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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

Jean Hoefer Toal, Circuit Court Judge

Case No. 2023-CP-40-01759
Appellate Case No. 2023-001461

John A. Tibbs and Margaret B. Tibbs,

Respondents,

v.

3M Company; 4520 Corp., Inc.; A.O. Smith Corporation; A.W. Chesterton Company; ABB Inc.; Air & Liquid Systems Corporation; AiW-2010 Wind Down Corp.; Amentum Environment & Energy, Inc.; Anchor/Darling Valve Company; Armstrong International, Inc.; Asbestos Corporation Limited; ASCO, L.P.; ACL Asbestos Co; ACL Turner, Inc.; AWT Air Company, Inc.; Bahnson, Inc.; Banner Industries International, Inc.; Banner Industries, LLC; Banner Industries Of N.E., Inc.; Barretts Minerals Inc.; Beaty Investments, Inc.; Bechtel Corporation; The Bonitz Company; Brand Insulations, Inc.; BW/IP Inc.; Canvas Ct, LLC; Cape PLC; Carboline Company; CB&I Laurens, Inc.; Cleaver-Brooks, Inc.; Consolidated Electrical Distributors, Inc.; Copes-Vulcan, Inc.; Covil Corporation; Crane Instrumentation & Sampling, Inc.; Crosby Valve, LLC; Daniel International Corporation; Davis Mechanical Contractors, Inc.; Dezurik, Inc.; Duke Energy Carolinas, LLC; Duke Energy Corporation; Eaton Corporation; Ellington Insulation Company, Inc.; Emerson Electric Co.; Fisher Controls International LLC; Flame Refractories, Inc.; Flowserve Corporation; Flowserve US Inc.; Fluor Constructors International; Fluor Constructors International, Inc.; Fluor Daniel Services Corporation; Fluor Enterprises, Inc.; FMC Corporation; Foster Wheeler Energy Corporation; Gardner Denver Nash, LLC; General Boiler Casing Company, Inc.; General Cable Corporation; General Cable Industries, Inc.; General Electric Company; Gould Electronics Inc.; Goulds Pumps, Incorporated; Goulds Pumps LLC; Great Barrier Insulation Co.; Grinnell LLC; Hajoca Corporation; Howden North America Inc.; HPC Industrial Services, LLC; IMO Industries Inc.; ITT LLC; Joy Global Underground Mining LLC; K-Mac Services Incorporated; Metropolitan Life Insurance Company; Mine Safety Appliances Company, LLC; MP Supply, Inc.; The Nash Engineering Company; Occidental Chemical Corporation; Paramount Global; Patterson Pump Company; PECW Holding Company; Pfizer Inc.; Piedmont Insulation, Inc.; Plastics Engineering Company; Presnell Insulation Co., Inc.; Redco Corporation; Riley Power Inc.; Rockwell Automation, Inc.; RSCC Wire & Cable LLC; Schneider Electric USA, Inc.; Sequoia Ventures Inc.; Spirax Sarco, Inc.; SPX Corporation; Stafford Insulation Company; Standard Insulation Company Of N. C., Inc.; Starr Davis Company, Inc.; Starr Davis Company Of S.C., Inc.; Sterling Fluid Systems (USA) LLC; TE Wire & Cable LLC; Thermo Electric

Company, Inc.; Union Carbide Corporation; Valves And Controls Us, Inc.; Velan Valve Corp.; Viking Pump, Inc.; Vistra Intermediate Company LLC; The William Powell Company Wind Up, Ltd.; Yuba Heat Transfer LLC; Zurn Industries, LLC,

Defendants,

Of which Asbestos Corporation Limited is the

Appellant.

**APPELLANT’S MOTION TO CONFIRM AUTOMATIC STAY AND/OR
PURPORTED RECEIVER’S LACK OF JURISDICTION OR, ALTERNATIVELY,
VERIFIED PETITION FOR SUPERSEDEAS**

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NOW COMES Appellant, Asbestos Corporation Limited (“ACL”), by and through its undersigned counsel, and, on the grounds set forth below, hereby moves this Honorable Court for the following relief:

- (A) To confirm that the appealed orders in this matter are subject to the automatic stay under Rule 241(a), SCACR, such that the purported receiver for ACL appointed by the circuit court, South Carolina attorney Peter Protopapas (“Mr. Protopapas”), cannot act as purported receiver for ACL during the pendency of this appeal, and/or confirm that, pursuant to Rule 205, SCACR, Mr. Protopapas lacks jurisdiction to act as purported receiver for ACL during the pendency of this appeal or, alternatively,
- (B) Assuming, *arguendo*, that the appealed orders are not subject to the automatic stay and Mr. Protopapas’s jurisdiction is not lacking, to impose a supersedeas of the matters decided in the appealed orders pursuant to subsections (c) and (d) of Rule 241, such that Mr. Protopapas cannot act as purported receiver for ACL during the pendency of this appeal.

BACKGROUND

ACL is a corporation organized and existing under the laws of Canada, with its principal place of business in the Province of Quebec. (**Exhibit 1** [Richard Dufour Affidavit dated May 11, 2023] ¶ 2.) Prior to 1986, ACL engaged in the mining and milling of raw chrysotile asbestos fiber. (**Ex. 1** ¶ 10.) ACL did so solely in Canada; all its sales of asbestos were made F.O.B. Thetford Mines, Quebec, Canada; and all its obligations relating to such sales were performed in Canada. (**Ex. 1** ¶ 10.) ACL has never transacted any business in South Carolina, or even been registered to do so. (**Ex. 1** ¶¶ 3, 5, 7–8.) Nor has ACL ever owned or leased any real property in South

Carolina, maintained any bank accounts in South Carolina, received mail in South Carolina, appointed or authorized any agent to accept process for it in South Carolina, or commenced any litigation in South Carolina. (**Ex. 1** ¶¶ 4–9.) Most importantly, *ACL does not now have and never has had any judgments against it, nor any other indebtedness, in South Carolina.*

Respondents, John A. Tibbs (“Mr. Tibbs”) and Margaret B. Tibbs (“Mrs. Tibbs”) (collectively, “Plaintiffs”), filed this action in the Richland County Court of Common Pleas on April 5, 2023, alleging ACL and numerous other defendants exposed Mr. Tibbs to asbestos. (**Exhibit 2.1** [Original Complaint (omitting the contemporaneously filed Cytology Report and letter of Steven E. Haber, M.D.)].) Shortly thereafter, Plaintiffs filed the operative complaint, which is their First Amended Complaint, filed May 3, 2023. (**Exhibit 2.2** [First Amended Complaint (again omitting the contemporaneously filed Cytology Report and letter of Steven E. Haber, M.D.)].)

ACL was served in the Province of Quebec and timely responded to the suit on May 17, 2023, with a motion to dismiss for lack of personal jurisdiction. (**Exhibit 3** [ACL’s Motion to Dismiss for Lack of Personal Jurisdiction].)

By order filed July 19, 2023, the circuit court, the Honorable Jean Hoefer Toal presiding, denied ACL’s motion to dismiss,¹ whereupon ACL timely answered the operative complaint on August 2, 2023. (**Exhibit 5** [ACL’s Answer to the First Amended Complaint].)²

¹ (**Exhibit 4** [Order Denying ACL’s Motion to Dismiss for Lack of Personal Jurisdiction].)

² To be clear, in answering the operative complaint, ACL expressly raised and did not waive its jurisdictional objection/defense. (**Ex. 5** ¶ 249.) ACL continues to expressly reserve and not waive its jurisdictional challenge, and nothing herein is intended to waive or otherwise undermine its denial of personal jurisdiction.

The circuit court's order denying ACL's motion to dismiss for lack of personal jurisdiction ordered ACL "to answer discovery and to produce a [Rule] 30(b)(6)[, SCRC], witness by July 24, 2023." (**Ex. 4**.) ACL answered certain discovery and advised Plaintiffs' counsel prior to the scheduled deposition date that, due to the age of the claim and the death or unknown whereabouts of former employees, as well as applicable Quebec law, specifically, the Quebec Business Concerns Records Act ("QBCRA"), it could not produce a Rule 30(b)(6) witness to address the multitude of topics Plaintiffs identified for examination. ACL did, however, produce numerous transcripts of depositions and trial testimony by former employees in an effort to provide information to Plaintiffs. Neither Plaintiffs' counsel nor the circuit court paid any attention to ACL's attempt to provide testimony and documents that did not violate the QBCRA. ACL has not attached these materials because they are voluminous, but they were all electronically filed in the circuit court on August 9, 2023, and as such, they are available on the Richland County Public Index via sccourts.org, and of course, should the Court wish for ACL to provide them directly, it will gladly do as instructed.

On July 26, 2023, Plaintiffs moved to hold ACL in contempt and strike its answer to the operative complaint for its alleged willful failure to comply with the circuit court's order requiring it to comply with Plaintiffs' operative notice of ACL's Rule 30(b)(6) deposition and accompanying subpoena duces tecum (the "operative deposition notice and subpoena"). (**Exhibit 6** [Plaintiffs' Motion to Hold ACL in Contempt and Strike its Answer].)³ Then, anticipating the success of their motion to hold ACL in contempt and strike its answer, Plaintiffs filed another motion on July 28,

³ Specifically, the operative deposition notice and subpoena was Plaintiffs' second amended notice/subpoena, served July 11, 2023, which noticed ACL's Rule 30(b)(6) deposition (and set the deadline for the corresponding document production) for July 24, 2023. (**Exhibit 7** [Plaintiffs' Second Amended Rule 30(b)(6) Deposition and Subpoena Duces Tecum to ACL].).

2023, asking the circuit court, “[s]hould [it] strike ACL’s pleadings,” to appoint a receiver for ACL. (**Exhibit 8** [Plaintiffs’ Motion to Appoint a Receiver for ACL (omitting exhibits)].) In fact, they specifically requested that Mr. Protopapas be appointed receiver. (**Ex. 8** p. 4.)

In opposition to Plaintiffs’ motions to hold it in contempt, strike its answer, and appoint a receiver for it, ACL argued to the circuit court that it had not willfully failed to comply with the court’s directive that it comply with the operative deposition notice and subpoena. (**Exhibit 9** [ACL’s Memo in Opposition to Plaintiffs’ Motion to Hold it in Contempt, Strike its Answer, and Appoint a Receiver (omitting exhibits)].) Rather, as ACL explained, because it had been nearly 40 years since it had ceased its asbestos operations, it does not have the personnel (i.e., current, or even former, employees or other individuals with the requisite personal knowledge) to address the topics Plaintiffs identified for examination or the records necessary to meaningfully “educate” someone to do so, and the QBCRA applies to ACL and subjects it to criminal penalties in Quebec if it produces information and documents Plaintiffs sought. (**Ex. 9**).⁴ ACL further explained that, notwithstanding the challenging circumstances, it had still attempted to comply with circuit court’s order insofar as it was able to do so, having duly answered the court ordered interrogatories on July 24, 2023; called Plaintiffs’ counsel in advance of the appointed time for ACL’s Rule 30(b)(6) deposition to advise that ACL was unable to produce a designee(s) to address the topics Plaintiffs

⁴ ACL has always been careful to raise the QBCRA to avoid any noncompliance or waiver arguments. Among other things, the QBCRA provides as follows:

[N]o person shall, pursuant to any requirement issued by any . . . judicial . . . authority outside of Quebec, remove or cause to be removed, or send or cause to be sent, from any place in Quebec to any place outside Quebec, any document or resumé or digest of any document relating to any concern.

(**Exhibit 10** [QBCRA] § 2.)

identified for examination; and produced to Plaintiffs copies of more than a dozen transcripts of sworn testimony by ACL witnesses in earlier litigation, when these now-deceased witnesses were still alive. (**Ex. 9**.)

By order filed September 8, 2023, the circuit court granted Plaintiffs’ motion to hold ACL in contempt and strike its answer, rendering it in default. (**Exhibit 11** [Order Holding ACL in Contempt and Striking its Answer].) No default *judgment* was or has been rendered against ACL. By separate order filed the same day, the circuit court also appointed Mr. Protopapas as receiver for ACL. (**Exhibit 12** [Order Appointing a Receiver].)

Although “[t]he appointment of a receiver is a drastic remedy, and should be granted only with reluctance and caution,”⁵ and, indeed, “a receiver will not be appointed during the progress of a cause, unless . . . there is danger that the property will be materially injured before the case can be determined,”⁶ the circuit court both incautiously relied on erroneous legal reasoning that is unsupported by our state’s existing appellate jurisprudence and inappropriately appointed a receiver for ACL during the progress of this action in the absence of the requisite evidence of any immediate threat of danger to any property that is the subject of this action while at the same time granting Mr. Protopapas the purported power to control all of ACL’s asbestos litigation in the United States. This is especially troublesome here, given the “special vigilance” that American

⁵ *Richland County v. S.C. Dep’t of Revenue*, 422 S.C. 292, 313, 811 S.E.2d 758, 769 (2018) (quoting *Midlands Util., Inc. v. S.C. Dep’t of Health & Envtl. Control*, 301 S.C. 224, 228, 391 S.E.2d 535, 538 (1989)).

