

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Robert Baddorf and Jo Anne Gregory,  
Individually, and on behalf of All Others  
Similarly Situated,

Plaintiffs,

v.

D.R. Horton, Inc.,

Defendant.

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D.R. Horton, Inc.,

Third-Party Plaintiff,

v.

Southern States Resources, LLC, Raby  
Construction Company, LLC, Builders  
FirstSource – Southeast Group, LLC, Lansing  
Building Products, LLC, Cannady’s Siding &  
Gutter, Inc., P&L Enterprises, LLC, Southern  
Siding & Gutters, LLC, Meridian Brick, LLC,  
General Shale Brick, Inc., M&L Reyna  
Construction, LLC, Saldana Brothers, Inc.,  
VL Concrete, Inc., Sandlapper Concrete,  
LLC, Five Star Foundation, LLC, Star  
Concrete Specialists, LLC, Brundage Bone  
Concrete Pumping, Inc., RL Grading, Inc.,  
Bold Mountain, LLC f/k/a Bold Mountain,  
Inc., Kkodiak Company, LLC f/k/a Kodiak  
Construction, LLC, Gun Range Builder, LLC,  
and Signature Scapes, Inc.,

Third-Party Defendants.

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Bold Mountain d/b/a Kodiak Construction,

IN THE COURT OF COMMON PLEAS

CASE NO. 2022-CP-23-03974

**RECEIVED**

**Dec 29 2025**

**S.C. SUPREME COURT**

**DEFENDANT D.R. HORTON, INC.’S  
AMENDED NOTICE OF MOTION TO  
STAY AND COMPEL ARBITRATION**

Fourth-Party Plaintiff,

v.

Robbins Landscaping, Inc.,

Fourth-Party Defendant.

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Southern State Resources, LLC,

Fourth-Party Plaintiff,

v.

A Grade Above Others, LLC and CCAD,  
LLC,

Fourth-Party Defendant.

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M&L Reyna Construction, LLC,

Fourth-Party Plaintiff,

v.

Jesus Jimenez,

Fourth-Party Defendant.

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P& L Enterprises, LLC,

Fourth-Party Plaintiff,

v.

G&A Construction; JNC Siding Contractors,  
LLC; Agilberto Rubio; Elvin Mejia Cedillo;  
Adolfo Sales Amaya; Jose Fidel Espinal; and  
Marlon E. Mejia Cedillo,

Fourth-Party Defendants.

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Builders FirstSource-Southeast Group, LLC,

Fourth-Party Plaintiff,  
v.  
Silver Line Building Products, Corp.,  
Fourth-Party Defendant.

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YOU WILL PLEASE TAKE NOTICE THAT Defendant D.R. Horton Inc. (“D.R. Horton” or “Defendant”) by and through its undersigned counsel, will move this Court for an Order to Stay this Action and Compel Arbitration pursuant to the South Carolina Uniform Arbitration Act (S.C. Code § 15-48-10 et seq. and the Federal Arbitration Act, 9 U.S.C. §1, et seq. and the grounds set forth in this Motion. Said Motion will be heard within ten (10) days or at such time and place as may be set by the Court thereafter in the Court of Common Pleas, State of South Carolina, County of Greenville, of which you will be notified.

D.R. Horton moves, for the second time in this case, pursuant to the terms of signed contractual agreements for an Order to Stay this Action and Compel Arbitration. **This Amended Motion is based upon new case law that has been decided by the South Carolina Court of Appeals since the original Motion was filed.**

1. Plaintiff Robert J. Baddorf and Petra Baddorf, as Co-Trustees of the Petra Baddorf Family Trust dated April 11, 2006, TRUST (“Baddorf”) entered into a contract with Defendant D.R. Horton, Inc. (“DRH”) (the “Homeowner Contract”) for the purchase of a home located within the Eagles Glen subdivision, located at 123 Noble Wing Lane, Taylors, South Carolina, 29687.

2. Plaintiff JoAnne Gregory (“Gregory”) purchased her home, built by D.R. Horton, from an individual, previous homeowner.

