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**Dec 10 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

The Honorable James E. Chellis, Master-In-Equity

Appellate Case No. 2024-002001

Cornerstone Ventures International, LLC,

.....Respondent,

v.

Alvin E. Burch, Sr.,

.....Appellant,

**RESPONDENT’S MOTION TO DISMISS AND  
SUPPORTING MEMORANDUM OF LAW**

Lawrence M. Hershon (SC Bar: 77514)  
The Hershon Law Firm, P.A.  
1565 Sam Rittenberg Blvd., Suite 103  
Charleston, SC 29407  
Telephone: (843) 829-2022  
Facsimile: (843) 829-2023  
lawrence@hershonlawfirm.com

Attorney for Cornerstone Ventures  
International, LLC

## INTRODUCTION

Pursuant to Rule 260 of the South Carolina Appellate Court Rules, Respondent Cornerstone Ventures International, LLC (“Cornerstone”) hereby moves for an order dismissing the appeal of Alvin E. Burch, Sr. (“Burch”). Burch’s appeal should be dismissed because the order appealed is a post-judgment order in proceedings supplementary under Rule 69, SCRCF, which is not immediately appealable.

## FACTUAL BACKGROUND

On April 1, 2022, Burch made, executed, and delivered a Promissory Note, payable to the order of Cornerstone, in the original principal amount of Sixty-Five Thousand and No/100 Dollars (\$65,000.00). Burch defaulted in the Promissory Note, necessitating the underlying lawsuit in Case No. 2023-CP-18-00658. Burch, represented by counsel at the time, negotiated a settlement agreement that included execution of a Confession of Judgment to secure payment under the settlement agreement. Following a default by Burch under the terms of the settlement agreement, Cornerstone filed the Confession of Judgment on October 2, 2023.

Following return of the Writ of Execution *nulla bona*, Cornerstone commenced proceedings supplementary under Rule 69, SCRCF. Multiple hearings have occurred since the first hearing in March 2024, with Burch refusing to provide the most basic of document requests in response to various orders and rules to show cause. Following the latest order to produce documents on November 5, 2024, rather than produce documents as provided in that order, Burch has inappropriately filed this appeal and also inappropriately filed a motion purportedly under Rule 60, SCRCF, with the Court of Appeals.

## ARGUMENT

### I. THE ORDER DATED NOVEMBER 5, 2024 IS NOT IMMEDIATELY APPEALABLE.

#### A. *Legal Standard Governing Appellate Review of Trial Court Orders*

“The right of appeal arises from and is controlled by statutory law. *Ex Parte Capital UDrive- It, Inc.*, 369 S.C. 1, 6, 630 S.E.2d 464, 467 (2006) (citing *N.C. Fed. Sav. and Loan Assn. v. Twin States Dev. Corp.*, 289 S.C. 480, 347 S.E.2d 97 (1986)). “An appeal ordinarily may be pursued only after a party has obtained a final judgment.” *Id.* (citing *Mid-State Distributors, Inc. v. Century Importers, Inc.*, 310 S.C. 330, 335, 426 S.E.2d 777, 780–81 (1993)); *see also* S.C. Code Ann. § 14–3–330(1) (1976); Rule 201(a), SCACR. A final judgment is an order that “disposes of the cause, reserving no further questions or directions for future determination. It must finally dispose of the whole subject-matter or be a termination of the particular proceedings or action, leaving nothing to be done but to enforce by execution what has been determined.” *Kriti Ripley, LLC v. Emerald Investments, LLC*, 404 S.C. 367, 379, 746 S.E.2d 26, 32 (2013) (internal citations omitted).

S.C. Code Ann. § 14–3–330 sets forth certain, limited circumstances in which an appeal may be taken outside of final judgment. Under section 14–3–330(1), an interlocutory order is immediately appealable if the order involves the merits of the case. Section 14–3–330(2) allows for an appeal of an interlocutory order if the order affects a substantial right. “Section 14–3–330...[has] been narrowly construed and immediate appeal of various orders issued before or during trial generally has not been allowed.” *Hagood v. Sommerville*, 362 S.C. 191, 196, 607 S.E.2d 707, 709 (2005); *see also Tillman v. Tillman*, 420 S.C. 246, 250, 801 S.E.2d 757, 760 (Ct. App. 2017) (“To avoid circuitous litigation and needless appeals, we construe section 14-3-330 narrowly, eyeing the nature and effect of the order, not merely its label.”). “Piecemeal appeals

should be avoided and most errors can be corrected by the remedy of a new trial.” *Hagood*, 362 S.C. at 196, 607 S.E.2d at 709.