⁶ *Id.* (quoting *Pelzer v. Hughes*, 27 S.C. 408, 416, 3 S.E. 781, 785 (1887) (internal quotation marks and citation omitted)); *see also id.* at 312–13, 811 S.E.2d at 769 (“South Carolina Code section 15-65-10 sets forth the circumstances under which the appointment of a receiver is appropriate. Before judgment is rendered, ‘A receiver may be appointed by a judge of the circuit court . . . on the application of either party when he establishes an apparent right to property which is the subject of the action and which is in the possession of an adverse party and the property, or its rents and profits, are in danger of being lost or materially injured or impaired’”).

courts are required to exercise “to protect foreign litigants,” such as ACL, “from the danger that unnecessary, or unduly burdensome, discovery may place them in a disadvantageous position.” *Societe Nationale Industrielle Aerospatiale v. U.S. District Court*, 482 U.S. 522, 546 (1987) (“American courts, in supervising pretrial proceedings, should exercise special vigilance to protect foreign litigants from the danger that unnecessary, or unduly burdensome, discovery may place them in a disadvantageous position. . . . Objections to ‘abusive’ discovery that foreign litigants advance should therefore receive the most careful consideration. In addition, we have long recognized the demands of comity in suits involving foreign states, either as parties or as sovereigns with a coordinate interest in the litigation. American courts should therefore take care to demonstrate due respect for any special problem confronted by the foreign litigant on account of its nationality or the location of its operations, and for any sovereign interest expressed by a foreign state.”) (internal citations omitted).⁷

Nonetheless, according to the circuit court, it had the authority to appoint a receiver with respect to ACL’s so-called “insurance assets” in South Carolina, which, in turn, authorized it to grant the receiver control over all of ACL’s asbestos litigation nationwide. There being no precedent in our case law for such a receivership, the circuit court attempts to justify the receivership by pointing to S.C. Code Ann. § 38-61-10, which provides that “[a]ll contracts of insurance on property, lives, or interests in South Carolina are considered to be made in the State and . . . subject to the laws of this State,” and simply concluding “that ‘South Carolina substantive law governs [the insuring assets of ACL]’” and, “[t]hus, the appointment of a receiver over those assets is appropriate.” (**Ex. 12** p. 5.) The circuit court also concluded that, because, by virtue of

⁷ In reality, the receivership here is not a conventional receivership in any way, but rather an improper discovery sanction, stemming solely from ACL’s inability (for the reasons explained above) to produce the demanded Rule 30(b)(6) witness and records.

its answer having been stricken, ACL was in default, even though there was no default judgment against ACL, obtaining one would just be a ministerial process. (Ex. 12 p. 2 n.2.)⁸

To be clear, it is not the case that Plaintiffs simply moved for the appointment of “a receiver” and the circuit court selected Mr. Protopapas solely of its own accord. Rather, Plaintiffs expressly asked the circuit court to appoint Mr. Protopapas, in particular, as receiver for ACL,⁹ and the circuit court obliged. (Ex. 12.) On information and belief, this is approximately the 20th time that Mr. Protopapas has been appointed as a receiver in an asbestos case, and his appointment has primarily come at the urging of the particular law firms representing Plaintiffs in this case. No one knows what the receiver or the attorneys that he hires when not using his own firm are making off of their actions as the circuit court seals *all* records related to fees.

Indeed, for example, ACL knows for certain that the same law firms representing Plaintiffs in the instant case have succeeded in having Mr. Protopapas appointed as receiver for Atlas Turner, Inc., f/k/a Atlas Asbestos Co. (“Atlas”), in an asbestos case styled *Welch v. Advance Auto Parts, Inc., et al.*, Richland County Case No. 2022-CP-40-03834 (“*Welch*”);¹⁰ that, based on his purported appointment as receiver for Atlas in *Welch*, Mr. Protopapas has purported to act on Atlas’s behalf with respect to another asbestos case Plaintiffs’ counsel are pursuing styled *Perry et al. v.*

⁸ This conclusion is clearly erroneous as a matter of law. While the act of noting an *entry* of default in the clerk’s file book may be a ministerial act, the process of actually entering a default *judgment* (especially in a case of unliquidated damages like this) certainly is not. See *Beckham v. Durant*, 300 S.C. 329, 387 S.E.2d 701 (Ct. App. 1989); *In re Estate of Weeks*, 329 S.C. 251, 495 S.E.2d 454 (Ct. App. 1987) (party requesting default judgment not entitled to one as a matter of right); see also Rule 55(b)(2), SCRCF (regarding the procedure for obtaining a default judgment in all cases other than cases involving liquidated damages or sum certain amounts).

⁹ (Ex. 8 p. 4.)

¹⁰ The undersigned counsel for ACL also represents Atlas in *Welch*, and Atlas’s appeal of the circuit court’s order appointing Mr. Protopapas as receiver in *Welch* (and other related orders) is currently pending before this Court as Appellate Case No. 2023-001096.

American International Industries et al., Richland County Case No. 2023-CP-40-04072 (“*Perry*”); and that, according to the *Perry* Plaintiffs’ motion for default judgment against Atlas, Mr. Protopapas has purported to accept service for Atlas in *Perry* and based on this purported acceptance of service, the *Perry* Plaintiffs contend that Atlas is in default, Mr. Protopapas having failed to see that an answer (or other acceptable form of response to the *Perry* Plaintiffs’ complaint) was made on behalf of Atlas. (**Exhibit 13** [Affidavit of Default and Motion for Default Judgment Against ACL in *Perry*].)

Moreover, in the instant case, on September 8, 2023, the same day the circuit court’s order appointing him as receiver for ACL was filed, based on his purported authority as receiver for ACL, Mr. Protopapas emailed a letter purporting to fire ACL’s chosen counsel (the undersigned), stating:

Dear Mr. Brown:

Pursuant to the attached Order of Appointment, I have authority to hire and fire defense counsel for [ACL]. Please accept this letter as terminating your services for defending ACL. Please provide your entire ACL file to me.

...

Sincerely,

Peter D Protopapas

(**Exhibit 14** [Mr. Protopapas’s Letter Purporting to Terminate ACL’s Counsel].)

By notice of appeal served and filed September 13, 2023, ACL timely appealed the circuit court’s orders holding ACL in contempt and striking its answer and appointing Mr. Protopapas as receiver for ACL, both of which orders were filed September 8, 2023. (**Exhibit 15** [Notice of Appeal (omitting copies of the appealed orders, all of which are already otherwise attached as exhibits) and Proof of Service].)

This motion/petition asks the Court (A) to confirm that the appealed orders in this matter are subject to the automatic stay under Rule 241(a), such that Mr. Protopapas cannot act as purported receiver for ACL during the pendency of this appeal, and/or confirm that, pursuant to Rule 205, Mr. Protopapas lacks jurisdiction to act as purported receiver for ACL during the pendency of this appeal or, alternatively, (B) assuming, *arguendo*, that the appealed orders are not subject to the automatic stay and Mr. Protopapas's jurisdiction is not lacking, to impose a supersedeas of the matters decided in the appealed orders pursuant to subsections (c) and (d) of Rule 241, such that Mr. Protopapas cannot act as purported receiver for ACL during the pendency of this appeal.

ARGUMENT

I. The Court should confirm that the appealed orders are subject to the automatic stay under Rule 241(a) and/or that Mr. Protopapas lacks jurisdiction to act as purported receiver for ACL during the pendency of this appeal.

Because there is a dispute about whether the automatic stay applies here, ACL must turn to this Court, not the circuit court, to resolve the dispute. *See Kearney v. Allen*, 287 S.C. 324, 327–28, 338 S.E.2d 335, 337–38 (1985) (interpreting former Supreme Court Rule 41 and holding that, when no procedure is specified, authority to resolve disputes over whether the automatic stay applies is vested in the Supreme Court, not the circuit court); *State v. Cooper*, 342 S.C. 389, 398, 536 S.E.2d 870, 875–76 (2000) (modifying *Kearney* to hold that the Court of Appeals has the power and authority to rule upon issues arising under the South Carolina Appellate Court Rules, including those arising under Rule 241). As explained below, the Court should confirm that the

automatic stay applies—as, indeed, by their motion to *lift* the automatic stay in the substantially similar case of *Welch*, even Plaintiffs’ counsel themselves once admitted.¹¹

Subsection (a) of Rule 241 establishes the following general rule that the service of a notice of appeal acts to automatically stay the appealed order(s):

(a) General Rule. As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or decision. This automatic stay continues in effect for the duration of the appeal unless lifted by order of the lower court, the administrative tribunal, appellate court, or judge or justice of the appellate court. The lower court or administrative tribunal retains jurisdiction over matters not affected by the appeal including the authority to enforce any matters not stayed by the appeal.

Subsection (b) of Rule 241, quoted as follows, recognizes the existence of (and lists some, but not all, of the) certain discrete exceptions to the general rule in subsection (a) that “are found in statutes, court rules, and case law”:

(b) Exceptions. The exceptions to the general rule are found in statutes, court rules, and case law. Where specific conditions must be met before the exception applies, those conditions must be

¹¹ Again, the undersigned counsel for ACL also represents Atlas in *Welch*, which is another asbestos case being pursued by the same attorneys who represent Plaintiffs in the instant case, and Atlas’s appeal of the circuit court’s order appointing Mr. Protopapas as receiver in *Welch* (and other related orders) is currently pending before this Court as Appellate Case No. 2023-001096. After Atlas noticed its appeal in *Welch*, Plaintiffs’ counsel filed a motion asking the circuit court “to lift the automatic stay in this matter as to the appointment of a receiver for [Atlas].” (**Exhibit 16** [Motion to Lift Automatic Stay in *Welch*].) Logic dictates that to *lift* a stay requires that there must first *be* a stay to lift. Although Plaintiffs’ counsel would go on to withdraw the motion after the circuit court denied it, the very fact that they moved to lift the automatic stay (and, for that matter, the plain language of the motion itself) proves that even Plaintiffs’ counsel themselves had good reason to believe that there was in fact a stay to lift. (**Ex. 16** p. 1 (asking the circuit court “to lift the automatic stay in this matter as to the appointment of a receiver for [Atlas].”); *see also id.* at p. 3 (referring to “the automatic stay imposed by Atlas’ filing of its Notice of Appeal”), p. 5 (“Given that the appointed receiver is, during the pendency of this appeal, prohibited from acting . . .”), p. 5 (requesting “that [the circuit court] lift the automatic stay imposed by Atlas’ filing of its notice of appeal”).)

strictly complied with. A list of some, but not all, of the exceptions to the general rule is:

- (1) Money judgments as provided in S.C. Code Ann. § 18-9-130.
- (2) Judgments directing the assignment or delivery of documents or personal property as provided in S.C. Code Ann. § 18-9-150.
- (3) Judgments directing the execution of conveyances or other instruments as provided in S.C. Code Ann. § 18-9-160.
- (4) Judgments directing the sale or delivery of possession of real property as provided in S.C. Code Ann. § 18-9-170.
- (5) Judgments directing the sale of perishable property as provided in S.C. Code Ann. § 18-9-220.
- (6) Family court orders regarding a child or requiring payment of support for a spouse or child as provided in S.C. Code Ann. § 63-3-630.
- (7) Worker's compensation awards as provided in S.C. Code Ann. § 42-17-60.
- (8) An appeal from an order granting an injunction or temporary restraining order.
- (9) Family court orders awarding temporary suit costs or attorney's fees as provided in S.C. Code Ann. § 63-3-530(A)(2).
- (10) Ejectment orders as provided in S.C. Code Ann. § 27-37-130 and S.C. Code Ann. § 27-40-800.
- (11) Appeals from administrative tribunals as provided in S.C. Code Ann. § 1-23-380(A)(2) and § 1-23-600 (G)(5).

Clearly, the appealed orders here do not fall within any of the exceptions listed in Rule 241(b). Nor is there any question otherwise as to whether the instant appeal has the effect of automatically staying the operation of the order appointing Mr. Protopapas as receiver for ACL.

Mr. Protopapas's appointment as receiver for ACL is based on the circuit court's order holding ACL in contempt and striking its answer. (**Ex. 12** p. 3 ("But where, as here, ACL's answer

has been struck, and thus only a ministerial action being left for ACL to be in judgment, a receiver to take possession of and, to the extent necessary, litigate ACL's insurance assets as well as to assume control of the defense of asbestos claims made against ACL in the United States is exactly the type of historical circumstances, the Court's [sic] of this state have found appropriate.".). In striking ACL's answer, the power that the circuit court purported to exercise was not the "traditional contempt power[]," but rather the power to sanction discovery violations under Rule 37, SCRCP. *See In re Anonymous Member of the S.C. Bar*, 346 S.C. 177, 552 S.E.2d 10 (2001) (citing Rule 37 for the proposition that "[i]n addition to their traditional contempt powers, judges may issue orders as a sanction for improper deposition conduct . . . [including] striking out pleadings or parts thereof" (emphasis added); (see also **Ex. 12** pp. 2–3 (citing only cases having to do with discovery violations punishable under Rule 37).) An order striking an answer is immediately appealable under S.C. Code Ann. § 14-3-330(2)(c) (authorizing an immediate appeal of or an order "striking out an answer or any part thereof or any pleading in any action"). Accordingly, ACL's proper appeal of the circuit court's order striking its answer triggers the "general rule" under Rule 241(a) that "the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order . . . on appeal, and to automatically stay the relief ordered in the appealed order" In the absence of any exception to this general rule with respect to orders striking a party's pleading (of which ACL is unaware), the circuit court's order striking ACL's answer is stayed pursuant to Rule 241(a), and in turn, its order appointing Mr. Protopapas as receiver for ACL is effectively stayed because that order is based on the circuit court's order striking of ACL's answer.

To be clear, ACL recognizes that, pursuant to Rule 62(a), SCRCP, "an interlocutory or final judgment . . . in a *receivership action* . . . shall not be stayed . . . during the pendency of an

appeal” (emphasis added), and ACL also recognizes that S.C. Code Ann. § 14-3-450 provides, “In case of an appeal under item (4) of Section 14-3-330^[12] the proceedings in other respects in the court below shall not be stayed during the pendency of such appeal unless otherwise ordered by the court below.” But Rule 62(a) and § 14-3-450 are of no consequence here. The order appointing Mr. Protopapas as receiver for ACL was not issued in a vacuum. Again, by its own terms, it is founded on the circuit court’s order holding ACL in contempt and striking its answer, which, as explained above, is automatically stayed under Rule 241(a). The stay of this underlying order—which is substantively and procedurally upstream of and essential to the order appointing Mr. Protopapas as receiver for ACL, and on which neither Rule 62(a) nor § 14-3-450 has any bearing—effectively stays the order appointing Mr. Protopapas as receiver for ACL, too.

Assuming, *arguendo*, Rule 62(a) and/or § 14-3-450 were relevant here, neither of them upsets the automatic stay under Rule 241(a). The instant lawsuit alleges personal injury and seeks money damages. It is not an action by any appointed receiver. The term “receivership action” refers to a type of action that is different from the instant personal injury lawsuit. *See, e.g., U.S. v. S. Growth Indus., Inc.*, 251 S.C. 404, 406, 162 S.E.2d 849, 850 (1968) (“This litigation arises because the United States of America filed a petition within the *receivership action* against the receiver and against John H. Mauldin.”) (emphasis added); *Lindsay v. Main Ins. Co.*, 281 S.C. 331, 332, 315 S.E.2d 166, 167 (Ct. App. 1984) (“At the time of this hearing, a *receivership action* had been instituted in Illinois.”) (emphasis added). Rule 62(a) applies to “receivership actions,” and as the instant lawsuit is not a “receivership action,” Rule 62(a) is not applicable here.

¹² Section 14-3-330(4) authorizes an immediate appeal of “[a]n interlocutory order or decree in a court of common pleas granting, continuing, modifying, or refusing an injunction or granting, continuing, modifying, or refusing the appointment of a receiver.”

