

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

DeAndrea Gist Benjamin, Circuit Court Judge

**RECEIVED**

OCT 26 2018

Case No.: 2017-CP-40-03697  
Appellate Case No. 2018-000889

SC Court of Appeals

Amanda Leigh Huskins and Jay R. Huskins.....Appellants,

v.

Mungo Homes, LLC,.....Respondent.

**RESPONDENT'S MOTION TO DISMISS**

Respondent respectfully moves this Court for an order dismissing the Appeal filed by the Appellants as the orders appealed from are not immediately appealable. Appellant seeks to challenge the Circuit Court's orders compelling the parties to arbitrate all claims filed by the Appellants and denying Appellants' motion to reconsider its order compelling arbitration. It is well established in South Carolina that an order compelling arbitration is not immediately appealable. S.C. Code §15-48-200(a) states:

(a) An appeal may be taken from:

(1) An order denying an application to compel arbitration made under § 15-48-20;

- (2) An order granting an application to stay arbitration made under § 15-48-20(b);
  - (3) An order confirming or denying confirmation of an award;
  - (4) An order modifying or correcting an award;
  - (5) An order vacating an award without directing a rehearing; or
  - (6) A judgment or decree entered pursuant to the provisions of this chapter.
- (b) The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action.

According to the plain language of the statute, an order granting a motion to compel arbitration is not identified as being immediately appealable. S.C. Code §15-48-200. Likewise, the Supreme Court of South Carolina has repeatedly recognized that an order compelling arbitration is not immediately appealable. *See, Toler's Cove*, 355 S.C. 605, 611, 586 S.E.2d 581, 584 (2003); *Carolina Care Plan, Inc. v. United Healthcare Services, Inc.*, 361 S.C. 544, 558, 606 S.E.2d 752, 759 (2004); *Heffner v. Destiny, Inc.*, 321 S.C. 536, 537–38, 471 S.E.2d 135, 136 (1995).

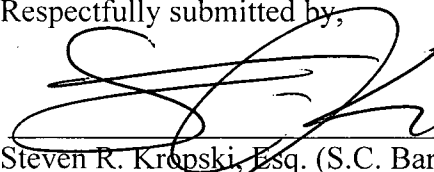
Here, Appellants identified four issues on Appeal. (App. Initial Brief at TOC). Appellants' first three issues on appeal challenge whether the Circuit Court correctly found that the arbitration agreement between the parties was not one-sided, oppressive or unconscionable. (Id.). The fourth issue advanced by the Appellants seeks to challenge the Circuit Court's finding that the Appellants' "Limited Warranty" claims fell within the broad arbitration agreement. (Id.).

All four issues identified by the Appellants seek to challenge the Circuit Court's decision to enforce the arbitration agreement between the parties and compelling each of Appellants' claims to arbitration. An order requiring the parties to arbitrate is not included in S.C. Code §15-48-200(a).

Accordingly, each issue on appeal is not immediately appealable, and the appeal should be dismissed.

This 24<sup>th</sup> day of October 2018.

Respectfully submitted by,



Steven R. Kropski, Esq. (S.C. Bar # 101441)  
David W. Overstreet, Esq. (S.C. Bar# 16965)  
Earhart Overstreet LLC  
P.O. Box 22528  
Charleston, South Carolina 29413  
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Attorneys for Mungo Homes, LLC

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**PROOF OF SERVICE**

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I, Robert Eaton, an employee of Earhart Overstreet LLC, attorney for Respondent Mungo Homes, LLC certify that I served a copy of the attached *Motion to Dismiss Appeal* by depositing a copy of it in the United States Postal Service, postage prepaid, on October 23, 2018, addressed to Appellant Amanda Leigh Huskins and Jay R. Huskins' attorneys of record, Beth B. Richardson of Robinson Gray Stepp & Laffite, LLC at P.O. Box 11449 Columbia, South Carolina 29211; Terry E. Richardson, Jr., Matthew J. Nickles, and Brady R. Thomas of Richardson, Patrick, Westbrook, and Brickman, LLC at P.O. Box 1368 Barnwell, SC 29812 and Charles H. McDonald at Belser & Belser, P.A. at P.O. Box 96 Columbia, SC 29202

October 24, 2018



Robert Eaton



Earhart Overstreet

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October 24, 2018

**VIA U.S. MAIL**

Jenny Abbott Kitchings, Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

Re: Amanda Leigh Huskins and Jay R. Huskins v. Mungo Homes, LLC.  
Appellate Case No.: 2018-000889  
EO File No.: 110-0137

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Dear Ms. Kitchings:

Enclosed please find an Original and six (6) copies of Respondent's Motion to Dismiss Appeal, and a corresponding \$50 check representing the filing fee. If you have any questions, please do not hesitate to contact me. With kind regards, I am

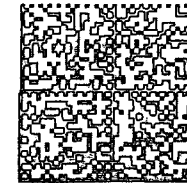
Sincerely,

STEVEN R. KROPSKI

SRK:rlc

Enclosures

cc: Beth B. Richardson, Esq.  
Terry E. Richardson, Jr., Esq.  
Matthew J. Nickles, Esq.  
Brady R. Thomas, Esq.  
Charles H. McDonald, Esq.



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