IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Honorable Circuit Court Judge Dianne S. Goodstein
Circuit Court Case Number 2024-CP-08-03367

Appellate Case No. 2026-000034

Stephanie Lehman,

Respondent,

v.

Berkeley County School District and Anne-Magill Payne, individually, and as an agent of Berkeley County School District,

of whom Berkeley County School District is Appellant,

Appellant.

MEMORANDUM RE: INTERLOCUTORY APPEAL

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Charleston, South Carolina
January 20, 2026

TO THE HONORABLE JUDGES OF THE SOUTH CAROLINA COURT OF APPEALS:

BACKGROUND

Respondent, Stephanie Lehman, filed an Amended Complaint on December 3, 2024. On January 7, 2025, Appellant Berkeley County School District filed a "Motion to Strike and for More Definite Statement," which included a challenge to Respondent's request for a jury trial. Defendant Anne-Magill Payne filed a separate Motion for More Definite Statement on February 28, 2025. A hearing on these motions was held on April 10, 2025. On November 6, 2025, the Circuit Court entered a written order denying Defendants' motions, including denial of Appellant's motion to strike Plaintiff's jury demand.

Subsequent to receiving written notice of the Court's Order, Appellant filed a Motion to Alter or Amend on November 17, 2025. On December 8, 2025, the Circuit Court entered a Form 4 Order denying that motion. Appellant then filed its Notice of Appeal dated January 6, 2026.

On January 8, 2026, the South Carolina Court of Appeals requested the parties submit memoranda briefing the appealability of the Circuit Court's Order. Respondent submits this memorandum to support its position that the Order entered by the Circuit Court is not subject to immediate appeal.[1]

LEGAL STANDARD

South Carolina courts have consistently held that the right of appeal is statutory and this right is ordinarily exercised after final judgment, not in the middle of the case. See *N.C. Fed. Sav. & Loan Ass'n v. Twin States Dev. Corp.*, 289 S.C. 480, 347 S.E.2d 97 (1986) (citing Rule 72, SCRCP, in granting dismissal of an appeal); *Hagood v. Sommerville*, 362 S.C. 191, 194, 607

[1] Prior to receiving the Court's January 8, 2025, letter, Respondent intended to file a Motion to Dismiss the Appeal as interlocutory. To the extent permissible, Respondent reserves the right to file a Motion to Dismiss.

S.E.2d 707, 708 (2005) ("[t]he right of appeal arises from and is controlled by statutory law.") "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." *Richardson v. Halcyon Real Estate Servs.*, 439 S.C. 419, 425, 887 S.E.2d 153, 156 (Ct. App. 2023) (quoting *Mid-State Distribs., Inc. v. Century Imps., Inc.*, 310 S.C. 330, 335, 426 S.E.2d 777, 780 (1993)). "An interlocutory order is not immediately appealable unless it involves the merits of the case or affects a substantial right." *Id.* (quoting *Burkey v. Noce*, 398 S.C. 35, 37, 726 S.E.2d 229, 230 (Ct. App. 2012)). "An order affects a substantial right and is immediately appealable when it '(a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, (b) grants or refuses a new trial or (c) strikes out an answer or any part thereof or any pleading in any action[.]'" *Hagood,* at 195 (quoting S.C. Code § 14-3-330(2)). "An order which does not finally end a case or prevent a final judgment from which a party may seek appellate review usually is considered an interlocutory order from which no immediate appeal is allowed." *Id.* (citing *Tatnall v. Gardner*, 350 S.C. 135, 138, 564 S.E.2d 377, 379 (Ct. App. 2002)).

