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Reply to:
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July 7, 2016

VIA U.S. MAIL

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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JUL 11 2016

SC Court of Appeals

Re: *The Gates at Williams-Brice Condominium Association and Katharine Swinson, individually, and on behalf of all others similarly situated, v. DDC Construction, Inc., et al.*

**Appeal from the Richland County, Court of Common Pleas
Case Action No.: 2012-CP-40-8512
Appellate Case Tracking No.: 2015-000180**

Dear Ms. Kitchings:

Pursuant to Rule 208(b)(7) of the SC Appellate Court Rules, counsel for The Gates at Williams-Brice Condominium Association and Katharine Swinson ("Respondents") wishes to make the Court aware of recently-decided authority, *Smith v. D.R. Horton*, Op. No. 27645 (S.C. July 6, 2016), a copy of which is enclosed. *D.R. Horton* is pertinent to the Respondents' final appellate brief.

In *D.R. Horton*, the Supreme Court of South Carolina affirmed a finding that D.R. Horton's arbitration agreement was unenforceable. The paragraphs of the arbitration clause in *D.R. Horton* contained cross-referenced language analogous to that in the clause at issue in this appeal. Furthermore, the adhesive nature of the arbitration clause in *D.R. Horton* is indistinguishable from the adhesive nature of the clause in the instant case. The Court utilized the same factors present in this matter, namely the unequal position of the parties in the market, adhesive nature of the contract and one-sided warranty terms that allow no monetary recuperation, as a basis to affirm the decision to deny arbitration.

Sincerely,


Stephanie D. Drawdy

Enclosures (stated)

cc: Howard A. VanDine, Esq. (via email with attachment)
Erik T. Norton, Esq. (via email with attachment)



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