

# The South Carolina Court of Appeals

University of South Carolina Aiken, Plaintiff,

v.

University Housing Services, Inc., H.G. Reynolds Co.,  
Southern Wall Systems, Inc., McElroy Specialty  
Interiors, Inc., Croft Hill Siding, Inc., East Coast Painting  
Inc., and John Does 1 Through 3, Defendants,

And

H.G. Reynolds Co., Inc., Third-Party Plaintiff,

v.

William Bell, Bell Siding and Roofing, William Bell  
d/b/a Bell Siding & Roofing a/k/a Bell Siding and  
Roofing, LLC, and Bell Siding and Roofing, LLC, Third-  
Party Defendants,

Of Which University Housing Services, Inc., and H.G.  
Reynolds Company, Inc. are the Appellants,

And

Of Which University of South Carolina Aiken is the  
Respondent.

Appellate Case No. 2018-001039


---

ORDER

---

Appellants appealed three circuit court orders to this court: an order granting a motion to file an amended complaint, an order denying a motion to dismiss or stay

the action and compel arbitration, and an order denying motions for reconsideration. Appellants have now submitted a letter requesting that this court approve an agreement between the parties to submit to arbitration, dismiss this appeal, and vacate the orders on appeal denying arbitration. After careful consideration, Appellants' request is denied because it was not submitted as a formal motion and did not set forth the facts warranting vacation of the circuit court's orders. *See* Rule 260(b), SCACR ("An agreement that the proceeding be dismissed need not be in the form of a motion *unless* the parties request that the appellate court . . . approve a settlement agreement . . . or vacate a prior order, opinion, or judgment." (emphasis added)); Rule 261(b), SCACR ("If a settlement agreement relates to a matter that is pending before an appellate court, the settlement agreement need not be submitted to the appellate court unless approval by the appellate court[ or] a lower court or tribunal is required before the agreement can be effective . . ."); Rule 261(d), SCACR ("In the agreement, the parties may request vacation of opinions, orders, decisions and judgments previously issued in the matter. The agreement must set forth the facts that warrant this extraordinary relief."). However, nothing prevents Appellants from either submitting a new request for dismissal under Rule 260(b) that does not seek approval of an agreement or the vacation of prior orders, filing a formal motion that includes these requests, or voluntarily withdrawing the appeal pursuant to Rule 260(c), SCACR.

  
FOR THE COURT

Columbia, South Carolina

cc: John Lucius McCants, Esquire  
Gregory Milam Alford, Esquire  
Glynn Lindsey Capell, Esquire  
Jesse A. Kirchner, Esquire  
Charles Whaley Thomson, Esquire  
Mark Steven Barrow, Esquire  
Christy Elizabeth Mahon, Esquire  
Michael A. Timbes, Esquire  
Thomas James Rode, Esquire

**FILED**  
July 11, 2019