As for § 14-3-450, the critical phrase is “in other respects.” Section 14-3-450 provides, “In case of an appeal under item (4) of Section 14-3-330 the proceedings *in other respects* in the court below shall not be stayed during the pendency of such appeal unless otherwise ordered by the court below” (emphasis added). Logically, for the legislature to declare that the lower court proceedings shall not be stayed in *other* respects is also for it to declare that they shall indeed be stayed in at least *some* respect. By its plain language, § 14-3-450 provides that, with respect to an appeal under § 14-3-330(4) of “[a]n interlocutory order . . . granting . . . the appointment of a receiver,” the proceedings in the lower court “in other respects,” i.e., in respects *other than* the appointment of the receiver (the particular subject of the appeal), are not stayed by the appeal, which means that in respect *of* the appointment of the receiver, there is a stay.

Moreover, besides the issue of a stay under Rule 241(a), there is also the issue of jurisdiction under Rule 205, which provides that, “[u]pon the service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal” and limits the lower court’s jurisdiction to “matters not affected by the appeal.” Accordingly, upon the service of the notice of appeal, Rule 205 “divests the [lower] court of jurisdiction over all matters affected by the appeal.” *Stokes-Craven Holding Corp. v. Robinson*, 416 S.C. 517, 532, 787 S.E.2d 485, 493 (2016).

“A receiver *represents the court* appointing him. He is an officer of the court and is *the agency through which the court acts[]*” and “takes possession of [assets] as *the arm of the court* . . .” *Jeffcoat v. Morris*, 300 S.C. 526, 528, 389 S.E.2d 159, 160 (Ct. App. 1989) (emphasis added), *overruled on other grounds by United Carolina Bank v. Caroprop, Ltd.*, 316 S.C. 1, 446 S.E.2d 415 (1994) (citing *Kirven v. Lawrence*, 244 S.C. 572, 137 S.E.2d 764 (1964), and *Carwile v. Metropolitan Life Ins. Co.*, 136 S.C. 179, 134 S.E. 285 (1926)).

Obviously, Mr. Protopapas's receivership is at issue in this appeal, and in turn, all acts taken by Mr. Protopapas as purported receiver for ACL while this appeal is pending are matters affected by the appeal. As the arm of the court appointing him and the agency through which that court acts, Mr. Protopapas's power to act is necessarily dependent on the circuit court's power to act itself, such that where, as here, the circuit court is divested of its power to act, i.e., its jurisdiction, so, too, must be Mr. Protopapas.

Accordingly, for the foregoing reasons, the Court should confirm that the appealed orders in this matter are subject to the automatic stay under Rule 241(a), such that Mr. Protopapas cannot act as purported receiver for ACL during the pendency of this appeal, and/or confirm that, pursuant to Rule 205, Mr. Protopapas lacks jurisdiction to act as purported receiver for ACL during the pendency of this appeal.

II. Even assuming, *arguendo*, the automatic stay under Rule 241 does not apply to the appealed orders and Mr. Protopapas's jurisdiction is not lacking, the Court should impose a supersedeas.¹³

In determining whether to grant a supersedeas, the Court "should consider whether [it] is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot." It is hard to imagine a better illustration of the need for a supersedeas than that provided by Mr. Protopapas's purported acceptance of service and default on behalf of Atlas in the substantially similar case of *Perry*. (**Ex. 13.**) Like the order in the instant case appointing Mr.

¹³ ACL recognizes that Rule 241(d)(1) provides that, "[e]xcept where extraordinary circumstances make it impracticable, an application . . . for supersedeas must first be made to the lower court or administrative tribunal which entered the order or decision on appeal," but submits that, under the circumstances, because of the combination of this alternative request for supersedeas with ACL's primary request for confirmation of the automatic stay (which request, as explained, is not properly addressed to the lower court, but only to this Court), it is impracticable to first pursue supersedeas in the lower court and/or there is otherwise good cause for this Court to consider the within petition for supersedeas in the interests of justice and judicial economy.

Protopapas as receiver for ACL, which directs Mr. Protopapas to “take any all steps necessary to protect the interests of ACL whatever they may be,”¹⁴ the order in *Welch* appointing Mr. Protopapas as receiver for Atlas expressly directs him to “take any all steps necessary to protect the interests of Atlas whatever they may be.” (**Exhibit 17** [Order Appointing Receiver in *Welch*] p. 6 (emphasis added).) Yet, without any notice to Atlas itself, and despite knowing full well that Atlas denies and disputes the existence of personal jurisdiction and wishes to preserve this defense, Mr. Protopapas has not protected the interests of Atlas, but rather has used his purported authority under the order in *Welch* appointing him as receiver for Atlas to purportedly accept service on Atlas’s behalf in *Perry*, only for the *Perry* Plaintiffs to now claim that Atlas is in default (and, thus, deemed to have admitted the allegations of the *Perry* Plaintiffs’ complaint and to have waived all affirmative defenses thereto¹⁵) based on Mr. Protopapas’s purported acceptance of service and failure thereafter to see that any response to the *Perry* complaint was timely made on Atlas’s behalf.

On September 8, 2023, the very day the circuit court’s order appointing him as receiver for ACL was filed, Mr. Protopapas’s first act as purported receiver for ACL was to purport to fire the counsel that ACL itself has chosen to protect its interests. To turn Mr. Protopapas loose to exercise

¹⁴ (**Ex. 12** p. 6 (emphasis added).)

¹⁵ See *Roche v. Young Bros., Inc., of Florence*, 332 S.C. 75, 81, 504 S.E.2d 311, 314 (1998) (“It is well settled that by suffering a default, the defaulting party is deemed to have admitted the truth of the [opposing party’s] allegations and to have conceded liability.”); *Whitehead v. State*, 352 S.C. 215, 220, 574 S.E.2d 200, 202 (2002) (“The failure to plead an affirmative defense is deemed a waiver of the right to assert it.”); *Howard v. Holiday Inns, Inc.*, 271 S.C. 238, 242, 246 S.E.2d 880, 882 (1978) (“By defaulting, a defendant forfeits his right to answer or otherwise plead to the complaint.”) (internal quotation marks and citation omitted); *Ammons v. Hood*, 288 S.C. 278, 282, 341 S.E.2d 816, 818 (Ct. App. 1986) (“Hood . . . argues the trial court erred in not dismissing the action at the conclusion of the damages hearing since workers’ compensation is Ammons’ exclusive remedy A defendant who wishes to raise the exclusivity of workers’ compensation as a defense must do so affirmatively. Since Hood did not answer, the trial court correctly denied the motion.”) (internal citation omitted).

the powers purportedly conferred upon him by the circuit court would allow him to go ahead and do all the things that the instant appeal challenges before ACL even has a chance to be heard in this Court. In other words, it would not prevent a contested issue from becoming moot, but rather guarantee it does. Simply put, if Mr. Protopapas is allowed to act as purported receiver for ACL during the pendency of this appeal, ACL's right to a meaningful appeal of his appointment (and the orders related thereto) is eviscerated. Meanwhile, there is no risk to Plaintiffs if Mr. Protopapas is prohibited from acting as purported receiver for ACL during the pendency of this appeal.

Accordingly, for the foregoing reasons, even assuming, *arguendo*, the automatic stay under Rule 241 does not apply to the appealed orders and Mr. Protopapas's jurisdiction is not lacking, the Court should impose a supersedeas, such that Mr. Protopapas cannot act as purported receiver for ACL during the pendency of this appeal.

III. The facts of this case are unique from other alleged receiverships, and it is not guided or controlled by the order filed September 8, 2023, in *Childers v. Davis Mechanical Contractors, Inc.*, Appellate Case No. 2023-000727.

ACL anticipates that Plaintiffs and Mr. Protopapas will argue that this Court has addressed these very issues in *Childers*. It has not. The differences between these two cases are stark.

In *Childers*, the circuit court established a receivership with respect to a *dissolved* company, Payne & Keller, where all parties acknowledged that Payne & Keller was a former Texas corporation dissolved in 1986. It was argued, among other things, that the receivership should be stayed until the appeal of the denial of the motion to dissolve the receivership was decided. A single judge of this Court heard a motion on the matter and ruled that the appeal would proceed but there would be no stay during the pendency of the appeal. ACL takes no position on the propriety of this ruling as its underlying facts and supporting case law materially differ from the instant case.

First, the instant appeal is not only of the circuit court's order appointing Mr. Protopapas as receiver for ACL but also of the circuit court's underlying order holding ACL in contempt and striking its answer, and the stay of this underlying order effectively stays the order appointing Mr. Protopapas as receiver for ACL, too. Nothing like this was involved in *Childers*.

Additionally, the Court's order in *Childers* addressed only the issue of the *stay*, not the *jurisdictional* issue relating to the divestment of the circuit court's jurisdiction upon the service of the notice of appeal and the receiver's existence as the arm of that court and the agency through which it acts.

Moreover, upon information and belief, outside of the purported ACL and Atlas receiverships, none of the prior receiverships have been against "live" companies with boards of directors making decisions about corporate governance and operations. None involved a corporation established in a foreign country with no assets in South Carolina. In the prior cases where receiverships were established, most (if not all) involved essentially "dead" companies, for lack of a better expression, where no one fought the appointment of a receivership at that time. ACL and Atlas were the first to step forward and assert their rights as Canadian corporations not operating in South Carolina with no assets in South Carolina to argue that the circuit court could not take control via a receivership over any part of the company, such as its so-called "insurance assets."

In the other cases, no one with a legitimate interest received notice of the purported receiver's actions. As such, no one contested the various receiverships because the companies were long since dissolved. The ruling of the circuit court in this case moves the receiver into allegedly taking control of the so-called "insurance assets" of a live corporation that is still in existence and located in a foreign country with no assets in this state. It does so without any

citations to applicable or viable law of South Carolina. If the purported receiver settles cases on behalf of ACL and his appointment is later reversed, how will ACL be made whole? This is the very reason we have stays in certain appeals. This is a textbook example of why this Court should recognize that the automatic stay is in place, or in the alternative issue a writ of supersedeas, and place a hold on all proceedings pending the instant appeal.

If the purported receiver is allowed to act with no true restrictions, he will have the authority to decide which claims get settled and which claims get nothing. Since the circuit court seals all documents related to legal fees received by the receiver and his attorneys in every case, no one will ever know if justice was done.

CONCLUSION

WHEREFORE, ACL moves/petitions the Court (A) to confirm that the appealed orders in this matter are subject to the automatic stay under Rule 241(a), such that Mr. Protopapas cannot act as purported receiver for ACL during the pendency of this appeal, and/or confirm that, pursuant to Rule 205, Mr. Protopapas lacks jurisdiction to act as purported receiver for ACL during the pendency of this appeal or, alternatively, (B) assuming, *arguendo*, that the appealed orders are not subject to the automatic stay and Mr. Protopapas's jurisdiction is not lacking, to impose a supersedeas of the matters decided in the appealed orders pursuant to subsections (c) and (d) of Rule 241, such that Mr. Protopapas cannot act as purported receiver for ACL during the pendency of this appeal.

<SIGNED ON THE FOLLOWING PAGE>

Respectfully submitted,
CLEMENT RIVERS, LLP

By: s/Stephen L. Brown
Stephen L. Brown (SC Bar No. 66468)
Russell G. Hines (SC Bar No. 72100)
James D. Gandy, III (SC Bar No. 11925)
25 Calhoun Street, Suite 400
Charleston, South Carolina 29401
P.O. Box 993 (29402)
(843) 720-5488
Attorneys for Appellant

Charleston, South Carolina

November 22, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
JOHN A. TIBBS and	)	
MARGARET B. TIBBS,	)	CIVIL ACTION NO. 2023-CP-40-
	)	01759
Plaintiffs,	)	
	)	In Re:
vs.	)	Asbestos Personal Injury Litigation
	)	Coordinated Docket
3M Company, et al.,	)	
	)	
Defendants.	)	

EXHIBIT

1

RICHARD DUFOUR AFFIDAVIT

DISTRICT OF FRONTENAC

PROVINCE OF QUEBEC

I, Richard Dufour, being first duly sworn, depose and states as follows:

1. I am Counsel for Asbestos Corporation Limited ("ACL"), and submit this Affidavit in support of ACL's Motion to Dismiss for Lack of Personal Jurisdiction. The facts set forth in this Affidavit are based upon my personal knowledge, information and belief.
2. At all times since the date of its incorporation in 1925, ACL has been, and is, a corporation organized and existing under the laws of Canada, with its principle place of business located in the Province of Quebec, Canada.
3. ACL is not now and never has been a corporation organized or existing under the laws of the State of South Carolina and has no subsidiary company which it does business in the State of South Carolina. ACL is not presently, nor has it ever been, registered as a foreign corporation doing business in the State of South Carolina.

4. ACL has never appointed or authorized any agent to accept process for it in the State of South Carolina.
5. ACL does not now maintain, nor has it ever maintained, an office within the State of South Carolina. ACL does not now have, nor has it ever had employees or officers stationed in the State of South Carolina.
6. ACL does not now have, and has never had, any bank accounts in the State of South Carolina, nor has it ever owned real property in the State of South Carolina.
7. ACL has never maintained telephones or received mail in the State of South Carolina.
8. ACL has never owned or rented any warehouse space or offices or storage facilities or any other mode of business in the State of South Carolina.
9. ACL never commenced any litigation in the State of South Carolina.
10. Prior to 1986, ACL engaged in the mining and milling of raw chrysotile asbestos fiber. ACL has only mined asbestos in Canada, and all sales of asbestos were made F.O.B., Thetford Mines, Quebec, Canada. ACL's obligations relating to such sales were wholly performed in Canada.

Further the Affiant sayeth not.


RICHARD DUFOUR

Subscribed and Sworn to me
by telephone at Thetford Mines,
on this 11 day of May, 2023.


Commissioner of Oaths
District of Frontenac



STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

JOHN A. TIBBS and
MARGARET B. TIBBS

Plaintiffs,

v.

3M COMPANY
f/k/a MINNESOTA MINING AND
MANUFACTURING COMPANY

4520 CORP., INC.
individually and as successor-in-interest to
BENJAMIN F. SHAW COMPANY

A.O. SMITH CORPORATION

AIR & LIQUID SYSTEMS CORPORATION
individually and as successor-in-interest to
BUFFALO PUMPS, INC.

