

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

9<sup>TH</sup> Judicial Circuit Court Judge

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Case No. 2007-CP-10-1444  
Appellate Case No. 2017-001717

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**RECEIVED**  
APR 18 2018  
SC Court of Appeals

Cynthia Holmes, M.D.,

Appellant,

v.

Haynsworth Sinkler Boyd, P.A.,  
as successor to Sinkler & Boyd, P.A.,  
Manton Grier and James Y. Becker,

Respondents.

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**RESPONDENTS' MOTION TO DISMISS APPEAL  
AND TO HOLD DEADLINES IN ABEYANCE**

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Mary M. Caskey, SC Bar No. 76198  
Mary Cothonneau Eldridge, SC Bar No. 102698  
Haynsworth Sinkler Boyd, P.A.  
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## INTRODUCTION

Respondents James Y. Becker, Manton Grier, and Haynsworth Sinkler Boyd, P.A., as successor to Sinkler & Boyd, P.A. (“Respondents”), submit this Motion to Dismiss Appellant Cynthia Holmes’ (“Holmes”) Appeal (the “Appeal”) on the grounds that the order at issue is an un-appealable interlocutory order. Respondents also request that this Court stay Respondent’s deadline to file its response to Holmes’ initial brief pending the outcome of this Motion to Dismiss.

## STATEMENT OF THE FACTS

The underlying action stems from litigation commenced by Holmes against East Cooper Community Hospital (“East Cooper”), during which she was represented by Respondents. The facts surrounding this litigation are not in dispute. On April 6, 2007, Holmes brought a malpractice action against Respondents arising from litigation Holmes commenced against East Cooper following the hospital’s decision to revoke her medical staff privileges. On Holmes’ behalf, Respondents unsuccessfully appealed for reinstatement of admitting privileges through East Cooper’s administrative process and, later, filed a lawsuit in federal court. The relationship between Holmes and Respondents deteriorated, and Holmes subsequently filed the malpractice action. After protracted litigation over Respondents’ handling of her case against East Cooper, Holmes’ claims against Respondents were dismissed, and the trial court issued an order of sanctions against Holmes in the amount of \$200,000.00 (the “Judgment”). The Judgment was affirmed by this Court on June 4, 2014. *See Holmes v. Haynsworth Sinkler & Boyd, P.A.*, 408 S.C. 620, 760 S.E.2d 399 (2014).

In November 2016, the Respondents commenced formal efforts to collect the Judgment. Respondents filed a Verified Petition on January 3, 2017, to commence supplementary

proceedings to determine whether Holmes has assets to apply toward satisfaction of the Judgment. On January 18, 2017, the Court issued a Rule to Show Cause, requiring Holmes to produce certain documents and appear, and a hearing was scheduled for March 10, 2017. At the hearing, the Court orally informed Holmes that it would not entertain any motions filed by Holmes, unless they were filed by a South Carolina licensed attorney. The Court further directed her to produce the documents requested by Respondents. On March 9, 2017, the Court filed its Supplemental Proceeding Order, commanding Holmes to provide documentation of assets to Respondents by April 14, 2017. After Holmes failed to produce all of the documents set forth in the Supplemental Proceeding Order, the Court entered its Order Granting Respondents' Motion to Compel & for Sanctions (the "Order"). Holmes now seeks to appeal the Order.

### ARGUMENT

The Order is an un-appealable interlocutory order and, accordingly, the Appeal is impermissible. The law is well-settled that "[t]here are only four basic situations from which a party may appeal: (1) intermediate judgments, orders or decrees involving the merits, (2) orders affecting substantial rights when such orders in effect determine the action and prevent a judgment from which an appeal may be taken or when the orders discontinue the action, (3) a final order in special proceedings, and (4) interlocutory orders continuing, modifying, or refusing injunctions." *Crout v. South Carolina Nat'l Bank*, 278 S.C. 120, 124, 293 S.E.2d 422, 424 (1982).

Here, the Order does not fall under any of the appealable categories, as it does not terminate the litigation, purport to be a final order in a special proceeding, or concern any injunction. Moreover, the only matter currently pending before the Circuit Court is Respondent's Rule to Show Cause, the purpose of which is to determine whether Holmes has

assets to apply toward satisfaction of the Judgment. Simply requiring a party to comply with a court order to produce documents and levying sanctions against the party for failing to comply with the court's order, then, does not affect the merits of the matter before the Circuit Court. Thus, the Order is un-appealable, and the Appeal must be dismissed.

**CONCLUSION**

Holmes' Appeal because the Order on appeal is an un-appealable order. Thus, this Court should grant Respondent's Motion to Dismiss. In addition, based on the foregoing, Respondent respectfully requests that this Court hold all deadlines, including the deadline for Respondent to file its response to Holmes' initial brief, in abeyance pending resolution of this Motion to Dismiss.

Respectfully submitted,



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April 18, 2018  
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY  
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9<sup>TH</sup> Judicial Circuit Court Judge

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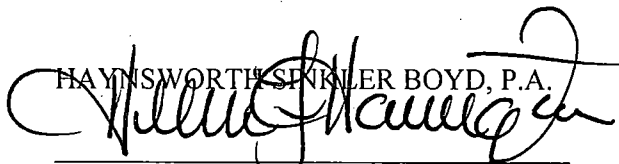
**CERTIFICATE OF SERVICE**

I, Helen F. Harrington, the undersigned employee of Haynsworth Sinkler Boyd, P.A., do hereby certify that I have caused a copy of the **Respondents' Motion to Dismiss Appeal and to Hold Deadlines in Abeyance** to be placed in the U.S. Mail, postage prepaid, addressed to Plaintiff at her last known address, which address is as follows:

Cynthia Holmes, M.D.  
Post Office Box 187  
Sullivans Island, SC 29482

Chalmers C. Johnson, Esquire  
2695 Beach Drive, East  
Port Orchard, WA 98366

this 18<sup>th</sup> day of April, 2018.

HAYNSWORTH SINKLER BOYD, P.A.  


Helen F. Harrington  
Litigation Paralegal

Columbia, South Carolina

Haynsworth  
Sinkler Boyd, P.A.

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April 18, 2018

**VIA HAND DELIVERY**

Clerk of Court, South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201

Re: *C. Holmes, M.D. v. Haynsworth Sinkler Boyd, P.A., as successor to Sinkler & Boyd, P.A., et al*  
Case No. 2007-CP-10-1444  
Appellate Case No. 2017-001717  
HSB File No. 04625.1439

Dear Sir/Madam:

Enclosed in connection with the referenced matter is an original and (6) copies of the Respondents' Motion to Dismiss Appeal and to Hold Deadlines in Abeyance, along with a Certificate of Service verifying service on Appellant. We would appreciate your returning a clocked-in copy to us via our office courier.

Please let me know if you have any questions regarding the enclosures.

Thank you for your assistance in this matter.

Sincerely yours,



Mary Cothonneau Eldridge

MCE/hh

Enclosures

cc(w/encl.): Cynthia Holmes, MD  
Chalmers C. Johnson, Esquire

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