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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
The Honorable J. C. Nicholson, Jr., Circuit Court Judge

Civil Action No. 2017-CP-10.02148
Court of Appeals Case No. 2018-000171
Supreme Court Case No. 2021-000137

Cleo Sanders ……..Respondent

v.

Savannah Highway Automotive Company, a General Partnership d/b/a Rich Hendrick Dodge Chrysler Jeep Ram, Santander Consumer USA Holdings, Inc. Isiah S. White, Danny Anderson and Patrick Bachrodt, Jr. ……...…….. Defendant

Of whom, Savannah Highway Automotive Company, a General Partnership d/b/a Rick Hendrick Chrysler Jeep Ram and Isiah S. White are the ……... Appellants

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INITIAL AMICUS BRIEF BY THE SOUTH CAROLINA AUTOMOBILE DEALERS ASSOCIATION

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STATEMENT OF INTEREST

The South Carolina Automobile Dealers Association ("SCADA") has a substantial and legitimate interest in automobile dealers' rights to enforce arbitration clauses in retail installment sales contracts they enter into with their customers. The Court of Appeals' decision below negatively impacts that right. Appellant Savannah Highway Automotive Company d/b/a Rick Hendrick Dodge Chrysler Jeep Ram ("Hendrick"), a South Carolina automobile dealer and SCADA member, has submitted a Petition for a Writ of Certiorari seeking review of the Court of Appeals' decision to correct manifest legal errors and a failure to follow binding U.S. Supreme Court precedent. SCADA submits this brief in support of Hendrick's Petition.

SCADA represents new car and truck franchised dealers throughout the state of South Carolina. It has more than 280 dealer members. Its members are not manufacturer-owned stores; instead, they are independent businesses. Each dealer member of SCADA employs an average of 63 South Carolinians.[1] As evidenced by this case, dealership employees are often individually sued in consumer disputes.[2]

The automobile sales transaction at issue in this case is typical of the great majority of new and used vehicles sales between automobile purchasers and SCADA members and other licensed motor vehicle dealers, in South Carolina and across the nation. Respondent Sanders purchased an automobile from Hendrick and signed an installment sales contract containing an arbitration provision. Hendrick assigned the right to receive monthly payments under the installment sales contract to Santander Bank, N.A. The trial court and the Court of Appeals concluded that the assignment extinguished Hendrick's entire right to enforce the sales contract, including the arbitration provision.

[1] https://scada.org/about/

[2] Plaintiff/Sanders in this case individually sued three dealership employees.

Many SCADA members, and the banks and financing companies which purchase the retail installment sales contracts those automobile dealers enter into with their customers, include arbitration clauses in those contracts. These agreements, and the arbitration rights they contain, are valuable to dealerships, the South Carolinians they employ, and the banks and financing companies that provide the financing for automobile sales transactions in South Carolina. These arbitration rights are also protected by the Federal Arbitration Act, 9 U.S.C § 1, *et seq*.

The Court of Appeals' decision has far reaching effects on SCADA member dealers and their employees. In 2020, SCADA members sold 154,487 new vehicles and 342,773 used vehicles,[3] for an annual total of 497,260 vehicles. The National Association of Automobile Dealers, NADA, states that "7 out of 10 consumers finance through their dealership."[4] SCADA therefore estimates that the Court of Appeals' decision affects its members' rights in approximately 348,082 South Carolina automobile sales transactions for the year 2020.[5] Multiplying this number by four to address the four year period in which dealers and their employees are subject to claims under the South Carolina Dealers Act, S.C. Code Ann. § 56-15-10 *et seq*., the Court of Appeals' decision potentially affects approximately *1,392,328* South Carolina automobile sales transactions over the past four years and many more transactions in the future, if the decision is not reversed.

STATEMENT OF ISSUES ON APPEAL

SCADA concurs in and adopts by reference the statement of questions presented for review set forth in the Petition for a writ of certiorari filed by Hendrick in this matter.

[3] Source: ExperianAutoCount.
[4] Source: https://www.nada.org/autofinance. This source also states that "85% of all new vehicles are financed."
[5] (154,487 new vehicles + 342,773 used vehicles) X 70% = 348,082. The number is *significantly higher* if non-SCADA member dealers are included.