Immediate appeals under § 14-3-330(2) are permitted only where the alleged error cannot be corrected by a new trial. *Flagstar Corp. v. Royal Surplus Lines*, 341 S.C. 68, 73, 533 S.E.2d 331, 333 (2000). "Immediate appeals under subsection (2) [of S.C. Code § 14-3-330] have been allowed in situations where the substantial right could not be vindicated on appeal after the case." *Breland v. Love Chevrolet Olds, Inc.*, 339 S.C. 89, 93, 529 S.E.2d 11, 13 (2000) (citing *Creed v. Stokes*, 285 S.C. 542, 331 S.E.2d 351 (1985)). "Generally, this subsection has only been used when the trial order affected the 'mode of trial' because if those orders are not immediately appealed, no appellate review is available to correct any error." *Id.*

ANALYSIS

This appeal arises from interlocutory orders in a Common Pleas case that remains pending in the circuit court. The Notice of Appeal identifies the November 6, 2025, order denying Appellant Berkeley County School District's motion to strike Respondent's request for a jury trial contained in the Amended Complaint. On December 8, 2025, the Circuit Court issued a Form 4 Order denying Appellant's motion to alter or amend. Neither order resolves any cause of action or defense, and neither order enters judgment for any party. The December 8, 2025, Form 4 Order confirms the posture of the case by stating that the Order "does not end the case." The December 8, 2025, Order further denies reconsideration without disposing of any claims. Because additional proceedings are required before the parties' rights are finally determined, the appeal is interlocutory and may proceed only if a statute authorizes immediate review.

Section 14-3-330(1) does not authorize an immediate appeal because these Orders do not "involv[e] the merits" of the case as that phrase is narrowly construed in South Carolina appellate practice. The challenged rulings leave Plaintiff's jury demand in place, and they do not finally determine any substantial matter forming the whole or part of a cause of action or defense. The circuit court did not decide liability, damages, or the availability of any specific remedy, and it did not dispose of any party from the action. Instead, the rulings allow the case to proceed to further pretrial proceedings and, if necessary, trial. Under subsection (1), any intermediate rulings that necessarily affect the final judgment may be reviewed on appeal after final judgment, which is the appropriate path for review here.

Section 14-3-330(2) also does not authorize immediate review because none of the statute's predicates are satisfied as this case is currently positioned. Subsection (2)(a) requires an order that in effect determines the action, prevents a judgment from which an appeal might be taken, or

discontinues the action, and these orders do none of those things. Subsection (2)(b) concerns an order granting or refusing a new trial, and there has been no trial, nor did the circuit court grant or refuse a new trial. Subsection (2)(c) concerns an order striking out an answer or any pleading, but the circuit court did not strike anything but, instead, denied the motion to strike. A denial of a motion to strike does not become appealable merely because the moving party requested striking relief.[2] Further, the later denial of the motion to alter or amend does not create appealability where the underlying order is not immediately appealable.

The jury demand context confirms that immediate appellate intervention is not warranted. South Carolina law recognizes immediate appealability for jury trial issues only when the order deprives a party of a mode of trial to which the party is entitled as a matter of right. Here, the circuit court did not deprive any party of a jury trial, and it preserved the jury demand by holding it proper. Notably, there is at least one cause of action (defamation) where it is uncontested that Respondent is entitled to a jury trial. In a sense, Appellant is requesting the Court of Appeals review a denial of bifurcation, which is also not subject to immediate appeal.[3] If Appellant believes a portion of the case should not be tried to a jury, that argument can be presented after final judgment, and the appellate courts can then determine whether the entire case was tried properly. Because the statutory categories for interlocutory review are not satisfied and any alleged error can be addressed through ordinary appellate review after final judgment, the Court of Appeals

[2] See *Bowden v. Powell*, 194 S.C. 482, 484, 10 S.E.2d 8, 9 (1940) ("An order refusing to strike out is not appealable."). Notably, a distinction can be drawn between *Bowden* and this matter in that the matter that was not stuck in *Bowden* was an allegation in a complaint, not a request for a jury trial.

[3] See *Senter v. Piggly Wiggly Carolina Co.*, 341 S.C. 74, 78, 533 S.E.2d 575, 577 (2000) ("The majority of cases requiring immediate appeal involve review of denials of trial by jury and are based on the public policy consideration of advancing the constitutional mandate to preserve the right to trial by jury inviolate. [internal citations omitted]. We decline petitioner's invitation to extend our interpretation of this statute so as to permit or to require immediate appeal of orders denying bifurcation of the issues of liability and damages.").

should dismiss the appeal as interlocutory.

CONCLUSION

For these reasons, Respondent respectfully requests that the appeal be dismissed.

Respectfully submitted,

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