3. The Baddorf Homeowner Contract provides that: PURCHASER AND SELLER SHALL SUBMIT TO BINDING ARBITRATION ANY AND ALL DISPUTES WHICH MAY

ARISE BETWEEN THEM REGARDING THIS AGREEMENT AND/OR THE PROPERTY, INCLUDING BUT NOT LIMITED TO ANY DISPUTES REGARDING: (A) SELLER'S CONSTRUCTION AND DELIVERY OF THE HOME . . .” See, **Exhibit “A.”**

4. Plaintiffs have filed the underlying action, asserting claims against D.R. Horton for alleged defective work/materials during the construction of the Home.

5. On April 25, 2023, the Court, through the Honorable Perry H. Gravely, entered an order denying D.R. Horton's Motion to Stay and Compel Arbitration. **However, since that Order was entered, the South Carolina Court of Appeals has decided two (2) cases which change the law and the Court's approach to the type of arbitration clause at issue in this case.**

6. The cases decided subsequent to the Court's Order in this case are *Mart v. Great Southern Homes, Inc.*, and *Dixon v. Pattee*, 898 S.E.2d 158 (Ct. App. 2023).

7. The Court in *Mart*, examining a contract between a homebuilder and homeowner, held that: (a) the arbitration clause must be separated from the remainder of the contract when determining arbitrability; (b) even where the arbitration clause is included as part of a warranty, the arbitration clause must be enforced; and (c) arbitration clauses reading nearly identically to the one in the present case are not unconscionable.

8. In *Dixon*, the court held that a non-signatory to an arbitration clause can be held subject to arbitration when it seeks benefits from a contract providing for arbitration. Here, the Plaintiffs that “[t]his matter arises out of the design, development, construction, sale and/or repair of the Residences.” Amended Complaint, Para. 20; Proposed Second Amended Complaint, Para. 17. Clearly, without the original purchasing contract between original purchasers from D.R. Horton, there would be no claims based on D.R. Horton “arising out of the design, development, construction, [or] sale” of the homes.

9. Further, in support of its Unfair Trade Practices claims, the Plaintiff alleges that D.R. Horton violated the Act by “placing Residences with defects into the stream of commerce; failing to oversee and control the workmanship and quality of the Residences’ Drainage; failing to properly repair defective conditions; failing to comply with the building codes, industry standards, and industry practice, attempting to disclaim and eviscerate any and all relief to the owners.....” Amended Complaint, Para. 65; Proposed Second Amended Complaint, Para. 62. Again, manifestly, these claims would not exist without the contracts between D.R. Horton and the original purchasers, especially the claim based on the contractual disclaimers by Horton.

10. Plaintiff also alleges that D.R. Horton owed a duty to “perform its work at the Residences in accordance with “approved plans and specifications.” Amended Complaint, Para. 50; Proposed Second Amended Complaint, Para. 47. Those plans and specifications only existed as part of the D.R. Horton contracts with the original purchasers.

11. Thus, it is clear that the subsequent purchaser Plaintiff, Jo Anne Gregory, and any other putative class members who are subsequent purchasers, are seeking benefits from certain D.R. Horton contractual provisions while attempting to avoid arbitration. This situation is precisely what the Court confronted in Dixon v. Pattee when it enforced the builder’s arbitration clause against the subsequent purchaser.

12. Both the Mart and Dixon cases demonstrate a renewed commitment to the policy in South Carolina which has always favored arbitration.

13. On March 4, 2024, the Honorable Diane Goodstein, Circuit Court Judge for the Ninth Judicial Circuit, heard D.R. Horton’s Motion to Stay and Compel Arbitration in the case of Tyler v. D.R. Horton, Inc., Case No. 2022-CP-08-02548. In the Tyler case, another Lucey Law Firm case, D.R. Horton and Judge Goodstein had the benefit of the recent holdings in Mart and Dixon which had not been decided as of the time Judge Gravely ruled on the Motion to Compel in the

present case. As a result, Judge Goodstein held that all Plaintiffs, including subsequent purchasers, are subject to the D.R. Horton arbitration clause. The clause Judge Goodstein upheld is the same clause as contained in the contracts in the present case.

