



The Supreme Court of South Carolina

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April 02, 2021

The Honorable Timothy Martin Cain
United States District Court Judge
G. Ross Anderson, Jr. Federal Building
315 South McDuffie Street, 2nd Floor
Anderson, S.C. 29624

Re: Curt O. Hall v. UBS Financial Services Inc., et al.
Appellate Case No. 2020-001195
United States District Court Case No. 6:19-cv-3316-TMC

Dear Judge Cain:

As you know, the Supreme Court of South Carolina has agreed to answer three certified questions in this case. Oral arguments are scheduled to be heard on April 14, 2021.

On pages 26 and 27 of their brief to this Court, the defendants argue this Court should rescind its decision to answer the certified questions for the following reasons:

In this matter, there is currently no motion pending on which to base the Certified Question before the Certifying Court. The Certified Questions were sent to the Supreme Court by the District Court following the filing of individual Motions to Dismiss on behalf of UBS and Reid. However, prior to the filing of the certified questions, the

Defendants withdrew the pending Motions to Dismiss and moved to compel arbitration.

The Supreme Court has discretion to rescind its decision to answer a certified question. Rule 244(f), SCACR. A justiciable controversy is a real and substantial controversy which is ripe and appropriate for judicial determination, as distinguished from a contingent, hypothetical or abstract dispute. . . . If there is no actual controversy, the Supreme Court of South Carolina will not decide moot or academic questions.”) (citations omitted); *Concerned Dunes West Residents, Inc. v. Georgia-Pacific Corp.*, 349 S.C. 251, 261, 562 S.E.2d 633, 639 (2002) (declining to answer certified questions where questions “assume a dispute which may never arise” because this Court will not issue advisory opinions). *See also Sangamo Weston, Inc. v. Nat’l Sur. Corp.*, 307 S.C. 143, 414 S.E.2d 127 (1992) (even when answering questions on certification, this Court will not issue advisory opinions).

The Supreme Court of South Carolina respectfully asks that you please advise if the controversy encompassed by the certified questions continues to exist, and whether the certified questions still need to be addressed by this Court.

Very truly yours,

A handwritten signature in black ink, appearing to be "D. J. E. A.", written in a cursive style.

CLERK

cc: Townes Boyd Johnson, III, Esquire
Ashley Prickett Cuttino, Esquire
Evelyn A Norton, Esquire
Ms. L. Kay McAlister