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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Milton G. Kimpson, Circuit Court Judge
Daniel Coble, Circuit Court Judge
L. Casey Manning, Circuit Court Judge

Case No. 2019-CP-40-04452
Appellate Case No. 2026-001326

Anesthesiology Professionals of
Columbia, LLC Respondent,

v.

Lifepoint Health d/b/a Providence
Health and Providence Hospital LLC Appellants.

INITIAL BRIEF OF APPELLANTS
LIFEPOINT HEALTH D/B/A
PROVIDENCE HEALTH AND
PROVIDENCE HOSPITAL LLC

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STATEMENT OF THE ISSUES ON APPEAL

I. DID THE TRIAL COURT ERR IN REFUSING TO CONFIRM THE ARBITRATION AWARD?

II. DID THE TRIAL COURT ERR IN REFUSING TO ALLOW DISCOVERY REGARDING THE FACTUAL ISSUES SURROUNDING THE ARTICLES OF TERMINATION AND ARTICLES OF CORRECTION?

III. DID THE TRIAL COURT ERR IN FINDING THAT THE SECRETARY OF STATE'S ACCEPTANCE OF THE ARTICLES OF CORRECTION CREATES A PRESUMPTION THAT THE ARTICLES WERE PROPER AND EFFECTIVE?

IV. DID THE TRIAL COURT ERR IN FINDING THAT THE ARTICLES OF CORRECTION SHOULD HAVE RETROACTIVE APPLICATION?

STATEMENT OF THE CASE

This appeal arises from an arbitration that ended on May 15, 2019. The arbitrator ruled in his award that neither party owed the other party anything. (J.A. ---, Arbitration Award.) Respondent Anesthesiology Professionals of Columbia, LLC (“Respondent”) initiated a challenge to the arbitration award by filing a petition in the Court of Common Pleas for Richland County on August 12, 2019. (J.A. ---, Summons and Petition to Vacate.) Respondent did not serve the Summons and Petition as prescribed by S.C. Code Ann. § 15-48-170. Rather, Respondent asked for acceptance of service by Erin Stuckey, former counsel for Appellant Lifepoint Health d/b/a Providence Health and Providence Hospital LLC (“Appellant” or “Providence”). (J.A.---, Acceptance of Service.) Former counsel, Erin Stuckey, without any authority from, or notice to, Providence, agreed to accept service. It is undisputed that Ms. Stuckey then proceeded to handle the appeal of the arbitration award without ever notifying the client (or anyone else at her firm) of the existence of the appeal or of any of the court rulings. (J.A.--, Affidavit of Lifepoint.) In addition, it is undisputed that neither Ms. Stuckey nor her firm ever billed Providence for any of the work done on the petition to challenge the award and Providence would have had no way of knowing that a petition to challenge the award had even been filed. Months after the Honorable Casey L. Manning issued orders vacating the award and denying any reconsideration, Providence first became aware of these proceedings when the American Health Law Association reached out directly to Providence to schedule a new arbitration hearing. (*Id.*; J.A. --- and ---Order of Casey L Manning Vacating Award and Order denying Reconsideration.) While Providence reserves all rights to challenge the issues regarding denial of its due process rights and the failure to properly serve Providence with the initial petition at the appropriate time, the current appeal focuses on whether Respondent, as a dissolved and terminated limited liability company, had any ability to

pursue its challenge to the arbitration award which resulted in the orders vacating the arbitration award.

During the pendency of the proceedings in the Court of Common Pleas relating to the arbitration, counsel for Providence discovered that Respondent, a limited liability company, had actually been dissolved before it ever filed the petition to challenge the arbitration award. As reflected in the records of the South Carolina Secretary of State (“Secretary”), on January 16, 2020, Respondent filed Articles of Termination. (J.A. ---, Articles of Termination.) The Articles of Termination filed with the Secretary by Gokul Gondi, the Manager of Respondent, contained the following representations:

- a. The date of dissolution for Respondent was May 15, 2019 (almost three months before the motion to vacate was filed in August purportedly on behalf of Respondent)¹;
- b. Respondent had “wound up its business and terminated its legal existence”; and
- c. The delayed effective date was to be January 6, 2020 [long before any substantive orders were entered in connection with the challenge to the petition].

