested to Still be Copied by Mark Williams of
Williams, Law Firm, P.C.

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Personal Attorneys for Attorney Zane Sullivan

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erickson@montanalawyer.com

Attorneys for Defendant/Third-Party/Plaintiff Darrell
Lee Construction, LLC and Defendant Jon Williams in
DV-18-109

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Attorneys for Aspen American Insurance Company

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Hope Moore
Paralegal to Jon G. Beal

2022-08-18 Selection of Mediator

Exhibit 1

BEAL LAW FIRM, PLLC

From: Shane MacIntyre <SMacIntyre@BrownFirm.com>
Sent: Thursday, August 18, 2022 9:52 AM
To: Hope Moore; erickson@montanalawyer.com
Cc: Jon Beal; Ian Gillespie; Taylor Helean; Mary Maynard
Subject: RE: [Act Req] Superior Hardwoods (adv Darrell Lee Construction) (Ltr JB to Counsel (Propose Appellate Mediator)) SUP 18-01

My client (not a named party) takes no position as to the mediator the parties in the case would like to use for the Appellate Mediation. Thanks--

Shane

--

Shane A. MacIntyre

BROWN LAW FIRM, P.C.

269 W. Front Street, Suite A
Missoula, MT 59802

Phone: 406.830.3743

Email: smacintyre@brownfirm.com

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From: Hope Moore <hmoore@beallawfirm.com>
Sent: Thursday, August 18, 2022 9:26 AM
To: Shane MacIntyre <SMacIntyre@BrownFirm.com>; erickson@montanalawyer.com
Cc: Jon Beal <jonbeal@beallawfirm.com>; Ian Gillespie <igillespie@beallawfirm.com>
Subject: FW: [Act Req] Superior Hardwoods (adv Darrell Lee Construction) (Ltr JB to Counsel (Propose Appellate Mediator)) SUP 18-01
Importance: High

Good Morning, Mr. Erickson and Mr. MacIntyre:

Please let us know promptly this morning if you and your respective clients are agreeable to using Mike Lilly of Berg Lilly, PC as the appellate mediator in this matter. All other counsel and their respective clients are agreeable in this

regard. We plan to notify the MT Supreme Court today of the parties agreement to use Mike Lilly, as the deadline to do so is fast approaching, but we await your response. Thank you for your prompt attention to this important matter.

Sincerely,

Hope Moore
Paralegal
BEAL LAW FIRM, PLLC
121 Hickory St., Suite 4
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Phone (406) 728-2911
Fax (406) 728-2912
hmoore@beallawfirm.com

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From: Mark Williams <mark@wmslaw.com>
Sent: Thursday, August 18, 2022 7:58 AM
To: Cory Laird <claird@lairdcowley.com>; Jesse Beaudette <jbeaudette@bebtlaw.com>; Jeffrey M. Roth <jroth@crowleyfleck.com>; smacintyre@brownfirm.com; Dennis E. Lind <dlind@dmllaw.com>; mhoward@dmllaw.com; Ryan Heuwinkel <rheuwinkel@bebtlaw.com>; erickson@montanalawyer.com; James Johnson <james@wmslaw.com>; Jon Beal <jonbeal@beallawfirm.com>
Cc: Hope Moore <hmoore@beallawfirm.com>; Jeffrey Kuchel <jkuchel@crowleyfleck.com>; Jeannette Asbury <jasbury@bebtlaw.com>; Leanne C. Gibson <LGibson@bebtlaw.com>
Subject: RE: [Act Req] Superior Hardwoods (adv Darrell Lee Construction) (Ltr JB to Counsel (Propose Appellate Mediator)) SUP 18-01; BEBT file no. 8328

We would be happy to have Mike Lilly serve as the mediator. Thanks.