STATEMENT OF THE CASE

SCADA concurs in and adopts by reference the Statement of the Case set forth in the Petition for a Writ of Certiorari filed by Hendrick in this matter.

STATEMENT OF FACTS

SCADA concurs in and adopts by reference the Statement of Facts set forth in the Appellant's Brief filed by Hendrick below.

STANDARD OF REVIEW

Appeal from the denial of a motion to compel arbitration is subject to de novo review. *Simpson v. World Fin. Corp. of S.C.*, 367 S.C. 184, 187, 623 S.E.2d 877, 879 (Ct. App. 2005), *aff'd*, 373 S.C. 178, 644 S.E.2d 723 (2007).

ARGUMENT

SCADA urges the Court to issue a writ of certiorari in this case, which is appropriate where (1) a federal question is involved and (2) the decision of the Court of Appeals conflicts with a decision of the United States Supreme Court. Rule 242(B)(5), SCACR. Both requirements are met here. This case concerns a federal question – the scope and effect of a federal statute, the Federal Arbitration Act, 9 U.S.C. § 1 *et seq*. The decision below conflicts with *Prima Paint Corp. v. Flood & Conklin Mfg. Co.*, 388 U.S. 395, 87 S. Ct. 1801, 18 L. Ed. 2d 1270 (1967) and both *Henry Schein, Inc. v. Archer & White Sales, Inc.*, —– U.S. ——–, 139 S. Ct. 524, 528, 202 L.Ed.2d 480 (2019) and *Rent–A–Center, West, Inc. v. Jackson*, 561 U.S. 63, 68–70, 130 S.Ct. 2772, 177 L.Ed.2d 403 (2010). It ignores the core tenet of the FAA – that arbitration agreements should be enforced as written.

The Court of Appeals violated the United States Supreme Court's *Prima Paint* doctrine when it considered a challenge to the arbitration clause based upon the effect of the assignment of

Respondent Cleo Sanders' ("Sanders") sales contract to Santander. An arbitration clause is severable from the contract which contains it, and, to allow judicial review, a litigant must challenge the arbitration clause itself. Sanders' argument is not directed specifically to the language of the arbitration provisions of the sales contract, but rather to Hendrick's ability to enforce the sales contract as a whole. The Court of Appeals erred in refusing arbitration based upon an argument which was not specifically directed at the arbitration provision of the sales contract.

Additionally, the Court of Appeals violated the *Schein* and *Rent-A-Center* United States Supreme Court decisions. Hendrick argued that the Court of Appeals lacked the authority to address Sanders' argument because the arbitration agreement delegated such matters to the arbitrator. The Court of Appeals simply ignored this argument, exercising authority where it had none.

I. The Court of Appeals' decision conflicts with established law regarding assignment of contractual obligations and improperly deprives sellers of their contractual rights.

Respondent Sanders argued that once Hendrick assigned its interest in the sales contract, which contained the arbitration clause, to Santander, there was no longer a contract to arbitrate between Hendrick and Sanders. According to Sanders, this conclusion negated Hendrick's ability to compel arbitration because Hendrick could not establish the most essential requirement of arbitration – the existence of an agreement to arbitrate. Sanders repeatedly cited *Prima Paint Corp. v. Flood & Conklin Mfg. Co.*, 388 U.S. 395, 87 S. Ct. 1801; 18 L. Ed. 2d 1270 (1967) for the proposition that questions regarding the existence of an agreement to arbitrate must be determined by the court. (Sanders's Brief at pp. 14-15 and 26). The trial court and the Court of Appeals accepted this erroneous reasoning without serious analysis, concluding that the

assignment passed Hendrick's entire right to enforce the retail installment sales contract ("sales contract" or "contract") to Santander.

This argument rests upon a mischaracterization. The question is not whether an agreement to arbitrate exists, but whether, having assigned its interest in the monthly installment payments provided for in the agreement, Hendrick retains contractual rights to compel arbitration.[6] There can be no dispute regarding the existence of an agreement to arbitrate between Sanders and Hendrick. The trial court specifically found that the "contract at issue is a retail installment sales contract *between the Plaintiff and Defendants* for the sale of a motor vehicle," (R. at p. 84) (emphasis added), that the retail installment sales contract submitted was "an accurate copy of the one *signed by Plaintiff*," (R. at p. 85) (emphasis added), and that the arbitration clause was imbedded within the retail installment sales contract. (R. at p. 84). These findings are the law of the case.