AMENTUM ENVIRONMENT & ENERGY,
INC. f/k/a AECOM ENERGY &
CONSTRUCTION, INC., individually and as
successor-in-interest to YEARGIN
CONSTRUCTION COMPANY, INC.
successor to IMPAC, INC.

ANCHOR/DARLING VALVE COMPANY

ARMSTRONG INTERNATIONAL, INC.

ASBESTOS CORPORATION LIMITED

ASCO, L.P.
f/k/a ASCO VALVE, INC.

ATLAS ASBESTOS CO

ATLAS TURNER, INC.
as successor to ATLAS ASBESTOS CO, a
foreign company

C/A NO. 2023-CP-40-_____

In Re:
Asbestos Personal Injury Litigation
Coordinated Docket

Living Lung Cancer

COMPLAINT

(Jury Trial Demanded)

EXHIBIT

2.1

AWT AIR COMPANY, INC.	)
f/k/a RESEARCH-COTTRELL, INC.	)
	)
BAHNSON, INC.	)
	)
BANNER INDUSTRIES INTERNATIONAL, INC.	)
	)
BEATY INVESTMENTS, INC.	)
f/k/a GUY M. BEATY & CO.	)
	)
BECHTEL CORPORATION	)
	)
THE BONITZ COMPANY	)
f/k/a BONITZ INSULATION COMPANY	)
	)
BW/IP INC.	)
and its wholly-owned subsidiaries	)
	)
CANVAS CT, LLC	)
individually and as successor to MARLEY	)
COOLING TOWER COMPANY	)
	)
CAPE PLC	)
individually and as successor-in-interest to	)
CAPE INDUSTRIES LTD. f/k/a CAPE	)
ASBESTOS COMPANY LTD. and its	)
subsidiaries and global affiliates	)
	)
CARBOLINE COMPANY	)
	)
CB&I LAURENS, INC.	)
individually and as successor-in-interest to	)
CHICAGO BRIDGE & IRON COMPANY	)
	)
CLEAVER-BROOKS, INC.	)
f/k/a AQUA-CHEM, INC.	)
d/b/a CLEAVER-BROOKS DIVISION	)
	)
COPES-VULCAN, INC.	)
	)
COVIL CORPORATION	)
	)
CRANE INSTRUMENTATION & SAMPLING, INC.	)
f/k/a CIRCOR INSTRUMENTATION	)
TECHNOLOGIES, INC. f/k/a HOKE INC.	)

CROSBY VALVE, LLC

**DANIEL INTERNATIONAL
CORPORATION**

**DAVIS MECHANICAL CONTRACTORS,
INC.**

DEZURIK, INC.

DUKE ENERGY CAROLINAS, LLC
f/k/a DUKE ENERGY CORPORATION

DUKE ENERGY CORPORATION

**ELLINGTON INSULATION COMPANY,
INC.**

EMERSON ELECTRIC CO.
individually and as successor-in-interest to
COPELAND CORPORATION

**FISHER CONTROLS INTERNATIONAL
LLC**

FLAME REFRACTORIES, INC.

FLOWERVE CORPORATION
f/k/a THE DURIRON COMPANY INC.

FLOWERVE US INC.
individually and as successor-in-interest to
EDWARD VALVES, INC. and ROCKWELL
MANUFACTURING COMPANY

**FLUOR CONSTRUCTORS
INTERNATIONAL**
f/k/a FLUOR CORPORATION

**FLUOR CONSTRUCTORS
INTERNATIONAL, INC.**

**FLUOR DANIEL SERVICES
CORPORATION**

FLUOR ENTERPRISES, INC.

FMC CORPORATION

on behalf of its former Peerless Pump business

FOSTER WHEELER ENERGY CORPORATION**GARDNER DENVER NASH, LLC**

individually and as successor-in-interest to THE NASH ENGINEERING COMPANY

GENERAL BOILER CASING COMPANY, INC.**GENERAL ELECTRIC COMPANY****GOULDS PUMPS, INCORPORATED****GOULDS PUMPS LLC**

f/k/a GOULDS PUMPS INC.

GREAT BARRIER INSULATION CO.**GRINNELL LLC**

d/b/a GRINNELL CORPORATION

HAJOCA CORPORATION**HOWDEN NORTH AMERICA INC.**

f/k/a HOWDEN BUFFALO, INC., individually and as successor-in-interest to BUFFALO FORGE COMPANY and NEW PHILADELPHIA FAN CO.

IMO INDUSTRIES INC.**ITT LLC**

f/k/a ITT CORPORATION, ITT INDUSTRIES INC., ITT FLUID PRODUCTS CORP., HOFFMAN SPECIALTY MFG. CORP., BELL & GOSSETT COMPANY, ITT MARLOW and KENNEDY VALVE COMPANY

JOY GLOBAL UNDERGROUND MINING LLC

f/k/a JOY TECHNOLOGIES, INC., f/k/a JOY TECHNOLOGIES LLC

K-MAC SERVICES INCORPORATED

**METROPOLITAN LIFE INSURANCE
COMPANY**

a wholly owned subsidiary of METLIFE INC.

**MINE SAFETY APPLIANCES COMPANY,
LLC**

THE NASH ENGINEERING COMPANY

PARAMOUNT GLOBAL

f/k/a VIACOMCBS INC., f/k/a CBS

CORPORATION, a Delaware corporation f/k/a

VIACOM, INC., successor-by-merger to CBS

CORPORATION, a Pennsylvania corporation,

f/k/a WESTINGHOUSE ELECTRIC

CORPORATION and as successor-in-interest to

BF STURTEVANT

PATTERSON PUMP COMPANY

PIEDMONT INSULATION, INC.

PRESNELL INSULATION CO., INC.

REDCO CORPORATION

f/k/a CRANE CO.

RILEY POWER INC.

f/k/a BABCOCK BORSIG POWER INC.,

f/k/a DB RILEY, INC., f/k/a RILEY STOKER

CORPORATION

SEQUOIA VENTURES INC.

f/k/a BECHTEL CORPORATION

SPIRAX SARCO, INC.

SPX CORPORATION

individually and as successor-in-interest to

KINNEY PUMPS

STAFFORD INSULATION COMPANY

STANDARD INSULATION COMPANY OF)
N. C., INC.)
))
STARR DAVIS COMPANY, INC.)
))
STARR DAVIS COMPANY OF S.C., INC.)
))
STERLING FLUID SYSTEMS (USA) LLC)
))
UNION CARBIDE CORPORATION)
))
VALVES AND CONTROLS US, INC.)
f/k/a WEIR VALVES & CONTROLS USA)
INC. d/b/a ATWOOD & MORRILL CO., INC.)
))
VELAN VALVE CORP.)
))
VIKING PUMP, INC.)
))
VISTRA INTERMEDIATE COMPANY)
LLC)
individually and as successor-in-interest to)
CRSS INC.)
))
THE WILLIAM POWELL COMPANY)
))
WIND UP, LTD.)
))
YUBA HEAT TRANSFER LLC)
))
ZURN INDUSTRIES, LLC)
individually and as successor-in-interest to)
ZURN INDUSTRIES, INC.)
))
Defendants.)
_____)

PLAINTIFFS' ORIGINAL COMPLAINT

Plaintiffs, JOHN A. TIBBS and MARGARET B. TIBBS (hereinafter "Plaintiffs"), sue the named Defendants for compensatory and punitive damages, by and through their attorneys, and come before this court and allege as follows:

GENERAL ALLEGATIONS

1. Plaintiff John A. Tibbs has been diagnosed with lung cancer.
2. This Court has personal jurisdiction over Defendants because Plaintiffs' claims arise from Defendants' conduct in:
 - (a) Transacting business in this State, including the sale, supply, purchase, and/or use of asbestos and/or asbestos-containing products, within this State;
 - (b) Contracting to supply services or things in the State;
 - (c) Commission of a tortious act in whole or in part in this State;
 - (d) Having an interest in, using, or possessing real property in this State; and/or
 - (e) Entering into a contract to be performed in whole or in part by either party in this State.
3. Each Defendant, or its predecessors in interest, that manufactured, sold, and/or distributed asbestos-containing products or raw asbestos materials for use in South Carolina and other states at times relevant to this action are referred to herein as "Product Defendants." At all times relevant to this action, the Product Defendants and the predecessors of the Product Defendants for whose actions the Product Defendants are legally responsible, were engaged in the manufacture, sale and distribution of asbestos-containing products and raw materials.
4. Each Defendant, or its predecessors in interest, that owned and/or controlled the work sites where Plaintiff John A. Tibbs experienced occupational exposure as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment in his immediate vicinity are referred to herein as the "Premises Defendants." At all times relevant to this action:
 - (a) the Premises Defendants owned the property and approved the use of asbestos-containing materials on its premises.

- (b) the Premises Defendants invited the Plaintiff John A. Tibbs as a mechanic electrician, and/or his father as a superintendent of maintenance, on to Defendants' premises to perform construction work for Defendants' benefit. Plaintiff was an invitee who had express permission to enter Defendants' premises for the purpose of benefitting the owner (Defendant).
- (c) the Premises Defendants owed a duty of due care to discover risks and take safety precautions to warn of and eliminate unreasonable risks.
- (d) the Premises Defendants' failure to warn of or eliminate the unreasonable risks associated with working on or around asbestos-containing materials on Defendants' premises was a substantial factor contributing to cause Plaintiff John A. Tibbs's lung cancer.

5. Each Defendant, or its predecessors in interest, that provided labor, materials, goods, and/or services as architects, consultants, engineers, draftsmen, technicians, surveyors, or otherwise in connection with the design and/or repairs at the work sites where Plaintiff John A. Tibbs and/or his father experienced occupational exposure as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment, are referred to herein as the "Design Defendants."

6. Plaintiffs' claims against the Product Defendants, as defined herein, arise out of Defendants' purposeful efforts to serve directly or indirectly the market for their asbestos and/or asbestos-containing products in this State, either through direct sales or through utilizing an established distribution channel with the expectation that their products would be purchased and/or used within South Carolina.

7. Plaintiffs' claims against the Premises Defendants, as defined herein, arise out of Defendants' ownership and/or control of real property located in South Carolina and North Carolina, and the purchase and use of asbestos-containing products on their premises located in South Carolina and North Carolina, and/or contracting with the employer of Plaintiff John A. Tibbs and/or his father John H. Tibbs in South Carolina and North Carolina for Plaintiff and others to cross state lines to work on Defendant's premises.

8. Plaintiffs' claims against the Design Defendants, as defined herein, arise out of Defendants', and/or Defendants' employees', direct and/or indirect purchase and use of asbestos and/or asbestos-containing products, materials, or equipment at the various industrial sites located in South Carolina where Plaintiff John A. Tibbs experienced occupational exposure to lethal doses of asbestos as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment.

9. All of the named Defendants are corporations who purposefully availed themselves of the privilege of doing business in this State, and whose substantial and/or systematic business in South Carolina exposed Plaintiff John A. Tibbs to asbestos in this State, subjecting them to the jurisdiction of the South Carolina courts pursuant to the South Carolina Long-Arm Statute and the United States Constitution.

10. In addition to being exposed through his own work, Plaintiff John A. Tibbs was exposed to asbestos through asbestos dust and fibers brought home on his father John H. Tibbs's work clothes, from asbestos dust in his vehicle and asbestos dust on his body including his hair, and from the dust being distributed and re-entrained in the family home. Plaintiff John A. Tibbs's exposure to asbestos dust and fibers occurred through his contact with his father John H. Tibbs's work clothing and person when greeting him and interacting with him on a daily basis at the end of each workday. Plaintiff John A. Tibbs's exposure to asbestos dust and fibers also occurred through spending time in his father's vehicle in which asbestos dust and fibers had been deposited, and through sharing a home contaminated with asbestos fibers that were constantly being stirred up and re-entrained in the air that they breathed throughout their family home.

11. Plaintiff John A. Tibbs's cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products, individually and together, was a substantial

factor in causing Plaintiff John A. Tibbs's lung cancer and other related injuries and therefore under South Carolina law, is the legal cause of Plaintiff's injuries and damages.

12. Plaintiffs were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

13. Plaintiff John A. Tibbs worked with, or in close proximity to others who worked with, asbestos-containing materials including but not limited to asbestos-containing products and other asbestos-containing materials manufactured and/or sold by Defendants identified above.

14. Each of the named Defendants is liable for damages stemming from its own tortious conduct or the tortious conduct of an "alternate entity" as hereinafter defined. Defendants are liable for the acts of their "alternate entity" and each of them, in that there has been a corporate name change, Defendant is the successor by merger, by successor in interest, or by other acquisition resulting in a virtual destruction of Plaintiffs' remedy against each such "alternate entity"; Defendants, each of them, have acquired the assets, product line, or a portion thereof, of each such "alternate entity"; such "alternate entities" have acquired the assets, product line, or a portion thereof of each such Defendant; Defendants, and each of them, caused the destruction of Plaintiffs' remedy against each such "alternate entity"; each such Defendant has the ability to assume the risk-spreading role of each such "alternate entity;" and that each such defendant enjoys the goodwill originally attached to each "alternate entity."

DEFENDANT	ALTERNATE ENTITY
3M COMPANY	MINNESOTA MINING AND MANUFACTURING COMPANY
4520 CORP., INC.	BENJAMIN F. SHAW COMPANY
AIR & LIQUID SYSTEMS CORPORATION	BUFFALO PUMPS, INC.

DEFENDANT	ALTERNATE ENTITY
AMENTUM ENVIRONMENT & ENERGY, INC.	AECOM ENERGY & CONSTRUCTION, INC., YEARGIN CONSTRUCTION COMPANY, INC., and IMPAC, INC.
ASCO, L.P.	ASCO VALVE, INC.
ATLAS TURNER, INC.	ATLAS ASBESTOS CO
AWT AIR COMPANY, INC.	RESEARCH-COTTRELL, INC.
BEATY INVESTMENTS, INC.	GUY M. BEATY & CO.
THE BONITZ COMPANY	BONITZ INSULATION COMPANY
BW/IP INC.	its wholly owned subsidiaries
CANVAS CT, LLC	MARLEY COOLING TOWER COMPANY
CAPE PLC	CAPE INDUSTRIES LTD., CAPE ASBESTOS COMPANY LTD., and its subsidiaries and global affiliates
CB&I LAURENS, INC.	CHICAGO BRIDGE & IRON COMPANY
CLEAVER-BROOKS, INC.	AQUA-CHEM, INC. and CLEAVER-BROOKS DIVISION
CRANE INSTRUMENTATION & SAMPLING, INC.	CIRCOR INSTRUMENTATION TECHNOLOGIES, INC. and HOKE INC.
DUKE ENERGY CAROLINAS, LLC	DUKE ENERGY CORPORATION
EMERSON ELECTRIC CO.	COPELAND CORPORATION
FLOWSERVE CORPORATION	THE DURIRON COMPANY INC.

