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VIA EMAIL ONLY
South Carolina Court of Appeals
The Hon. Jenny Abbott Kitchings, Clerk of Court
1220 Senate Street
Columbia, South Carolina 29201

RE: Sherman Howell v. D.R. Horton, Inc.
Appellate Case Number 2024-001963

Dear Ms. Kitchings:

Appellant D.R. Horton recently informed the Court of a supplemental citation pursuant to Rule 208(b)(7), SCACR—*Vriens v. Tip-Top Roofing & Construction, LLC*, Order, No. 2:23-cv-06797-DCN (D.S.C. Sept. 4, 2025). Respondents Sherman and Claudia Howell responded, challenging Appellant's compliance with Rule 208, SCACR, and disputing the significance of the *Vriens* decision. Please accept this correspondence in reply to that response.[1]

Appellant's supplemental citation complied fully with the South Carolina Appellate Court Rules. Under Rule 208, a party may identify the significance of a supplemental citation by "reference *either* to the page of the brief *or* to *an issue to which the citations pertain*." Rule 208(b)(7), SCACR (emphasis added). Appellant's letter identified the specific issues addressed by the district court in *Vriens* that are relevant to Appellant's arguments—e.g., the severability and enforceability of the arbitration provision—and identified the holding impacted by that analysis. Rule 208 requires nothing more.

Respondents also contend that *Vriens* is not pertinent or significant because it is not binding on this Court. However, Rule 208 contains no such requirement. Respondents' argument is based entirely on dictionary definitions—and their interpretation thereof—not the text of the rule itself.

Vriens marks the first federal court to rule on a motion to compel arbitration arising out of

[1] In conjunction with the supplemental citation, D.R. Horton filed a Motion to Amend Final Brief and Supplement Record on Appeal. Respondents filed a return opposing D.R. Horton's motion, and Respondents' letter purports to incorporate those arguments. To the extent the Court does so, D.R. Horton likewise incorporates the arguments in its motion to amend and reply in support.

the arbitration provision in the Home Purchase Agreement. In this case, the decision below held that federal law did not apply. Numerous other state courts have interpreted federal law as allowing them to incorporate outside provisions into the arbitration agreement. It should be self-evident that the only *federal* decision interpreting the agreement at issue under *federal* law is both pertinent and significant. *See Limehouse v. Hulsey*, 404 S.C. 93, 108–09, 744 S.E.2d 566, 575 (2013) (noting that the court frequently defers to federal courts' interpretation of federal law).

In short, *Vriens* easily satisfies the "pertinent and significant" standard of Rule 208, and D.R. Horton's supplemental letter clearly identifies the opinion's relevance to this appeal. Therefore, the objections raised in Respondents' responsive letter are unavailing.[2]

If the Court has any questions or requests more information, please do not hesitate to contact me.

Sincerely,

W. Jacob Henerey

WJH/

cc: Ian T. Duggan, Esq.
Harry A. Dixon, Esq.
William C. Lewis, Esq.
Terry E. Richardson, Jr., Esq.
Grace M. Babcock, Esq.
Robert L. Wylie, IV, Esq.
James L. Hills, Jr., Esq.

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[2] Respondents mention opening the door to the discussion of other state court rulings on the arbitration provision. If Respondents wish to identify additional decisions in their amended brief, they are free to do so. However, there is a difference between state court rulings—most of which are duplicative of the decision on review and some of which were filed before briefing on this appeal was complete—and a novel federal court decision interpreting federal law.