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May 22 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Milton G. Kimpson, Circuit Court Judge  
Daniel Coble, Circuit Court Judge  
L. Casey Manning, Circuit Court Judge

Case No. 2019-CP-40-04452

Anesthesiology Professionals of  
Columbia, LLC

Respondent,

v.

Lifepoint Health d/b/a Providence  
Health and Providence Hospital LLC

Appellants.

NOTICE OF APPEAL

The unusual nature of this matter requires this explanatory notice. Lifepoint Health (“Lifepoint”) and Anesthesiology Professionals of Columbia, LLC, (“APC”) arbitrated a payment dispute arising from the services agreement between them. The arbitrator entered an award, concluding that neither party owed the other anything. APC subsequently filed a petition with the circuit court to vacate the award. S.C. Code Ann. §15-48-130.

However, APC did not serve a summons or petition for the action on Lifepoint as specified by S.C. Ann. § 15-48-170. Rather, the matter proceeded in the circuit court based upon a purported “acceptance of service” by counsel who had no engagement with Lifepoint to act in the matter before the circuit court, and who did not inform Lifepoint of the circuit court action’s existence. Lifepoint was utterly unaware of the matter’s existence in the circuit court. It was never told of it, never learned of it, and was never billed for it. The subsequent proceedings in the circuit court and the response of Lifepoint upon discovering the existence of the matter and the circuit court’s rulings made without its knowledge or participation are set forth in the first Notice of Appeal that was filed regarding this matter, attached as Exhibit 1, along with the orders then appealed.

In the first appeal, this Court dismissed the appeal without explanation or citation to any authority in a three-sentence order as “interlocutory.” The South Carolina Supreme Court denied certiorari. Based on this Court’s “interlocutory” holding, Lifepoint examined the order

of Judge Coble, particularly the Form 4 entered with it, and noticed that it indicated that the order “does not end the case” with no explanation, even though nothing remained to be done in the circuit court.<sup>1</sup>

Given this ambiguity, Lifepoint again moved the circuit court to enter a final judgment making clear that the power and jurisdiction of the circuit court to act was complete and that nothing remained for the circuit court to decide. On April 22, 2025, Judge Kimpson entered an order (attached as Exhibit 2) denying Lifepoint’s motion and checking the “does not end the case” box, but making it clear in a lengthy (for a Form 4 Order) explanation that nothing remained to be decided by the circuit court and that jurisdiction and power to act was returned to an arbitrator.<sup>2</sup>

Lifepoint once again appeals the orders of the circuit court denying its motion to dismiss the petition to vacate for lack of jurisdiction. As stated by our Supreme Court:

South Carolina case law has established what constitutes an interlocutory appeal. If there is some further act which must be done by the court prior to a determination of the rights of the parties, then the order is interlocutory. *Adickes v. Allison & Bratton*, 21 S.C. 245 (1884). If a judgment determines the applicable law while leaving open questions of fact, it is not a final judgment. *Good v. Hartford Accident and Indemnity Co.*, 201 S.C. 32, 21 S.E.2d 209 (1942).

*Mid-State Distributors, Inc. v. Century Importers, Inc.*, 310 S.C. 330, 335, 426 S.E.2d 777, 780 (1993). Here, there is nothing more to be done by the circuit court in this case. Its jurisdiction and power over the matter is at an end. It has resolved the distinct jurisdiction question matter adversely to Lifepoint making that question ripe for resolution and appeal.

Wherefore, Lifepoint appeals from the orders of the circuit court (attached) purporting to vacate the arbitration award without jurisdiction over Lifepoint.<sup>3</sup>

[Signatures Next Page]

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<sup>1</sup> Ordinarily, under the SCUAA, the power and jurisdiction of the circuit court in a matter, in this case 2019-CP-40-04452, would end once the circuit court vacated an arbitration award and sent the matter back for an entirely new arbitration. *See Main Corp. v. Black*, 357 S.C. 179, 181, 592 S.E.2d 300, 301-02 (2004).

<sup>2</sup> In apparent contradiction to the holding of *Main Corp.*, the order also purported to retain some jurisdiction of the matter and stay the matter in the circuit court even though jurisdiction of the matter was being returned to arbitration for new proceedings under the SCUAA and could never return to the circuit court’s jurisdiction except by action of the parties as provided by the SCUAA.

<sup>3</sup>In addition to the grounds raised in this notice, Lifepoint reserves the right to argue any other grounds which have been presented to the trial court including the newly discovered evidence proving that the Respondent APC has not existed as a legal entity since 2020.

Dated: May 22, 2025

**K&L GATES, LLP**

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PROOF OF SERVICE

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I certify that I have served the Notice of Appeal on Anesthesiology Professionals of Columbia, LLC by depositing a copy of it in the United States Mail, postage prepaid, on May 22, 2025, addressed to its attorneys of record, James M. Griffin and Margaret N. Fox, Griffin Davis Law Firm, P. O. Box 999, Columbia, SC, 29202.

May 22, 2025

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