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Jul 11 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

Appellate Case No. 2025-001024
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,

REPLY IN SUPPORT OF MOTION TO DISMISS APPEAL

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ARGUMENT

I. LIFEPOINT'S REQUEST TO STAY APPEAL WHILE IT SEEKS TO CONFIRM THE VACATED ARBITRATION AWARD IN THE CIRCUIT COURT SHOULD BE DENIED

Lifepoint's request to stay this appeal pending resolution of its Motion to Confirm the arbitration award filed in the circuit court is nothing more than a dilatory tactic designed to avoid the inevitable dismissal of this improper appeal. The Motion to Confirm seeks to resurrect an arbitration award that was properly vacated by Judge Manning in August 2021, after full briefing and argument by the parties. **Ex. 1, Motion to Confirm**. The issues presented in Lifepoint's Motion to Confirm are entirely separate from the jurisdictional and procedural issues that warrant dismissal of this appeal. The resolution of Lifepoint's Motion to Confirm will not have any impact on the issue of whether Lifepoint's current appeal should be dismissed.

Furthermore, Lifepoint's argument that APC ceased to exist as a legal entity is based on Articles of Termination that were defectively filed by a person who had previously dissociated from APC and lacked authority. **Ex. 2, Articles of Correction**. The Secretary of State has certified that APC is in good standing under South Carolina law, **Ex. 3, Certificate of Existence**.

The Articles of Termination filed in January 2020 were corrected pursuant to South Carolina S.C. Code § 33-44-207, because the articles were executed by an individual who had dissociated from APC more than two years previously, and otherwise lacked authority to act on behalf of APC. **Ex. 2, Articles of Correction**.

Section 33-44-207 provides:

(a) A limited liability company or foreign limited liability company may correct a record filed by the Secretary of State if the record contains a false or erroneous statement or was defectively signed.

(b) A record is corrected:

- (1) by preparing articles of correction that:
 - (i) describe the record, including its filing date, or attach a copy of it to the articles of correction;
 - (ii) specify the incorrect statement and the reason it is incorrect or the manner in which the signing was defective; and
 - (iii) correct the incorrect statement or defective signing; and
- (2) by delivering the corrected record to the Secretary of State for filing.

Furthermore, the Articles of Correction are effective retroactively to the effective date of the record they correct. S.C. Code § 33-44-207(c).

As indicated by the Articles of Correction, the Articles of Termination were defectively signed by a person who had dissociated as a member of APC effective November 6, 2017, more than two years before he filed the Articles of Termination, and none of the members of APC authorized him to terminate APC's legal existence. **Ex. 4, Statement of Dissociation of Member**. As a result, the Secretary of State reinstated APC retroactively to the date of the filing of the Articles of Termination. S.C. Code § 33-44-207(c).

II. LIFEPOINT'S APPEAL SHOULD BE DISMISSED

This Court's Order dismissing Appellants' first appeal from Judge Coble's May 2023 Order as interlocutory is the law of this case, and binding upon Appellants. *Flexon v. PHC-Jasper, Inc.*, 413 S.C. 561, 573, 776 S.E.2d 397, 404 (Ct. App. 2015). There are no new facts for this Court to consider, as argued by Appellant. The new facts raised by Appellant in its opposition are pending in the Circuit Court, and will be ruled upon by the lower court.

The law of the case doctrine prevents Lifepoint from relitigating issues that have already been decided by this Court. Lifepoint's current appeal is nothing more than an attempt to circumvent this Court's prior order dismissing its first appeal as interlocutory. This Court should not permit such gamesmanship and should dismiss this appeal with prejudice.

Moreover, Judge Kimpson's April 2025 Order stayed the case in the Circuit Court pending a second arbitration proceeding as ordered by Judge Manning in 2021, approximately four (4) years ago. An order staying a case is not immediately appealable. *See, e.g., Edwards v. Suncom*, 369 S.C. 91, 94-95, 631 S.E.2d 529, 530-31 (2006).

CONCLUSION

For the reasons set forth above, Lifepoint's motion to stay should be denied, and this Court should dismiss the appeal. Lifepoint's frivolous attempts to relitigate settled issues waste judicial resources and cause unnecessary delay in the resolution of this matter.

