STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County
Court of Common Pleas
B. Alex Hyman, Circuit Court Judge
David P. Caraker, Jr., Circuit Court Judge
Benjamin H. Culbertson, Circuit Court Judge

Case No. 2024-CP-26-01555

Jane Doe,

Respondent,

vs.

MD Soriful Islam and Lyft, Inc. d/b/a Lyft Drives South Carolina, Inc.,

Defendants,

OF WHOM Lyft, Inc. d/b/a Lyft Drives South Carolina, Inc. is

Appellant.

NOTICE OF APPEAL

Pursuant to S.C. Code §14-3-330 and Rule 203, SCACR, Lyft, Inc. d/b/a Lyft Drives South Carolina, Inc., ("Lyft") appeals from the Form 4 Order Denying Lyft's Motion to Set Aside Default and to Vacate February 11, 2026 Order ("Motion to Set Aside Default"), issued by the Honorable B. Alex Hyman filed and received on May 13, 2026 (attached).[1] The trial court denied Lyft's

[1] The trial court did not indicate that a further Order would follow on the face of the Form 4 order. (*See* attached). Nonetheless, the law clerk for the trial court sent an email on May 13, 2026 noting that plaintiff's counsel was to draft and submit a more formal order. No such order has been proposed by Plaintiff or entered by the trial court. Trial is set to begin in this matter with Lyft in default on June 1, 2026. Thus, under section 14-3-330, to prevent these issues from escaping review, this appeal is filed in light of the Form 4's entry. *See Cheap-O's Truck Stop,*

request to undo the Order striking Lyft's answer in this matter. Thus, this appeal is necessary given the substantial right taken from Lyft in this matter.

In addition to the May 13, 2026 Form 4 Order, the Appellant appeals from the other related, including as attached:

1. Order compelling discovery, issued by the Honorable David P. Caraker, Jr., filed June 25, 2025;
2. Order on Plaintiff's Motion for Rule to Show Cause, issued by the Honorable Benjamin H. Culbertson, filed October 21, 2025;
3. Form 4 Order striking Lyft's answer, issued by the Honorable Benjamin H. Culbertson, filed February 9, 2026; and
4. Order striking Lyft's answer, issued by the Honorable Benjamin H. Culbertson, filed February 11, 2026.

As the Supreme Court recently reiterated, whether an order is immediately appealable must be determined on a case-by-case basis. *Stone v. Thompson*, 426 S.C. 291, 295, 826 S.E.2d 868, 870 (2019). For interlocutory orders, the appealability statute permits appellate jurisdiction where the order: (1) "involve[es] the merits" or (2) "affect[s] a substantial right." S.C. Code Ann. § 14-3-330. In relevant part, the statute explains that an order affects a substantial right where 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." S.C. Code Ann. § 14-3-330(2).

Inc. v. Cloyd, 350 S.C. 596, 604-605, 567 S.E.2d 514, 518 (Ct. App. 2023) (holding the Form 4 was a final order as the order did not indicate anything remained to be done by the circuit court).

In interpreting this language, the Supreme Court has stated that an order "involves the merits" when it "finally determines some substantial matter forming the whole or part of some cause of action or defense." *Mid-State Distributors, Inc. v. Century Importers, Inc.*, 310 S.C. 330, 334, 426 S.E.2d 777, 780 (1993). Moreover, an order affects a substantial right "in situations where the substantial right could not be vindicated on appeal after the case," such as for orders affecting the "mode of trial." *Breland v. Love Chevrolet Olds, Inc.*, 339 S.C. 89, 93, 529 S.E.2d 11, 13 (2000).

Many of these statutory considerations are implicated by the orders in this matter thus far. Lyft's answer has been stricken. The merits of the case are at issue. Substantial rights are at stake. The nature of the rulings and issues prevent later appellate review of the due process issues implicated by the abandonment of the client by the prior defense lawyer in this case.

There is no doubt an order striking a pleading as a sanction is immediately appealable. *Karppi v. Greenville Terrazzo Co.*, 327 S.C. 538, 489 S.E.2d 679 (Ct. App. 1997); *Griffin Grading & Clearing, Inc. v. Tire Serv. Equip. Mfg. Co.*, 334 S.C. 193, 511 S.E.2d 716 (Ct. App. 1999) (both attached). That is the nature of the underlying order at issue in this appeal.