***B. The Order is Not a “Final Judgment”***

If a judgment leaves some further act to be done by the court before the rights of the parties are determined, the judgment is not final.” *Tommy L. Griffin Plumbing & Heating Co. v. Jordan, Jones & Goulding, Inc.*, 351 S.C. 459, 467, 570 S.E.2d 197, 201 (Ct. App. 2002); *see also Tillman*, 420 S.C. at 249, 801 S.E.2d at 759 (“A final judgment is one that ends the action and leaves the court with nothing to do but enforce the judgment by execution.”). Here, the case is in the post-judgment execution phase. The subject order is akin to an order granting a motion to compel discovery. It is not a final order for execution upon assets. There is a clear lack of appellate jurisdiction. *See Ex parte Wilson*, 367 S.C. 7, 625 S.E.2d 205 (2005). Such a post-judgment discovery order is clearly interlocutory and is not immediately appealable.

***C. The Order Does Not “Involve the Merits” or “Affect a Substantial Right”***

“It is well settled that an interlocutory order is not immediately appealable unless it involves the merits of the case or affects a substantial right.” *Brown v. Cty. of Berkeley*, 366 S.C. 354, 361, 622 S.E.2d 533, 537 (2005). “To involve the merits ... the order must finally determine some substantial matter forming the whole or part of some cause of action or defense.” *Tatnall v. Gardner*, 350 S.C. 135, 138, 564 S.E.2d 377, 379 (Ct. App. 2002) (*quoting Peterkin v. Brigman*, 319 S.C. 367, 368, 461 S.E.2d 809, 810 (1995)). “To affect a substantial right, the order must determine the action and prevent a judgment from which an appeal might be taken or discontinue the action.” *Brown v. Cty. of Berkeley*, 366 S.C. 354, 361, 622 S.E.2d 533, 537 (2005).

“[A]n order which does not put a final end to the case, nor establish any principle which will finally effect the merits of the case, nor deprive the party of any benefit which he may have at

a final hearing, ought to be considered an interlocutory order, from which no appeal ought to be allowed.” *Id.* (quoting *Robertson v. Bingley*, 6 S.C. Eq. (1 McCord Eq.) 333, 351 (Ct. App. 1826)). Orders granting or denying post-judgment discovery are not immediately appealable. *See Ex parte Wilson*, 367 S.C. 7, 625 S.E.2d 205 (2005).

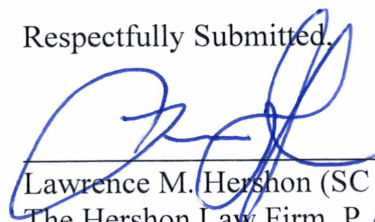
The Order does not involve the merits or affect a substantial right. The order is a post-judgment discovery order under Rule 69, SCRPC. This is merely an order for production of documents, and is not a final determination of execution upon any assets of the debtor.

A single appeal following final judgment for execution upon assets, if at all necessary, best serves judicial economy, “avoid[s] circuitous litigation and needless appeals”, and therefore, comports with the intent of section 14-3-330. *Tillman*, 420 S.C. at 250, 801 S.E.2d at 760. For these reasons, Cornerstone requests that Burch’s appeal be dismissed and the case be remanded for further proceedings before the Master-in-Equity

### CONCLUSION

Based on the foregoing, Cornerstone respectfully requests that Burch’s appeal be dismissed.

Respectfully Submitted,



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Lawrence M. Hershon (SC Bar: 77514)  
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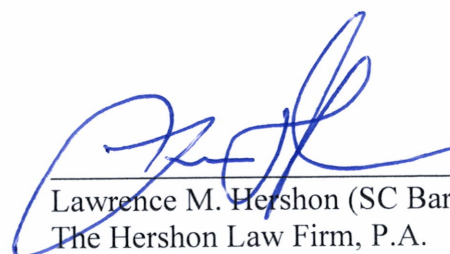
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.....Appellant,

**PROOF OF SERVICE**

I, the undersigned, hereby certify that on December 10, 2024, I have served the Respondent's Motion to Dismiss and Supporting Memorandum of Law upon all parties of record via e-mail addressed as follows:

Alvin E. Burch, Sr.  
burchschool@gmail.com



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lawrence@hershonlawfirm.com

Attorney for Respondent Edgefield Holdings, LLC



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Via Email <ctappfilings@sccourts.org> and U.S. Mail

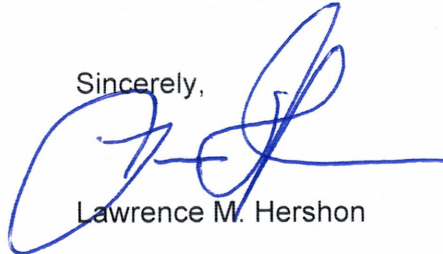
The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

Re: ***Cornerstone Ventures International, LLC v. Alvin E. Burch, Sr.***  
***Appellate Case No. 2024-002001***

Mrs. Kitchings:

Enclosed please find Respondent Cornerstone Ventures International, LLC's Motion to Dismiss and Supporting Memorandum of Law as well as this firm's check for \$50.00 for the filing fee in the above-referenced matter.

Sincerely,



Lawrence M. Hershon

LMH:  
Enclosures

cc: Alvin E. Burch, Sr. (via email only)