Mark

From: Cory Laird <claird@lairdcowley.com>
Sent: Thursday, August 18, 2022 7:16 AM
To: Jesse Beaudette <jbeaudette@bebtlaw.com>; Jeffrey M. Roth <jroth@crowleyfleck.com>; Mark Williams <mark@wmslaw.com>; smacintyre@brownfirm.com; Dennis E. Lind <dlind@dmllaw.com>; mhoward@dmllaw.com; Ryan Heuwinkel <rheuwinkel@bebtlaw.com>; erickson@montanalawyer.com; James Johnson <james@wmslaw.com>; Jon Beal <jonbeal@beallawfirm.com>
Cc: Hope Moore <hmoore@beallawfirm.com>; Jeffrey Kuchel <jkuchel@crowleyfleck.com>; Jeannette Asbury <jasbury@bebtlaw.com>; Leanne C. Gibson <LGibson@bebtlaw.com>
Subject: RE: [Act Req] Superior Hardwoods (adv Darrell Lee Construction) (Ltr JB to Counsel (Propose Appellate Mediator)) SUP 18-01; BEBT file no. 8328

No objection to Mike.



Cory R. Laird
Attorney

Phone 406-541-7400 **Facsimile** 406-541-7414
Web www.lairdcowley.com **Email** claird@lairdcowley.com
2315 McDonald Avenue, Suite 220, Missoula, MT 59801
P.O. Box 4066, Missoula, MT 59806

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From: Jesse Beaudette <jbeaudette@bebtlaw.com>
Sent: Thursday, August 18, 2022 7:10 AM
To: Jeffrey M. Roth <jroth@crowleyfleck.com>; Cory Laird <claird@lairdcowley.com>; mark@wmslaw.com; smacintyre@brownfirm.com; Dennis E. Lind <dlind@dmlaw.com>; mhoward@dmlaw.com; Ryan Heuwinkel <rheuwinkel@bebtlaw.com>; erickson@montanalawyer.com; jjohnson@wmslaw.com; Jon Beal <jonbeal@beallawfirm.com>
Cc: Hope Moore <hmoore@beallawfirm.com>; Jeffrey Kuchel <jkuchel@crowleyfleck.com>; Jeannette Asbury <jasbury@bebtlaw.com>; Leanne C. Gibson <LGibson@bebtlaw.com>
Subject: RE: [Act Req] Superior Hardwoods (adv Darrell Lee Construction) (Ltr JB to Counsel (Propose Appellate Mediator)) SUP 18-01; BEBT file no. 8328

On behalf of Wagner & Lyons, PLLC, we also agree to the engagement of Mike Lilly as the appellate mediator.

Jesse

Jesse Beaudette (he/him/his)
Bohyer, Erickson, Beaudette & Tranel, PC
jbeaudette@bebtlaw.com
Phone: 406-532-7800



From: Jeffrey M. Roth <jroth@crowleyfleck.com>
Sent: Wednesday, August 17, 2022 4:40 PM
To: claird@lairdcowley.com; mark@wmslaw.com; smacintyre@brownfirm.com; Dennis E. Lind <dlind@dmlaw.com>; mhoward@dmlaw.com; Jesse Beaudette <jbeaudette@bebtlaw.com>; Ryan Heuwinkel <rheuwinkel@bebtlaw.com>;

erickson@montanalawyer.com; jjohnson@wmslaw.com; Jon Beal <jonbeal@beallawfirm.com>

Cc: Hope Moore <hmoore@beallawfirm.com>; Jeffrey Kuchel <jkuchel@crowleyfleck.com>

Subject: RE: [Act Req] Superior Hardwoods (adv Darrell Lee Construction) (Ltr JB to Counsel (Propose Appellate Mediator)) SUP 18-01

Counsel,

On behalf of the Maddux Defendants, we agree to the engagement of Mike Lilly as the appellate mediator.

