

[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 09-11817

D. C. Docket No. 06-23035-CV-MGC

GRIGSBY & ASSOCIATES, INC.,
CALVIN B. GRIGSBY,

Plaintiffs-Appellants,

versus

M SECURITIES INVESTMENT,
HOWARD GARY & COMPANY,
HOWARD V. GARY,
NATIONAL ASSOCIATION OF
SECURITIES DEALERS, INC.,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Florida

(September 4, 2012)

ON PETITION FOR REHEARING

Before PRYOR and EDMONDSON, Circuit Judges, and EVANS,* District Judge.

O R D E R:

This matter is before the Court on a Petition for Rehearing. The Court presently plans to enter, in the future, an order along this line:

“The motion for rehearing is DENIED, except our decision on the denial of an injunction of arbitration is totally withdrawn: that issue is moot given that the arbitration has been completed with the participation of the parties.

The order confirming the arbitration award is vacated and the case remanded for further proceedings. The award may be confirmed only if the district court determines de novo -- anew, by itself, and for itself -- that the Defendants did not waive the right to arbitrate by their pre-arbitration conduct, including their earlier filing several lawsuits against Plaintiffs.”

The parties have 15 days from the date of this order to explain why the proposed order on rehearing should not be entered. The explanation from each party must not exceed 12 pages.

FOR THE COURT:

/s/ J. L. Edmondson
UNITED STATES CIRCUIT JUDGE

* Honorable Orinda Evans, United States District Judge for the Northern District of Georgia, sitting by designation.