DEFENDANT	ALTERNATE ENTITY
FLOWERVE US INC.	EDWARD VALVES, INC. and ROCKWELL MANUFACTURING COMPANY
FLUOR CONSTRUCTORS INTERNATIONAL	FLUOR CORPORATION
FMC CORPORATION	PEERLESS PUMP
GARDNER DENVER NASH, LLC	THE NASH ENGINEERING COMPANY
GOULDS PUMPS LLC	GOULDS PUMPS INC.
GRINNELL LLC	GRINNELL CORPORATION
HOWDEN NORTH AMERICA INC.	HOWDEN BUFFALO INC., BUFFALO FORGE COMPANY, and NEW PHILADELPHIA FAN CO.
ITT LLC	ITT CORPORATION, ITT INDUSTRIES INC., ITT FLUID PRODUCTS CORP., HOFFMAN SPECIALTY MFG. CORP., BELL & GOSSETT COMPANY, ITT MARLOW and KENNEDY VALVE COMPANY
JOY GLOBAL UNDERGROUND MINING LLC	JOY TECHNOLOGIES, INC. and JOY TECHNOLOGIES LLC
METROPOLITAN LIFE INSURANCE COMPANY	METLIFE INC.
PARAMOUNT GLOBAL	VIACOMCBS INC., CBS CORPORATION, a Delaware corporation, VIACOM, INC., CBS CORPORATION, a Pennsylvania corporation, WESTINGHOUSE ELECTRIC CORPORATION, and BF STURTEVANT
REDCO CORPORATION	CRANE CO.
RILEY POWER INC.	BABCOCK BORSIG POWER INC., DB RILEY, INC., and RILEY STOKER CORPORATION

DEFENDANT	ALTERNATE ENTITY
SEQUOIA VENTURES INC.	BECHTEL CORPORATION
SPX CORPORATION	KINNEY PUMPS
VALVES AND CONTROLS US, INC.	WEIR VALVES & CONTROLS USA INC. and ATWOOD MORRILL CO., INC.
VISTRA INTERMEDIATE COMPANY LLC	CRSS INC.
WIND UP, LTD.	PIPE & BOILER INSULATION, INC. and CAROLINA INDUSTRIAL INSULATING CO.
ZURN INDUSTRIES, LLC	ZURN INDUSTRIES, INC.

15. Plaintiffs have been informed and believe, and thereon allege, that at all times herein mentioned, Defendants or their “alternate entities” were or are corporations, partnerships, unincorporated associations, sole proprietorships and/or other business entities organized and existing under and by virtue of the laws of the State of South Carolina, or the laws of some other state or foreign jurisdiction, and that said Defendants were and/or are authorized to do business in the State of South Carolina, and that said Defendants have regularly conducted business in the State of South Carolina.

16. Plaintiffs have been informed and believe, and thereon allege, that progressive lung disease, lung cancer and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

17. As a direct and proximate result of the conduct as alleged within, Plaintiff John A. Tibbs suffered permanent injuries, including, but not limited to, lung cancer and other lung

damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

18. As a direct and proximate result of the conduct as hereinafter alleged, Plaintiff John A. Tibbs incurred liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to Plaintiffs at this time. Plaintiffs request leave to supplement this Court and all parties accordingly when the true and exact cost of Plaintiff John A. Tibbs's medical treatment is ascertained.

19. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiff John A. Tibbs incurred, and will continue to incur, loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs. Plaintiffs pray leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

20. Plaintiffs hereby disclaim each and every claim or cause of action which does or may arise from or on any federal enclave. Plaintiffs are disclaiming each and every claim or cause of action arising from any exposure to asbestos as a result of the Plaintiffs presence on or at any federal enclave. Plaintiffs further disclaim each and every claim or cause of action arising under the United States Constitution and under any Federal Law or Regulation. Finally, Plaintiffs disclaim each and every claim or cause of action which may be asserted under federal admiralty or maritime law. Courts across the Country have found that such disclaimers are proper and within the province of the Plaintiffs to disclaim. Any removal by any defendant on the basis of the disclaimed claims will result in a motion for sanctions and seeking attorneys' fees.

THE PARTIES

21. Plaintiffs John A. Tibbs and Margaret B. Tibbs are currently residents of the State of North Carolina. Plaintiff John A. Tibbs was exposed to asbestos during the course of his career at various job sites, primarily located in South Carolina and North Carolina. He was also exposed to asbestos fibers carried home on the clothing and person of his father while he also worked as a superintendent of maintenance at various jobsites while Plaintiff John A. Tibbs lived in the family home.

22. Defendant, **3M COMPANY** f/k/a MINNESOTA MINING AND MANUFACTURING COMPANY, was and is a Delaware corporation with its principal place of business in Minnesota. At all times material hereto, 3M COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, or products fraudulently marketed to prevent asbestos exposure including, but not limited to, 3M masks and other asbestos-containing products. 3M COMPANY is sued as a Product Defendant. Plaintiffs' claims against 3M COMPANY arise out of this Defendant's business activities in the State of South Carolina.

23. Defendant, **4520 CORP., INC.**, as successor-in-interest to BENJAMIN F. SHAW COMPANY, was and is a Delaware corporation with its principal place of business in Oregon. At all times material hereto, 4520 CORP., INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. 4520 CORP., INC. is sued as a

Product Defendant. 4520 CORP., INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against 4520 CORP., INC. arise out of this Defendant's business activities in the State of South Carolina.

24. Defendant, **A.O. SMITH CORPORATION**, was and is a Delaware corporation with its principal place of business in Wisconsin. At all times material hereto, A.O. SMITH CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing boilers and heaters, including Burkey boilers, present at numerous jobsites in South Carolina and North Carolina. A.O. SMITH CORPORATION is sued as a Product Defendant. Plaintiffs' claims against A.O. SMITH CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

25. Defendant, **AIR & LIQUID SYSTEMS CORPORATION**, individually and as successor-in-interest to BUFFALO PUMPS, INC., was and is a Pennsylvania corporation with its principal place of business in Pennsylvania. At all times material hereto, AIR & LIQUID SYSTEMS CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Buffalo pumps present at numerous jobsites in South Carolina and North Carolina. AIR & LIQUID SYSTEMS CORPORATION is sued as a Product Defendant. Plaintiffs' claims against AIR & LIQUID SYSTEMS CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

26. Defendant, **AMENTUM ENVIRONMENT & ENERGY, INC.**, f/k/a AECOM ENERGY & CONSTRUCTION, INC., individually and as successor-in-interest to YEARGIN CONSTRUCTION COMPANY, INC. successor to IMPAC, INC., was and is an Ohio corporation with its principal place of business in Ohio. At all times material hereto, AMENTUM ENVIRONMENT & ENERGY, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. AMENTUM ENVIRONMENT & ENERGY, INC. is sued as a Product Defendant. AMENTUM ENVIRONMENT & ENERGY, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against AMENTUM ENVIRONMENT & ENERGY, INC. arise out of this Defendant's business activities in the State of South Carolina.

27. Defendant, **ANCHOR/DARLING VALVE COMPANY**, was and is a Pennsylvania corporation with its principal place of business in Texas. At all times material hereto, ANCHOR/DARLING VALVE COMPANY manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Darling valves present at numerous jobsites in South Carolina and North Carolina. ANCHOR/DARLING VALVE COMPANY is sued as a Product Defendant. Plaintiffs' claims against ANCHOR/DARLING VALVE COMPANY arise out of this Defendant's business activities in the State of South Carolina.

28. Defendant, **ARMSTRONG INTERNATIONAL, INC.**, was and is a Michigan corporation with its principal place of business in Michigan. At all times material hereto, ARMSTRONG INTERNATIONAL, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including but not limited to Armstrong steam traps and strainers present at numerous jobsites in South Carolina and North Carolina. ARMSTRONG INTERNATIONAL, INC. is sued as a Product Defendant. Plaintiffs' claims against ARMSTRONG INTERNATIONAL, INC. arise out of this Defendant's business activities in the State of South Carolina.

29. Defendant, **ASBESTOS CORPORATION LIMITED**, was and is a corporation organized and existing under the laws of the country of Canada, with its principal place of business in Canada. At all times material hereto, ASBESTOS CORPORATIONN LIMITED mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers present at numerous jobsites in South Carolina and North Carolina. ASBESTOS CORPORATION LIMITED is sued as a Product Defendant. Plaintiffs' claims against ASBESTOS CORPORATION LIMITED arise out of this Defendant's business activities in the State of South Carolina.

30. Defendant, **ASCO, L.P.**, f/k/a ASCO VALVE, INC., was and is a Delaware limited partnership with its principal place of business in New Jersey. At all times material hereto, ASCO, L.P. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing ASCO valves

present at numerous jobsites in South Carolina and North Carolina. ASCO, L.P. is sued as a Product Defendant. Plaintiffs' claims against ASCO, L.P. arise out of this Defendant's business activities in the State of South Carolina.

31. Defendant, **ATLAS ASBESTOS CO**, was and is a corporation organized and existing under the laws of the country of Canada, with its principal place of business in Canada. At all times material hereto, ATLAS ASBESTOS CO mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers present at numerous jobsites in South Carolina and North Carolina. ATLAS ASBESTOS CO is sued as a Product Defendant. Plaintiffs' claims against ATLAS ASBESTOS CO arise out of this Defendant's business activities in the State of South Carolina.

32. Defendant, **ATLAS TURNER, INC.**, as successor to ATLAS ASBESTOS CO, was and is a corporation organized and existing under the laws of the country of Canada, with its principal place of business in Canada. At all times material hereto, ATLAS TURNER, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers present at jobsites in South Carolina and North Carolina. ATLAS TURNER, INC. is sued as a Product Defendant. Plaintiffs' claims against ATLAS TURNER, INC. arise out of this Defendant's business activities in the State of South Carolina.

33. Defendant, **AWT AIR COMPANY, INC.**, f/k/a RESEARCH-COTTRELL, INC., was and is a New Jersey corporation with its principal place of business in New Jersey. At all times material hereto, AWT AIR COMPANY, INC. manufactured, processed, imported, converted,

compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing precipitators present at numerous jobsites in South Carolina and North Carolina. AWT AIR COMPANY, INC. is sued as a Product Defendant. Plaintiffs' claims against AWT AIR COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

34. Defendant, **BAHNSON, INC.**, was and is a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, BAHNSON, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. BAHNSON, INC. is sued as a Product Defendant. BAHNSON, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against BAHNSON, INC. arise out of this Defendant's business activities in the State of South Carolina.

35. Defendant, **BANNER INDUSTRIES INTERNATIONAL, INC.**, was and is a Delaware corporation with its principal place of business in Massachusetts. At all times material hereto, BANNER INDUSTRIES INTERNATIONAL, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Patterson pumps present at numerous jobsites in South Carolina

and North Carolina. BANNER INDUSTRIES INTERNATIONAL, INC. is sued as a Product Defendant. Plaintiffs' claims against BANNER INDUSTRIES INTERNATIONAL, INC. arise out of this Defendant's business activities in the State of South Carolina.

36. Defendant, **BEATY INVESTMENTS, INC.** f/k/a GUY M. BEATY & CO., was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, BEATY INVESTMENTS, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. BEATY INVESTMENTS, INC. is sued as a Product Defendant. BEATY INVESTMENTS, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Beaty Investments, Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against BEATY INVESTMENTS, INC. arise out of this Defendant's business activities in the State of South Carolina.

37. Defendant, **BECHTEL CORPORATION**, was and is a Nevada corporation with its principal place of business in Virginia. At all times material hereto, BECHTEL CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. BECHTEL CORPORATION is sued as a Product Defendant. BECHTEL

CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against BECHTEL CORPORATION arise out of this Defendant's business activities in the State of South Corporation.

38. Defendant, **THE BONITZ COMPANY** f/k/a BONITZ INSULATION COMPANY, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, THE BONITZ COMPANY manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. THE BONITZ COMPANY is sued as a Product Defendant. THE BONITZ COMPANY is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of The Bonitz Company, exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against THE BONITZ COMPANY arise out of this Defendant's business activities in the State of South Carolina.

39. Defendant, **BW/IP INC.** and its wholly-owned subsidiaries, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, BW/IP INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Byron Jackson pumps and Borg Warner pumps and valves present at numerous jobsites in South Carolina and

North Carolina. BW/IP INC. is sued as a Product Defendant. Plaintiffs' claims against BW/IP INC. arise out of this Defendant's business activities in the State of South Carolina.

40. Defendant, **CANVAS CT, LLC**, individually and as successor to MARLEY COOLING TOWER COMPANY, was and is a Delaware limited liability company with its principal place of business in Kansas. At all times material hereto, CANVAS CT, LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Marley cooling towers present at numerous jobsites in South Carolina and North Carolina. CANVAS CT, LLC is sued as a Product Defendant. Plaintiffs' claims against CANVAS CT, LLC arise out of this Defendant's business activities in the State of South Carolina.

41. Defendant, **CAPE PLC**, individually and as successor-in-interest to CAPE INDUSTRIES LTD f/k/a CAPE ASBESTOS COMPANY LTD., and its subsidiaries and global affiliates, was and is a private liability company organized and existing under the laws of the United Kingdom of Great Britain and Northern Ireland with its court appointed Receiver maintaining its principal place of business in South Carolina. At all times material hereto, CAPE PLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers present at numerous jobsites in South Carolina and North Carolina. CAPE PLC is sued as a Product Defendant. Plaintiffs' claims against CAPE PLC arise out of this Defendant's business activities in the State of South Carolina.

42. Defendant, **CARBOLINE COMPANY**, was and is a Delaware corporation with its principal place of business in Missouri. At all times material hereto, CARBOLINE COMPANY

manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing coatings present at numerous jobsites in South Carolina and North Carolina. CARBOLINE COMPANY is sued as a Product Defendant. Plaintiffs' claims against CARBOLINE COMPANY arise out of this Defendant's business activities in the State of South Carolina.