Respectfully submitted,

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Columbia, South Carolina
July 11, 2025

Exhibit 1

Motion to Confirm

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT
) CASE NO. 2019-CP-40-04452

Anesthesiology Professionals of Columbia LLC,
)
)
) Petitioner,
)
)
) vs.
)
)
) Lifepoint Health d/b/a Providence Health and
) Providence Hospital LLC,
)
)
) Appellee.
)
)

**MOTION TO CONFIRM THE
ARBITRATION AWARD**

Pursuant to SCRCP 60(b)(4) and S.C. Code Ann. § 15-48-120, Lifepoint Health moves the Court for an order vacating its orders of April 22, 2025, May 31, 2023, April 26, 2023, November 2021, and August 2021, and entering an order confirming the arbitrator’s award dated May 15, 2019. The grounds for the motion are the following:

1. After receiving notice of the entry of the Court’s April 22, 2025 Order, Lifepoint, preparing for post-judgment practice, discovered that Petitioner, Anesthesiology Professionals of Columbia, LLC (“APC”) had, prior to the entry of any of the Court’s orders, wound up its business and dissolved as a legal entity. Because of this, in addition to all previous grounds asserted by Lifepoint as to why the Court lacked jurisdiction to enter an order vacating the arbitration award of May 15, 2019, which are incorporated in full by reference,¹ the Court’s orders are all void. At

¹ See the following documents available on the Richland County Public Index: Motion to Dismiss or in the Alternative to Enter Final Order & Memorandum (6/10/22); Supplemental Exhibits in Support of Motion to Dismiss (8/24/2022); and Motion for Entry of Final Order and Judgment on Motion to Dismiss (11/22/2024). The following additional filings are available through the S.C. Appellate Court Public Index (C-Track Public Access - South Carolina Judicial Branch): Appealability Letter/Memo (7/31/23); Petition for Rehearing/Rehearing En Banc (9/28/2023); and Petition for Writ of Certiorari (4/24/2024) for Appellate Case No. 2023-001058.

the time of their entry, there was no existing legal entity in whose favor the requested relief could be entered. *Cf. Vanderhall v. State Farm Mut. Auto. Ins. Co.*, 2015 WL 15073838 (D.S.C. March 30, 2015) (Gergel, J.) (actions taken on behalf of an incapacitated party by others purporting to act for it are “simply legal Stardust of no effect or consequence” and “a legal nullity”). The petition to vacate the arbitration was never timely and properly served upon Lifepoint pursuant to S.C. Code Ann. §§ 15-48-130(b) and 15-48-170, and the petition was pursued by a non-existing entity such that Lifepoint was denied due process and given no opportunity to properly defend the arbitration award.

As reflected in the records of the South Carolina Secretary of State, on January 16, 2020, APC filed Articles of Termination. (See Attached Exhibit 1.) The “Articles of Termination filed with the Secretary by Gokul Gondi, the manager of APC, contained the following representations:

- a. The date of dissolution for APC was 5/15/19 (almost three months before the motion to vacate was filed in August purportedly on behalf of APC)²;
- b. APC had “wound up its business and terminated its legal existence”; and
- c. The delayed effective date was to be January 6, 2020 [long before any substantive orders granting vacation were entered].

See Exhibit 2; S.C. Code Ann. § 33-44-805.

Based on the above, at the time each of the Court’s orders/judgments were entered, APC did not exist as an ongoing entity. Consequently, each of the orders/judgment were void ab initio for lack of an identified, legally existing entity to pursue the claims asserted in addition to being void for failure of APC to timely and properly initiate the vacation petition against Lifepoint and

² Notably, this means that the representations made by APC in the Petition to Vacate that claimed APC was, at all relevant times, an existing LLC were false as APC had been dissolved as of May 2019 and terminated its legal existence as of January 2020. APC never provided any supplemental information to this Court or the Appeals Court during any of the subsequent briefing or proceedings to advise the courts that it no longer existed.

bring it, as a party, before the Court. The Court should enter its order vacating each of its prior orders in this case and enter an order confirming the arbitration award.³