(Articles of Termination.) S.C. Code Ann. § 33-44-805. No one has ever suggested that any of these representations was false or erroneous.

Based on this discovery, Providence immediately filed a Motion to Confirm Arbitration Award because Respondent had, prior to the entry of any orders, wound up its business, dissolved as a legal entity, and filed Articles of Termination. (J.A. ---, Motion to Confirm Arbitration Award.)

¹ Notably, this means that the representations made by Respondent in the petition to vacate that claimed Respondent was, at all relevant times, an existing LLC were false as Respondent had been dissolved as of May 2019 and terminated its legal existence as of January 2020. Respondent never provided any supplemental information to the Court of Common Pleas or the Appeals Court during any of the subsequent briefing or proceedings to advise the Courts that it no longer existed.

In response to Providence’s Motion to Confirm Arbitration Award, Respondent, with no notice to the Court of Common Pleas or to opposing counsel², filed a document with the Secretary purporting to be Articles of Correction attempting to void the Articles of Termination that had been in force for more than five years. (J.A.---, Articles of Correction.) Solely to improve its position in the instant litigation, Respondent filed a “correction” attempting to resurrect its status as a limited liability company even though Respondent had ceased all business operations nearly eight years earlier. In the Articles of Correction, the only basis for attempting to withdraw or void the earlier Articles of Termination was a conclusory statement that Respondent’s earlier Articles of Termination were done without authority. No claim was made that anything in the Articles of Termination was false or incorrect nor was any explanation given as to why a manager of the LLC who allegedly dissociated himself from the LLC in 2017 would, on his own with no authority, file Articles of Termination in 2020. (*Id.*)

On January 21, 2026, a hearing was held on Providence’s Motion to Confirm Arbitration Award as well as on its alternative request to conduct discovery into the filing of the Articles of Termination and the Articles of Correction. (J.A. ---, Transcript of Hearing from January 21, 2026.) After the hearing, the parties provided the Court of Common Pleas with additional documents and information and responded to various questions raised by the Court in post-hearing emails. (J.A. ---, Emails and Attachments Submitted to Court and Included as Exhibits to Motion to Alter or Amend Judgment Pursuant to Rule 59(e).) The Honorable Milton Kimpson denied Providence’s Motion to Confirm Arbitration Award and the subsequent Motion to Alter or Amend Judgment Pursuant to Rule 59(e). (J.A. --- and ---, Order Denying Motion to Confirm Arbitration

² Respondent did not disclose to the Trial Court its filing of the Articles of Correction until January 2026 some seven months after Providence had filed its motion to confirm based on the Articles of Termination. (J.A.---, Petitioner’s Response in Opposition to Motion to Confirm Arbitration Award.)

Award; Order Denying Motion to Alter or Amend Judgment Pursuant to Rule 59(e).) In addition, the Trial Court denied Providence's request to conduct discovery into the circumstances surrounding the Articles of Termination and the Articles of Correction. (J.A. ---, Order Denying Motion to Confirm.) Specifically, Providence had asked, at the least, to depose Dr. Gondi who filed the Articles of Termination to determine why he filed the Articles, what his authority was at the time, whether all the statements in the Articles of Termination were accurate, and who instructed him to file the Articles of Termination. (J.A. ---, Transcript of Hearing.) Those decisions on the motions and to deny discovery are now before this Court on appeal.

STANDARD OF REVIEW

As the issues I, III, and IV are all issues of law, the standard of review will be de novo. *Crouch Constr. Co. v. Causey*, 405 S.C. 155, 163, 747 S.E.2d 482, 486 (2013). As for issue II regarding the trial court's decision to deny discovery, that decision would be reviewed using an abuse of discretion standard. *Owens v. Stirling*, 438 S.C. 352, 358, 882 S.E.2d 858, 861 (2023). "An abuse of discretion may be found . . . where the appellant shows that the conclusion reached by the lower court was without reasonable factual support, resulted in prejudice to the right of appellant, and, therefore, amounted to an error of law." *Id.* (internal quotations omitted).

