

**Reply To**

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May 7, 2018

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MAY 08 2018

SC Court of Appeals

**HAND DELIVERED**

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201

RE: Century Capital Group, LLC v. Midtown Development Group, LLC,  
Richland Joint Venture Group, LLC, Windsor Richland Mall, LP, and BRC  
Richland, LLC  
Civil Action No.: 2014-CP-40-07037 (Richland)  
Date of Incident: February 16, 2010  
Carrier Claim No.: E2G7881001G001001  
MGC File No.: 20527.14371

Dear Ms. Kitchings:

I hope you are doing well. Pursuant to Rule 208(b)(7), SCACR, please allow this letter to serve as notice of a pertinent and significant case which was recently decided by the South Carolina Court of Appeals after the filing of the Final Brief of Respondents Midtown Development Group, LLC, Richland Joint Venture Group, LLC and Windsor Richland Mall, L.P. in the above referenced matter. The case in question is *D.R. Horton, Inc. f/k/a Richard Dobson Builders, Inc. v. Builders FirstSource – Southeast Group, LLC, et al*, Op. No. 5529 (S.C. Ct. App. Filed January 10, 2018).

In *D.R. Horton*, this court affirmed a grant of summary judgment in favor of Builders FirstSource on D.R. Horton's claim for contribution because the arbitration award at issue did not specify what damages were incurred. Further, the court found the indemnification clause at issue between D.R. Horton and Builders FirstSource was in violation of S.C. Code Ann. § 32-2-10 and public policy since the agreement was silent as to who caused the compensable damages.

In the present appeal, there are several issues at play, one of which bears on the very issue addressed in the *D.R. Horton* opinion: whether or not Appellant can recover under a contribution claim against Respondents based on a settlement agreement between Appellant and Spirit SPE Columbia, LLC. This issue is argued in Respondents' Final Brief from page nine to fifteen and the *D.R. Horton* opinion is cited on pages thirteen and fourteen.

Respondents contend that *D.R. Horton* is a pertinent and significant authority on the above issue on appeal and is, therefore, a proper supplemental citation under Rule 208(b)(7), SCACR.

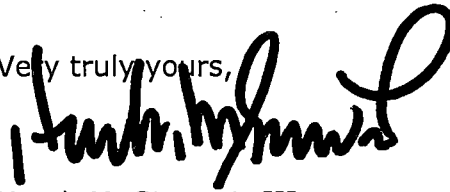
By copy of this correspondence, I am this date providing counsel of record with a copy of our request under Rule 208(b)(7), SCACR, so that they may be aware of my communication and request to your office.

The Honorable Jenny Abbott Kitchings  
May 7, 2018  
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I appreciate your assistance and attention in this regard. Please do not hesitate to contact me should you have any questions, concerns or need any additional information regarding this or any other matter.

With best personal regards, I am,

Very truly yours,

A handwritten signature in black ink, appearing to read "Heath M. Stewart, III". The signature is written in a cursive, flowing style with a large loop at the end.

Heath M. Stewart, III

HMS/\_jn

cc: J. Ryan Oates, Esquire  
D. Cravens Ravenel, Esquire and Jonathan B. Asbill, Esquire  
Ruth A. Levy, Esquire and Williams Mullen, Esquire

**mgc**

**INSURANCE  
DEFENSE**

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**20527.14371/RTB/\_jn**

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