43. Defendant, **CB&I LAURENS, INC.**, individually and as successor-in-interest to CHICAGO BRIDGE & IRON COMPANY, was and is a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, CB&I LAURENS, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Foxboro valves present at numerous jobsites in South Carolina and North Carolina. CB&I LAURENS, INC. is sued as a Product Defendant. Plaintiffs' claims against CB&I LAURENS, INC. arise out of this Defendant's business activities in the State of South Carolina.

44. Defendant, **CLEAVER-BROOKS, INC.** f/k/a AQUA-CHEM, INC. d/b/a CLEAVER-BROOKS DIVISION, was and is a Delaware corporation with its principal place of business in Georgia. At all times material hereto, CLEAVER-BROOKS, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Cleaver-Brooks boilers and distillers present at numerous jobsites in South Carolina and North Carolina. CLEAVER-BROOKS, INC. is sued as a Product Defendant. Plaintiffs' claims against CLEAVER-BROOKS, INC. arise out of this Defendant's business activities in the State of South Carolina.

45. Defendant, **COPES-VULCAN, INC.**, was and is a Delaware corporation with its principal place of business in Pennsylvania. At all times material hereto, COPES-VULCAN, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Vulcan blowers and valves present at numerous jobsites in South Carolina and North Carolina. COPES-VULCAN, INC. is sued as a Product Defendant. Plaintiffs' claims against COPES-VULCAN, INC. arise out of this Defendant's business activities in the State of South Carolina.

46. Defendant, **COVIL CORPORATION**, was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, COVIL CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. COVIL CORPORATION is sued as a Product Defendant. COVIL CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Covil Corporation, exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against COVIL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

47. Defendant, **CRANE INSTRUMENTATION & SAMPLING, INC.**, f/k/a CIRCOR INSTRUMENTATION TECHNOLOGIES, INC., f/k/a HOKE INC., was and is a New York corporation with its principal place of business in South Carolina. At all times material

hereto, CRANE INSTRUMENTATION & SAMPLING, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Hoke valves present at numerous jobsites in South Carolina and North Carolina. CRANE INSTRUMENTATION & SAMPLING, INC. is sued as a Product Defendant. Plaintiffs' claims against CRANE INSTRUMENTATION & SAMPLING, INC. arise out of this Defendant's business activities in the State of South Carolina.

48. Defendant, **CROSBY VALVE, LLC**, was and is a Nevada limited liability company with its principal place of business in Missouri. At all times material hereto, CROSBY VALVE, LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Crosby valves present at numerous jobsites in South Carolina and North Carolina. CROSBY VALVE, LLC is sued as a Product Defendant. Plaintiffs' claims against CROSBY VALVE, LLC arise out of this Defendant's business activities in the State of South Carolina.

49. Defendant, **DANIEL INTERNATIONAL CORPORATION**, was and is a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, DANIEL INTERNATIONAL CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. DANIEL INTERNATIONAL CORPORATION is sued as a Product Defendant. DANIEL INTERNATIONAL

CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs to lethal doses of asbestos. Plaintiffs' claims against DANIEL INTERNATIONAL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

50. Defendant, **DAVIS MECHANICAL CONTRACTORS, INC.**, was a South Carolina corporation with its principal place of business in North Carolina. At all times material hereto, DAVIS MECHANICAL CONTRACTORS, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. DAVIS MECHANICAL CONTRACTORS, INC. is sued as a Product Defendant. DAVIS MECHANICAL CONTRACTORS, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Davis Mechanical Contractors, Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against DAVIS MECHANICAL CONTRACTORS, INC. arise out of this Defendant's business activities in the State of South Carolina.

51. Defendant, **DEZURIK, INC.**, was and is a Delaware corporation with its principal place of business in Minnesota. At all times material hereto, DEZURIK, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Vulcan blowers and valves present at numerous jobsites in South Carolina and North Carolina. DEZURIK, INC. is sued as a Product

Defendant. Plaintiffs' claims against DEZURIK, INC. arise out of this Defendant's business activities in the State of South Carolina.

52. Defendant, **DUKE ENERGY CAROLINAS, LLC** f/k/a DUKE ENERGY CORPORATION, was and is a North Carolina limited liability company with its principal place of business in North Carolina. At all times material hereto, DUKE ENERGY CAROLINAS, LLC owned and/or controlled premises at which Plaintiff John A. Tibbs and his father John H. Tibbs was exposed to asbestos-containing products, equipment, and asbestos dust from said products at various facilities in South Carolina and North Carolina, including but not limited to the Duke power plants listed in paragraph 111 of this Complaint. DUKE ENERGY CAROLINAS, LLC is sued as a Premises Defendant.

53. Defendant, **DUKE ENERGY CORPORATION**, was and is a Delaware corporation with its principal place of business in North Carolina. At all times material hereto, DUKE ENERGY CORPORATION owned and/or controlled premises at which Plaintiff John A. Tibbs and his father John H. Tibbs was exposed to asbestos-containing products, equipment, and asbestos dust from said products at various facilities in South Carolina and North Carolina, including but not limited to the Duke power plants listed in paragraph 111 of this Complaint. DUKE ENERGY CORPORATION is sued as a Premises Defendant.

54. Defendant, **ELLINGTON INSULATION COMPANY, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, ELLINGTON INSULATION COMPANY, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at

numerous jobsites throughout the southeastern United States. ELLINGTON INSULATION COMPANY, INC. is sued as a Product Defendant. ELLINGTON INSULATION COMPANY, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Ellington Insulation Company, Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against ELLINGTON INSULATION COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

55. Defendant, **EMERSON ELECTRIC CO.**, individually and as successor-in-interest to COPELAND CORPORATION, was and is a Missouri corporation with its principal place of business in Missouri. At all times material hereto, EMERSON ELECTRIC CO. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Hancock valves present at numerous jobsites in South Carolina and North Carolina. EMERSON ELECTRIC CO. is sued as a Product Defendant. Plaintiffs' claims against EMERSON ELECTRIC CO. arise out of this Defendant's business activities in the State of South Carolina.

56. Defendant, **FISHER CONTROLS INTERNATIONAL LLC**, was and is a Delaware limited liability company with its principal place of business in Missouri. At all times material hereto, FISHER CONTROLS INTERNATIONAL LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Fisher valves present at numerous jobsites in South Carolina and North Carolina. FISHER CONTROLS INTERNATIONAL LLC is sued as a

Product Defendant. Plaintiffs' claims against FISHER CONTROLS INTERNATIONAL LLC arise out of this Defendant's business activities in the State of South Carolina.

57. Defendant, **FLAME REFRACTORIES, INC.**, was a North Carolina corporation with its principal place of business in Florida. At all times material hereto, FLAME REFRACTORIES, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. FLAME REFRACTORIES, INC. is sued as a Product Defendant. FLAME REFRACTORIES, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Flame Refractories, Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against FLAME REFRACTORIES, INC. arise out of this Defendant's business activities in the State of South Carolina.

58. Defendant, **FLOWERVE CORPORATION**, f/k/a THE DURIRON COMPANY INC., was and is a New York corporation with its principal place of business in Texas. At all times material hereto, FLOWERVE CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Duriron pumps present at numerous jobsites in South Carolina and North Carolina. FLOWERVE CORPORATION is sued as a Product Defendant. Plaintiffs' claims against FLOWERVE CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

59. Defendant, **FLOWERVE US INC.**, individually and as successor-in-interest to EDWARD VALVES, INC. and ROCKWELL MANUFACTURING COMPANY, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, FLOWERVE US INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Edward valves and Rockwell valves present at numerous jobsites in South Carolina and North Carolina. FLOWERVE US INC. is sued as a Product Defendant. Plaintiffs' claims against FLOWERVE US INC. arise out of this Defendant's business activities in the State of South Carolina.

60. Defendant, **FLUOR CONSTRUCTORS INTERNATIONAL** f/k/a/ FLUOR CORPORATION, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR CONSTRUCTORS INTERNATIONAL mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. FLUOR CONSTRUCTORS INTERNATIONAL is sued as a Product Defendant. FLUOR CONSTRUCTORS INTERNATIONAL is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against FLUOR CONSTRUCTORS INTERNATIONAL arise out of this Defendant's business activities in the State of South Carolina.

61. Defendant, **FLUOR CONSTRUCTORS INTERNATIONAL, INC.**, was and is a California corporation with its principal place of business in Texas. At all times material hereto, **FLUOR CONSTRUCTORS INTERNATIONAL, INC.** manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. **FLUOR CONSTRUCTORS INTERNATIONAL, INC.** is sued as a Product Defendant. **FLUOR CONSTRUCTORS INTERNATIONAL, INC.** is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against **FLUOR CONSTRUCTORS INTERNATIONAL, INC.** arise out of this Defendant's business activities in the State of South Carolina.

62. Defendant, **FLUOR DANIEL SERVICES CORPORATION**, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, **FLUOR DANIEL SERVICES CORPORATION** mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. **FLUOR DANIEL SERVICES CORPORATION** is sued as a Product Defendant. **FLUOR DANIEL SERVICES CORPORATION** is also sued for the work it did at the various industrial sites in the southeastern

United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against FLUOR DANIEL SERVICES CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

63. Defendant, **FLUOR ENTERPRISES, INC.**, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR ENTERPRISES, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. FLUOR ENTERPRISES, INC. is sued as a Product Defendant. FLUOR ENTERPRISES, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against FLUOR ENTERPRISES, INC. arise out of this Defendant's business activities in the State of South Carolina.

64. Defendant, **FMC CORPORATION** on behalf of its former Peerless Pump business, was and is a Delaware corporation with its principal place of business in Pennsylvania. At all times material hereto, FMC CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Peerless pumps present at numerous jobsites in South Carolina and North Carolina. FMC CORPORATION is sued as a Product Defendant. Plaintiffs' claims against FMC CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

65. Defendant, **FOSTER WHEELER ENERGY CORPORATION**, was and is a Delaware corporation with its principal place of business in New Jersey. At all times material hereto, FOSTER WHEELER ENERGY CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Foster Wheeler boilers and exhausters present at numerous jobsites in South Carolina and North Carolina. FOSTER WHEELER ENERGY CORPORATION is sued as a Product Defendant. Plaintiffs' claims against FOSTER WHEELER ENERGY CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

66. Defendant, **GARDNER DENVER NASH, LLC**, individually and as successor-in-interest to THE NASH ENGINEERING COMPANY, was and is a Delaware limited liability company with its principal place of business in Pennsylvania. At all times material hereto, GARDNER DENVER NASH, LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Nash pumps present at numerous jobsites in South Carolina and North Carolina. GARDNER DENVER NASH, LLC is sued as a Product Defendant. Plaintiffs' claims against GARDNER DENVER NASH, LLC arise out of this Defendant's business activities in the State of South Carolina.

67. Defendant, **GENERAL BOILER CASING COMPANY, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, GENERAL BOILER CASING COMPANY, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but

not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. GENERAL BOILER CASING COMPANY, INC. is sued as a Product Defendant. GENERAL BOILER CASING COMPANY, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of General Boiler Casing Company, Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against GENERAL BOILER CASING COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

68. Defendant, **GENERAL ELECTRIC COMPANY**, was and is a New York corporation with its principal place of business in Massachusetts. At all times material hereto, GENERAL ELECTRIC COMPANY manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing General Electric turbines present at numerous jobsites in South Carolina and North Carolina. GENERAL ELECTRIC COMPANY is sued as a Product Defendant. Plaintiffs' claims against GENERAL ELECTRIC COMPANY arise out of this Defendant's business activities in the State of South Carolina.

69. Defendant, **GOULDS PUMPS, INCORPORATED**, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, GOULDS PUMPS, INCORPORATED manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Goulds pumps present at numerous jobsites in South Carolina and North Carolina.

GOULDS PUMPS, INCORPORATED is sued as a Product Defendant. Plaintiffs' claims against GOULDS PUMPS, INCORPORATED arise out of this Defendant's business activities in the State of South Carolina.

70. Defendant, **GOULDS PUMPS LLC** f/k/a GOULDS PUMPS INC., was and is a Delaware limited liability company with its principal place of business in New York. At all times material hereto, GOULDS PUMPS LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Goulds pumps present at numerous jobsites in South Carolina and North Carolina. GOULDS PUMPS LLC is sued as a Product Defendant. Plaintiffs' claims against GOULDS PUMPS LLC arise out of this Defendant's business activities in the State of South Carolina.

71. Defendant, **GREAT BARRIER INSULATION CO.**, was an Alabama corporation with its principal place of business in Florida. At all times material hereto, GREAT BARRIER INSULATION CO. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. GREAT BARRIER INSULATION CO. is sued as a Product Defendant. GREAT BARRIER INSULATION CO. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Great Barrier Insulation Co., exposed tens of thousands of people, including the Plaintiff John A. Tibbs

to lethal doses of asbestos. Plaintiffs' claims against GREAT BARRIER INSULATION CO. arise out of this Defendant's business activities in the State of South Carolina.

72. Defendant, **GRINNELL, LLC** d/b/a GRINNELL CORPORATION, was and is a Delaware limited liability company with its principal place of business in Florida. At all times material hereto, GRINNELL, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Grinnell valves used at numerous jobsites in South Carolina and North Carolina. GRINNELL, LLC is sued as a Product Defendant. Plaintiffs' claims against GRINNELL, LLC arise out of this Defendant's business activities in the State of South Carolina.

73. Defendant, **HAJOCA CORPORATION**, was and is a Maine corporation with its principal place of business in Pennsylvania. At all times material hereto, HAJOCA CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing transite pipe at numerous jobsites in South Carolina and North Carolina. HAJOCA CORPORATION is sued as a Product Defendant. Plaintiffs' claims against HAJOCA CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

74. Defendant, **HOWDEN NORTH AMERICA, INC.** f/k/a HOWDEN BUFFALO INC., individually and as successor-in-interest to BUFFALO FORGE COMPANY and NEW PHILADELPHIA FAN CO., was and is a Delaware corporation with its principal place of business in South Carolina. At all times material hereto, HOWDEN NORTH AMERICA, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing

products, materials, or equipment, including, but not limited to, asbestos-containing Buffalo Forge fans and New Philadelphia fans present at numerous jobsites in South Carolina and North Carolina. HOWDEN NORTH AMERICA, INC. is sued as a Product Defendant. Plaintiffs' claims against HOWDEN NORTH AMERICA, INC. arise out of this Defendant's business activities in the State of South Carolina.

