

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

RECEIVED  
DEC 30 2013  
SC Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Robert E. Hood, Circuit Court Judge

Case No. 2012-CP-40-4129

Anonymous Surgeon.....Appellant,

v.

Matthew T. Siedhoff, M.D.....Respondent.

**RETURN TO APPELLANT'S MOTION TO CERTIFY**

Respondent Matthew T. Siedhoff, M.D. respectfully opposes Appellant Anonymous Surgeon's Motion to Certify pursuant to Rule 204(b) of the South Carolina Appellate Court Rules. In his motion, counsel for Appellant asks the South Carolina Supreme Court to review this case and not only reverse the lower court's decision but reverse the firmly-established precedent related to the exceptions to South Carolina's Survival Statute. However, the issues in this case do not merit deviation from the standard appellate process.

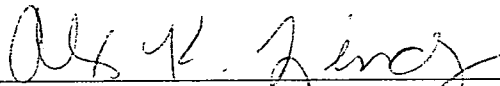
SCACR Rule 204(b) states that "[c]ertification is normally appropriate where the case involves an issue of significant public interest or a legal principle of major importance." The issue which Appellant asks the Court to review was established by this Court 65 years ago when the common law exceptions to the Survival Statute were first

established in South Carolina case law in *Carver v. Morrow*, 213 S.C. 199, 48 S.E.2d 814 (1948). These exceptions have been repeatedly reaffirmed by various South Carolina courts since then. See *Brewer v. Graydon*, 233 S.C. 124, 103 S.E.2d 767 (1958); *Belcher v. S.C. Bd. of Corr.*, 460 F.Supp. 805 (1978); *Schneider v. Allstate Ins. Co.*, 487 F.Supp. 239, 245 (D.S.C. 1980). The issue in this case is not a matter of “significant public interest.” To the contrary, changing 65 years of settled law would create unnecessary confusion.

WHEREFORE, Respondent respectfully opposes Appellant’s Motion to Certify this case to the South Carolina Supreme Court.

Respectfully submitted,

SOWELL GRAY STEPP & LAFFITTE, LLC



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Elizabeth Van Doren Gray, S.C. Bar No. 2434  
Alexis K. Lindsay, S.C. Bar No. 78049  
1310 Gadsden Street (29201)  
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(803) 929-1400

*Attorneys for Respondent*

December 30, 2013  
Columbia, South Carolina

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Anonymous Surgeon.....Appellant,

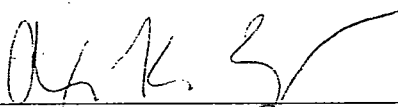
v.

Matthew T. Siedhoff, M.D.....Respondent.

PROOF OF SERVICE

I certify that I have served the Respondent's Return to Appellant's Motion to Certify on Appellant Anonymous Surgeon by depositing a copy of it in the United States Mail, postage prepaid, on December 30, 2013, addressed to the attorney of record as addressed below:

**Aaron J. Kozloski, Esquire**  
**Capitol Counsel, LLC**  
**Post Office Box 1996**  
**Lexington, South Carolina 29071**  
*Attorney for the Appellant*



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(803) 929-1400  
*Attorneys for Respondent*

December 30, 2013

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**VIA HAND-DELIVERY**

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals Clerk of Court  
Edgar Brown Building  
1205 Pendleton Street  
Columbia, South Carolina 29201

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**RE: Anonymous Surgeon v. Matthew T. Siedhoff, M.D.**  
**Case No.: 2012-CP-40-4129**  
**SGSL No.: 6497/1500**

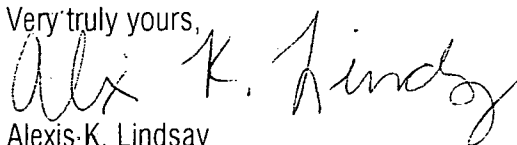
Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Respondent's Return to Appellant's Motion to Certify regarding the above matter. Please file the original and return a filed-stamped copy of the same via our courier.

By copy of this letter to opposing counsel of record, I am notifying him of my communication with the court and serving a copy of same as evidenced by the Proof of Service.

Thank you for your assistance in this matter and please feel free to contact me should you have any questions or concerns.

Very truly yours,



Alexis-K. Lindsay

AKL:tc

Enclosures

cc: Aaron J. Kozloski, Esquire