

# The South Carolina Court of Appeals

Patricia Damico and Lenna Lucas, Individually and on behalf of all others similarly situated; Joshua and Brettany Buetow; Edward and Sylvia Dengg; Jonathan and Theresa Douglass; Anthony and Stacey Ray; Danny and Ellen Davis Morrow; Czara and Chad England; Bryan and Cynthia Camara; and Matthew Collins, Respondents,

v.

Lennar Carolinas, LLC; Spring Grove Plantation Development, Inc.; Manale Landscaping, LLC; Super Concrete of SC, Inc., Southern Green, Inc.; TJB Trucking/Leasing, LLC; Paragon Site Constructors, Inc.; Civil Site Environmental; and Rick Bryant, Individually, Defendants,

Of which Spring Grove Plantation Development, Inc.; Manale Landscaping, LLC; Super Concrete of SC, Inc.; Southern Green, Inc.; TJB Trucking/Leasing, LLC; and Civil Site Environmental are Respondents.

And

Lennar Carolinas, LLC, Appellant,

v.

The Earthworks Group, Inc.; Volkmar Consulting Services, LLC; Geometrics Consulting, LLC; Land/Site Services, Inc.; Myers Landscaping, Inc.; A.C. & A. Concrete, Inc.; Knight's Concrete Products, Inc.; Knight's Redi-Mix, Inc.; Coastal Concrete Southeast, LLC; Coastal Concrete Southeast II, LLC; Guaranteed Framing, LLC; Ozzy Construction, LLC; Construction Applicators Charleston, LLC; LA New Enterprises, LLC;

Decor Corporation, DVS, Inc.; Raul Martinez Masonry, LLC; Alpha Omega Construction Group, Inc.; South Carolina Exteriors, LLC; Builders Firstsource-Southeast Group, LLC; and Low Country Renovations and Siding, LLP, Third-Party Defendants,

Of which Volkmar Consulting Services, LLC; Land/Site Services, Inc.; Myers Landscaping, Inc.; A.C. & A. Concrete, Inc.; Knight's Concrete Products, Inc.; Knight's Redi-Mix, Inc.; Coastal Concrete Southeast, LLC; Coastal Concrete Southeast II, LLC; Guaranteed Framing, LLC; Ozzy Construction, LLC; Construction Applicators Charleston, LLC; LA New Enterprises, LLC; Decor Corporation, DVS, Inc.; Raul Martinez Masonry, LLC; Alpha Omega Construction Group, Inc.; South Carolina Exteriors, LLC; Builders Firstsource-Southeast Group, LLC; are also Respondents.

And

Decor Corporation, Fourth Party Plaintiff,

v.

Baranov Flooring, LLC; DJ Construction Services, LLC; Creative Wood Floors, LLC; Geraldo Cunha; Ebenezer Flooring, LLC; Emmanuel Flooring and Siding, LLC; Eusi Flooring and Covering, LLC; Nicolas Flores; Alexander Martinez; Isidru Mejia; Juan Perez; N&B Construction, LLC; Jose Dias Rodrigues; Livia Sousa; Jose Paz Castro Hernandez; Divinio Aperecido Corgosinho; Ricardo Chiche; CEBS Construction; Bayshore Siding and Flooring; Sebastio Luiz de Araujo; and John Does 1-4, Fourth-Party Defendants.

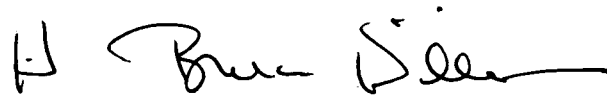
Appellate Case No. 2016-002339

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ORDER

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Lennar Carolinas, LLC (Lennar) served and filed a notice of appeal from a circuit court order denying its motion to compel arbitration. Lennar now moves this court to enforce a stay of proceedings in the circuit court. First, this court notes the order denying the motion to compel arbitration is immediately appealable. *See Towles v. United Healthcare Corp.*, 338 S.C. 29, 524 S.E.2d 839 (Ct. App. 1999) (holding an order denying a motion to compel arbitration is immediately appealable). Second, because Lennar has served a notice of appeal from an appealable order, all matters affected by this appeal must be stayed during the pendency of the appeal. *See* Rule 205, SCACR ("Upon the service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal."); Rule 241(a), SCACR ("As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or -- decision."); *Tillman v. Oakes*, 398 S.C. 245, 255, 728 S.E.2d 45, 51 (Ct. App. 2012) ("[T]he lower court is deprived of the power to proceed with matters that are affected by the appeal . . .").



FOR THE COURT

Columbia, South Carolina

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**FILED**

December 19, 2016

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Anthony Ray  
Stacey Ray  
The Honorable Mary P. Brown  
The Honorable J.C. Nicholson, Jr.