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April 18, 2016

**RECEIVED**

APR 18 2016

**SC Court of Appeals**

**VIA HAND DELIVERY**

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

**Re: S. Coley Brown v. Spring Valley Homeowners Association, Inc.  
Appellate Case No. 2014-002587**

Dear Ms. Kitchings:

Out of an abundance of caution, I write pursuant to Rule 208(b)(7), SCACR, concerning Fisher v. Shipyard Village Council of Co-owners, Inc., Op. No. 27603 (S.C. Sup. Ct. filed Jan. 27, 2016) (Shearouse Adv. Sh. No. 4 at 21), in which the Supreme Court affirmed, as modified, this court's decision in Fisher v. Shipyard Village Council of Co-owners, Inc., 409 S.C. 164, 760 S.E.2d 121 (Ct. App. 2014). The appellant submits this as a supplemental citation in support of his argument about the business judgment rule. The reason for this supplemental citation is to note the following language (and Court's analysis) from the Supreme Court's opinion with regard to the respondent's argument in this case that the business judgment rule protects its decision to fine the appellant and to record a notice in the land records stating it had a lien for that fine:


... we emphasize that because the business judgment rule only applies where a corporation acts within its authority, without corrupt motives, and in good faith, the court of appeals incorrectly stated that "any investigation" conducted by the Board pursuant to its duty to investigate "would be looked at under the business judgment rule to determine if the [Board] met its duty."

Fisher, (Shearouse Adv. Sh. No. 4 at 34 (internal citation omitted, brackets in original).

Thank you for your attention in this matter. Of course, if you or your staff have any questions or concerns, please do not hesitate to contact me. Because oral argument in this case is scheduled for tomorrow, I am providing this letter to opposing counsel by email so that they may receive it as soon as possible.

With kind regards, I am,

Very truly yours,  
**HARRISON & RADEKER, P.A.**



Andrew S. Radeker

ASR/

cc: Ely O. Grote, Esq. (via email only)  
Charles A. Krawczyk, Esq. (via email only)

## Drew Radeker

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**From:** Drew Radeker  
**Sent:** Monday, April 18, 2016 12:09 PM  
**To:** Ely Grote (eog@brownandbrehmer.com); 'Charles Krawczyk' (ckrawczyk@FinkellLaw.com)  
**Subject:** Brown v. Spring Valley HOA  
**Attachments:** 4-18-16 ltr to Ct App re supp citation.pdf

Ely & Charlie:

Please see the attached letter concerning a supplemental citation.

Thank you. I look forward to seeing you tomorrow.

Drew Radeker

### **HARRISON & RADEKER, P.A.**

#### **ATTORNEYS AT LAW**

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