75. Defendant, **IMO INDUSTRIES INC.**, was and is a Delaware corporation with its principal place of business in New Jersey. At all times material hereto, IMO INDUSTRIES INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing DeLaval pumps used at numerous jobsites in South Carolina and North Carolina. IMO INDUSTRIES INC. is sued as a Product Defendant. Plaintiffs' claims against IMO INDUSTRIES INC. arise out of this Defendant's business activities in the State of South Carolina.

76. Defendant, **ITT LLC** f/k/a ITT CORPORATION, ITT INDUSTRIES INC., ITT FLUID PRODUCTS CORP., HOFFMAN SPECIALTY MFG. CORP., BELL & GOSSETT COMPANY, ITT MARLOW, and KENNEDY VALVE COMPANY, was and is an Indiana limited liability company with its principal place of business in Connecticut. At all times material hereto, ITT LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Kennedy valves present at numerous jobsites in South Carolina and North Carolina. ITT LLC is sued as a Product Defendant. Plaintiffs' claims against ITT LLC arise out of this Defendant's business activities in the State of South Carolina.

77. Defendant, **JOY GLOBAL UNDERGROUND MINING LLC**, f/k/a JOY TECHNOLOGIES, INC., f/k/a JOY TECHNOLOGIES LLC, was and is a Delaware limited liability company with its principal place of business in Pennsylvania. At all times material hereto, JOY GLOBAL UNDERGROUND MINING LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Joy compressors present at numerous jobsites in South Carolina and North Carolina. JOY GLOBAL UNDERGROUND MINING LLC is sued as a Product Defendant. Plaintiffs' claims against JOY GLOBAL UNDERGROUND MINING LLC arise out of this Defendant's business activities in the State of South Carolina.

78. Defendant, **K-MAC SERVICES, INC.**, was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, K-MAC SERVICES, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. K-MAC SERVICES, INC. is sued as a Product Defendant. K-MAC SERVICES, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of K-Mac Services, Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs to lethal doses of asbestos. Plaintiffs' claims against K-MAC SERVICES, INC. arise out of this Defendant's business activities in the State of South Carolina.

79. Defendant, **METROPOLITAN LIFE INSURANCE COMPANY**, a wholly-owned subsidiary of METLIFE INC., was and is a New York corporation with its principal place

of business in New York. METROPOLITAN LIFE INSURANCE COMPANY has done and does business in the State of South Carolina. METROPOLITAN LIFE INSURANCE COMPANY is named as a conspiracy defendant.

80. Defendant, **MINE SAFETY APPLIANCES COMPANY, LLC**, was and is a Pennsylvania limited liability company with its principal place of business in Pennsylvania. At all times material hereto, MINE SAFETY APPLIANCES COMPANY, LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, or products fraudulently marketed to prevent asbestos exposure including, but not limited to, MSA masks and respirators and other asbestos-containing products. MINE SAFETY APPLIANCES COMPANY, LLC is sued as a Product Defendant. Plaintiffs' claims against MINE SAFETY APPLIANCES COMPANY, LLC arise out of this Defendant's business activities in the State of South Carolina.

81. Defendant, **THE NASH ENGINEERING COMPANY**, was and is a Connecticut corporation with its principal place of business in Maine. At all times material hereto, THE NASH ENGINEERING COMPANY manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Nash pumps used at numerous jobsites in South Carolina and North Carolina. THE NASH ENGINEERING COMPANY is sued as a Product Defendant. Plaintiffs' claims against THE NASH ENGINEERING COMPANY arise out of this Defendant's business activities in the State of South Carolina.

82. Defendant, **PARAMOUNT GLOBAL** f/k/a VIACOMCBS INC., f/k/a CBS CORPORATION, a Delaware corporation, f/k/a VIACOM, INC., successor-by-merger to CBS

CORPORATION, a Pennsylvania corporation, f/k/a WESTINGHOUSE ELECTRIC CORPORATION and as successor-in-interest to BF STURTEVANT, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, PARAMOUNT GLOBAL manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Westinghouse turbines and BF Sturtevant forced-draft blowers present at numerous jobsites in South Carolina and North Carolina. PARAMOUNT GLOBAL is sued as a Product Defendant. Plaintiffs' claims against PARAMOUNT GLOBAL arise out of this Defendant's business activities in the State of South Carolina.

83. Defendant, **PATTERSON PUMP COMPANY**, was and is an Ohio corporation with its principal place of business in Georgia. At all times material hereto, PATTERSON PUMP COMPANY manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Patterson pumps present at numerous jobsites in South Carolina and North Carolina. PATTERSON PUMP COMPANY is sued as a Product Defendant. Plaintiffs' claims against PATTERSON PUMP COMPANY arise out of this Defendant's business activities in the State of South Carolina.

84. Defendant, **PIEDMONT INSULATION, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, PIEDMONT INSULATION, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing,

insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. PIEDMONT INSULATION, INC. is sued as a Product Defendant. PIEDMONT INSULATION, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Piedmont Insulation, Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs to lethal doses of asbestos. Plaintiffs' claims against PIEDMONT INSULATION, INC. arise out of this Defendant's business activities in the State of South Carolina.

85. Defendant, **PRESNELL INSULATION CO., INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, PRESNELL INSULATION CO., INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. PRESNELL INSULATION CO., INC. is sued as a Product Defendant. PRESNELL INSULATION CO., INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Presnell Insulation Co., Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs to lethal doses of asbestos. Plaintiffs' claims against PRESNELL INSULATION CO., INC. arise out of this Defendant's business activities in the State of South Carolina.

86. Defendant, **REDCO CORPORATION** f/k/a CRANE CO., was and is a Delaware corporation with its principal place of business in Connecticut. At all times material hereto, REDCO CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-

containing products, materials, or equipment, including, but not limited to, asbestos-containing Crane pumps and valves, Chempump pumps, Deming pumps, and Jenkins valves used at numerous jobsites in South Carolina and North Carolina. REDCO CORPORATION is sued as a Product Defendant. Plaintiffs' claims against REDCO CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

87. Defendant, **RILEY POWER INC.** f/k/a BABCOCK BORSIG POWER INC., f/k/a DB RILEY, INC., f/k/a RILEY STOKER CORPORATION, was and is a Massachusetts corporation with its principal place of business in Massachusetts. At all times material hereto, RILEY POWER INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Riley Stoker boilers and associated asbestos materials present at numerous jobsites in South Carolina and North Carolina. RILEY POWER INC. is sued as a Product Defendant. Plaintiffs' claims against RILEY POWER INC. arise out of this Defendant's business activities in the State of South Carolina.

88. Defendant, **SEQUOIA VENTURES INC.** f/k/a BECHTEL CORPORATION, was and is a Delaware corporation with its principal place of business in Virginia. At all times material hereto, SEQUOIA VENTURES INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. SEQUOIA VENTURES INC. is sued as a Product Defendant. SEQUOIA VENTURES INC. is also sued for the work it did at the various

industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against SEQUOIA VENTURES INC. arise out of this Defendant's business activities in the State of South Carolina.

89. Defendant, **SPIRAX SARCO, INC.**, was and is a Delaware corporation with its principal place of business in South Carolina. At all times material hereto, SPIRAX SARCO, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing steam traps and valves present at numerous jobsites in South Carolina and North Carolina. SPIRAX SARCO, INC. is sued as a Product Defendant. Plaintiffs' claims against SPIRAX SARCO, INC. arise out of this Defendant's business activities in the State of South Carolina.

90. Defendant, **SPX CORPORATION**, individually and as successor-in-interest to KINNEY PUMPS, was and is a Delaware corporation with its principal place of business in North Carolina. At all times material hereto, SPX CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Kinney pumps present at numerous jobsites in South Carolina and North Carolina. SPX CORPORATION is sued as a Product Defendant. Plaintiffs' claims against SPX CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

91. Defendant, **STAFFORD INSULATION COMPANY**, was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, STAFFORD INSULATION COMPANY manufactured, processed, imported, converted,

compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. STAFFORD INSULATION COMPANY is sued as a Product Defendant. STAFFORD INSULATION COMPANY is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Stafford Insulation Company, exposed tens of thousands of people, including the Plaintiff John A. Tibbs to lethal doses of asbestos. Plaintiffs' claims against STAFFORD INSULATION COMPANY arise out of this Defendant's business activities in the State of South Carolina.

92. Defendant, **STANDARD INSULATION COMPANY OF N. C., INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, STANDARD INSULATION COMPANY OF N. C., INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. STANDARD INSULATION COMPANY OF N. C., INC. is sued as a Product Defendant. STANDARD INSULATION COMPANY OF N. C., INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Standard Insulation Company of N. C., Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against STANDARD

INSULATION COMPANY OF N. C., INC. arise out of this Defendant's business activities in the State of South Carolina.

93. Defendant, **STARR DAVIS COMPANY, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, STARR DAVIS COMPANY, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. STARR DAVIS COMPANY, INC. is sued as a Product Defendant. STARR DAVIS COMPANY, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Starr Davis Company Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against STARR DAVIS COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

94. Defendant, **STARR DAVIS COMPANY OF S.C., INC.**, was a South Carolina corporation with its principal place of business in North Carolina. At all times material hereto, STARR DAVIS COMPANY OF S.C., INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. STARR DAVIS COMPANY OF S.C., INC. is sued as a Product Defendant. STARR DAVIS COMPANY OF S.C., INC. is also sued for the work

it did at the various industrial sites in the southeastern United States which, during the actual operations of Starr Davis Company of S.C. Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against STARR DAVIS COMPANY OF S.C., INC. arise out of this Defendant's business activities in the State of South Carolina.

95. Defendant, **STERLING FLUID SYSTEMS (USA) LLC**, was and is a Delaware limited liability company with its principal place of business in Indiana. At all times material hereto, STERLING FLUID SYSTEMS (USA) LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Peerless pumps present at numerous jobsites in South Carolina and North Carolina. STERLING FLUID SYSTEMS (USA) LLC is sued as a Product Defendant. Plaintiffs' claims against STERLING FLUID SYSTEMS (USA) LLC arise out of this Defendant's business activities in the State of South Carolina.

96. Defendant, **UNION CARBIDE CORPORATION**, was and is a New York corporation with its principal place of business in Texas. At all times material hereto, UNION CARBIDE CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Calidria raw asbestos fibers used in drywall compounds and Bakelite boards at numerous jobsites in South Carolina and North Carolina. UNION CARBIDE CORPORATION is sued as a Product Defendant. Plaintiffs' claims against UNION CARBIDE CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

97. Defendant, **VALVES AND CONTROLS US, INC.**, f/k/a WEIR VALVES & CONTROLS USA INC. d/b/a ATWOOD & MORRILL CO., INC., was and is a Texas corporation with its principal place of business in Oregon. At all times material hereto, VALVES AND CONTROLS US, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Atwood & Morrill valves at numerous jobsites in South Carolina and North Carolina. VALVES AND CONTROLS US, INC. is sued as a Product Defendant. Plaintiffs' claims against VALVES AND CONTROLS US, INC. arise out of this Defendant's business activities in the State of South Carolina.

98. Defendant, **VELAN VALVE CORP.**, was and is a Delaware corporation with its principal place of business in Vermont. At all times material hereto, VELAN VALVE CORP. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Velan valves at numerous jobsites in South Carolina and North Carolina. VELAN VALVE CORP. is sued as a Product Defendant. Plaintiffs' claims against VELAN VALVE CORP. arise out of this Defendant's business activities in the State of South Carolina.

99. Defendant, **VIKING PUMP, INC.**, was and is a Delaware corporation with its principal place of business in Iowa. At all times material hereto, VIKING PUMP, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Viking pumps at numerous jobsites in South Carolina and North Carolina. VIKING PUMP, INC. is sued as a

Product Defendant. Plaintiffs' claims against VIKING PUMP, INC. arise out of this Defendant's business activities in the State of South Carolina.

100. Defendant, **VISTRA INTERMEDIATE COMPANY LLC**, individually and as successor-in-interest to CRSS INC., was and is a Delaware limited liability corporation with its principal place of business in Texas. At all times material hereto, VISTRA INTERMEDIATE COMPANY LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the design of facilities that included the use of asbestos-containing materials, and the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. VISTRA INTERMEDIATE COMPANY LLC is sued as a Product Defendant and a Design Defendant. VISTRA INTERMEDIATE COMPANY LLC is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against VISTRA INTERMEDIATE COMPANY LLC arise out of this Defendant's business activities in the State of South Carolina.

101. Defendant, **THE WILLIAM POWELL COMPANY**, was and is an Ohio corporation with its principal place of business in Ohio. At all times material hereto, THE WILLIAM POWELL COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Powell valves at numerous jobsites in South Carolina and North Carolina. THE WILLIAM POWELL COMPANY is sued as a Product Defendant. Plaintiffs' claims against

THE WILLIAM POWELL COMPANY arise out of this Defendant's business activities in the State of South Carolina.

102. Defendant, **WIND UP, LTD.**, individually and as successor-in-interest to PIPE & BOILER INSULATION, INC. f/k/a CAROLINA INDUSTRIAL INSULATING CO., was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, WIND UP, LTD. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. WIND UP, LTD. is sued as a Product Defendant. WIND UP, LTD. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Wind Up, Ltd., exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiff's claims against WIND UP, LTD. arise out of this Defendant's business activities in the State of South Carolina.

103. Defendant, **YUBA HEAT TRANSFER LLC**, was and is a Delaware limited liability company with its principal place of business in Oklahoma. At all times material hereto, YUBA HEAT TRANSFER LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Yuba water pre-heaters present at numerous jobsites in South Carolina and North Carolina. YUBA HEAT TRANSFER LLC is sued as a Product Defendant. Plaintiffs' claims against YUBA HEAT TRANSFER LLC arise out of this Defendant's business activities in the State of South Carolina.

104. Defendant, **ZURN INDUSTRIES, LLC**, individually and as successor-in-interest to ZURN INDUSTRIES, INC., was and is a Delaware limited liability company with its principal place of business in Wisconsin. At all times material hereto, ZURN INDUSTRIES, LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Zurn boilers present at numerous jobsites in South Carolina and North Carolina. ZURN INDUSTRIES, LLC is sued as a Product Defendant. Plaintiffs' claims against ZURN INDUSTRIES, LLC arise out of this Defendant's business activities in the State of South Carolina.

