

THE SUPREME COURT OF SOUTH CAROLINA

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas  
The Honorable Martha M. Rivers

Case No. 2024-CP-40-03510

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Appellate Case No.  
2024-001963 (Court of Appeals)  
2025-001970 (Supreme Court)

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**RECEIVED**

**Dec 19 2025**

**S.C. SUPREME COURT**

Sherman and Claudia Howell,

Respondents,

v.

D.R. Horton, Inc.,

Appellant,

AND

D.R. Horton, Inc.,

Third-Party Plaintiff,

v.

Jenkins Plumbing Company, LLC, Caryl  
Mechanicals II, Inc., L&M Electric, Inc.,  
Unique Stone Creations, M&L General  
Construction, Inc., Alpha Omega Construction  
Group, Inc., and ASC Services and Supply, Inc.

Third-Party Defendants.

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**RESPONDENTS' MOTION FOR COSTS AND SANCTIONS IN THE FORM OF  
ATTORNEY'S FEES INCURRED IN CONNECTION WITH APPEAL**

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Pursuant to Rules 222 and 269, SCACR, Respondents Sherman and Claudia Howell move for an award of costs and for financial sanctions in the form of reasonable attorney's fees incurred as a direct result of D.R. Horton, Inc.'s appeal—an appeal that was pursued through extensive briefing and approximately twelve months of appellate proceedings before being voluntarily dismissed.

### **BACKGROUND**

On June 10, 2024, Respondents filed their Complaint in the Richland Court of Common Pleas alleging Negligence/Gross Negligence, Breach of Express/Implied Warranties, Breach of Contract, Violation of the South Carolina Unfair Trade Practices Act, Breach of Contract Accompanied by Fraudulent Act, Constructive Fraud, and Fraud/Misrepresentation and sought actual, compensatory, and treble and punitive damages.

On August 9, 2024, Appellant, D.R. Horton, Inc., moved to stay and compel arbitration. On October 22, 2024, following the submission of briefs and oral argument before the Circuit Court, the Honorable Martha M. Rivers issued an order denying Appellant's Motion. Thereafter, on November 15, 2024, without asking for reconsideration, D.R. Horton filed notice of its appeal.

Over the course of the following several months, Appellant and Respondents fully briefed their positions to the Court of Appeals. However, on November 3, 2025, Appellant (for the first time) contacted Respondents' counsel and asked whether Respondents (in this matter and several others) would consent to the dismissal of their appeal. *See Exhibit A* (November 3, 2025, Correspondence). Thereafter, after conferring with their counsel, Respondents declined to consent to the dismissal of this appeal. *Exhibit B* (Affidavit of Respondent Sherman Howell). From the beginning of this appeal through D.R. Horton's filing of a Motion to Dismiss, no intervening change in law, fact, or procedural posture appears in the record that would explain abandoning the appeal after full briefing.

On November 13, 2025, Appellant moved to dismiss. Shortly after D.R. Horton filed this Motion, on November 18, 2025, this Court certified this matter for review under Rule 204(b), SCACR. On December 16, 2025, this Court granted Appellant's Motion to Dismiss.

#### **STANDARD**

Respondents move for costs to be assessed against Appellant as permitted under Rule 222, SCACR, because Appellant's appeal was dismissed on December 16, 2025. In addition to the costs permitted under Rule 222(b), for D.R. Horton's dilatory conduct, Respondents move for an award of sanctions in the form of additional attorney's fees incurred in connection with this appeal under Rule 269, SCACR. Rule 269 authorizes the imposition of financial sanctions where an appeal is taken "solely for the purposes of delay," a determination committed to this Court's discretion and informed by the procedural history and practical effect of this appeal.

#### **ARGUMENT**

Here, Appellant initiated and pursued an appeal through full briefing and then voluntarily abandoned that appeal without any intervening change in law, fact, or procedural posture, thereby imposing unnecessary expense and delay on Respondents. This Court should award Respondents their costs under Rule 222 and, under Rule 269, impose a sanction of reasonable attorneys' fees incurred in connection with responding to D.R. Horton's voluntarily dismissed appeal.

Respondents do not seek sanctions based on the substantive strength or weakness of Appellant's appellate arguments, but on the procedural consequences imposed on Respondents by Appellant's decision to pursue and then abandon this appeal after full briefing. D.R. Horton offers no explanation for its twelve-month delay in moving to dismiss an appeal it now characterizes as unnecessary and involving a mere "contract dispute between two private parties." D.R. Horton Reply in Support of Motion to Dismiss at 4. Nor does D.R. Horton's assertion that dismissal was sought

“in the interest of moving the case forward” explain why it required Respondents to fully brief the appeal before doing so. *Id.* at 2.<sup>1</sup>

Certainly, D.R. Horton cannot turn to this Court’s November 18, 2025, Order certifying this case for review under Rule 204(b), SCACR, or the Court’s December 2, 2025, Order<sup>2</sup> consolidating D.R. Horton’s various motion to compel arbitration under a single circuit court judge. These directives were not entered until *after* D.R. Horton moved to dismiss its appeal.

D.R. Horton maintains that “[t]here is no urgency” here. D.R. Horton Reply at 5. That assertion is difficult to reconcile with the practical effect of this appeal on Respondents—individual homeowners—who were required to remain in procedural limbo for more than a year, unable to pursue their claims in the Circuit Court while continuing to live in the unrepaired home at issue. By D.R. Horton’s own admission, Respondents are now “in the same position they were in before an appeal was filed,” *except* that more than twelve months have elapsed since D.R. Horton’s now abandoned appeal was filed. D.R. Horton Reply at 2, n.1.<sup>3</sup>

An award of costs and fees would further the purposes of Rules 222 and 269 by discouraging dilatory appellate practice and protecting litigants from needless expense. Accordingly, Respondents seek (1) an award of taxable costs in the amount of \$2,785.87 pursuant to Rule 222, SCACR, and (2) financial sanctions pursuant to Rule 269, SCACR in the form of additional reasonable attorneys’ fees in the amount of \$30,915.50, for a total award of \$33,701.37.

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<sup>1</sup> Indeed, on September 9, 2025, D.R. Horton moved to Amend its Final Brief.

<sup>2</sup> See S.C. Sup. Ct. Order, “Re: Assignment of Motions to Compel Arbitration in Related D.R. Horton Litigation,” Appellate Case No. 2025-001702 (“December 2, 2025, Order”).

<sup>3</sup> Context confirms D.R. Horton’s dilatory conduct. Because of its year-long delay, “a significant number” of other homeowners with “identical arbitration provisions in the[ir] homeowner contracts” (many of them Respondents’ neighbors) must wait for clarification that only this Court can definitively provide—this a delay that *only serves* D.R. Horton’s interests. See December 2, 2025, Order; *see also* S.C. Code Ann. § 15-48-200(a)(1) (permitting appeals of orders “denying an application to compel arbitration”).

This request is supported by the accompanying affidavits (**Exhibits C and D**). Such an award lies well within this Court’s discretion and is warranted by the procedural history of this appeal. Absent an award of costs and fees, Appellant’s abandonment of this appeal would impose its full economic consequences on Respondents rather than on the party that chose to initiate, prolong, and then abandon the appellate process—D.R. Horton, Inc.

**CONCLUSION**

For these reasons, the Court should assess costs and impose financial sanctions on Appellant. Such relief is squarely within this Court’s discretion under Rules 222 and 269.

Respectfully submitted,

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Columbia, South Carolina  
December 19, 2025

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