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**Nov 21 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

G. D. Morgan, Jr., Circuit Court Judge

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Case No. 2022-CP-23-04451  
Appellate Case No. 2023-001740

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Danny Rose,

Respondent,

v.

Robert Rose, Gloria Rose-Ruch,  
Mary Margaret Doll Rose, and John  
Does 1-99, Defendants,

Of Whom Robert Rose, Gloria Rose-Ruch,  
and Mary Margaret Doll Rose are the

Appellants.

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REPLY IN SUPPORT OF  
MOTION TO DISMISS APPEAL

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Appellants' Return fails to address the threshold issue raised in the motion to dismiss: a discovery order does not fall within the categories of "appealable orders" within S.C. Code Ann. §14-3-330 and therefore is not immediately appealable. It is well settled that an order relating to discovery is not immediately appealable. *Grosshuesch v Cramer*, 377 S.C. 12, 30, 659 S.E.2d 112, 122 (2008) ("discovery orders, in general, are interlocutory and not immediately appealable"). The order at issue denies Appellants' request to conduct discovery, meaning it is a discovery order and therefore not immediately appealable. Because Appellants

cannot overcome this threshold matter, the appeal should be dismissed.

Appellants rely solely on *Metts v. Mims*, 384 S.C. 491, 682 S.E.2d 813 (2009), contending “the facts in this appeal are foursquare with those of *Metts*.” This assertion is both blatantly incorrect and totally misses the mark. *Metts* does not address whether an order is immediately appealable. In fact, the types of orders on appeal in *Metts*—a contempt order and an order granting summary judgment—are plainly appealable. By contrast, the discovery order at issue in this matter is plainly **not** appealable. Appellants either fail to recognize the issue is the appealability of the order or are attempting to distract the Court from this shortcoming by trying to focus on an irrelevant issue. Ultimately, the discovery order is unquestionably interlocutory and undoubtedly subject to dismissal.

Accordingly, for the reasons set forth hereinabove, this appeal should be dismissed.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that on November 21, 2023, he caused to be served the foregoing Reply in Support of Motion to Dismiss upon all counsel of record, via electronic means, to counsel's email address on file with the South Carolina Attorney Information System.

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