

The South Carolina Court of Appeals

Bertha Tyler, as Guardian of Henrietta Mayes,
Respondent,

v.

Unihealth Post-Acute Care - Orangeburg, LLC and
Catherine Pavlick, Appellants.

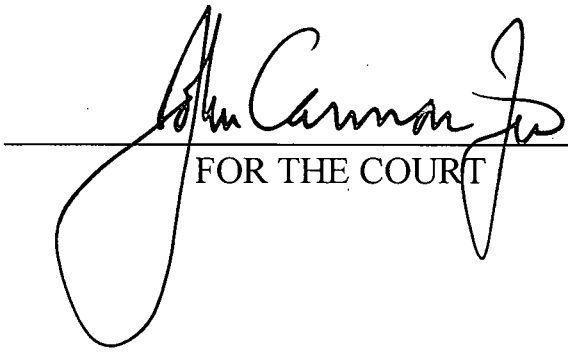
Appellate Case No. 2013-000689

ORDER

This appeal arises out of an order issued by the Honorable Diane Goodstein denying the appellants' motion to compel arbitration. The appellants filed a notice of appeal on March 28, 2013. This Court sent correspondence to the parties on June 25, 2013, inquiring about the status of a Rule 59, SCRCF motion to alter or amend Judge Goodstein's judgment. The parties responded on July 3, 2013, notifying this Court that the motion had been removed from the court's calendar based on an assertion that the motion was moot. Judge Goodstein was not copied on any of the correspondence regarding the Rule 59 motion.

After consideration of the response to the inquiry regarding the status of the Rule 59 motion, the Court allowed the appeal to proceed. This Court has learned that the Rule 59 motion was in fact pending. The lawyers failed to notify this Court of this fact; likewise, the attorneys failed to alert Judge Goodstein this appeal is still pending. Understandably, Judge Goodstein proceeded to rule on the Rule 59 motion before she learned that she was without jurisdiction to do so.

On September 30, 2013, the appellants filed a motion to withdraw their appeal. Accordingly, the appellants' motion is granted and the appeal is dismissed. *See* Rule 260(c), SCACR. In addition, the case is remanded to the circuit court so that Judge Goodstein will immediately have the jurisdiction to rule on the Rule 59 motion. Remittitur will be sent according to Rule 221(b), SCACR.

 , C.J.
FOR THE COURT

Columbia, South Carolina

cc:

Jason Edward Bring
Tyler Lawrence Arnold
John D. Kassel
Theile Branham McVey
Shane Morris Burroughs
The Honorable Diane Schafer Goodstein

FILED

10-4-13 AS