

Court of Appeals, State of Michigan

ORDER

Midwest Memorial LLC v Citigroup Global Markets Inc

William C. Whitbeck
Presiding Judge

Docket No. 301964

Donald S. Owens

LC No. 10-000025-CR

Stephen L. Borrello
Judges

The Court orders that the motion for leave to file a reply in support of the motion to dismiss is GRANTED.

The motion to dismiss pursuant to MCR 7.211(C)(2) is also GRANTED for the reason that the appeal is not within this Court's jurisdiction. The December 13, 2010 order appealed from is not a final order. MCR 7.202(6)(a); MCR 7.203(A)(1). Further, that order is not appealable of right under 9 USC 16(a)(1)(B). Specifically, 9 USC 16(a)(1)(B) only provides for an appeal from an order denying a petition to order arbitration under 9 USC 4, while 9 USC 4 only allows for petitions for arbitration to a United States District Court. Thus, 9 USC 16(a)(1)(B) does not create a right to appeal a state court order denying arbitration to a state appellate court. We note that *Mueller v Hopkins & Howard, PC*, 5 SW3d 182, 186-187 (Mo App, 1999), failed to recognize that the language of 9 USC 16(a)(1)(B), read together with 9 USC 4, only creates a right to appeal from federal district court orders. Accordingly, we decline to follow its indication that 9 USC 16(a)(1)(B) creates a right to appeal a state court order denying arbitration to a state appellate court.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

MAR 18 2011

Date


Chief Clerk