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SC Court of Appeals

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. Goldstein
Circuit Court Case No. 2024-CP-08-03367

Court of Appeals Case No. 2026-03367

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 the Appellant,

Appellant.

RESPONDENT'S MEMORANDUM IN SUPPORT OF MOTION TO DISMISS APPEAL

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Charleston, South Carolina
May 1, 2026

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Rules

STATEMENT OF THE CASE

This appeal arises from a civil action pending in the Berkeley County Court of Common Pleas in which Respondent Stephanie Lehman asserts claims of workers' compensation retaliation and defamation. The operative pleading is Respondent's Amended Summons and Complaint, which was filed on December 3, 2024.

On January 7, 2025, Defendant Berkeley County School District filed its "Motion to Strike and for More Definite Statement," expressly invoking Rule 12(f) and Rule 12(e), SCRCP, and seeking, among other relief, to strike Respondent's jury demand and certain categories of alleged damages from the amended pleading. As reflected in the Circuit Court's subsequent order, Defendant Anne-Magill Payne filed a separate Motion for More Definite Statement on February 28, 2025. Respondent opposed these motions in a memorandum filed July 16, 2025, which Appellant has designated for inclusion in the record on appeal.

The Circuit Court conducted a hearing on the motion to strike and for more definite statement on July 17, 2025. Following the hearing, the Circuit Court issued a written order filed November 6, 2025. In that order, the Circuit Court denied Berkeley County School District's motion to strike and denied the defendants' motion(s) for a more definite statement.

After entry of the November 6, 2025 order, Berkeley County School District served and filed a Motion to Alter or Amend the Circuit Court's order on November 17, 2025. The Circuit Court denied the Motion to Alter or Amend by order filed December 8, 2025. The December 8, 2025 Form 4 entry also reflects that, as to Berkeley County School District's Motion to Alter or Amend, the court found no new information or arguments warranting modification and denied the motion.

Appellant filed its Notice of Appeal on January 6, 2026, identifying the November 6, 2025 order as Exhibit A and the December 8, 2025 order as Exhibit B. The appeal is thus taken from two interlocutory orders entered during ongoing proceedings in the Circuit Court.

LEGAL STANDARD

"An appeal ordinarily may be pursued only after a party has obtained a final judgment." *Ex Parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 6, 630 S.E.2d 464, 467 (2006) "The right of appeal arises from and is controlled by statutory law." *Id.* "An order refusing to strike out is not appealable." *Bowden v. Powell*, 194 S.C. 482, 484, 10 S.E.2d 8, 9 (1940).

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 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*.

ARGUMENT

A. The Appeal Is Interlocutory Because the Orders Do Not End the Case

This appeal is taken from two pretrial orders in a pending Common Pleas action. The November 6, 2025, order denied Appellant's request to strike the jury demand, and the December 8, 2025 Form 4 order denied Appellant's motion to alter or amend. (Order Denying Mot. to Strike and for More Definite Statement, filed Nov. 6, 2025; Order Denying Mot. to Alter or Amend, filed Dec. 8, 2025). Neither order resolves any cause of action or defense and neither order enters judgment for any party. The Form 4 order confirms the posture of the case by stating the order does not end the case. (Order Denying Mot. to Alter or Amend, filed Dec. 8, 2025). Because further proceedings are required before the parties' rights are finally determined, the appeal is interlocutory and may proceed only if a statute authorizes immediate review.

B. Appellate Jurisdiction Is Statutory and Must Be Established Under § 18-9-10 and § 14-3-330

South Carolina appellate jurisdiction is controlled by statute, and § 18-9-10 permits appeals only in the cases referenced in § 14-3-330 for this posture. Appellant identifies no specialized statute authorizing an immediate appeal from an order denying a motion to strike a jury demand. The Court therefore must test appealability against the limited categories in § 14-3-330. If the order does not fit within those categories, the Court lacks jurisdiction to reach the merits and should dismiss the appeal. That jurisdictional determination should be made before merits briefing is considered.

C. The Appeal Does Not Fit § 14-3-330(1) Because the Orders Do Not Involve the Merits

Section 14-3-330(1) does not authorize immediate review because the challenged orders do not involve the merits as that phrase is narrowly construed. The rulings do not finally determine any substantial matter forming the whole or part of a cause of action or defense, and they do not decide liability, damages, or entitlement to relief. (Am. Summons and Compl., filed Dec. 3, 2024; Order Denying Mot. to Strike and for More Definite Statement, filed Nov. 6, 2025). Instead, they address only the manner in which the case will proceed by leaving the jury demand in place while litigation continues. (Order Denying Mot. to Strike and for More Definite Statement, filed Nov. 6, 2025). If the mode of trial issue remains relevant, it can be

reviewed in an appeal from a final judgment under the ordinary appellate process contemplated by subsection (1) of § 14-3-330.

