

1997-16(C) (IV)

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
CIVIL ACTION NO. 98-CP-40-2466

Hass Construction Company, Inc., )  
Clontz-Garrison Mechanical, Inc., )  
Utilities Construction Company, Inc., )

APPELLANTS and )  
PLAINTIFFS, )

vs. )

South Carolina State University, )

RESPONDENT and )  
DEFENDANT, )

and )

The South Carolina Procurement )  
Review Panel, )

RESPONDENT. )

ORDER DISMISSING CLAIM  
FOR DECLARATORY JUDGMENT  
OF HASS CONSTRUCTION  
COMPANY, INC. and  
COUNTERCLAIMS OF SOUTH  
CAROLINA STATE UNIVERSITY

FILED  
01 OCT -4 AM 9:33  
BARBARA A. SCOTT  
C.C.C. & G.S.

THIS MATTER came before me on Motion of Hass Construction Company, Inc. ("Hass") to dismiss the Counterclaims of South Carolina State University ("SCSU"). This matter involves an appeal under the Administrative Procedures Act of the decision of the South Carolina Procurement Review Panel. In SCSU's responsive pleadings to Hass's Petition for Judicial Review, South Carolina State University alleges certain counterclaims against Hass arising from the construction contract. Hass's Petition for Judicial Review also raises, as a second cause of action, a Complaint for Declaratory Relief against SCSU.

At oral argument, the parties acknowledged that the exclusive means for resolving contract controversy between a state agency, such as SCSU, and a contractor, such as Hass, is found in South Carolina Code Annotated §11-35-4230. Because the issues raised in the

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Complaint for Declaratory Judgment and the Counterclaim, fall within the province of this provision, the claims are not properly before the Court sitting in its appellant capacity. *Unisys Corporation v. The South Carolina Budget and Control Board Division of General Services Information Technology Management Office, etc., et al.*, \_\_\_\_\_ S.C. \_\_\_\_\_, 551 S.E.2d 263 (S.C. Aug. 14, 2001). Therefore, both parties acknowledge that the claims should be dismissed with prejudice. However, to the extent the issues raised in these causes of action fall within the Petitions for Judicial Review of either party, they may be considered within the context of the Petitions for Judicial Review.

IT IS, THEREFORE, ORDERED, ADJUDGED and DECREED, that the Counterclaims of South Carolina State University and the Complaint for Declaratory Relief of Hass Construction Company, Inc. are dismissed with prejudice and forever ended.

AND IT IS SO ORDERED.

  
ALEXANDER S. MACAULAY

Walhalla, South Carolina,

October 2, 2001.

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