Thank you,
Jeff

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From: Hope Moore <hmoore@beallawfirm.com>

Sent: Wednesday, August 17, 2022 9:10 AM

To: claird@lairdcowley.com; tsmith@lairdcowley.com; mark@wmslaw.com; smacintyre@brownfirm.com; Dennis E. Lind <dlind@dmllaw.com>; mhoward@dmllaw.com; jbeaudette@bebtlaw.com; Rheuwinkel@bebtlaw.com; erickson@montanalawyer.com; Jeffrey M. Roth <jroth@crowleyfleck.com>; Jeffrey Kuchel <jkuchel@crowleyfleck.com>; jjohnson@wmslaw.com

Cc: Jon Beal <jonbeal@beallawfirm.com>; Hope Moore <hmoore@beallawfirm.com>; Ian Gillespie <igillespie@beallawfirm.com>; Rose Dumont <rdumont@crowleyfleck.com>; dhanninen@lairdcowley.com; jasbury@bebtlaw.com; jgibson@bebtlaw.com; mail@bebtlaw.com; Stephenie Dunwell <sdunwell@lairdcowley.com>

Subject: [Act Req] Superior Hardwoods (adv Darrell Lee Construction) (Ltr JB to Counsel (Propose Appellate Mediator)) SUP 18-01

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[] Per your request.

[] For your information.

Dear Counsel:

Attached please find the following document:

- 2022-08-17 Letter from Mr. Beal to Mr. Roth, Mr. Kuchel, Mr. Laird, Mr. Smith, Mr. Beaudette, Mr. Heuwinkel, Mr. Williams, Mr. Johnson, Mr. Erickson, Mr. MacIntyre, Mr. Lind and Ms. Howard (Propose Appellate Mediator)

If you have any questions or comments, please contact Mr. Beal directly at jonbeal@beallawfirm.com, with a copy to myself as well. Thank you.

Sincerely,

Hope Moore
Paralegal
BEAL LAW FIRM, PLLC
121 Hickory St., Suite 4
P.O. Box 8898
Missoula, MT 59807-8898
Phone (406) 728-2911
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2022-08-18 Selection of Mediator

Exhibit 2

BEAL LAW FIRM, PLLC

From: Robert Erickson <erickson@montanalawyer.com>
Sent: Thursday, August 18, 2022 10:09 AM
To: Cory Laird; Jesse Beaudette; Jeffrey M. Roth; mark@wmslaw.com; smacintyre@brownfirm.com; Dennis E. Lind; mhoward@dmllaw.com; Ryan Heuwinkel; jjohnson@wmslaw.com; Jon Beal
Cc: Hope Moore; Jeffrey Kuchel; Jeannette Asbury; Leanne C. Gibson
Subject: RE: [Act Req] Superior Hardwoods (adv Darrell Lee Construction) (Ltr JB to Counsel (Propose Appellate Mediator)) SUP 18-01; BEBT file no. 8328

Dear Counsel,

Our firm does not represent DLC in the appeal so I do not have authority to agree to Mr. Lilly. By the same token, we also obviously aren't in a position to object to him either.

Rob Erickson

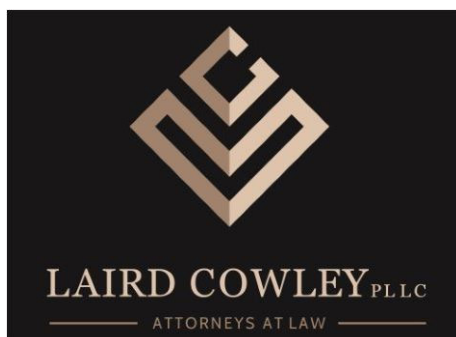
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Cc: Hope Moore <hmoore@beallawfirm.com>; Jeffrey Kuchel <jkuchel@crowleyfleck.com>; Jeannette Asbury <jasbury@bebtlaw.com>; Leanne C. Gibson <LGibson@bebtlaw.com>
Subject: RE: [Act Req] Superior Hardwoods (adv Darrell Lee Construction) (Ltr JB to Counsel (Propose Appellate Mediator)) SUP 18-01; BEBT file no. 8328

No objection to Mike.