Similarly, an order denying a Rule 60(b) motion is also appealable. The Supreme Court held in *Winesett v. Winesett* that the proper procedure for challenging a typical default is to move the trial court to set aside the judgment pursuant to Rule 60(b), SCRCP. *Winesett*, 287 S.C 332, 334, 338 S.E.2d 340, 341 (1985). Then an appeal may be taken from such an order. *Id*. Similarly, in *Dymon, Inc. v. Hyman*, this Court undertook consideration of an appeal wherein the defaulting party was without notice of prior orders and the proper route to appeal was via the denial of Rule 55 and 60(b) motions. *Dymon*, 305 S.C. 170, 171, 406 S.E.2d 388, 389 (Ct. App. 1991).

In this matter, the prior defense lawyer abandoned Lyft. Lyft had no notice of the litany of orders entered against it culminating in the Order striking its answer. Upon learning of the Order striking its answer, as *Winesett* dictates, Lyft sought via Rules 55 and 60(b) to set aside the entry of default and have the trial court reinstate its answer. The trial court has declined to do so. Because of the procedural history and the lack of notice afforded Lyft by its prior counsel, this appeal is necessary to vindicate its rights as provided by *Dymon*.

In trial court filings, opposing counsel has repeatedly stated the issues ruled upon by the trial court are not immediately appealable. They are wrong. Case law demonstrates and instructs Lyft can appeal. *See e.g.*, *Link v. School District*, 302 S.C. 1, 393 S.E.2d 176 (1990). Hence, this appeal is timely and properly filed. But in light of opposing counsel's strenuous objections and prior statements in the trial court, this more fulsome notice of appeal is hereby provided.

HOOD LAW FIRM, LLC
172 Meeting Street
Post Office Box 1508
Charleston, SC 29401/02
Ph: (843) 577-4435
Fx: (843) 722-1630

/s/ Molly H. Craig
Molly H. Craig (6960)
molly.craig@hoodlaw.com
Virginia Rogers Floyd (101849)
virginia.floyd@hoodlaw.com
Deborah Harrison Sheffield, *Of Counsel* (2757)
deborah.sheffield@hoodlaw.com

and

NELSON MULLINS RILEY &
SCARBOROUGH LLP

A. Mattison Bogan (72629)
matt.bogan@nelsonmullins.com
1320 Main Street, Suite 1700
Columbia, SC 29201
(803) 799-2000

Samuel W. Outten (4295)
sam.outten@nelsonmullins.com
2 W. Washington Street, Suite 400
Greenville, SC 29601
Ph: (864) 373-2300

Attorneys for the Appellant
Lyft, Inc. d/b/a Lyft Drives South Carolina, Inc.

May 22, 2026

Other Counsel of Record:

EVANS MOORE, LLC
121 Screven Street
Georgetown, SC 29440
Phone: 843-995-5000
FAX: 843-527-4128

Scott C. Evans (77684)
James B. Moore, III (74268)
George W. Bryan (104088)
george@evansmoorelaw.com
scott@evansmoorelaw.com
james@evansmoorelaw.com

Attorneys for the Respondent Jane Doe

RUSSELL B. LONG, P.A.
5307 N. Kings Highway
Myrtle Beach, SC 29577
Phone: 843-449-1222

Michael J. Schwartz (78763)
Russell B. Long, (65402)
russelllonglaw@rblongpa.com
mj@rblongpa.com

Attorneys for Defendant MD Soriful Islam

In addition, the Notice of Appeal has been e-filed with the Horry County Clerk of Court, as required by Rule 203(d)(1), and a courtesy copy has been emailed to the Honorable Brian Gibbons, the presiding judge for the day-certain trial set for June 1, 2026.

HOOD LAW FIRM, LLC
172 Meeting Street
Post Office Box 1508
Charleston, SC 29401/02
Ph: (843) 577-4435
Fax: (843) 722-1630

/s/ Molly H. Craig
Molly H. Craig (6960)
molly.craig@hoodlaw.com
Virginia Rogers Floyd (101849)
virginia.floyd@hoodlaw.com
Deborah Harrison Sheffield, *Of Counsel* (2757)
deborah.sheffield@hoodlaw.com

Attorneys for the Appellant
Lyft, Inc. d/b/a Lyft Drives South Carolina, Inc.

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