2. In addition, the April 22, 2025, Order of the Court, along with the prior orders of the Court, are void for lack of jurisdiction because they exceed the power of the circuit court granted under S.C. Code Ann. § 15-48-130(c) of the South Carolina Uniform Arbitration Act when purporting to vacate an arbitrator's award.⁴

The April 22 Order purports to deny entry of a final order, judgment, or decree in the matter before the Court while still sending the matter to an arbitrator for a new hearing. The Order directly contravenes the South Carolina Supreme Court's repeated holdings under the SCUAA that once a matter is sent to arbitration, "the circuit court [is] divested of jurisdiction over the case." *Main Corp. v. Black*, 357 S.C. 179, 181, 592 S.E.2d 300, 302 (2004); *Cone v. Hood*, 425 S.E.2d 349, 350, 822 S.E.2d 599 (2018) (reversing circuit court orders purporting to exercise continued jurisdiction over a matter sent to arbitration and declaring such orders void and vacated).

³ Lifepoint acknowledges that ordinarily, one circuit judge may not set aside the order of another circuit court judge. *Enoree Baptist Church v. Fletcher*, 287 S.C. 602, 340 S.E.2d 546 (1986) . However, where, as here, "the circumstances that led to a prior ruling have changed, ... the trial judge should not be bound by an order that no longer serves the interests of justice. *Rice v. Doe*, 442 S.C. 160, 165-66, 898 S.E.2d 127, 130 (2024); *see also Steele v. Charlotte, Columbia & Augusta R.R.*, 14 S.C. 324, 330 (1880) (allowing rehearing by a different judge where "there is a new state of facts arising after the decision")

⁴ As to the merits of the orders dated April 2021 and November 2021 purporting to vacate the arbitration agreement on the grounds specified in S.C. Code Ann. §15-48-130(a), Lifepoint asserts that the Court erroneously applied the standards set forth in the statute and in case law (and hence, the arbitrator's award should have been automatically confirmed pursuant to section 15-48-130(d)) if Lifepoint is ever required or allowed to defend the arbitrator's award on its merits. Lifepoint also incorporates by reference its prior arguments that the Court never obtained jurisdiction over Lifepoint and was never empowered vacate the arbitrator's award due to the untimely and improper service of APC's petition to vacate. *See, supra*, n. 1. Lifepoint never had an opportunity to defend the arbitrator's award and was denied due process because it was never properly served pursuant to S.C. Code Ann. §15-48-170 and had never retained or authorized anyone to act on its behalf on the petition to vacate.

In this case, the Court has resolved all the claims and arguments of all the parties committed to a circuit court's jurisdiction under the SCUAA and has, by its orders, divested itself of jurisdiction and returned the matter to an arbitrator. Other than vacating or confirming the arbitrator's award, the court has no further jurisdiction, and there is nothing more it is empowered to do. Contrary to the language of the Court's April 22 Order, the Order meets the definition of a "Judgment" under SCRCP 54(a). Contrary to the face of the Order, the April 22 Order "ends" the case in the Circuit Court. The Circuit Court can only ever assume new jurisdiction by affirmative act of the parties pursuant to the provisions of the SCUAA.

Conclusion

For the reason set forth above, Lifepoint moves the Court to vacate each of the orders entered by the Court in this matter and enter an order confirming the arbitration award.

Dated: May 21, 2025

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*Attorneys for Respondents Lifepoint
 Health d/b/a Providence Health and
 Providence Hospital, LLC*

Exhibit 1

May 15 2025
REFERENCE ID: 1903736


SECRETARY OF STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF TERMINATION
LIMITED LIABILITY COMPANY - DOMESTIC

The following limited liability company, having dissolved and completed its winding up, terminates its existence by filing these articles of termination in accordance with the 1976 S.C. Code of Laws, as amended, Section 33-44-805:

1. The name of the limited liability company is:

Anesthesiology Professionals of Columbia

2. The date the articles of organization were filed is 2/3/14.

3. The date of the dissolution of this limited liability company was 5/15/19.

4. Has the company wound up its business and terminated its legal existence? yes

5. Unless otherwise specified, these articles are effective when endorsed for filing by the Secretary of State. Specify the date of any delayed effective date: 1/6/20
(Date)


(Signature)

Gokul Gondi
(Print Name)

1/6/20
(Date)

Capacity/Position of Person Signing (You must check one box.)

