The South Carolina Court of Appeals

Sandra Holland, as Personal Representative of the Estate of Christopher Lee Holland, deceased, and Saleena Ramm, as Parent and Natural Guardian of R.D.H., a Minor Child of Decedent Christopher Lee Holland, Respondents,

v.

David A. Brosman, MD; Pain Management ASC, LLC; MPS Solutions, Inc.; Anesthesia Associates of Hilton Head Pain Management, LLC, Appellants.

Appellate Case No. 2026-001886

ORDER

On August 25, 2026, Appellants filed a notice of appeal from a circuit court order denying Appellants' motion for summary judgment and concluding that the substantive law of South Carolina governs the action.[1] The circuit court concluded that "[b]ecause the substantive law of South Carolina governs, the defenses [Appellants] assert under Georgia law, including Georgia's privity requirement and its two-year statute of limitations, are unavailable, and summary judgment premised upon them must be denied."

Also on August 25, 2026, Respondents filed a motion to dismiss the appeal, arguing the order on appeal is interlocutory and not immediately appealable. Respondents requested expedited consideration of their motion in light of the case being scheduled for a date certain trial beginning on August 31, 2026. This court grants Respondents' request for expedited consideration. First, Respondents argue

[1] In the circuit court, Appellants filed a motion for summary judgment or in the alternative, a motion in limine on choice of law issues, which resulted in the order on appeal. The circuit court granted the motion in limine and denied the motion for summary judgment.

an order denying a motion for summary judgment is never appealable, and as a result, this court should dismiss the appeal. Second, Respondents argue the order does not "involve the merits" or "affect a substantial right such that it determines the action and prevents a judgment from which an appeal may be taken." Respondents contend the order does not strike any defenses because the denial of summary judgment does not strike any defense as a party may raise the defense later in the proceedings. Respondents assert "[a] choice of law ruling is a question of law that an appellate court can review after final judgment." Third, Respondents argue Appellants waived any right to an interlocutory appeal by failing to appeal a prior order denying their motion for summary judgment based on the same argument, which was filed in 2022.

In response to this court's request for an expedited return, Appellants filed a return to the motion to dismiss on August 26, 2026. Initially, Appellants agree an order denying a motion for summary judgment is not appealable and explain they "are not appealing the portion of the [circuit] court's order which denied them summary judgment." Instead, Appellants seek to appeal the portion of the order that determined South Carolina law governs the case. Next, Appellants argue the order on appeal is immediately appealable because it "involves the merits" by "finally determin[ing] some substantial matter forming the whole or a part of some cause of action or defense" and affects a substantial right by striking out a defense. Appellants explain the order is immediately appealable because it "finally adjudicat[ed] the choice of law issue" and in doing so, it "effectively struck" Appellants' defenses that Appellants owed no duty of care to Respondents based upon a lack of privity and the action was filed outside the statute of limitations.

On August 27, 2026, Respondents filed a reply. Respondents argue the "effect of the [circuit court's] order is that nothing was finally adjudicated, no claim or defense has been decided, and the case proceeds to trial." Noting Appellants filed a motion in limine seeking a ruling on whether the substantive law of South Carolina or Georgia law governs the action and the circuit court granted the motion, Respondents contend a ruling in limine is interlocutory and not immediately appealable. Respondents further argue the order did not strike Appellants' defenses because "Appellants remain free at trial to contest duty, breach, proximate cause, damages, and any affirmative defense in their answer [including] to renew their contention that Georgia law governs by motions for directed verdict and judgment notwithstanding the verdict and by objection to the charge." Respondents reiterate that Appellants may obtain appellate review of the order from any adverse final judgment.

After careful consideration, we dismiss this appeal because the order on appeal is interlocutory and not immediately appealable. *See Ballenger v. Bowen*, 313 S.C. 476, 476, 443 S.E.2d 379, 380 (1994) ("This [c]ourt has repeatedly held that the denial of summary judgment is not directly appealable."); S.C. Code Ann. § 14-3-330(1) (2017) (explaining appellate courts may exercise jurisdiction over "[a]ny intermediate judgment, order[,] or decree in a law case involving the merits"); S.C. Code Ann. § 14-3-330(2) (2017) (defining appellate jurisdiction to include "[a]n order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action . . . or (c) strikes out an answer or any part thereof or any pleading in any action"); *Watson v. Underwood*, 407 S.C. 443, 458, 756 S.E.2d 155, 163 (Ct. App. 2014) ("A judgment that determines what law is applicable but leaves questions of fact unsettled is not a final judgment."); *McLendon v. S.C. Dep't of Highways & Pub. Transp.*, 313 S.C. 525, 526, 443 S.E.2d 539, 540 (1994) (holding an order denying a motion to dismiss based on the statute of limitations is not immediately appealable); *id.* at 526 n.2, 443 S.E.2d at 540 n.2 ("Like the denial of a motion for summary judgment, the denial of a motion to dismiss does not establish the law of the case and the issue raised by the motion can be raised again at a later stage of the proceedings.").

Finally, Respondents ask this court to direct the immediate sending of remittitur or lift the automatic stay to allow the trial of this matter to proceed on Monday, August 31, 2026. After careful consideration, we deny Respondents' requests to direct immediate sending of remittitur or lift the automatic stay.

_____ J.
FOR THE COURT

Columbia, South Carolina

FILED
Aug 28 2026

cc:
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