That Hendrick subsequently assigned certain of its interests in the installment sales contract to Santander does not mean that the contract between Hendrick and Sanders ceased to exist. "As a matter of law, an assignor remains liable to the obligor for the assignee's defective performance, just as he would be liable for his own defective performance." *Orange Bowl Corp. v. Warren*, 300 S.C. 47, 50, 386 S.E.2d 293, 295 (Ct. App. 1989). Thus, Hendrick's assignment of the sales contract to Santander did not, as a matter of law, relieve Hendrick of all of its contractual obligations under the contract.[7] The Court of Appeals' decision therefore places automobile dealers like Hendrick in the position of having contractual obligations to a customer arising from

[6] Sanders framed the argument as one involving standing in proceedings before both the trial court and the Court of Appeals. (Record at p. 115; Sanders's Final Brief at p. 21).

[7] Indeed, an automobile dealer's continued obligations even after assignment to a lender may be an interest sufficient to support a dealer's right to enforce an arbitration clause in a sales contract.

the sales contract after the it is assigned, but deprives them of the protections afforded in the contract itself, including, *inter alia*, rights arising from arbitration agreements that are governed and protected by the Federal Arbitration Act (the "FAA").[8] The decision is fundamentally unfair to South Carolina automobile dealers. In other words, even after assignment, there is an enforceable contract between the original obligor and the assignor.

Moreover, the argument that the original contract ceases to exist after assignment leads to an absurd conclusion. Santander's right as an assignee to enforce the retail installment sales contract against Sanders necessarily depends upon the continued existence of the underlying contract. An assignee stands in the shoes of the assignor. *Twelfth RMA Partners, L.P. v. National Safe Corp.*, 335 S.C. 635, 639, 518 S.E.2d 44, 46 (Ct.App. 1999). Were the law to regard the original contract between Hendrick and Sanders as one which actually ceased to exist, then Santander, as assignee, would also have no enforceable rights.

This decision is fundamentally unfair to South Carolina automobile dealers, and all other businesses who sell goods and services to others on an installment basis, include arbitration provisions in their retail installment sales contracts, and then assign the rights to those installment payments to third party financing companies. If allowed to stand, this decision has the potential to severely upset a myriad of business relationships in South Carolina.

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[8] While general state law principles of contract law apply to arbitration clauses governed by the FAA, state law principles which place arbitration clauses on an unequal footing with contracts generally are preempted by the FAA. *Munoz v. Green Tree Fin. Corp.*, 343 S.C. 539-40, 542 S.E.2d 360, 364 (2001). Even when a state law puts arbitration agreements on an equal footing with other agreements, the law may nevertheless be preempted by the FAA if it interferes with the fundamental attributes of arbitration. *Chamber of Commerce of U.S. v. Becerra*, 438 F.Supp.3d 1078, 1096 (E.D.Cal. 2020) (citing *Lamps Plus, Inc. v. Varela*, ––– U.S. –––, 139 S. Ct. 1407, 1418, 203 L.Ed.2d 636 (2019)). As a result, the rule cited by the Court of Appeals, that assignment wholly extinguishes the rights of the assignor may be preempted when applied to an arbitration agreement as in *Sanders.*

II. The Court of Appeals' decision fails to follow the mode of review required by the United States Supreme Court decision in *Prima Paint* and the Court's own precedents.

The Court of Appeals' decision directly contravenes the core holding of *Prima Paint* and its own precedents. *Prima Paint* strictly prohibits the court from considering any challenge to an arbitration agreement which is not directed solely to the arbitration provision itself. The United States Supreme Court stated that when considering a request to stay and compel arbitration, a "court may consider *only* issues relating to the making and performance *of the agreement to arbitrate*." *Prima Paint*, 388 U.S. at 404, 87 S.Ct. at 1806 (emphasis added).