ARGUMENTS

I. THE TRIAL COURT ERRED IN REFUSING TO CONFIRM THE ARBITRATION AWARD BECAUSE RESPONDENT DID NOT EXIST TO CHALLENGE THE AWARD.

It is undisputed that, if Respondent did not exist, Respondent could not properly challenge the Arbitration Award and Providence is entitled to have the arbitration award confirmed. It is further undisputed that Respondent ceased business activities in 2017 and filed Articles of Termination in 2020. (J.A. --- and ---, Articles of Termination; Email from Jim Griffin to Court confirming 2017 as date Respondent ceased business activities.) Finally, it is undisputed that

Respondent did not exist for more than five years and only attempted to “correct” the Articles of Termination after Providence relied on the Articles of Termination in its Motion to Confirm Arbitration Award. (J.A. ---, Articles of Correction.) Respondents had no legitimate business motive to “correct” the Articles of Termination. It was done solely as a litigation tactic to create an argument in response to Providence’s Motion to Confirm Arbitration Award.

While there is no dispute that the arbitration award must be confirmed if Respondent did not exist, the parties do dispute whether Respondent properly and effectively corrected the Articles of Termination which had previously been accepted by the Secretary of State. Under S.C. Code Ann. § 33-44-207, a limited liability company or foreign limited liability company may correct a record filed by the Secretary if the record contains a false or erroneous statement or was defectively signed. The filing must identify the incorrect statement in the original filing or the manner in which the signing was defective. S.C. Code Ann. § 33-44-207(b)(ii).

In the present case, Respondent has never suggested that there is any false or erroneous statement in the Articles of Termination. In fact, in response to questions raised by the Court after the last hearing, Repsondent’s counsel confirmed that Repsondent ceased all business activities in 2017, two years before the Articles of Termination were filed. (J.A. ----, Emails and Attachments Submitted to Court and Included as Exhibits to Motion to Alter or Amend Judgment Pursuant to Rule 59(e).) In this regard, the Articles of Termination, far from being false or erroneous, accurately reflected the reality that Respondent no longer existed as a business entity.

Respondent has instead claimed that the manner of the signing the Articles of Termination was allegedly defective. (J.A. ---, Articles of Correction.) However, in its Articles of Correction, Respondent did not indicate that the signature was forced or coerced or impermissible under any operating agreement. Instead, the Articles of Correction simply stated in conclusory fashion that

the signatory to the Articles of Termination (Dr. Gondi) had dissociated himself from the LLC as a member prior to the submission of the Articles of Termination and was therefore not authorized by the other members to sign the Articles of Termination. (*Id.*) There are two major flaws with this argument.

First, under Respondent's Operating Agreement, it is clear that a member's dissociation has no impact on their rights as a member. (J.A. ---, Section 10.2 of Operating Agreement of Anesthesiology Professionals of Columbia, LLC, APC 316 – APC 343.) As a result, Dr. Gondi's dissociation has no impact on his rights as a member, and it proves nothing with regard to his authority or intent in filing the Articles of Termination. Without additional facts which should have been included in the Articles of Correction and presented to the trial court, there is simply no evidence to conclude that Dr. Gondi's signature was defective as required by the statute.

Second, Respondent ignores the fact that Dr. Gondi signed the Articles of Termination as a manager, not as a member. (J.A. ---, Articles of Termination.) Respondent has never submitted any evidence from Dr. Gondi indicating what role he was playing at the time he signed the Articles of Termination. The statute requires that Articles of Correction must specify the manner in which any alleged signature was defective and/or what was incorrect in the initial filing and why it was incorrect. S.C. Code Ann. § 33-44-207(b). Respondent's Articles of Correction fail to do that. (J.A. ---, Articles of Correction.) In fact, nothing in the Articles of Correction provides actual evidence to show that Dr. Gondi as an officer of the LLC could not sign and file the Articles of Termination in 2020. (*Id.*) And there has never been any suggestion that Dr. Gondi filed the Articles of Termination erroneously or in bad faith. As the information in the Articles of Correction is insufficient as a matter of law to conclude Dr. Ghondi's signature was defective (i.e.

forged, erroneous, coerced, done in bad faith), the Articles of Correction are ineffective on their face as they do not meet the standard established by the statute.

