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S.C. SUPREME COURT

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December 13, 2021

VIA EMAIL

Patricia A. Howard
Clerk of Court
Supreme Court of S.C.
P.O. Box 11330
Columbia, SC 29211

Re: Patricia Damico and Lennar Carolinas, et al.
Appellate Case No.: 2020-001048

Dear Patricia:

This letter follows your correspondence dated December 2, 2021 regarding time allocation for oral arguments. The undersigned represent Respondents Spring Grove Plantation Development, Inc. and certain other subcontractors. The referenced Respondents are parties to this appeal who filed briefs to the Court of Appeals.

This appeal was taken from Respondent Lennar Carolinas, LLC's motion to compel not only the Plaintiffs / Appellants, but also Respondents Spring Grove and the Subcontractors to arbitration. The trial court denied Lennar's motion in part by invoking a theory of aggregation of arbitration agreements in various documents. The Court of Appeals reversed the trial court and remanded for arbitration. As for Spring Grove and the Subcontractors, the Court of Appeals held that the trial court did not specifically rule on the motions to compel them to arbitration. The Plaintiffs petitioned for *certiorari*, again invoking the theory of aggregation of arbitration agreements. The Petition did not expressly exclude the portions of the Court of Appeals opinion relating to Spring Grove and the Subcontractors. The Supreme Court granted the petition "to review the court of appeals' decision."

The undersigned are uncertain as to the status of Respondents Spring Grove and the Subcontractors with regard to this appeal. In an abundance of caution, they filed a joint respondents' brief arguing that the Court of Appeals ruling as to them should be affirmed and that aggregation of arbitration agreements should not extend to their contracts with Lennar.

The undersigned sought to obtain confirmation or consent from opposing counsel that the arbitration agreements between Lennar, Spring Grove, and/or the Subcontractors are not at issue in this appeal at this time. That consent or confirmation has not been forthcoming.

The undersigned do not plan to make arguments during the scheduled oral arguments for this appeal; they rely upon their brief. However, they request leave for a representative to appear and be allowed time to respond should issues be raised that affect the arbitration agreements in the undersigned Respondents' contracts with Lennar.

The December 2, 2021 letter appears to restrict attendance at oral arguments to counsel making arguments. The letter imposes a response deadline of Monday, December 13, 2021. Accordingly, the undersigned hereby designate Timothy J. Newton as the representative to attend for purposes of oral arguments. If a formal motion is necessary, the undersigned will make the appropriate filings.

Sincerely,

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