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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

Appellate Case No. 2026-001283

Opinion No. 2025-000164 (S.C. Ct. App. filed May
8, 2026)

Rhonda Meisner

Petitioner,

v.

Grant Meisner; Grant Meisner, MD, LLC; Sheila
Robinson; Erwin Mangubat, MD; Moore, Taylor, &
Thomas, P.A.; Moore Taylor Law Firm P.A.; Moore
Bradley Myers Law Firm, PA; Tricia L. Flowers;
Flowers Consulting, LLC; Flowers Consulting, LLC;
Richard G. Whiting, Esquire; Law Offices of Richard G.
Whiting, PA; John Doe (1-10) a fictional name assigned
to identify parties that are not yet known or not yet
determined, Defendants,

Respondent (s).

REPLY TO PETITION FOR A WRIT OF CERTIORARI

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The Petitioner Rhonda Meisner respectfully submits her Reply to the Petition for a Writ of Certiorari.¹

The Petitioner prays this Court will grant Certiorari due to the important due process issues raised with the dismissals. As the Respondent concedes the initial appeal was dismissed *as untimely* as such there was no review of that dismissal because the Court of Appeals never exercised subject matter jurisdiction over the case, except to dismiss that appeal as untimely.² Here, however, the Court of Appeals dismissed two defendants Meisner and Mangubat despite the fact the underlying dismissal at the trial level did not indicate on the Form 4 the dismissal was with prejudice and there were default defendants present.

The dismissal of Respondent Mangubat and Meisner at the appellate level is prejudicial to the Petitioner and should be reviewed to protect the substantial rights of final dismissal without review. A review of the dismissals at the trial level reflects the Form 4 dismissal was silent as to with or without prejudice.³ *Spence v Spence* 628 S.E.2d 869 (2006); *Nix v. Mercury Motor Express, Inc.*, 270 S.C. 477, 242 S.E.2d 683 (1978).⁴ Also, because there was a default defendant associated with the

¹ Respondent points out three cases that were not found. The Petitioner corrected the case name for the Wagner case, and the Nix case, but could not locate the corrected case and citations for the Nasser case as noted by Respondent. However, all propositions for support of the Petition for Writ of Certiorari are supported by applicable case laws with correct citations.

² The Mangubat respondent suggests the remittitur of the untimely filed appeal creates the law of the case, but the law of the case is based on whether the appeal was actually considered based on the permissive language of 14-3-330. At the time of the dismissals one defendant was a default defendant.

³ This Court determined a circuit court does not have authority to dismiss a defendant with prejudice pursuant to 12 (b)(6) without granting the opportunity to amend.

⁴ Respondent points out citation to wrong cases in its return; however, the Petitioner did submit other Supreme Court Cases in support of the particular point in its Petition for a Writ of Certiorari.

claims against Mangubat, this too indicates the dismissal was interlocutory because there was more to do with the claims associated with Mangubat based on the default defendant. Here, an entry of default against one of the other defendants was pending (or a motion to overturn the default of the Flowers Defendants was left to be done along with award of damages.) This Honorable Court found “[i]f 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 Services, LLP*, 439 S.C. 419, 425, 887 S.E.2d 153, 156 (2023) (citation and quotation marks omitted).⁵ When less than all claims and defendants are dismissed *without certification*, the dismissal is interlocutory. *Rule 54(b); Link v. School District of Pickens County*, 302 S.C. 1, 393 S.E.2d 176 (1990) In either event, S. C. Code §14-3-330 (1) provides a basis for review by this Court and the Petitioner believes the Court of Appeals erred by dismissing the Respondents at the appellate level *prior to review of the entire case* because of the presence of default defendants Tricia Flowers and Flowers Consulting, LLC, and Doe defendants along with the argument the dismissals were turned into a Motion for Summary Judgment due to the Mangubat respondent submitting evidence outside of the pleadings that the court reviewed during the hearing.⁶

Respondent Mangubat, in his return does *not* address the Petitioner’s request for permission to file a S.C. R. Civ. P. Rule 60 motion in circuit court based on the

⁵ Respondents point out the Petitioner’s Writ of Certiorari the inaccurate case and citation for the premise of fewer than all defendants’ dismissals is interlocutory for multi-defendant cases.

⁶ Again, the Form 4 dismissals did not provide the basis for the dismissals as to which Rule 12(b) or privilege the dismissals were based on.

recent discovery that Moore Bradley Myers Law firm, P.A. did not possess a business license when they represented Respondent Meisner and hired Respondent Mangubat. ⁷ *Wagner v. Graham*, 370 S.E.2d 95, 296 S.C. 1 (S.C. App. 1988)⁸

Because Moore Bradley Myers Law Firm, P.A. did not have a business license to operate when they filed for their dismissals one privilege “reason” for dismissal that Mangubat submitted may not even exist.⁹

The Form 4 dismissal of Mangubat did not indicate the “reason” or which Rule 12 (b) motion the dismissal was based on and there were some “reasons” that were immediately appealable and some “reasons” that were not immediately appealable.