II. THE TRIAL COURT ERRED IN REFUSING TO ALLOW DISCOVERY INTO THE CIRCUMSTANCES SURROUNDING THE ARTICLES OF TERMINATION AND THE ARTICLES OF CORRECTION.

It is beyond question that Respondent did not exist and had not existed for more than five years at the time Providence filed its Motion to Confirm Arbitration Award. (J.A. --- and ---; Articles of Termination; Motion to Confirm Arbitration Award.) It was only after Providence filed its Motion to Confirm Arbitration Award that Respondent then tried to withdraw and “correct” its prior filings. (J.A. ---, Articles of Correction.) This action by Respondent to correct its prior filing appears to be nothing more than litigation gamesmanship. Had Respondent lost at the trial court in its challenge to the arbitration, it would never have filed the Articles of Correction because it ceased operations and will never transact business again. It was only when Respondent realized it could improve its litigation position that Respondent chose to resurrect its corporate form and claim that any previous filing had been a mistake.

Providence firmly believes all of this would be proven in discovery and asked the Court for the right, at the very least, to depose Dr. Gondi to get his testimony regarding why he filed the Articles of Termination and who authorized him to file the same. (J.A. ----, --- and ---, Motion to Confirm Arbitration Award; Transcript; Emails and Attachments Submitted to Court and Included as Exhibits to Motion to Alter or Amend Judgment Pursuant to Rule 59(e).) There is absolutely no evidence and no suggestion that Dr. Gondi filed the Articles of Termination mistakenly or in bad faith. In fact, Respondent has refused to provide any information or statement from Dr. Gondi both in its Articles of Correction and in its court filings to date. While one might think it is a mystery why Dr. Gondi filed the Articles of Termination, it is actually very straight forward. As Respondent’s counsel admitted to the Trial Court, Respondent ceased doing business in 2017 and

the filing of Articles of Termination would be the natural next step for a limited liability company that was no longer in operation. (J.A. ---, Emails and Attachments Submitted to Court and Included as Exhibits to Motion to Alter or Amend Judgment Pursuant to Rule 59(e).) Assuming Dr. Gondi was instructed to file the Articles of Termination, Respondent is entitled to know that information as it is critical to know that fact because it determines whether his filing was erroneous, mistaken, or defective under S.C. Code Ann. § 33-44-207.

Even beyond this key issue which should mandate some discovery, after the hearing, Respondent submitted documents to the Court which had never been previously produced to Providence or filed with the Secretary. (J.A. ---, Emails and Attachments Submitted to Court and Included as Exhibits to Motion to Alter or Amend Judgment Pursuant to Rule 59(e).) After the hearing, Respondent's counsel provided the Court via email with Addendum 3 to the Operating Agreement ("Addendum 3") to further support Respondent's arguments regarding Dr. Gondi's withdrawal and disassociation and status as a consultant at the time the Articles of Termination were filed. (*Id.* at ---.) This document was never filed with the Secretary, and it was never produced as part of the Operating Agreement that was produced during the arbitration between the parties. (*Id.* at ---.) To confirm that, Providence submitted to the Court the Bates stamped version of the Operating Agreement which had been previously produced in the arbitration. (*Id.* at ---.) It did **not** include the parts of the Agreement Respondent's counsel submitted to the Court. (*Id.* at ---.) The submission of this previously undisclosed and undated document, appearing for the first time after oral argument, raised a number of questions about when this agreement was actually executed and why it was created. These questions only further support Providence's right to the deposition of Dr. Gondi especially in light of the lack of any prejudice to Respondent.