Manager Member Organizer

Fiduciary Attorney-in-Fact

Exhibit 2

Articles of Correction

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Filing ID: 250527-1120364

Filing Date: 05/24/2025

May 27 2025
REFERENCE ID: 1910909

**STATE OF SOUTH CAROLINA
SECRETARY OF STATE**

**ARTICLES OF CORRECTION
LIMITED LIABILITY COMPANY**


SECRETARY OF STATE OF SOUTH CAROLINA

The limited liability company in accordance with Section 33-44-207 of the 1976 S.C. Code of Laws, as amended corrects a record filed by the Secretary of State, which record contains a false or erroneous statement or was defectively signed.

1. The name of the limited liability company is:

ANESTHESIOLOGY PROFESSIONALS OF COLUMBIA, LLC

2. That on 05/24/2025 the corporation filed (fill out whichever is applicable):

a. The following described document:

b. The attached document (attach copy of the document).

3. That this document was incorrect in the following manner:

Gondi had dissociated as a Member of APC effective November 6, 2017. None the Members of APC ever authorized terminating APC's legal existence. In Short, Gondi was not authorized, directly or indirectly, to sign or file the Articles of Termination.

4. That the incorrect matters stated in Paragraph 3 should be revised as follows:

Additional Info: Erroneous termination of Anesthesiology Professionals of Columbia, LLC should be void ab initio and the company retroactively reinstated as if the Articles of Termination had not been filed.

Date: 05/24/2025

Signed as Attorney-in-Fact: Leonard Harris: (Electronically Signed)

(Signature)

Leonard Harris

(Print Name)

Attorney

(Office)

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Business of **ANESTHESIOLOGY PROFESSIONALS OF COLUMBIA, LLC ("APC")**

Signature Page for Secretary of State Business Filing

This page must be completed, scanned, and attached to any business filing where one of the following is true.
Required for forms where the signee is not present upon online submission and a filing party is providing a digital signing on their behalf. If the provided space is not enough, please attach multiple pages.

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

(Officer, Incorporator, Director, Agent, Partner, etc)

Required for forms where the signee is not present upon online submission and a filing party is providing a digital signing on their behalf. If the provided space is not enough, please attach multiple pages.

DocuSigned by:
Robert Beesburg

Robert Beesburg
Date: 5/24/2025 | 10:20:24 AM PDT
Member of APC
Signature Title / Position

DocuSigned by:
Timothy Fengler

Timothy Fengler
Date: 5/24/2025 | 9:25:16 AM PDT
Member of APC
Signature Title / Position

Name	Date
Signature Title / Position	
Name	Date
Signature Title / Position	
Name	Date
Signature Title / Position	

Scan and Upload this document to the Business Filing System during the filing process.
File must be PDF format.

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA
May 27 2025

REFERENCE ID: 1910909

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF TERMINATION
LIMITED LIABILITY COMPANY - DOMESTIC

The following limited liability company, having dissolved and completed its winding up, terminates its existence by filing these articles of termination in accordance with the 1976 S.C. Code of Laws, as amended, Section 33-44-805:

1. The name of the limited liability company is:

Anesthesiology Professionals of Columbia

2. The date the articles of organization were filed is 2/3/14.

3. The date of the dissolution of this limited liability company was 5/15/19

4. Has the company wound up its business and terminated its legal existence? yes

5. Unless otherwise specified, these articles are effective when endorsed for filing by the Secretary of State. Specify the

date of any delayed effective date: 1/6/20
(Date)

[Signature]
(Signature)

Gokul Gondi
(Print Name)

1/6/20
(Date)

Capacity/Position of Person Signing (You must check one box.)

