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September 18, 2025

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SC Court of Appeals

VIA EMAIL: ctappfilings@sccourts.org

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

**Re: Sherman and Claudia Howell vs. D.R. Horton, Inc.
Appellate Tracking No. 2024-001963
Our File No. 8835.002**

Dear Ms. Kitchings:

Please accept this correspondence from Respondents, Sherman and Claudia Howell, in response to the correspondence dated September 9, 2025, from Appellant, D.R. Horton, providing notice of the South Carolina District Court Order entered in *Vriens v. Tip-Top Roofing & Construction, LLC*, 2:23-cv-06797-DCN pursuant to SCACR, Rule 208(b)(7). The arguments in Respondents' Opposition to Appellant's Motion to Amend and to Supplement the Record filed simultaneously herewith are incorporated by reference.

First, Appellant failed to comply with the procedural requirements of Rule 208(b)(7), SCACR. Under Rule 208(b)(7), a party wishing to supplement the record must provide "a reference either to the page of the brief or to an issue to which the citations pertain" and shall "state the reasons for the supplemental citations." Rule 208(b)(7), SCACR. Here, Appellant generally argues that the Order is "pertinent to D.R. Horton's arguments that the arbitration provision is subject to the Federal Arbitration Act; is a standalone provision found in section 15 of the Home Purchase Agreement, is not unconscionable, and is enforceable; and did not merge with the deed to Respondents' home." However, Appellant fails to state the reasons that the Order is pertinent or how a federal district court order is applicable in this state court action.

Second, to that end, under Rule 208(b)(7), the authority to be supplemented must be "pertinent and significant," yet *Vriens* is neither pertinent nor significant. Rule 208(b)(7), SCACR. Pertinent is defined as "having a clear decisive relevance to the matter in hand." *Pertinent*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/pertinent> (last accessed September 14, 2025); *see also Pertinent*, Black's Law Dictionary (defining pertinent as "applicable"). Significant is likewise defined as "having or likely to have influence or effect."

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Significant, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/significant> (last accessed September 14, 2025).

Here, *Vriens* is neither pertinent nor significant because it is not controlling authority. *Vriens* is a federal case from the district of South Carolina. While the issues addressed in *Vriens* are similar to the issues here, *Vriens* does not contribute any analysis that has not already been presented by Appellant.

In fact, supplementing the record with non-binding authority opens the door for similarly non-binding authority from any of the numerous cases regarding the same arbitration clause in D.R. Horton's contracts. *See, e.g., Abatiello v. D.R. Horton*, No. 2025-CP-32-00293 (denying D.R. Horton's motion to compel arbitration and finding that the arbitration clause is not subject to the FAA, that article 14 is incorporated by reference into the arbitration provision, that the arbitration clause is unconscionable and unenforceable, and that the arbitration clause merged into the deed); *English v. D.R. Horton*, No. 2025-CP-32-00254 (same); *Faherty v. D.R. Horton*, No. 2025-CP-32-00255 (same); *Harley v. D.R. Horton*, No. 2023-CP-02-01719 (same); *Hill v. D.R. Horton*, No. 2024-CP-40-03666 (granting D.R. Horton's motion to compel arbitration). Because the Order in *Vriens* is not pertinent or significant, supplementing with this citation is not proper under Rule 208(b)(7), SCACR.

If you should require anything further or have any questions, please feel free to contact me.

With kind regards, I am

Sincerely yours,

CALLISON TIGHE & ROBINSON, LLC

s/ Ian J. Duggan

Ian T. Duggan

ITD:kam
Enclosures
cc: (w/ encl.)

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