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Susan Taylor Wall

**Via Hand Delivery**

The Honorable Daniel E. Shearouse  
Clerk, South Carolina Supreme Court  
1231 Gervais Street  
Columbia, South Carolina 29201

**S.C. Supreme Court**

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Re: *Elizabeth O'Meara v. Brookdale Senior Living, Inc., et al./Yvonne  
Carrie Pruett v. Brookdale Senior Living, Inc., et al./Janet Sue Scheerle  
v. Brookdale Senior Living, Inc., et al.*  
Consolidated Appellate Case No. 2011-199666

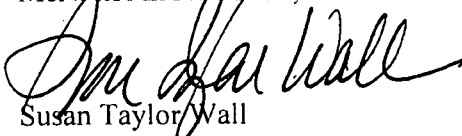
Dear Mr. Shearouse:

I am writing to bring to the Court's attention the Court of Appeals' recent decision in *Smith v. D.R. Horton, Inc.*, Op. No. 5118 (S.C. Ct. App. filed April 17, 2013) (Shearouse Adv. Sh. No. 17 at 60). In *D.R. Horton*, the Court of Appeals, citing to *Simpson v. MSA of Myrtle Beach, Inc.*, 373 S.C. 14, 644 S.E.2d 663 (2007), found an arbitration provision containing limitations on legal remedies and damages unconscionable. The Court of Appeals further refused to sever the unconscionable terms from the arbitration provision, finding the arbitration provision unenforceable. Thus, the Court found no need to reach the issue of whether the Federal Arbitration Act applied.

I have received a copy of Appellants' letter to the Court concerning the recent decision of *Cape Romain Contractors, Inc. v. Wando E., LLC*, Op. No. 27298 (S.C. Sup. Ct. filed Aug. 14, 2013) (Shearouse Adv. Sh. No. 36 at 55). In this consolidated appeal before the Court, the lower court's citation to *Timms v. Greene*, 310 S.C. 469, 427 S.E.2d 642 (1993) is consistent with the holding in *Cape Romain*. The lower court stated a "contract must in fact involve interstate commerce to enforce an arbitration provision in the contract." (R. pp. 4, 152, 305); *See Cape Romain*, Op. No. 27298 at 59 n.5.

Respectfully submitted,

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