

The State of South Carolina
In the Supreme Court

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Jan 08 2026

Appeal from Richland County
Court of Common Pleas
The Honorable Martina M. Rivers
Case No. 2024-CP-40-035210

S.C. SUPREME COURT

Appellate Case No. 2024-001963

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.

Appellant's Reply to Respondents' Motion for Attorney's Fees,
Costs and Sanctions

Under Rule 222, SCACR, the Respondents are entitled to \$2,500.00 in attorney's fees and \$107.59 as the cost of printing their final brief, and nothing more. That is provided in Rule 222 (a) & (b), SCACR. The Respondents did not file a Notice of Appeal, and, therefore, do not have a filing

fee under Rule 203(d), SCACR; and Rule 222(b), SCACR does not allow reimbursement of “other (Postage)” as a cost. Exhibit C, Respondents’ Motion for Costs and Sanctions In The Form of Attorneys’ Fees Incurred In Connection With Appeal.

The Respondents are entitled to nothing under Rule 269, SCACR, because the appeal and its voluntary dismissal were not “frivolous or taken solely for the purpose of delay” and were in compliance with the South Carolina Appellate Court Rules.

The matter on appeal concerned the enforceability of an arbitration provision in a contract between two private parties. As the South Carolina Supreme Court well knows, such contractual provisions have been the subject of much litigation, not only in South Carolina, but across the United States, in trial courts and appellate courts all the way to the United States Supreme Court, involving state arbitration statutes and at times, as here, the Federal Arbitration Act, 9 U.S.C. §1 et seq., [e.g. *Allied-Bruce Terminix Cos., Inc., v. Dobson*, 513 U.S. 265 (1995); *Cape Romain Contractors, Inc. v. Wando E., LLC*, 405 S.C. 115, 747 S.E. 2d 461 (213)]. Within South Carolina different circuit courts have reached different decisions on similar or even identical arbitration provisions, leading to the South Carolina Supreme Court’s Order dated December 2, 2025 “Re: Assignment of Motions to Compel Arbitration in Related D.R. Horton Litigation”, Appellate Case No. 2025-001702. There is nothing frivolous about this litigation.

The decision of the Appellant to move for dismissal of its appeal stems in part from the September 4, 2025 decision of the United States District Court for the District of South Carolina in *Vriens v. Tip-Top Roofing and Construction, LLC*, Order No. 2:23-cv-06797-DCN upholding an arbitration provision almost identical to that at issue here. That order provides the legal authority that D. R. Horton was seeking from the Court of Appeals in this case, thereby making further

pursuit of this appeal unnecessary. The Appellant sent a copy of the *Vriens* order to the Court of Appeals on September 9, 2025. A copy of the Order with the cover letter to the Court of Appeals is attached hereto. There was no delay.

Had the Appellant wished to delay matters, it would have allowed the appeal to continue. Instead, it moved to dismiss, allowing litigation in the trial court to go forward.

For these reasons, the Appellant consents to the Respondents' motion only insofar as it requests \$2,500.00 as attorney's fees and \$107.59 as costs under Rule 222 (a) & (b), SCACR, and respectfully requests that the South Carolina Supreme Court otherwise deny the motion.

January 8, 2026

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