

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

Doyet A. Early III, Circuit Court Judge

Case No. 2016-CP-02-02339

**RECEIVED**

AUG 16 2019

SC Court of Appeals

90594

The University of South Carolina .....Respondent,

v.

University Housing Services, Inc.  
H.G. Reynolds Company, Inc.,  
Southern Wall Systems, Inc.  
McElroy Specialty Interiors, Inc.,  
Crosby Broadwater d/b/a Broadwater  
Construction, Tim Stephens d/b/a Sa-Glo  
Carolina a/k/a San-Glo Glass, Inc., William  
Bell d/b/a Bell Siding & Roofing a/k/a Bell  
Siding & Roofing, LLC, Croft Hill Siding, Inc.,  
East Coast Painting, Inc. and John Doe 3 .....Defendants.

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

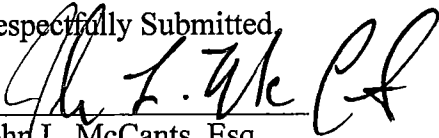
**MOTION TO APPROVE SETTLEMENT AGREEMENT AND DISMISS THE APPEAL**

Pursuant to Rule 260(b), SCACR and Rule 261, SCACR, Appellant University Housing Services, Inc. (“University Housing”), Appellant H.G. Reynolds Company, Inc., (“H.G. Reynolds Company”) and Respondent University of South Carolina/University of South Carolina Aiken (“USC”) hereby move before the Court of Appeals for the Court of Appeals to approve the

settlement agreement, that provides for arbitration, that is attached hereto as Exhibit "A".<sup>1</sup> The parties have agreed to the dismissal of the appeal upon the approval of the settlement agreement; and respectfully request that the Court of Appeals approve the same in order for the settlement to become effective. The parties otherwise desire to have the settlement agreement approved by the appellate court as provided for in Rule 261(b), SCACR; and for the Court of Appeals to then dismiss the appeal as being settled between the parties. The parties agree that no costs are to be awarded pursuant to Rule 222, SCACR; and that each party will bear its own costs for the appeal.

WHEREFORE, having moved before the Court of Appeals for the Court of Appeals to approve a settlement agreement, providing for arbitration, agreed to by University Housing, H.G. Reynolds and USC, the parties request that the Court approve the settlement; and then dismiss the appeal.

Respectfully Submitted,

  
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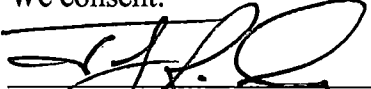
*(Other Signatures on Next Page)*

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<sup>1</sup> The original Exhibit A was filed with the Court on April 9, 2019.

*Appellate Case No. 2018-001039*  
*Motion to Approve Settlement and Dismiss Appeal*

We consent:



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*Appellate Case No. 2018-001039*  
*Motion to Approve Settlement and Dismiss Appeal*

-and-  for ..

---

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Attorneys for Appellant H.G. Reynolds Co., Inc.

8/16, 2019

# EXHIBIT A

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM AIKEN COUNTY

Court of Common Pleas

Doyet A. Early III, Circuit Court Judge

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Case No. 2016-CP-02-02339

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**RECEIVED**  
APR 09 2019  
SC 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.

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Appellate Case No. 2018-001039

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This agreement (the "Agreement") is entered into between the Plaintiff/Respondent University of South Carolina<sup>1</sup> ("USC"), Defendant/Appellant University Housing Services ("University Housing Services") and Defendant/Appellant H.G. Reynolds Company, Inc. ("H.G. Reynolds"), who agree as follows:

WHEREAS, USC is a Plaintiff in Civil Action No. 2016-CP-02-02339 commenced in the Court of Common Pleas for Aiken County, South Carolina ("Civil Action");

WHEREAS, University Housing Services and H.G. Reynolds are Defendants in the Civil Action;

WHEREAS, University Housing Services and H.G. Reynolds filed motions to compel arbitration of the claims brought by USC in the Civil Action. The Circuit Court denied the motions to compel arbitration; and University Housing Services and H.G. Reynolds appealed the decision of the Circuit Court to the Court of Appeals. The appeal is Appellate Case No. 2018-001039.

WHEREAS, USC, University Housing Services and H.G. Reynolds have agreed to settle Appellate Case No. 2018-001039 and will enter into a settlement agreement, based on the terms of the Agreement, that is approved by the Court of Appeals pursuant to Rule 261(b), SCACR.

WHEREAS, USC, University Housing Services and H.G. Reynolds agree that any claims and defenses among the parties to this Agreement arising out of or relating to the Civil Action shall be decided by final and binding arbitration pursuant to S.C. Code § 15-48-10 et seq. The parties to this document agree further as follows:

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<sup>1</sup> References to the University of South Carolina or USC include the University of South Carolina-Aiken.

1. Selection of Arbitrators - USC, University Housing Services and H.G. Reynolds shall select three (3) neutral arbitrators in accordance with S.C. Code § 15-48-30 and the SC Court-Annex ADR Rules.

2. Location of Arbitration - The arbitration hearing will be conducted in Aiken County, South Carolina at a mutually agreeable location to the parties to the Agreement and with input from the arbitrators. The cost of any location for an arbitration hearing shall be borne equally between USC, University Housing Services and H.G. Reynolds.

3. Dates of Arbitration - The date(s) of the arbitration hearing will be set by mutual agreement of USC, University Housing Services and H.G. Reynolds, and the arbitrators, but no sooner than twelve (12) months following a preliminary scheduling order conference before the arbitrators.

