

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

S. Jackson Kimball, Special Circuit Court Judge

Appellate Case No. 2017-002123

Melissa Scott.....Respondent,

v.

Palmetto Medical Group, Nimish Patel, MD,
Kishor Patel, PA-C, Shepali Patel, MD,
Magan Grigg, PA, Piedmont Healthsouth Rehabilitation,
LLC d/b/a Healthsouth Rehabilitation Hospital of
Rock Hill, Charlotte-Mecklenburg Hospital
Authority d/b/a Carolinas Healthcare System,
Carolinas Physician Network, Inc. d/b/a ID
Consultants and Infusion Care Specialists.....Defendants,

Of which

Charlotte-Mecklenburg Hospital
Authority d/b/a Carolinas Healthcare System,
Carolinas Physician Network, Inc. d/b/a ID
Consultants and Infusion Care Specialists.....Appellants.

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SC Court of Appeals

Respondent's Reply to Appellants' Memorandum on Appealability

As set forth in Respondent's Memorandum on Appealability the trial court's denial of the motion to dismiss is interlocutory and the grounds appealed are not recognized exceptions for immediate appellate review. Thus, this appeal is not properly before the Court.

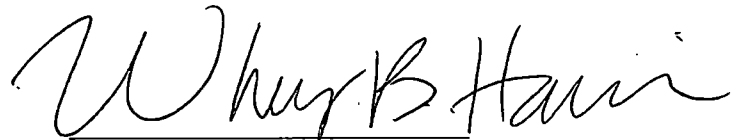
Appellants' arguments ignore the general tenants of appealability, which are derived from Section 14-3-330 of the South Carolina Code. Instead of addressing the right to appeal through the confines of the statute, their arguments turn to due process. Specifically, Appellants direct this Court to cases in which the denial of a motion to dismiss on personal jurisdiction grounds were immediately addressed on the merits—due process. *See e.g., Southern Plastics Co. v. Southern Commerce Bank*, 310 S.C. 256, 423 S.E.2d 128 (1992); *Clark v. Key*, 304 S.C. 497, 405 S.E.2d 599 (1991). Such reliance is misplaced. The issue of immediately appealability was not before the Supreme Court nor was it addressed in any of the cases. There is no suggestion that this issue was raised to the Court. Further, the Court in those cases did not create an exception to section 14-3-330. Rather, the Court embraced the well-settled principle that “[A]ppellate courts in this state, like well-behaved children, do not speak unless spoken to and do not answer questions they are not asked.” *State v. Austin*, 306 S.C. 9, 19, 409 S.E.2d 811, 817 (Ct. App. 1991) (brackets and internal quotation marks omitted).

In similar fashion, Appellants also suggest immediate review is necessary because they are public officers. The merits of such argument belong within the actual appeal and does not affect appealability. Addressing the merits of either due process or Appellants' status as public officers would be an error of law.

Additionally, Appellants implicitly contend that because medical cases are treated differently it is warranted to ignore appealability. There is no authority to support such a proposition. Giving such a preference is in direct contradiction to appellate practice in this State and the Court's limited authority to address certain matters based on the Legislature's intent. *See generally*, Article V, §§ 5 & 9 of the South Carolina Constitution; S.C. Code Ann. § 14-8-200; S.C. Code Ann. § 14-8-200; *Ex parte Johnson*, 63 S.C. 205, 41 S.E. 308 (1901)

As a secondary argument, Appellants also suggest Respondent's substantial interest is jeopardized if this case is not addressed. Respondent's interests are best served by having this appeal dismissed because of its interlocutory nature and the matter being returned to the circuit court to proceed with litigation.

Respectfully submitted,

A handwritten signature in black ink, reading "Whitney B. Harrison". The signature is written in a cursive style with a horizontal line underneath the name.

Whitney B. Harrison
McGowan, Hood & Felder, LLC
1517 Hampton Street
Columbia, SC 29201

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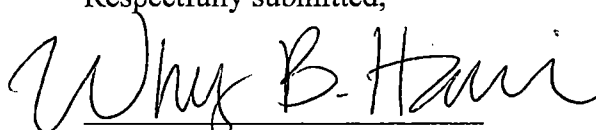
SC Court of Appeals

PROOF OF SERVICE

The undersigned hereby certifies that on November 30, 2017, she served counsel for Appellant with *Respondent's Reply to Appellants' Memorandum on Appealability* by mailing a copy of the same by United States Mail with first class postage prepaid to the following addresses:

Scott S. Addison & Kevin L. Pratt
4350 Congress Street
Suite 575
Charlotte, NC 28210

Respectfully submitted,

A handwritten signature in black ink that reads "Whitney B. Harrison". The signature is written in a cursive style with a horizontal line underneath the name.

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Of Counsel*

November 30, 2017

The Honorable Jenny Kitchings
Clerk of South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

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SC Court of Appeals

Re: Melissa Scott v. Palmetto Medical
Appellate Case No. 2017-002123

Dear Ms. Kitchings:

Enclosed please find Respondent's Reply to Appellants' Memorandum on Appealability. Please return a clocked copy of the memorandum. If you have any questions or concerns, please do not hesitate to contact me.

With kind regards, I am

A handwritten signature in black ink that reads 'Whitney B. Harrison'.

Whitney B. Harrison

Enclosure

Cc: Chad A. McGowan, Esquire
Ashley W. Creech, Esquire
Scott S. Addison, Esquire
Kevin L. Pratt, Esquire