The fact that at the time of dismissal of Mangubat there were default defendant’s and doe defendants did not strike any of those causes of action when the dismissals occurred and the Form 4 Order did not designate *which* 12 (b) rule it based its decision cannot be the law of the case because with regard to Respondent Mangubat the claims involving him were not resolved at that time based on the default defendant Tricia Flowers and Flowers Consulting, LLC.

Respondent Mangubat argued that the second Motion to Alter and Amend was simply duplicative; however, the second motion was based on Rule 52 and Rule

⁷*Wagner v. Graham*, 370 S.E.2d 95, 296 S.C. 1 (S.C. App. 1988) This is the correct case and citation regarding possession of a business license to achieve equity in the Courts which the Petitioner avers also applies to attorneys law offices.

⁹ Mangubat claimed litigation privilege for one reason the court should dismiss him based on his purported status as an expert witness which is called into question because the attorney for Moore Bradley Myers Law Firm, P.A. admitted under oath she never spoke with Dr. Mangubat.

60 and was filed on January 7, 2023 via U.S. Mail. The purpose was to in addition to getting rulings on several items in the motion to alter and amend to point out to the Court that the dismissals of the law defendants involved the default defendants and the other defendants dismissed because the law defendants either hired or provided the basis for the other defendant's privilege claims.

As such, the Petitioner argues the dismissals of the Mangubat and Meisner Respondents (at the appellate level) by the Court of Appeals violated the Court of Appeal's holding in *Price* where it held:

Peachtree is correct in asserting that, in effect, no immediate appeal was taken from the First Order because Bob Wire's appeal was late.[3] However, we disagree that Bob Wire was required to immediately appeal the First Order to prevent its findings from becoming the law of the case. An intermediate order *may* be appealed if it involves the merits of the case as described in section 14-3-330(1). [4] Section 14-3-330 merely *allows* the aggrieved party to appeal an intermediate order involving the merits; it does not require an appeal at that time. The aggrieved party may wait until a final judgment is rendered and then appeal. See *Lancaster v. Fielder*, 305 S.C. 418, 421, 409 S.E.2d 375, 377 (1991) ("[I]f there is a final judgment, and the party timely files his notice of intent to appeal from that judgment, under section 14-3-330(1) this [c]ourt can review any intermediate order or decree necessarily affecting the judgment not before appealed from.") *Price v. Peachtree Electrical Services, Inc.*, 396 S.C. 403, 721 S.E.2d 461 (Ct. App. 2011).

This Court determined in *Lancaster* ("[I]f there is a final judgment, and the party timely files his notice of intent to appeal from that judgment, under section 14-3-330(1) this [c]ourt can review any intermediate order or decree necessarily affecting the judgment not before appealed from.") *Lancaster v. Fielder*, 305 S.C.

418, 421, 409 S.E.2d 375, 377 (1991) Because the first appeal was dismissed as untimely, the interlocutory dismissals were not reviewed at that time.

Petitioner asserts the previous appeal did not become the law of the case because the permissive language in S.C. Code § 14-3-330 allows but does not require appeal. As such, because no review of the substantive interlocutory orders occurred, the law of the case cannot apply.

In *Spence*, this Honorable Court’s findings regarding the interlocutory nature of the dismissals based on SCRCF Rule 12 (b) where this Court held, “a circuit court does *not* have the discretion to dismiss a complaint *with prejudice* under Rule 12(b)(6) without at least considering whether to allow leave to amend pursuant to Rule 15(a).” *Spence v. Spence* 628 S.E.2d 869 (2006) *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 112, 410 S.E.2d 537, 543 (1991) (“summary judgment must not be granted until the opposing party has had a full and fair opportunity to complete discovery”

In this case, the Court denied discovery, but also entertained evidence outside the pleadings as to Respondent Mangubat because the attorney submitted evidence outside the pleadings during the hearing, converting the Motion to Dismiss to a Motion for summary judgment. The previous appeal as noted by the Respondents was completely dismissed as untimely filed.¹⁰ As such, the Appellate Court never reviewed the facts or merits of the previous appeal because the Court of

¹⁰ If the dismissal of the defendant was not immediately appealable then the time to run in the first appeal had not yet begun when it was filed and therefore could be considered at the end of the entire case.

Appeals never exercised jurisdiction over the appeal except to dismiss it, until they dismissed the Meisner and Mangubat defendants at the appellate level.

Nevertheless in this Appeal, the Court of Appeals dismissed the Meisner Defendants and Erwin Mangubat, MD at the appellate level and applied the law of the case for the dismissals which is the basis for the request for a Writ of Certiorari. The issue at hand is whether the December 15, 2022 and December 20, 2022 based on SCRCF Rule 12 were interlocutory or final. As such, if the dismissals were interlocutory then Certiorari is whether the underlying dismissal was immediately appealable or not. If not, then the dismissal of the appeal is a nullity because the time to appeal *had not yet run*. The dismissal from Justice Toal on December 15, 2022 did *not* designate the basis of which 12 (b) motion was her basis for dismissal, but the Form 4 dismissal was checked to indicate the case was *not* ended.