4. Discovery - Discovery shall be limited to the following:

- The parties will exchange all documents relevant to the claims and defenses in the Civil Action that are not privileged. A log shall be prepared for documents withheld by a party as privileged.
- The parties will exchange reports, if any, of experts and produce any other documents relied on by an expert or to be used by an expert or a party in the arbitration hearing.
- USC shall be allowed to take up to ten (10) depositions of lay witnesses.
- University Housing Services and H.G. Reynolds shall be allowed to take up to ten (10) depositions of lay witnesses.

- USC, University Housing Services and H.G. Reynolds may take depositions of experts who a party to the Agreement may have testify at the arbitration hearing. The limitation of ten (10) depositions for lay witnesses does not include or apply to depositions of such experts. USC, University Housing Services and H.G. Reynolds shall each bear the costs of their own expert(s), including, but not limited to, an expert's appearance for a deposition.
- USC shall give University Housing Services and H.G. Reynolds reasonable access to the subject building for investigations by any expert retained by either University Housing Services or H.G. Reynolds for the arbitration.
- The foregoing does not limit other discovery that may be authorized by S.C. Code § 15-48-80 et seq., that may be mutually agreeable to the parties to the Agreement or that may be authorized by the arbitrators.

5. Fees and Expenses of Arbitrators - All fees and expenses incurred and charged by the arbitrators shall be borne equally between the parties herein with USC bearing a one-third share, University Housing Services bearing a one-third share and H.G. Reynolds bearing a one-third share.

6. Claims/Defenses - USC, University Housing Services and H.G. Reynolds agree that the Civil Action will be stayed as between them for arbitration; and the scope of arbitration will be all claims and defenses arising out of or relating to the Civil Action between the parties to the Agreement.

7. Issuance of Award - The arbitrators shall, if at all possible, issue their award in the arbitration proceeding within thirty (30) calendar days of the conclusion of the hearing. The form of the award shall be a reasoned award unless the parties agree otherwise.

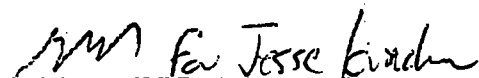
8. Entire Agreement – The Agreement and S.C. Code § 15-48-10 et seq. set forth all of the agreements between USC, University Housing Services and H.G. Reynolds relating to this arbitration, and all other agreements, understandings, representations and statements, oral or written, are merged herein.

9. The Agreement does not prejudice USC from litigating its claims in the Civil Action against the remaining Defendants named in the Civil Action - other than or excluding University Housing Services and H.G. Reynolds.

10. Severability - In the event any one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof and the Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

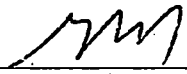
11. Successors and Assigns - The Agreement shall be binding upon and inure to the benefit of the parties to the Agreement and their respective successors and assigns.

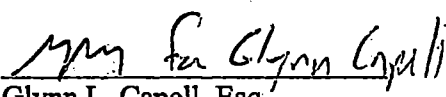
The undersigned agree to the terms of the Agreement on behalf of their respective clients.

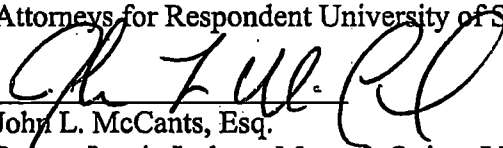


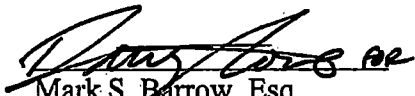
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*Ltr. to The Honorable Jenny Abbott Kitchings*  
*March 29, 2019*  
*Appellate Case No.: 2018-001039*

cc.

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Gregory M. Alford, Esq. (Via Email)  
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THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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Carolina a/k/a San-Glo Glass, Inc., William  
Bell d/b/a Bell Siding & Roofing a/k/a Bell  
Siding & Roofing, LLC, Croft Hill Siding, Inc.,  
East Coast Painting, Inc. and John Doe 3.....Defendants.

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

**PROOF OF SERVICE**

I certify that I have served the Motion to Approve Settlement Agreement and Dismiss the  
Appeal on Other Counsel of Record by depositing a copy of it in the United States Mail, postage  
prepaid, on August 16, 2019 addressed to their attorneys of record, listed as follows:

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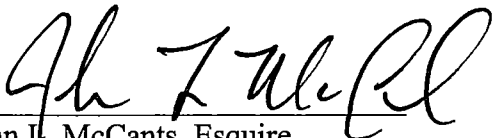
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Attorney for Appellant University Housing  
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August 16, 2019  
Columbia, South Carolina

# ROGERS LEWIS

ATTORNEYS AT LAW

John L. McCants, Esq.  
jmccants@rogerslewis.com

August 16, 2019

*Via Hand Delivery*

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201

**RECEIVED**

**AUG 16 2019**

**SC Court of Appeals**

Re: University of South Carolina v. University Housing Services, Inc., et al.  
Circuit Court Case No.: 2016-CP-02-02339  
Appellate Court Case No.: 2018-001039

Dear Ms. Kitchings:

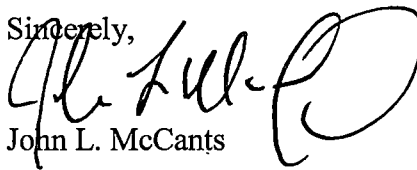
Enclosed please an original and six (6) copies of Appellant University Housing Services, Inc., Appellant H.G. Reynolds Company, Inc., and Respondent University of South Carolina/University of South Carolina Aiken's Motion to Approve Settlement Agreement and Dismiss the Appeal in the above referenced matter. Please file one copy and return a file-stamped copy with the Courier.

By copy hereof, all counsel of record are being served with the above.

Thank you for your assistance, and should you have any questions, please do not hesitate to contact me.

Sincerely,

John L. McCants



cc: All Counsel of Record