As Court of Appeals itself previously and recently explained, in determining whether there is a valid arbitration agreement:

> the first task of a court is to separate the arbitration provision from the rest of the contract. This may seem odd, but it is the law, known as the *Prima Paint* doctrine. . .. Building from *Prima Paint*, the United States Supreme Court has developed a body of federal substantive law interpreting the FAA that applies in State and federal courts. *Southland Corp. v. Keating*, 465 U.S. 1, 12, 104 S.Ct. 852, 79 L.Ed.2d 1 (1984). Two of these substantive laws are central to our decision here, and they reaffirm *Prima Paint*:
>
> > First, as a matter of substantive federal arbitration law, an arbitration provision is severable from the remainder of the contract. *Second, unless the challenge is to the arbitration clause itself, the issue of the contract's validity is considered by the arbitrator in the first instance. In deciding whether the parties have a valid agreement to arbitrate we mus*t *therefore isolate the arbitration clause from the rest of the contract. If the arbitration agreement is valid, any issues as to the validity of other parts of the contract go to the arbitrator, not the court. Accordingly, a party cannot duck arbitration unless it makes a specific, pinpoint (and successful) challenge to the validity of the arbitration provision itself; attacking the validity of the contract as a whole is not enough. . . .*
>
> We admit this is an artificial, abstract way to view the issue, but the lens has been fixed by federal substantive law and we are not free to adjust it.

Damico v. Lennar Carolinas, LLC, 430 S.C. 188, 197–99, 844 S.E.2d 66, 71–72 (Ct. App. 2020), *reh'g denied* (July 1, 2020) (internal citations omitted) (emphasis added); *see also Rent-A-Center, West., Inc. v. Jackson*, 561 U.S. 63, 70, 130 S.Ct. 2772, 177 L.Ed.2d 403 (2010) ("a party's

challenge . . . to the contract as a whole, does not prevent a court from enforcing a specific agreement to arbitrate"). South Carolina has adopted and broadly applies the *Prima Paint* doctrine. *S.C. Pub. Serv. Auth. v. Great W. Coal (Kentucky), Inc.*, 312 S.C. 559, 562–63, 437 S.E.2d 22, 24 (1993).

In the case below, the arbitration agreement was a provision of the sales contract originated by Hendrick. The Court of Appeals determined that Hendrick could not enforce the arbitration agreement because, when it assigned the contract containing the arbitration clause to Santander, its rights in the contract were extinguished. This conclusion directly violates the rule of *Prima Paint*.

Sanders's challenge to Hendrick's enforcement of the arbitration agreement does not relate narrowly to the arbitration provision itself, but instead to the retail installment sales contract as a whole. This fact is apparent from the Court of Appeals' opinion itself, which states:

- [a]ny rights of Appellants based on the arbitration clause, including the right to arbitrate and the right to have the issue of arbitrability decided by the arbitrator, *arise from the sales contract*; and

- [b]ecause Rick Hendrick Dodge assigned the sales contract to Santander, we find *all alleged rights arising from the contract, including the right to have an arbitrator determine the arbitrability of the action and the right to arbitrate, were extinguished as to Appellants.*

Sanders v. Savannah Highway Automotive Company, 432 S.C. 328, 332-333, 852 S.E.2d 744, 746 (Ct.App. 2020) (emphasis added). The Court of Appeals reasoned that the assignment extinguished Hendrick's ability to enforce *all* rights in the sales contract, including its arbitration provisions. Because Sanders's challenge to the enforcement of the arbitration clause by Hendrick rested on a defense to the contract as a whole, rather than a defense which related specifically to

the arbitration clause, *Prima Paint* requires that a court abstain from considering the challenge. Only the arbitrator may address Sanders's argument.[9]

III. By Failing to Enforce the Delegation Clause in the Arbitration Agreement, the Court of Appeals' Decision Violates the Central Command of the Federal Arbitration Act – that Arbitration Agreements Be Enforced as Written.

In her Return to Hendrick's Petition for a Writ of Certiorari, Sanders argues that Hendrick failed to raise the issue of the delegation clause to the trial court. The record contradicts this argument. Hendrick argued in its Supplemental Memorandum in Support of its Motion to Dismiss or Stay and Compel Arbitration, filed December 4, 2017, that the arbitration clause required that the arbitrator, not the trial court, address Hendrick's ability to enforce the retail installment sales contract and the arbitration agreement it contains. (Record at pp. 128-130). Hendrick subsequently argued this same point on appeal, without objection from Sanders.