D. The Appeal Does Not Fit § 14-3-330(2) Because None of the Three Predicates Applies

Section 14-3-330(2) also does not authorize immediate review. Subsection (2)(a) is inapplicable because these orders do not determine the action, discontinue the action, or prevent a judgment from which an appeal might be taken. (Order Denying Mot. to Alter or Amend, filed Dec. 8, 2025). Subsection (2)(b) is inapplicable because there has been no trial and no order granting or refusing a new trial. Subsection (2)(c) is inapplicable because it applies only when the trial court strikes out an answer or pleading, and the circuit court did not strike any matter, including any claims, defenses, pleading, or prayer for relief. (Order Denying Mot. to Strike and for More Definite Statement, filed Nov. 6, 2025).

E. A Denial of a Motion to Strike Is Not an Appealable Striking Order Under § 14-3-330(2)(c)

Under subsection § 14-3-330(2)(c), the statute requires an order to actually strike out an answer or pleading in order to be immediately appealable. The Circuit Court entered the opposite type of order here because it denied the requested striking relief. (Order Denying Mot. to Strike and for More Definite Statement, filed Nov. 6, 2025). Appellant cannot create interlocutory jurisdiction by filing a motion seeking to strike and then appealing when the motion is denied. Treating denials as

appealable under subsection (2)(c) would expand the statute beyond its text and invite piecemeal appeals from routine pretrial rulings.

The statutory language should be applied as written to encourage efficiency and avoid interruption of litigation after every motion to strike is denied. If denial of a motion to strike is subject to immediate appeal, then every matter where a motion to strike is filed at any stage of a lawsuit will be subject to immediate appeal. This will erode the prohibition on interlocutory appeals to the point where the exception is swallowed by the rule.

F. The Mode of Trial Line of Cases Does Not Create Immediate Appealability When the Order Preserves a Jury Demand

Appellant's theory of appealability relies on cases addressing the mode of trial, but those cases are directed to circumstances where an order deprives a party of the mode of trial to which the party is entitled as of right. Here, the Circuit Court did not deprive any party of a jury trial and instead preserved the jury demand by holding it proper. (Order Denying Mot. to Strike and for More Definite Statement, filed Nov. 6, 2025). Appellant's contention that certain claims should be tried without a jury is a merits dispute about the correct mode of trial, not a statutory basis for an interlocutory appeal from an order that does not end the case. If Appellant remains aggrieved after final judgment, it may raise that issue on appeal at that time.

G. Immediate Review Is Unnecessary Because Appellant Has an Adequate Remedy by Appeal After Final Judgment

Even if Appellant believes the Circuit Court's ruling regarding jury trial was erroneous, the alleged error can be reviewed after a final judgment in the ordinary course. The availability of later review confirms that this is not the narrow class of interlocutory orders for which immediate review is necessary to avoid unreviewable prejudice. The record demonstrates this case includes at least one claim for which a jury trial is available. The trial court retains tools to manage the trial and issues as the case develops. Allowing an interlocutory appeal now would fragment the litigation and delay resolution of the merits in the Circuit Court. The statutory scheme and the procedural history of this specific case favors review, if any, after final judgment.

H. The Court Should Resolve Jurisdiction Before Merits Briefing and Dismiss the Appeal

Because appellate jurisdiction is statutory, the Court should resolve this threshold issue and dismiss the appeal without reaching the merits. The appealability inquiry already reflects the Court's concern that the appeal may be premature. Dismissal will enforce the limits of § 18-9-10 and § 14-3-330 and avoid advisory review of a pretrial ruling that does not end the case. The parties can proceed in the Circuit Court toward a final judgment and any appeal can be taken then if necessary. Therefore, this Court should dismiss the appeal as interlocutory.

CONCLUSION

For the foregoing reasons, Respondent respectfully requests that the Court dismiss the appeal as interlocutory.

Respectfully submitted,

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Date: May 1, 2026

IN THE STATE OF SOUTH CAROLINA
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APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

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

Court of Appeals 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.

PROOF OF SERVICE OF MOTION FOR MOTION TO DISMISS APPEAL AS INTERLOCUTORY

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Attorney for Respondent

Pursuant to Section (d)(1) of the Supreme Court's Order Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended May 6, 2022), the undersigned counsel for Respondent, Stephanie Lehman, does hereby certify that service of the **MOTION TO DISMISS APPEAL AS INTERLOCUTORY** and Memorandum in Support in the above-captioned matter was made upon Respondent by email on this date as follows:

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Date: May 1, 2026

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May 1, 2026

Via Email Only
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Re: *Lehman v. Berkeley County School District, et. al*
Court of Appeals Case No. 2026-000034

Dear Madam Clerk:

Enclosed for filing is a Motion to Dismiss Appeal as Interlocutory and Memorandum in Support. Also enclosed is the Proof of Service of the Motion.

A check for filing fee of $50.00 is being sent separately by mail.

RESPECTFULLY SUBMITTED,

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Enclosure: as stated
cc: Bob J. Conley, Esq.