

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA
29211
1231 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1080
FAX: (803) 734-1499
www.sccourts.org

April 13, 2018

The Honorable Jeff L. Hammond
P.O Box 1809
Lancaster, SC 29721-1809

REMITTITUR

Re: Concerned Riverchase v. Riverchase Estates
Lower Court Case No. 2013-CP-29-00649, 2014-CP-29-00792
Appellate Case No. 2016-000798

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court along with the earlier decision of the South Carolina Court of Appeals is enclosed.

Very truly yours,

CLERK



cc: J. Cameron Halford, Esquire
Leland B. Greeley, Esquire
William Mark White, Esquire
W. Chaplin Spencer, Jr., Esquire

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

Concerned Riverchase Estate Owners, Andrew Dodd,
Heather Dodd, and Charles Ratay, Respondents,

v.

Riverchase Estates Property Owners Association, Inc.;
LGI Land SC, LLC; LGI Holdings, LLC; LGI
Development, Inc., and Lexon Insurance Company, Inc.,
Petitioners.

Concerned Riverchase Estate Owners, Clark, Perry,
Elder,
and White, Respondents,

v.

Riverchase Estates Property Owners Association, Inc.;
Woodforest Bank, N.A.; LGI Land SC, LLC; and LGI
Holdings, LLC; LGI Development, Inc.; and Lexon
Insurance Company, Inc., Defendants,

Of whom Riverchase Estates Property Owners
Association, Inc.; LGI Land SC, LLC; and LGI
Holdings, LLC; LGI Development, Inc.; and Lexon
Insurance Company, Inc., are the Petitioners.

Appellate Case No. 2016-000798

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal from Lancaster County

R. Knox McMahon, Circuit Court Judge

Memorandum Opinion No. 2018-MO-012
Heard March 7, 2018 – Filed March 28, 2018

AFFIRMED

William M. White and W. Chaplin Spencer Jr., of
Spencer & Spencer, PA, of Rock Hill, for Petitioners,

Leland B. Greeley, of Leland B. Greeley, PA, of Rock
Hill and J. Cameron Halford, of Halford, Niemiec &
Freeman, LLP, of Fort Mill, both for Respondents.

PER CURIAM: The issue in this case is whether the circuit court's order is immediately appealable. The court of appeals dismissed the appeal finding the order was one "compelling arbitration," and the petitioners are "not an aggrieved party" because they received what they asked for in their motion to compel arbitration. We agree with the court of appeals and affirm the dismissal of the appeal.

Petitioners filed a motion to compel arbitration in Texas and the circuit court initially denied the motion. Petitioners then filed a motion to reconsider under Rule 59(e) of the South Carolina Rules of Civil Procedure. In the motion to reconsider, petitioners requested the alternative relief that the circuit court "dismiss this action and compel arbitration in South Carolina." We interpret petitioners' request in the motion to reconsider as a motion to compel arbitration generally—as opposed to a request for arbitration in the specific location set forth in the agreement. After the circuit court's initial order, petitioners were faced with litigating the claims against them before a jury or appealing the court's order denying arbitration. Rather than taking one of those options, they chose to request arbitration either in Texas—as set forth in the agreement—or in South Carolina. The circuit court granted the motion to compel arbitration in South Carolina—one of the alternative locations requested.

Rule 201(b) of the South Carolina Appellate Court Rules provides, "Only a party aggrieved by an order, judgment, sentence or decision may appeal." The

petitioners are not an aggrieved party because they were granted the relief they requested. In addition, because the order compels arbitration as petitioners requested, it is not immediately appealable. *See Heffner v. Destiny, Inc.*, 321 S.C. 536, 537-38, 471 S.E.2d 135, 136 (1995) (holding an order compelling arbitration is not immediately appealable because it is not included in the list of appealable orders in subsection 15-48-200(a) of the South Carolina Code (2005)).

AFFIRMED.

BEATTY, C.J., KITTREDGE, HEARN, FEW, and JAMES, JJ., concur.

The South Carolina Court of Appeals

Concerned Riverchase Estate Owners, Andrew Dodd,
Heather Dodd, and Charles Ratay, Respondents,

v.

Riverchase Estates Property Owners Association, Inc;
LGI Land SC, LLC; LGI Holdings, LLC; LGI
Development, Inc.; and Lexon Insurance Company, Inc.,
Appellants.

AND

Concerned Riverchase Estate Owners, Clark, Perry,
Elder, and White, Respondents,

v.

Riverchase Estates Property Owners Association., Inc.;
Woodforest Bank, N.A.; LGI Land SC, LLC; and LGI
Holdings, LLC; LGI Development, Inc.; and Lexon
Insurance Company, Inc., Defendants,

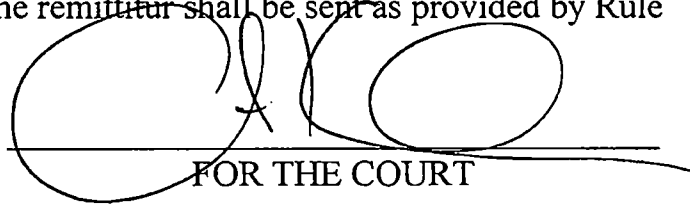
Of whom Riverchase Estates Property Owners
Association., Inc.; LGI Land SC, LLC; and LGI
Holdings, LLC; LGI Development, Inc.; and Lexon
Insurance Company, Inc., are the Appellants.

Appellate Case No. 2015-000193

ORDER

Respondents have filed a motion to dismiss, asserting (1) the underlying order compelling arbitration in South Carolina is not immediately appealable and (2)

Appellants are not aggrieved because they requested the relief that was granted. Appellants have filed a return opposing the motion, and Respondents have filed a reply. After consideration, the motion is granted. In their motion to reconsider, Appellants requested arbitration in South Carolina as alternative relief; thus, Appellants are not an aggrieved party. Further, the order compelling arbitration is not an appealable order under section 15-48-200 of the South Carolina Code (2005). *See Toler's Cover Homeowners Ass'n, Inc. v. Trident Const. Co., Inc.*, 355 S.C. 605, 611, 586 S.E.2d 581, 584-85 (2003) (holding the Federal Arbitration Act does not preempt the "state procedural rule that an order compelling arbitration is not immediately appealable"). The remittitur shall be sent as provided by Rule 221(b), SCACR.


FOR THE COURT

Columbia, South Carolina

cc: William Mark White, Esquire
W. Chaplin Spencer, Jr., Esquire
J. Cameron Halford, Esquire
Leland B. Greeley, Esquire

FILED
12/10/15