In addition, the submission by Respondent's counsel, far from confirming that Dr. Gondi had no authority, states that Dr. Gondi will continue to work as a consultant for Respondent even after his dissociation. (J.A. ---, Emails and Attachments Submitted to Court and Included as Exhibits to Motion to Alter or Amend Judgment Pursuant to Rule 59(e).) This contradicts the statements made by opposing counsel during the hearing that Dr. Gondi did not work with APC after he filed his dissociation. (J.A. ---, Hearing Transcript.) Providence has had no ability to conduct any discovery to determine what authority Dr. Gondi had as a consultant and whether that authority was the basis for the submission of the Articles of Termination. This was an additional reason why Providence requested discovery from the Trial Court. (J.A. ---, Emails and Attachments Submitted to Court and Included as Exhibits to Motion to Alter or Amend Judgment Pursuant to Rule 59(e).)

While Respondent will no doubt claim that Providence is speculating as to the reasons and authority related to Dr. Gondi's signature on the Articles of Termination, it should be remembered that the burden is on Respondent to explain the error, mistake or defect under the statute. Further, after the hearing, the Trial Court inquired when Respondent ceased operations noting that according to the Articles the "company wound up its business and terminated its legal existence." (J.A. ---, Emails and Attachments Submitted to Court and Included as Exhibits to Motion to Alter or Amend Judgment Pursuant to Rule 59(e).) Respondent's counsel confirmed in email correspondence that Respondent ceased all operations in September 2017, when its agreement with Providence was terminated. (*Id.*) Respondent's cessation of operations more than two years prior to the filing of the Articles of Termination strongly suggests that the Articles of Termination were properly and intentionally filed to reflect the reality that Respondent intended to terminate its

existence. Respondent should not be allowed to hide this fact that would likely be revealed by a simple deposition of Dr. Gondi. The Trial Court should have allowed this discovery to occur.

III. THE TRIAL COURT ERRED IN FINDING THAT THE SECRETARY'S ACCEPTANCE OF THE ARTICLES OF TERMINATION ACCEPTANCE OF THE ARTICLES OF TERMINATION WAS ENTITLED TO DEFERENCE.

“A limited liability company or foreign limited liability company may correct a record filed by the Secretary of State if the record contains a false or erroneous statement or was defectively signed.” S.C. Code Ann. § 33-44-207 (emphasis added); *see also* S.C. Code Ann. § 33-1-240. The correction must identify “the incorrect statement and the reason it is incorrect or the manner in which the signing was defective.” S.C. Code Ann. § 33-44-207(b)(ii). However, the Secretary’s acceptance of a correction is not evidence that the Secretary evaluated the merits of the document.

“The Secretary of State's duty to file documents under this section is ministerial.” S.C. Code Ann. § 33-1-250(d). “The duty is ministerial when it is absolute, certain, and imperative, involving merely the execution of a specific duty arising from fixed and designated facts.” *Wilson v. Preston*, 378 S.C. 348, 354; 662 S.E.2d 580 (2008). “It is ministerial if it is defined by law with such precision as to leave nothing to the exercise of discretion.” *Id.* Here, the statute is clear that the Secretary’s “filing or refusing to file a document does not: (1) affect the validity or invalidity of the document in whole or part; (2) relate to the correctness or incorrectness of information contained in the document; (3) create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.” S.C. Code Ann. § 33-1-250(d). In other words, “[i]f a document delivered to the office of the Secretary of State for filing satisfies the requirements of Section 33-1-200, the Secretary of State shall file it.” S.C. Code Ann. § 33-1-250; *see* S.C. Code Ann. § 33-1-200 (identifying ministerial requirements for filings).

Given the “ministerial” nature of the Secretary’s review, the Secretary does not evaluate whether the certificate of correction actually included “a false or erroneous statement or was

defectively signed.” As a result, the Secretary’s acceptance of a certificate of correction does not deserve any type of deference and does not create a presumption “that the document is valid or invalid or that information contained in the document is correct or incorrect.” S.C. Code Ann. § 33-1-250(d)(3). In its order, the Trial Court erred in stating that the Secretary’s acceptance of the Articles of Correction and issuance of a Certificate of Existence as significant. As this appears to be one of the primary reasons the Trial Court denied both the motion to confirm arbitration award and the request for discovery, Providence respectfully asks this Court to correct that error.

