

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas

J. Mark Hayes, II, Circuit Court Judge

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Case No. 2017-CP-42-00219

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Jo Ann Blackwell, Michelene Brooks, and Samuel H. Owens, Jr., individually and on behalf of all others similarly situated,

Respondents,

v.

Mary Black Health System, LLC, d/b/a Mary Black Memorial Hospital; CHSPSC, LLC; and Professional Account Services, Inc.,

Appellants,

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**NOTICE OF APPEAL**

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Mary Black Health System, LLC, d/b/a Mary Black Memorial Hospital (“Mary Black”), CHSPSC, LLC (“CHSPSC”), and Professional Account Services, Inc. (“PAS”) (collectively, “Defendants”) appeal the following orders issued by the Honorable J. Mark Hayes, II:

1. Order Striking Defendants’ Answer and Holding Defendants in Default, filed November 30, 2023;
2. Amended Order Striking Defendants’ Answers and Holding Defendants in Default, filed December 1, 2023<sup>1</sup>;
3. Order denying Defendant Rule 59(e) Motion to Alter or Amend the Order Striking the Pleadings, filed August 15, 2024<sup>2</sup>;

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<sup>1</sup> The circuit court purports to incorporate by reference “all prior orders and directives” in its Amended Order Striking Defendants’ Answers and Holding Defendants in Default. (Order p. 2).

<sup>2</sup> South Carolina courts have recognized that an order striking a pleading is immediately appealable pursuant to S.C. CODE ANN. § 14-3-330(2)(c). See *Thornton v. S.C. Elec. & Gas Corp.*, 391 S.C.

4. Order ruling on the issue of whether the case is stayed as a result of the Defendants' Appeal of the Order denying Defendants' Motions to Dismiss, or in the Alternative, to Compel Arbitration, filed July 6, 2021 (referenced on page 7 of the December 1, 2023 Order Striking Defendants' Answers)<sup>3</sup>;
5. Order Granting Plaintiffs' Motion to Compel Discovery, filed November 23, 2021 (referenced on page 8 of the December 1, 2023 Order Striking Defendants' Answers)<sup>3</sup>;
6. Order Granting Plaintiffs' Motion for Sanctions, filed August 2, 2022 (referenced on page 15 of the December 1, 2023 Order Striking Defendants' Answers)<sup>3</sup>;
7. Order Certifying Class, filed November 1, 2022 (referenced on pages 3 and 17 of the December 1, 2023 Order Striking Defendants' Answers)<sup>3</sup>;
8. Form 4 Order Granting Plaintiff's Renewed Motion for Sanctions, filed June 23, 2023<sup>3</sup>;
9. Order Granting Renewed Motion for Sanctions, filed July 3, 2023 (referenced on page 18 of the December 1, 2023 Order Striking Defendants' Answers)<sup>3</sup>;
10. Order Establishing Notice Procedures and HIPAA Qualified Order, filed July 11, 2023<sup>3</sup>;
11. Amended Order Establishing Notice Procedures and HIPAA Qualified Order, filed July 12, 2023 (referenced on page 19 of the December 1, 2023 Order Striking Defendants' Answers)<sup>3</sup>;
12. Order Granting Plaintiffs' Motion for Protective Order, filed October 2, 2023<sup>3</sup>;
13. Order Granting Plaintiff's Motion for Protective Order, filed October 11, 2023<sup>3</sup>; and
14. Second Amended Order Establishing Notice Procedures, filed August 13, 2024<sup>3</sup>.

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297, 304, 705 S.E.2d 475, 479 (Ct. App. 2011); *Wilson v. Builders Transp., Inc.*, 330 S.C. 287, 291, 498 S.E.2d 674, 676 (Ct. App. 1998).

<sup>3</sup> South Carolina courts have recognized the appellate courts' right to review interlocutory orders "when such review would avoid another appeal in the future and potentially narrow the issues for trial (i.e. judicial economy)." *Edge v. State Farm Mut. Auto. Ins. Co.*, 366 S.C. 511, 517, 623 S.E.2d 387, 390 (2005). This use of discretion is particularly appropriate when the interlocutory orders "are companion to issues that are [immediately] reviewable" by the appellate court. *Brown v. Cnty. of Berkeley*, 366 S.C. 354, 362 n.5, 622 S.E.2d 533, 538 n.5 (2005). In this case, the circuit court itself recognized or made the issues in these other orders companion to the immediately appealable orders in this appeal when it referenced those orders and used them as purported justification for the decisions which are undeniably appealable now.

Defendants received notice of the Court's orders on the dates each of the respective orders were filed by the circuit court.

Another appeal in this case is pending before the Court, Appellate Case No. 2020-001613. Defendants filed the Notice of Appeal in that appeal on December 8, 2020, and the Court held oral argument on March 4, 2024. However, the Court has not yet issued an opinion in that appeal.

*s/James Lynn Werner*

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September 16, 2024  
Columbia, South Carolina

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and Professional Account Services, Inc.,

Appellants,

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**PROOF OF SERVICE**

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The undersigned hereby certifies that on September 16, 2024, a copy of Appellants' **Notice of Appeal** was served on all counsel of record via email containing the above referenced document to counsels' individual AIS email addresses as follows:

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September 16, 2024  
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SC Court of Appeals

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September 16, 2024

**VIA HAND-DELIVERY AND E-MAIL:**

The Honorable Jenny Abbott Kitchings  
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**Re: Jo Ann Blackwell, Michelene Brooks, and Samuel H. Owens, Jr., individually and on behalf of all others similarly situated, v. Mary Black Health System, LLC, d/b/a Mary Black Memorial Hospital, CHSPSC, LLC, and Professional Account Services, Inc.; Trial Court Case No.: 2017-CP-42-00219**

Dear Mrs. Kitchings:

Enclosed for filing in the Jo Ann Blackwell, et al v. Mary Black Health System, LLC, et al, please find one copy of Appellants' Notice of Appeal and Proof of Service. Copies of same are being provided to all counsel of record via e-mail.

Additionally, please find enclosed Check No. 516576 in the amount of \$250.00 which covers our filing fee.

Should you have any questions or need anything further, please do not hesitate to contact me.

Sincerely,

*s/Katon E. Dawson, Jr.*

Katon E. Dawson, Jr.

KED/tlc  
Enclosures  
cc: All Counsel of Record on Proof of Service