This argument rests on a delegation clause in the arbitration agreement itself. The arbitration agreement states in pertinent part:

> *[a]ny claim or dispute*, whether in contract, tort, statute or otherwise (*including the interpretation and scope of this Arbitration Clause, and the arbitrability of the claim or dispute*) . . . shall, at your or our election, be resolved by neutral, binding arbitration and not by a court action.

(R. at p. 112) (emphasis added). Notably, the arbitration clause also selects the American Arbitration Association ("AAA") as the default forum for arbitration and informs Sanders that its rules could be accessed on the AAA website. *Id.* The Court of Appeals, however, did not address the delegation clause. Instead, it ruled -- exercising authority where it had none.

[9] In arbitration, the arbitrator may consider any arguments on Hendrick's ability to enforce the arbitration provisions of the sales contract, including, but not limited to Hendrick's standing as a third party beneficiary to the arbitration agreement or the general ability of nonparties to enforce arbitration agreements in certain circumstances.

A. The Court of Appeals Failed to Address the Delegation Clause.

It is settled law that parties may, by contract, refer even gateway arbitration matters such as the interpretation and enforcement of an arbitration agreement to the arbitrator. *Masters v. KOL, Inc.*, 431 S.C. 28, 39-40, 846 S.E.2d 893, 899 (Ct.App. 2020). Provisions which refer such matter to arbitrators are commonly called "delegation clauses." *New Prime, Inc. v. Oliveira*, ––– U.S. ––, 139 S.Ct. 532, 538, 202 L.E.2d 536 (2019) ("A delegation clause gives an arbitrator authority to decide even the initial question [of] whether the parties' dispute is subject to arbitration"). When such a clause is present, the court must respect the parties' decision. *Masters*, 431 S.C. at 40, 846 S.E.2d 899 (citing *Henry Schein, Inc. v. Archer & White Sales, Inc.*, ––– U.S. ––, 139 S. Ct. 524, 528, 202 L.Ed.2d 480 (2019)). A court may not override a delegation clause, "even if the court thinks that the arbitrability claim is wholly groundless." *Henry Schein, Inc.*, ––– U.S. ––, 139 S.Ct. at 526.

However, the Court of Appeals did not address Hendrick's argument regarding the delegation clause in its opinion. The opinion does not even mention the delegation clause. The Court of Appeals simply ignored the clause. In doing so, it refused to give effect to the parties' agreement, effectively overriding the delegation clause in violation of the FAA.

B. The Delegation Clause Mandates that Questions of Whether the Arbitration Clause May Be Enforced by the Assignor of the Retail Installment Sales Contract Be Decided by the Arbitrator.

The delegation clause in the arbitration agreement at issue provides:

> [*a*]*ny claim or dispute*, whether in contract, tort, statute or otherwise (*including the interpretation and scope of this Arbitration Clause, and the arbitrability of the claim or dispute*) . . . shall, at your or our election, be resolved by neutral, binding arbitration and not by a court action.

(R. at p. 112) (emphasis added). The arbitration clause also selects the AAA as the default forum for arbitration. *Id.* Together, these provisions refer the question considered by the Court of

Appeals – whether the assignment of the sales contract divested Hendrick of its right to enforce the sales contract's arbitration provisions – to the arbitrator.

The contract provides that "any" dispute, including disputes dealing with the interpretation and scope of the arbitration clause and the arbitrability of the dispute shall be resolved by binding arbitration. This language is an express delegation of gateway issues to the arbitrator. *Sakyi v. Estee Lauder Companies, Inc.*, 308 F.Supp.2d 366, 378 (D.D.C. 2018) (use of broad all-encompassing language that a party must arbitrate "any dispute" is clear evidence that parties agreed to arbitrate all issues arising between them, including the question of arbitrability); *Crypto Asset Fund, LLC v. OPSkins Grp. Inc.*, 478 F. Supp. 3d 919, 930–32 n. 8 (C.D. Cal. 2020) (delegation clause provided that "the arbitrator will have . . . the exclusive authority and jurisdiction to make all procedural and substantive decisions regarding a Dispute, **including the determination of whether a Dispute is arbitrable**.") (emphasis in original). [10]