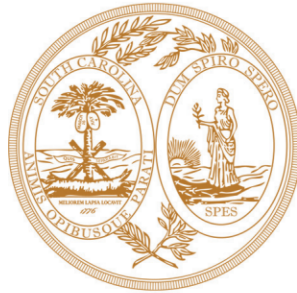
Manager Member Organizer

Fiduciary Attorney-in-Fact

Exhibit 3

Certificate of Existence

The State of South Carolina



Office of Secretary of State Mark Hammond

Certificate of Existence

I, Mark Hammond, Secretary of State of South Carolina Hereby Certify that:

ANESTHESIOLOGY PROFESSIONALS OF COLUMBIA, LLC, a limited liability company duly organized under the laws of the State of South Carolina on February 3rd, 2014, with a duration that is at will, has as of this date filed all reports due this office, paid all fees, taxes and penalties owed to the State, that the Secretary of State has not mailed notice to the company that it is subject to being dissolved by administrative action pursuant to S.C. Code Ann. §33-44-809, and that the company has not filed articles of termination as of the date hereof.

Given under my Hand and the Great Seal of the State of South Carolina this 27th day of May, 2025.


Mark Hammond, Secretary of State

Exhibit 4

Members Statement of Dissociation

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Filing ID: 171117-1430058

Filing Date: 11/17/2017

May 28 2025
REFERENCE ID: 1912669

**STATE OF SOUTH CAROLINA
SECRETARY OF STATE**


SECRETARY OF STATE OF SOUTH CAROLINA

**MEMBERS STATEMENT
OF DISSOCIATION
FROM A LIMITED LIABILITY COMPANY**

The following member of the listed limited liability company hereby files this Statement of dissociation in accordance with Section 33-44-704 of the 1976 S.C. Code of Laws, as amended.

1. Name of the limited liability company from which a member has dissociated:

ANESTHESIOLOGY PROFESSIONALS OF COLUMBIA, LLC

2. Name of member who has dissociated from the limited liability company:

Gokul Gondi

(Name)

18 Cotton Hope Lane

(Street Address)

Columbia, South Carolina 29209

(City, State, Zip Code)

3. Unless otherwise specified, this statement is effective when endorsed for filing by the Secretary of State. Specify any delayed effective date and time: _____
(Date)

4. This statement is being filed by:

a. The dissociating member:

(Signature)

(Date)

b. The limited liability company:

Signed as Filer: Lee Harris

(Signature)

11/17/2017

(Date)

Lee Harris

(Print Name)

Attorney

(Capacity)

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Business Name: Anesthesiology Professionals of Columbia, LLC

May 28 2025

REFERENCE ID: 1912669

Signature Page for a Secretary of State Business Filing

This page must be completed, scanned, and attached to any business filing where one of the following is true.


SECRETARY OF STATE OF SOUTH CAROLINA

signs the digital form on behalf of official signee.

- An attorney's signature is required. (Articles of Incorporation for Corporation and Benefit Corporation)

Official Signatures

(Officer, Incorporator, Director, Agent, Partner, etc)

Required for forms where the signee is not present upon online submission and a filing party is providing a digital signing on their behalf. If the provided space is not enough, please attach multiple pages.

Gokul Gondi, MD

Name



Signature

Date

11/6/17

Member

Title / Position

Name

Date

Signature

Title / Position

Name

Date

Signature

Title / Position

Name

Date

Signature

Title / Position

Name

Date

Signature

Title / Position

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

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Appellate Case No. 2025-001024
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,

PROOF OF SERVICE

I, Jaime Harmon, legal assistant at Griffin Humphries LLC, attorneys for the Respondent, located at 8906 Two Notch Road, Suite 200, Columbia, South Carolina 29223, hereby certify that on July 11, 2025, I have served counsel in this action a copy of the **Reply in Support of Motion to Dismiss Appeal** by emailing a copy to each attorney listed below using their primary email address listed in the Attorney Information System.

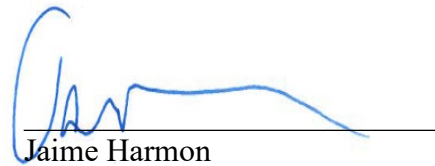
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Jaime Harmon

Columbia, South Carolina
July 11, 2025