Cory R. Laird

Attorney

Phone 406-541-7400 **Facsimile** 406-541-7414

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Cc: Hope Moore <hmoore@beallawfirm.com>; Jeffrey Kuchel <jkuchel@crowleyfleck.com>; Jeannette Asbury <jasbury@bebtlaw.com>; Leanne C. Gibson <LGibson@bebtlaw.com>

Subject: RE: [Act Req] Superior Hardwoods (adv Darrell Lee Construction) (Ltr JB to Counsel (Propose Appellate Mediator)) SUP 18-01; BEBT file no. 8328

On behalf of Wagner & Lyons, PLLC, we also agree to the engagement of Mike Lilly as the appellate mediator.

Jesse

Jesse Beaudette (he/him/his)
Bohyer, Erickson, Beaudette & Tranel, PC
jbeaudette@bebtlaw.com
Phone: 406-532-7800



From: Jeffrey M. Roth <jroth@crowleyfleck.com>

Sent: Wednesday, August 17, 2022 4:40 PM

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Cc: Hope Moore <hmoore@beallawfirm.com>; Jeffrey Kuchel <jkuchel@crowleyfleck.com>

Subject: RE: [Act Req] Superior Hardwoods (adv Darrell Lee Construction) (Ltr JB to Counsel (Propose Appellate Mediator)) SUP 18-01

Counsel,

On behalf of the Maddux Defendants, we agree to the engagement of Mike Lilly as the appellate mediator.

Thank you,
Jeff

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Cc: Jon Beal <jonbeal@beallawfirm.com>; Hope Moore <hmoore@beallawfirm.com>; Ian Gillespie <igillespie@beallawfirm.com>; Rose Dumont <rdumont@crowleyfleck.com>; dhanninen@lairdcowley.com; jasbury@bebtlaw.com; lgibson@bebtlaw.com; mail@bebtlaw.com; Stephenie Dunwell <sdunwell@lairdcowley.com>

Subject: [Act Req] Superior Hardwoods (adv Darrell Lee Construction) (Ltr JB to Counsel (Propose Appellate Mediator)) SUP 18-01

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Dear Counsel:

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If you have any questions or comments, please contact Mr. Beal directly at jonbeal@beallawfirm.com, with a copy to myself as well. Thank you.

Sincerely,

Hope Moore

Paralegal

BEAL LAW FIRM, PLLC

121 Hickory St., Suite 4

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CERTIFICATE OF SERVICE

I, Jon G Beal, hereby certify that I have served true and accurate copies of the foregoing Mediation - Selection of Mediator to the following on 08-18-2022:

Nathan G. Wagner (Attorney)
1821 South Ave W., Ste. 501
Missoula MT 59801
Representing: Darrell Lee Construction, LLC
Service Method: eService

Kristine J. Beal (Attorney)
PO Box 8898
Missoula MT 59807
Representing: Superior Hardwoods and Millwork, Inc.
Service Method: eService

Ian Philip Gillespie (Attorney)
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Missoula MT 59807
Representing: Superior Hardwoods and Millwork, Inc.
Service Method: eService

Jesse Beaudette (Attorney)
283 W. Front St. Suite 201
PO Box 7729
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Representing: Wagner & Lyons, PLLC, f/k/a Sullivan, Wagner & Lyons PLLC
Service Method: eService

Ryan T. Heuwinkel (Attorney)
283 W Front St, Suite 201
PO Box 7729
Missoula MT 59807
Representing: Wagner & Lyons, PLLC, f/k/a Sullivan, Wagner & Lyons PLLC
Service Method: eService

Jeffrey M. Roth (Attorney)
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Tyler Cole Smith (Attorney)
Laird Cowley, PLLC
P.O. Box 4066
Missoula

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Robert Erickson (Attorney)
430 Ryman Street
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Shane Alexander MacIntyre (Attorney)
269 W. Front St, Ste A
Missoula MT 59802
Service Method: eService
E-mail Address: smacintyre@brownfirm.com

Electronically Signed By: Jon G Beal
Dated: 08-18-2022