14. D.R. Horton requests that, based on the above new case law, this case now be submitted to arbitration, as required by the Homeowner Contracts, entered into by Plaintiff Baddorf and Plaintiff Briggs, and that this matter be stayed pending the resolution of the claims between the parties, including, but not limited to, discovery in the case.

WHEREFORE,

Pursuant to the South Carolina Uniform Arbitration Act, the Federal Arbitration Act, and the Homeowner Contracts entered between the Plaintiff Baddorf and Plaintiff Briggs and D.R. Horton regarding this Home, D.R. Horton moves for an Order compelling Plaintiffs to arbitrate their claims as required by the Homeowner Contracts, staying this action pending such arbitration, and for such other and further relief as the Court deems just and proper.

This Motion is supported by the pleadings on file with this Court, both federal and state laws and statutes, and whatever memoranda of law or certified documents that may be submitted to this Court.

***[SIGNATURE BLOCK ON NEXT PAGE]***

**KENISON, DUDLEY & CRAWFORD, LLC**

s/ Kimila L. Wooten

John T. Crawford, Jr. (S.C. Bar # 69682)

Kathryn L. Harden (S.C. Bar #103217)

Kimila L. Wooten (S.C. Bar # 64516)

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*Counsel for Defendant, D.R. Horton, Inc.*

July 2, 2024

Greenville, South Carolina



## HOME PURCHASE AGREEMENT

**NOTE: THIS CONTRACT PROVIDES FOR MANDATORY BINDING ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT, SECTIONS 14-48-10 ET SEQ., SOUTH CAROLINA CODE OF LAWS (1976, AS AMENDED).**

In consideration of the reciprocal covenants stated herein, **D.R. Horton, Inc., a Delaware Corporation**, ("Seller") and **Robert Baddorf and Petra Baddorf** (collectively, "Purchaser") agree as follows:

- 1. CONVEYANCE.** Seller shall sell to Purchaser and Purchaser shall purchase from Seller all that certain parcel or tract of land located in **GREENVILLE** County, **SC**, with a street address of **123 NOBLE WING LANE, TAYLORS, SC 29687**, more particularly described as Lot **1097**, Block **Eagles Glen 50's** Subdivision (the "Lot"), together with all improvements thereon and all appurtenances thereto collectively referred to as the "Property."
- 2. PURCHASE PRICE AND METHOD OF PAYMENT.** Subject to adjustment as may be provided herein, the Purchase Price for the Property shall be: **Two Hundred Ninety Four Thousand Nine Hundred Ninety Six and 00/100 Dollars (\$294,996.00)** to be paid in cash as provided herein. The following is a breakdown of the Purchase Price as of the Effective Date (defined in Section 19 below):

Base Price	<b>\$250,990.00</b>
Plus Lot Premium	<b>+ \$4,000.00</b>
Plus Options Selected To Date	<b>+ \$42,031.00</b>
Minus Option Incentive	<b>\$ 0.00</b>
Minus Special Discount	<b>&lt;\$2,025.00&gt;</b>
Total Purchase Price	<b>\$294,996.00</b>

Purchaser acknowledges that the Special Discount shown above shall be provided to Purchaser as a credit against the Purchase Price only if Purchaser complies all of the terms and conditions of this Agreement and that such Special Discount shall be forfeited by Purchaser if Purchaser breaches the Agreement in any respect. Purchaser further acknowledges that the above-stated Incentives are subject to the terms and conditions (including, without limitation, closing deadlines) set forth in Seller's marketing materials pertaining to such Incentives.

The terms of the subsection (a or b) checked below shall also apply.

**a. No Financing Contingency.**




Purchaser shall pay to Seller the Purchase Price in cash at Closing (See Section 16 below). Within seven (7) business days of the Effective Date, Purchaser shall provide documentation to Seller that will verify to Seller's reasonable satisfaction that Purchaser has the available funds necessary to purchase the Property according to the terms of this Agreement. If Purchaser does not provide such documentation to Seller within that time period, then Seller may at its option terminate this Agreement by providing written notice to Purchaser of termination, in which event Seller shall retain the Earnest Money (see Section 4 below) and neither party shall have any further obligation or liability to the other hereunder.