Respondent Mangubat requested dismissal based on the following language

The undersigned, as attorney for Defendant, Erwin Mangubat, MD, moves for an Order dismissing the Amended Complaint upon the grounds that (1) Plaintiff fails to state a claim against Defendant, (2) there is lack of jurisdiction over the subject matter, (3) there is lack of jurisdiction over the person, and (4) the allegations of the Amended Complaint against Defendant are barred by the doctrines of privilege, absolute immunity, and absolute quasi-judicial immunity. The Motion will be based upon the applicable statutory law, regulatory law, and case law, any Affidavits filed with the Court, any pleadings of record, all depositions, all discovery, and such further information and evidence the Court may receive.

The Answer to the Complaint likewise based its defense on S.C.R. Civ. P. Rule 12 (b) (1) (2) (b) (6).

In *Thornton* the Court of Appeals dismissed an appeal from a Rule 12(b) (1) dismissal because the order did not fall under the categories of § 14-3-330 that make certain interlocutory orders immediately appealable. *Thornton v. South Carolina Electric & Gas Corp.*, 2011 S.C. App. LEXIS 1553796. In this case, the Court of Appeals never arrived at the substance of the first appeal because it never exercised subject matter jurisdiction over the untimely appeal.

Respondent Mangubat asserts that the dismissal on the Form 4 was immediately appealable; however, this conclusion by the Respondent is not apparent from the Form 4 order or the facts because (1)there were default defendants (Flowers Consulting, LLC and Tricia Flowers) at the time of the dismissals (2) there were Doe defendants at the time of the dismissals (3) and the Form 4 specifically indicated the dismissal did not end the case and (4) the form 4 did not even indicate which 12(b) rule the Court used for its decision.

The Honorable Jean Toal made *no* findings of fact or conclusions of law, did not indicate the dismissal with prejudice, but simply dismissed certain parties via Form 4 and checked that the case was not ended.

Like Respondent Erwin Mangubat, Respondent Grant Meisner also based his request for dismissals on SCRPC Rule 12 (b)(1)(2)(6)who has so far not filed a return in this case based his Motion to Dismiss on the very same 12 b rule However, at the time of the first dismissal it was unknown that both of the law offices did not possess a Richland County business license.; however, upon information and belief,

his attorneys' law offices did *not* possess the requisite business license when the attorney participated in commerce and filed a Motion to Dismiss, the grant of which is the reason for this Petition.¹¹

In this appeal, the Court of Appeals did not dismiss the entire appeal, but dismissed Respondent Mangubat and Respondent Meisner.¹²

First, The Petitioner suggests this case is exactly why cases should not be dismissed before discovery. Otherwise, it would have been determined that the law firm defendants did not possess a valid commercial business license which could have been reviewed by the circuit court.

Second, because there was no discovery, the claims of litigation privilege as a basis for dismissal were never explored.¹³ For example, after the dismissals, it was learned that Sheila Robinson never spoke to Erwin Mangubat, MD, so it is unclear how he could have been hired as an expert witness.

However, the salient point is whether the four corners of the document support a cause of action with the facts asserted, and the Petitioner avers the complaint is sufficient and it cannot possibly be a continuation of the family court because a jury trial to review the facts in the case is not allowed by the family court

¹² Respondent Meisner did not submit a return despite the fact allegations were lodged that they were not licensed by Richland County bringing into question all of the pleadings made in this case e.g. whether the law allowed them to participate in the proceedings without a business license because all of the pleadings were made by

¹³ The basis for the litigation privilege claim was the that he was hired as an expert witness for Sheila Robinson; however, later Ms. Robinson admitted under oath she never spoke to Dr. Mangubat and upon information and belief, her law firm did not have a Richland County Business license to conduct business in Richland County.

but is allowed in circuit court. The Honorable Jean Toal's summary dismissal of the claims without giving the basis for the dismissals should be considered interlocutory for the above reasons.

First, whether the Circuit Court Dismissal Orders are interlocutory when not all defendants are dismissed-there were no Rule 54 (b) certifications and the circuit court did not specify the dismissals were based on subject matter jurisdiction which would in effect eliminate all defendants-present or not present-identified or not identified. This Court has previously ruled dismissals are interlocutory when some but not all defendants are dismissed to avoid piecemeal dismissals. *Mid-State Distribs., Inc. v. Century Importers, Inc.*, 310 S.C. 330, 334, 426 S.E.2d 777, 780 (1993).

For the Above Reasons and all references to the Record, the Petitioner requests this Honorable Court grant the Petition and allow the Petitioner to file the SCRCF Rule 60 motion in the Circuit court and rejoin the Meisner and Mangubat Respondents to the case.

Respectfully Submitted,

July 16, 2026

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