[10] SCADA is aware of *Doe v. TCSC, LLC*, 430 S.C. 602, 846 S.E.2d 874 (Ct.App. 2020), in which the Court of Appeals held that an arbitration clause which referred issues "involving the arbitrability of the claim or dispute" did not delegate to the arbitrator the question of whether the arbitration agreement was valid and enforceable. *Id.* at 609, 846 S.E.2d at 877. *Doe* is not controlling here for two reasons. First, *Doe* did not consider or address the effect of incorporation of AAA rules. Second, the opinion in *Doe* is itself logically inconsistent and wrongly decided. *Doe* holds that the arbitration agreement *did* clearly and unmistakably delegate questions regarding the interpretation and scope of the arbitration agreement to the arbitrator. *Id.* ("it is clear and unmistakable [that] the delegation clause committed disputes over the "interpretation and scope" of the Arbitration Agreement and issues of "arbitrability of the claim or dispute" to the arbitrator, the FAA requires us to honor that agreement and leave resolution of these discrete gateway issues to the arbitrator"). In the very next breath, however, the Court of Appeals engaged in interpretation of the agreement by determining that the reference to "arbitrability" was too ambiguous to constitute a delegation of issues involving enforcement. When the Court of Appeals in *Doe* interpreted the term "arbitrability" it engaged in an inquiry which it had already held was required to be submitted to the arbitrator. The correct decision would have been to refer the matter to arbitration, and, if the arbitrator determined that he or she did not have authority to resolve the dispute based upon his or her interpretation of the arbitration clause, the matter could have returned to court for further proceedings. As it stands, the Court of Appeals in *Doe* performed a function which had been expressly delegated to the arbitrator in violation of the FAA.

The contract also incorporates by reference AAA arbitration rules. Rule 14 of the AAA Consumer Arbitration Rules is entitled "Jurisdiction" and provides:

> R-14. Jurisdiction
>
> (a) the arbitrator shall have the power to rule on his or her own jurisdiction, including any objections with respect to the existence, scope, or validity of the arbitration agreement or to the arbitrability of any claim or counterclaim.

Rule 14, AA Consumer Arbitration Rules. Courts have held that incorporation of AAA rules is, in and of itself, a clear and unmistakable delegation of questions involving the enforceability and validity of an arbitration agreement. *E.g. Contec Corp. v. Remote Solution Co.* (2d Cir.2005) 398 F.3d 205, 208 ("[W]hen ... parties explicitly incorporate rules that empower an arbitrator to decide issues of arbitrability, the incorporation serves as clear and unmistakable evidence of the parties' intent to delegate such issues to an arbitrator."); *Sakyi,* 308 F.Supp.2d at 379 (incorporation of AAA Consumer Rules is clear and unmistakable evidence that the parties' intended for an arbitrator to decide questions of arbitrability, "including challenges to the continued validity and existence of the arbitration provision"); *Cubria v. Uber Technologies, Inc.*, 242 F.Supp.2d 542, 549-50 (W.D.Tex. 2017) (incorporation of AAA rules in contract between Uber and Uber rider*); Fogelsong v. Joe Machens Auto. Grp. Inc.,* 600 S.W.3d 288, 298–99 (Mo. Ct. App. 2020) (incorporation of AAA rules in contract between automobile dealership and customer).

Because the arbitration agreement contains a delegation clause which refers the question of Hendrick's ability to enforce the arbitration agreement to the arbitrator, the Court of Appeals erred when it ignored the delegation clause and instead ruled on the question.[11]

[11] There can be no dispute about the validity of the delegation clause in this case. Sanders made no challenge to the delegation clause. In the absence of a direct challenge, courts must treat delegation clauses as valid. *Rent–A–Center, West, Inc. v. Jackson,* 561 U.S. at 70, 130 S.Ct. 2772; *Evangelical Lutheran Good Samaritan Soc'y v. Moreno,* 277 F. Supp. 3d 1191, 1212 (D.N.M. 2017); *Morgan v. Sanford Brown Inst.*, 137 A.3d 1168, 1182 (N.J. 2016) (the party opposing

CONCLUSION

For all the foregoing reasons, SCADA respectfully requests that this Court issue a writ of certiorari, reverse the Court of Appeals' decision and once again endorse the universally recognized rule that arbitration agreements must be enforced as written.

Respectfully submitted,

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enforcement of the arbitration agreement must lodge a specific challenge to the delegation clause. The failure to do so will require that the issue of arbitrability be determined by the arbitrator).