**b. Financing Contingency**

(1) Purchaser shall use its best efforts to obtain a loan in the principal amount of no more than **80%** of the Purchase Price, reduced to the next lowest hundred dollars, (the "Loan") to be secured by a first priority mortgage on the Property. The proceeds of the Loan, together with the balance of the Purchase Price, shall be paid to Seller by Purchaser in cash or other immediately available funds at Closing.




(2) Purchaser shall apply for the Loan within three (3) business days after the Effective Date. **Failure by Purchaser to apply for the Loan within that time-period or to pursue approval of the Loan diligently thereafter shall constitute a material breach of this Agreement by Purchaser.** Within seven (7) days after the Effective Date, Purchaser shall provide Seller with a letter from Purchaser's lender confirming that Purchaser has pre-qualified for the Loan (the "Pre-qualification Letter"). Within twenty-one (21) days of the Effective Date, Purchaser shall provide Seller with a letter from Purchaser's lender confirming that the Loan has been conditionally approved (the "Conditional Approval Letter"). Within thirty (30) days of the Effective Date, Purchaser shall provide Seller with a letter from Purchaser's lender confirming that the Loan has been fully and finally approved, with no conditions or contingencies (the "Final Approval Letter"). If Purchaser fails to provide the Pre-qualification Letter, the Conditional Approval Letter or the Final Approval Letter to Seller within the applicable required time-period, then Seller, at Seller's option, may terminate this Agreement upon written notice to Purchaser, in which event the Earnest Money shall be refunded to Purchaser if Purchaser is not in breach of this Agreement, and thereafter neither party shall have any further liability or obligation to the other hereunder.

(3) Purchaser acknowledges that there are many different loan programs available from many different lenders. Purchaser understands and acknowledges that certain loan/credit approvals are only valid for up to one hundred twenty (120) days. Purchaser shall update loan/credit approval documentation as needed in order to maintain current loan approval up until the date of closing. Purchaser agrees to execute all papers and perform all other actions necessary to obtain the Loan and to accept the Loan if approved by lender.

Initials   

Buyer Co-Buyer Seller

**15. MANDATORY BINDING ARBITRATION.** PURCHASER AND SELLER SHALL SUBMIT TO BINDING ARBITRATION ANY AND ALL DISPUTES WHICH MAY ARISE BETWEEN THEM REGARDING THIS AGREEMENT AND/OR THE PROPERTY, INCLUDING BUT NOT LIMITED TO ANY DISPUTES REGARDING: (A) SELLER'S CONSTRUCTION AND DELIVERY OF THE HOME; (B) SELLER'S PERFORMANCE UNDER ANY PUNCH LIST OR INSPECTION AGREEMENT; AND (C) THE LIMITED WARRANTY PURSUANT TO SECTION 14 ABOVE. THE ARBITRATION SHALL TAKE PLACE IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED. THE PROCEEDING SHALL BE CONDUCTED PURSUANT TO THE RULES OF THE AMERICAN ARBITRATION ASSOCIATION, AND TO THE EXTENT POSSIBLE, UNDER RULES WHICH PROVIDE FOR AN EXPEDITED HEARING. THE FILING FEE FOR THE ARBITRATION SHALL BE PAID BY THE PARTY FILING THE ARBITRATION DEMAND, BUT THE ARBITRATOR SHALL HAVE THE RIGHT TO ASSESS OR ALLOCATE THE FILING FEES AND ANY OTHER COSTS OF THE ARBITRATION AS A PART OF THE ARBITRATOR'S FINAL ORDER. THE ARBITRATION SHALL BE BINDING AND FINAL, AND EITHER PARTY SHALL HAVE THE RIGHT TO SEEK JUDICIAL ENFORCEMENT OF THE ARBITRATION AWARD. NOTWITHSTANDING ANY OTHER PROVISION HEREIN, ANY DISPUTES ARISING UNDER THE LIMITED WARRANTY SHALL BE MEDIATED, ARBITRATED AND/OR JUDICIALLY RESOLVED PURSUANT TO THE TERMS, CONDITIONS, PROCEDURES AND RULES OF THAT WARRANTY PROGRAM. NOTWITHSTANDING THE FOREGOING, SELLER SHALL HAVE THE RIGHT TO INTERPLEAD ALL OR ANY PART OF THE EARNEST MONEY INTO A COURT OF COMPETENT JURISDICTION AS PROVIDED FOR IN SECTION 4 HEREIN. NOTWITHSTANDING THE FOREGOING, THE ARBITRATION PROVISIONS OF THIS SUBSECTION (B) SHALL NOT APPLY IN THE EVENT THAT THE DISPUTE RELATES TO A DEFAULT BY THE SELLER UNDER SECTION 16(F) OF THIS AGREEMENT.