IV. EVEN IF THE ARTICLES OF CORRECTION WERE EFFECTIVE, THE TRIAL COURT ERRED IN FINDING THAT THE ARTICLES OF CORRECTION SHOULD BE APPLIED RETROACTIVELY.

While S.C. Code Ann. § 33-44-208(d) provides that a certificate of existence or authorization issued by the Secretary may be relied upon as evidence that a limited liability company is in existence, that does not mean that the Secretary or its certificates govern whether Articles of Correction should be applied retroactively. While the Trial Court correctly states that the Articles of Correction can be applied retroactively, the court improperly puts “significance” on the Secretary’s certificate largely ignoring the actual statutory language on retroactive application. S.C. Code Ann. § Section 33-44-207(c) makes clear that articles of correction are effective retroactively on the effective date of the record they correct except as to persons who relied on the uncorrected record and are adversely affected by the correction.

In the present case, it is undisputed that Providence relied on the Articles of Termination in filing its Motion to Confirm Arbitration Award.³ Further, Providence would be adversely impacted if Respondent is allowed to resurrect its corporate existence for the sole purpose of taking

³ The Trial Court appeared to ignore Appellants’ reliance because the reliance had occurred recently. Nothing in the statute requires any length of time to support the reliance prong of the exception. Under the express statutory language, it is only necessary that the party rely on the uncorrected record, and Appellants clearly did so in this case.

advantage of a court ruling to the detriment of Providence. If the denial of the confirmation of the arbitration award is upheld, Providence may be forced to spend hundreds of thousands of dollars to participate in a new arbitration with a company that has been non-existent for upwards of eight years. Forcing Providence to incur this burden is especially unfair and unjust in light of the fact that Respondent has only filed the Articles of Correction as a litigation tactic to protect claims it lost when it terminated its existence.

CONCLUSION

Wherefore, based upon the foregoing, Providence submits that the Trial Court erred in refusing to grant its Motion to Confirm Arbitration as Respondent did not properly or effectively withdraw or correct its Articles of Termination under S.C. Code Ann. § 33-44-207. As a result, Respondent cannot challenge the arbitration award, and the award should be confirmed.

In addition, in light of the questions and lack of evidence supporting the claim that the Articles of Termination were defectively signed, the Trial Court abused its discretion in not allowing Providence any discovery to determine why the Articles of Termination were filed and what authority Dr. Gondi had to file the same. This error resulted, at least partially, from the fact that the Trial Court found it significant that the Secretary accepted the Articles of Correction for filing and issued a certificate reflecting the same. These ministerial acts should not have been entitled to any deference or significance.

Finally, the Trial Court erred in concluding that Articles of Correction should be applied retroactively. Under S.C. Code Ann. § 33-44-207(c), Articles of Correction cannot be retroactively applied to the detriment of any person who relied on the previous uncorrected record. In this case, it is undisputed that Providence relied on the uncorrected Articles of Termination in filing its Motion to Confirm, and Providence would be adversely affected by any decision allowing Respondent to resurrect its corporate existence more than five years after it was terminated.

Dated: September 21, 2026

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THE STATE OF SOUTH CAROLINA
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Anesthesiology Professionals of
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Respondent,

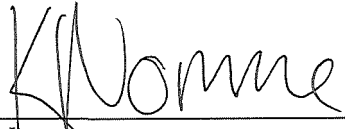
v.

Lifepoint Health d/b/a Providence
Health and Providence Hospital LLC

Appellants.

PROOF OF SERVICE

I certify that I have served the Initial Brief on Anesthesiology Professionals of Columbia, LLC by depositing a copy of it in the United States Mail, postage prepaid, on September 21, 2026 addressed to its attorneys of record, James M. Griffin and Margaret N. Fox, Griffin Davis Law Firm, P. O. Box 999, Columbia, SC, 29202.



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