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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Appellate Case No. 2019-001470

RECEIVED
NOV 04 2019
SC Court of Appeals

Richard Roe,.....Respondent,

The Diocese of Charleston, a Corporation Sole, and
the Bishop of the Diocese of Charleston, in his official capacity,.....Defendants,

Of whom the Bishop of the Diocese of Charleston,
in his official capacity is the.....Appellant.

RESPONDENT'S MOTION TO DISMISS APPEAL

Respondent Richard Roe moves the Court to dismiss the appeal filed herein by the Bishop of Charleston, a Corporation Sole, of the ORDER DENYING DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT AND GRANTING PLAINTIFF'S MOTION TO COMPEL DISCOVERY. A copy of the appealed Order is attached to the Appellant's Notice of Appeal.

As will be seen from a review of the appealed Order, the Order does two things: (1) It denies Defendants' Motion for Partial Summary Judgment and (2) it grants Plaintiff's Motion to Compel Discovery. The Order is not immediately appealable on either ground.

- I. AN ORDER DENYING A MOTION FOR PARTIAL SUMMARY JUDGMENT IS NOT IMMEDIATELY APPEALABLE.

An order denying summary judgment is not appealable. The denial of summary judgment does not finally determine anything about the merits of the case and does not have the effect of striking any defense, since the defense may be raised again in later proceedings. *Ballenger v. Bowen*, 313 S.C. 476, 476, 443 S.E.2d 379, 380 (1994); *Brown v. Sojourner (In re Estate of Brown)*, 424 S.C. 589, 818 S.E.2d 770 (S.C. App., 2018).

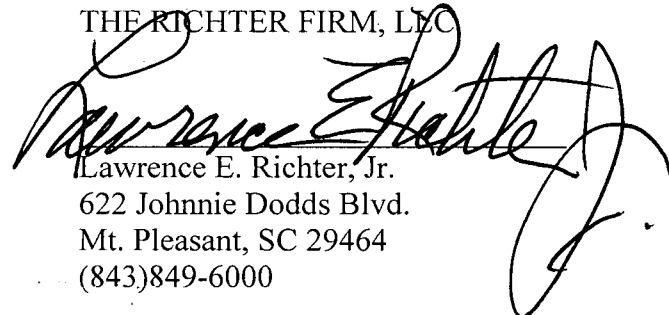
II. AN ORDER GRANTING A MOTION TO COMPEL DISCOVERY IS NOT IMMEDIATELY APPEALABLE.

An order compelling discovery is interlocutory and not immediately appealable. *Patterson v. Specter Broadcasting Corp.*, 287 S.C. 249, 335 S.E.2d 803 (1985); *Waddell v. Kahdy*, 309 S.C. 1, 419 S.E.2d 783 (1992); *Tucker v. Honda of S.C. Mfg, Inc.*, 354 S.C. 574, 582 S.E.2d 405 (2003); *Wieters v. Bon-Secours-St. Francis Xavier Hospital, Inc.*, 673 S.E.2d 417 (2009).

Accordingly, Respondent respectfully asks that this appeal be dismissed.

Respectfully submitted,

THE RICHTER FIRM, LLC



Lawrence E. Richter, Jr.
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Mt. Pleasant, SC 29464
(843)849-6000

ATTORNEY FOR RESPONDENT

Mt. Pleasant, South Carolina

October 30, 2019

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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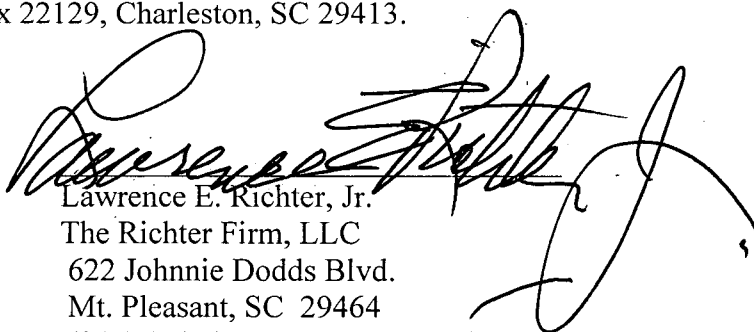
Richard Roe,.....Respondent,

The Diocese of Charleston, a Corporation Sole, and
the Bishop of the Diocese of Charleston, in his official capacity,.....Defendants,

Of whom the Bishop of the Diocese of Charleston,
in his official capacity is the.....Appellant.

PROOF OF SERVICE

I certify that I have this 30th day of October, 2019 served a copy of Respondent's Motion to Dismiss Appeal on counsel for Defendants and Appellant by causing it to be deposited in the United States mail with sufficient postage attached, addressed to: Richard S. Dukes, Jr., Turner Padgett Graham & Laney, P.A., P.O. Box 22129, Charleston, SC 29413.



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October 30, 2019

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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In Re: Richard Roe v. Bishop of Charleston
Appellate Case No. 2019-001470

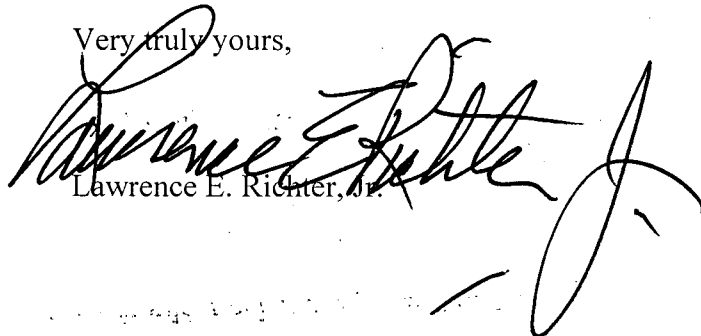
Dear Ms. Kitchings:

Enclosed please find Respondent's Motion to Dismiss Appeal, together with a Proof of Service, in regard to the above-referenced matter. Please file the original and return the file-stamped copy to our office in the enclosed, self-addressed, stamped envelope. Also enclosed please find the requisite \$50.00 filing fee. By copy of this letter to Richard S. Dukes, Jr., attorney for the Appellant, I am serving him with a copy of the same.

Of course, please feel free to contact me should you have any questions or require anything further.

With best regards, I am

Very truly yours,



Lawrence E. Richter, Jr.

LER/lwh
Enclosures

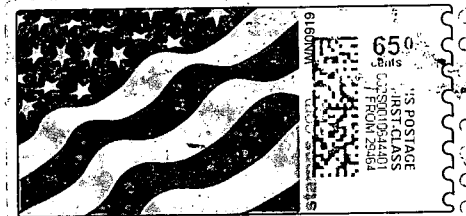
cc: Richard S. Dukes, Jr.

THE RICHTER FIRM, LLC

Attorneys & Counselors at Law

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
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