Initials   

Buyer Co-Buyer Seller

**16. CLOSING.** The following shall constitute the "Closing": (a) receipt by the settlement agent of all funds necessary to close the transaction, (b) receipt by the settlement agent of the fully executed Deed for immediate recording in the office of the clerk of court or register of deeds, as applicable, (c) execution of the Closing Disclosure by Purchaser, Seller and the settlement agent, and (d) payment to Seller of the net proceeds of sale due to Seller. The date on which the Closing Disclosure is executed by all parties is referred to herein as the "Closing Date." Closing shall not be complete until Seller has received full payment of the Purchase Price. Keys to and possession of the Property will not be delivered to Purchaser until the Closing is complete. Closing shall be scheduled and conducted as follows:

**a. Closing Date.** The parties estimate that the Closing will take place on or before **03/01/2019**. Seller shall notify Purchaser of the final date and time of Closing at least three (3) business days in advance. Subject only to the provisions of Section 27 below, Closing shall occur no later than that date which is two (2) years after the date that Purchaser signs this Agreement.

**b. Exchange at Closing.** At Closing, Seller shall deliver to Purchaser the Deed for the Property, a certificate of occupancy for the house located on the Property issued by the applicable governmental authority, and, if applicable, a certificate of final approval by the FHA or VA. At Closing, Purchaser shall pay to Seller the Purchase Price in full.

**c. Place of Closing.** Closing shall take place at the office of a closing agent to be selected by Purchaser in **Greenville,**  South Carolina /  North Carolina, or at such other place as the parties may agree in advance.

**d. Closing Costs.** Except as may be prohibited by FHA or VA regulations, Purchaser shall pay for all costs related to the Closing, including, but not limited to, the costs for preparation of the Deed, the cost of any title search, the cost for preparation and issuance of an owner's policy of title insurance and endorsements thereto, the Survey Fee, recording fees, deed and transfer taxes (deed stamps) imposed by the State of South Carolina upon the recording of the Deed, any capital contribution, initial assessment, transfer fee or estoppel certificate fee charged by the Association (as defined in Section 20), any costs and expenses associated with Purchaser's financing of Purchaser's acquisition of the Property, and any closing fee charged by the settlement agent.

**e. Prorations.** All real property taxes for the current year, homeowner association dues and assessments for the current assessment period (but not homeowner association capital assessments due at or after the Closing) and hazard insurances premiums (if applicable), shall be prorated as of the Closing Date, using the most accurate information available on the Closing Date.

**f. Completion of House.** If the House is not Complete at the time that the Purchaser signs this Agreement, Seller shall Complete the House within 2 years after the date that the Purchaser signs this Agreement, subject to extensions for circumstances reasonably beyond Seller's control as determined by South Carolina law. For purposes of this subsection (f), "Complete" means that the House is ready for occupancy by Purchaser, has all necessary and customary utilities extended to it, and a certificate of occupancy has been issued. Notwithstanding any provision in this Agreement to the contrary, including but not limited to Section 18(b), nothing herein shall limit Purchaser's remedies if Seller defaults under this subsection (f).

**17. UTILITIES AND PERSONAL PROPERTY.** Purchaser shall transfer all utilities into Purchaser's name within three (3) business days after Closing. Purchaser shall not move any personal property onto the Property prior to Closing.

**18. DEFAULT; REMEDIES.** The remedies specified below shall be the sole and exclusive remedies available to the parties in the event of breach of this Agreement, and shall be to the exclusion of all other remedies at law or in equity.

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