105. Plaintiff John A. Tibbs experienced further occupational exposure as a result of working with asbestos-containing equipment in his immediate vicinity at his work site, the premises of Defendants DUKE ENERGY CAROLINAS, LLC and DUKE ENERGY CORPORATION (collectively, hereinafter the "Premises Defendants"). All other Defendants (except for METROPOLITAN LIFE INSURANCE COMPANY), or their applicable predecessors in interest, were engaged in the manufacture, sale, distribution and/or installation of asbestos-containing products or raw asbestos materials for use in South Carolina and other states at times relevant to this action. At all times relevant to this action, the Defendants and the predecessors of the Defendants, for whose actions the Defendants are legally responsible, were engaged in the manufacture, sale, distribution, and/or installation of asbestos-containing products and raw materials for use in South Carolina and other states at times relevant to this action.

BACKGROUND FACTS

106. Plaintiffs bring this action for monetary damages as a result of Plaintiff John A. Tibbs contracting an asbestos-related disease.

107. Plaintiff John A. Tibbs was diagnosed with lung cancer on or about December 15, 2022.

108. Plaintiff John A. Tibbs's lung cancer was caused by his exposure to asbestos during the course of his employment, as well as through the asbestos carried home on the clothing and person of his father during the years in which he lived in the family home.

109. During his work history, Plaintiff John A. Tibbs was exposed to Defendants' asbestos-containing products through his work as a mechanic electrician from approximately the late 1950s to the late 1970s, at various industrial jobsites located primarily in South Carolina and North Carolina. Plaintiff performed a variety of tasks throughout his worksites, which include but are not limited to, working on asbestos-containing pipe, block, cement, insulation, turbines, boilers, valves, steam traps, pumps, furnaces, and other equipment, as well as cutting, repairing, installing and removing asbestos-containing insulation, materials and other products. All of these activities exposed Plaintiff to asbestos and asbestos-dust.

110. During his work history, Plaintiff was further exposed through his work around other trades including carpenters, mechanics, pipefitters, boilermakers, insulators, and electricians. Plaintiff worked near and closely to a variety of tradesmen working on asbestos-containing pipe, block, cement, insulation, turbines, boilers, valves, steam traps, pumps, furnaces, and other equipment, as well as tradesmen mixing, cutting, repairing, installing and removing asbestos-containing insulation, materials and other products. All of these activities exposed Plaintiff to asbestos and asbestos-dust.

111. Plaintiff John A. Tibbs was exposed to Defendants' asbestos-containing products through his work as a mechanic electrician for Duke Power Company from approximately the late 1950s to the late 1970s, at various locations, including but not limited to the following:

- Ninety-Nine Islands Hydroelectric Station – Blacksburg, SC
- Gaston Shoals Hydroelectric Station – Blacksburg, SC
- Portman Shoals Hydroelectric Station – Williamston, SC
- Rocky Creek Hydroelectric Station – Great Falls, SC
- Cedar Creek Hydroelectric Station – Great Falls, SC
- Boyd's Mill Hydroelectric Station – Poplar Springs, SC
- Oxford Hydroelectric Station – Conover, NC
- Rhodhiss Hydroelectric Station – Rhodhiss, NC
- Tumbling Shoals Hydroelectric Station/Dam – Lake Lure, NC
- Holiday's Bridge Hydroelectric Station – Belton, SC
- Riverbend Steam Station – Mount Holly, NC
- Cowans Ford Hydroelectric Station/Dam – Huntersville, NC
- Marshall Steam Station – Sherrills Ford, NC
- Dan River Steam Station – Eden, NC
- Oconee Nuclear Station – Seneca, SC
- Jocassee Hydroelectric Station/Dam – Salem, SC
- Keowee Hydroelectric Station – Seneca, SC
- Cliffside Steam Station – Mooresboro, NC
- Belews Creek Steam Station – Belews Creek, NC
- Allen Steam Station – Belmont, NC
- Buck Steam Station – Salisbury, NC
- Lee Steam Station – Williamston, SC

112. During the course of Plaintiff John A. Tibbs's employment at the location(s) mentioned above, during other occupational and non-occupational work projects and in other ways, Plaintiff was exposed to and inhaled, ingested, or otherwise absorbed asbestos dust and fibers emanating from certain products he was working around.

113. Plaintiff John A. Tibbs was further exposed as a result of his father John H. Tibbs's employment as a superintendent of maintenance for Duke Power Company from approximately the late 1930s to the early 1980s. Plaintiff's father was exposed to asbestos through his work throughout the various facilities, and was further exposed through his work around various other

trades, including but not necessarily limited to premises workers, maintenance workers, insulators, pipefitters, welders, boilermakers, electricians, and others who installed and removed asbestos-containing materials.

114. While employed as a superintendent of maintenance, Plaintiff's father John H. Tibbs wore his own clothes to work, was exposed to asbestos dust and fibers that he brought home on his work clothes, fell off in his vehicle and were on his body including his hair, that distributed and re-entrained in his vehicle and home which caused Plaintiff John A. Tibbs to be exposed to said asbestos dust in sufficient amounts as to cause him to develop lung cancer.

115. From approximately the early 1940s to the early 1960s, Plaintiff John A. Tibbs was exposed to asbestos dust and fibers from products, services, and goods manufactured, distributed and/or sold by Defendants for use at Plaintiff's father's jobsites which Plaintiff came in contact with off premises through contact with his father's work clothes, personal possessions, and vehicle. Plaintiff's exposure to asbestos dust and fibers occurred through his contact with his father's work clothing and person when greeting him at the end of the workday, through spending time in his father's vehicle in which asbestos dust and fibers had been deposited, and through sharing a home contaminated with asbestos fibers that were constantly being stirred up and re-entrained in the air that they breathed throughout their home.

116. Plaintiff John A. Tibbs's cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products, individually and together, was a substantial factor in causing Plaintiff John A. Tibbs's lung cancer and other related injuries and therefore under South Carolina law, is the legal cause of Plaintiff's injuries and damages.

117. Plaintiffs and Plaintiff John A. Tibbs's father John H. Tibbs were not aware at the time of exposure that asbestos and/or asbestos-containing products presented any risk of injury and/or disease.

118. Plaintiffs are informed and believe, and thereon allege, that progressive lung disease, lung cancer and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

119. As a direct and proximate result of the conduct as alleged within, Plaintiff John A. Tibbs suffered permanent injuries, including, but not limited to, lung cancer and other lung damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

120. As a direct and proximate result of the conduct as hereinafter alleged, Plaintiff John A. Tibbs has incurred, and will continue to incur, liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to Plaintiffs at this time. Plaintiffs request leave to supplement this Court and all parties accordingly when the true and exact cost of Plaintiff John A. Tibbs's medical treatment is ascertained.

121. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiffs have incurred loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs. Plaintiffs request leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

FOR A FIRST CAUSE OF ACTION
(Product Liability: Negligence)

Plaintiffs Complain of Defendants for a Cause of Action for Negligence Alleging as Follows:

122. Plaintiffs incorporate herein by reference, as though fully set forth herein, each and every paragraph of the General Allegations above.

123. At all times herein mentioned, each of the named Defendants was an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as “alternate entities,” engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable use with asbestos products.

124. At all times herein mentioned, Defendants, and/or their “alternate entities” singularly and jointly, negligently and carelessly researched, manufactured, fabricated, designed, modified, tested or failed to test, abated or failed to abate, inadequately warned or failed to warn of the health hazards, failed to provide adequate use instructions for eliminating the health risks inherent in the use of the products, labeled, assembled, distributed, leased, bought, offered for sale, supplied, sold, inspected, serviced, installed, contracted for installation, repaired, marketed, warranted, rebranded, manufactured for others, packaged and advertised, a certain product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable use with asbestos products, in that said products caused personal injuries to Plaintiff John A. Tibbs and

others similarly situated, (hereinafter collectively called “exposed persons”), while being used for their intended purpose and in a manner that was reasonably foreseeable.

125. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants’ asbestos and asbestos-containing products, and products manufactured for foreseeable use with asbestos products from causing Plaintiff John A. Tibbs’s lung cancer, due to an inability of any asbestos-alternative to penetrate the pleural lining of Plaintiff’s lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or their “alternate entities.” Said alternatives were of comparable utility to the asbestos or asbestos-containing products of Defendants and/or their “alternate entities.” The gravity of the potential harm resulting from the use of Defendants’ asbestos or asbestos-containing products, and the likelihood such harm would occur to users of its products, far outweighed any additional cost or marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use by Plaintiff John A. Tibbs and his father John H. Tibbs. Defendants and/or their “alternate entities” had a duty to exercise due care in the pursuance of the activities mentioned above and Defendants, each of them, breached said duty of due care.

126. Defendants, and/or their “alternate entities” knew or should have known, and intended that the aforementioned asbestos and asbestos-containing products would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for insulation,

construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other applications, including, but not limited to grinding, sawing, chipping, hammering, scraping, sanding, breaking, removal, “rip-out,” and other manipulation, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling by exposed persons, including Plaintiff John A. Tibbs and his father John H. Tibbs, would use or be in proximity to and exposed to said asbestos fibers.

127. At all times relevant, Defendants and/or their “alternate entities” were aware of their asbestos and asbestos-containing products’ defect but failed to adequately warn Plaintiff John A. Tibbs, Plaintiff’s family members or others in their vicinity, as well as failed to adequately warn others of the known hazards associated with their products and/or failed to recall or retrofit their products. A reasonable manufacturer, distributor, or seller of Defendants’ products would have, under the same or similar circumstances, adequately warned of the hazards associated with their products.

128. Plaintiff John A. Tibbs, Plaintiff’s family members and others in their vicinity used, handled or were otherwise exposed to asbestos and asbestos-containing products referred to herein in a manner that was reasonably foreseeable. Plaintiff’s and his father John H. Tibbs’s exposure to asbestos and asbestos-containing products occurred at various locations as set forth in this Complaint.

129. Plaintiff John A. Tibbs suffers from lung cancer, a cancer related to exposure to asbestos and asbestos-containing products. Plaintiff John A. Tibbs and his father John H. Tibbs were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury or disease.

130. Defendants’ conduct and defective products as described in this cause of action were a direct cause of Plaintiff John A. Tibbs’s injuries, and all damages thereby sustained by

Plaintiff John A. Tibbs. Plaintiffs therefore seek all compensatory damages in order to make them whole, according to proof.

131. Furthermore, the conduct of Defendants and/or their “alternate entities” in continuing to market and sell products which they knew were dangerous to Plaintiff John A. Tibbs and the public without adequate warnings or proper use instructions was done in a conscious disregard and indifference to the safety and health of Plaintiff John A. Tibbs and others similarly situated.

132. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, failing to recall or retrofit, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, Defendants and/or their “alternate entities” did so with conscious disregard for the safety of “exposed persons” who came in contact with asbestos and asbestos-containing products, in that Defendants and/or their “alternate entities” had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos, asbestos-containing products or products manufactured for foreseeable use with asbestos products, including, but not limited to, asbestosis, lung cancer, and other lung damages. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their “alternate entities.”

133. Defendants and their “alternate entities” were aware that members of the general public and other “exposed persons,” who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products, could

cause injury, and Defendants, and their “alternate entities,” each of them, knew that members of the general public and other “exposed persons,” who came in contact with asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, would assume, and in fact did assume, that exposure to asbestos and asbestos-containing products was safe, when in fact said exposure was extremely hazardous to health and human life.

134. The above-referenced conduct of Defendants, and their “alternate entities,” was motivated by the financial interest of Defendants, their “alternate entities,” and each of them, in the continuing, uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection, installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing products and products manufactured for foreseeable use with asbestos products. Defendants, their “alternate entities,” and each of them consciously disregarded the safety of “exposed persons” in pursuit of profit. Defendants were consciously willing and intended to permit asbestos and asbestos-containing products to cause injury to “exposed persons” without warning them of the potential hazards and further induced persons to work with and be exposed thereto, including Plaintiff John A. Tibbs.

135. Plaintiff John A. Tibbs, his father John H. Tibbs, and other exposed persons did not know of the substantial danger of using Defendants’ asbestos, asbestos containing-products, and products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Plaintiff John A. Tibbs, his father John H. Tibbs, or other exposed persons. Defendants and/or their “alternate entities” further failed to adequately warn of the risks to which Plaintiff and others similarly situated were exposed.

136. Defendants and/or their “alternate entities” are liable for the fraudulent, oppressive, and malicious acts of their “alternate entities,” and each Defendant's officers, directors and

managing agents participated in, authorized, expressly and impliedly ratified, and had full knowledge of, or should have known of, the acts of each of their “alternate entities” as set forth herein.

137. The herein-described conduct of Defendants and their “alternate entities,” was and is willful, malicious, fraudulent, and outrageous and in conscious disregard and indifference to the safety and health of persons foreseeably exposed. Plaintiffs, for the sake of example and by way of punishing said Defendants, seek punitive damages according to proof against all defendants.

FOR A SECOND CAUSE OF ACTION

(Product Liability: Strict Liability - S.C. Code Ann. § 15-73-10, et seq.)

As a Second and Distinct Cause of Action for Strict Liability, Plaintiffs Complain of Defendants, and Allege as Follows:

138. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

139. Plaintiff John A. Tibbs suffers from lung cancer, a cancer related to exposure to asbestos, asbestos-containing products and products manufactured for foreseeable use with asbestos products. Plaintiff John A. Tibbs and his father John H. Tibbs were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

140. The Product Defendants’ conduct and defective products as described above were a direct cause of Plaintiff John A. Tibbs’s injuries, and the injuries and damages thereby sustained by Plaintiffs.

141. Furthermore, the Defendants’ conduct and that of their “alternate entities” in continuing to market and sell products which they knew were dangerous to Plaintiff John A. Tibbs, his father John H. Tibbs, and the public without adequate warnings or proper use instructions, was

done in a conscious disregard and indifference to the safety and health of Plaintiff John A. Tibbs, his father John H. Tibbs, and others similarly situated.

142. Defendants and/or their “alternate entities” knew or should have known, and intended that the aforementioned asbestos and products containing asbestos would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other applications, including, but not limited to grinding, sawing, chipping, hammering, scraping, sanding, breaking, removal, “rip-out,” and other manipulation, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling, “exposed persons,” including Plaintiff John A. Tibbs and his father John H. Tibbs, would use or be in proximity to and exposed to said asbestos fibers.

143. Plaintiff John A. Tibbs, Plaintiff’s family members, and others in their vicinity used, handled or were otherwise exposed to asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, referred to herein in a manner that was reasonably foreseeable. Plaintiff’s and his father John H. Tibbs’s exposure to asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products occurred at various locations as set forth in this Complaint.

144. Defendants and/or their “alternate entities” knew and intended that the above-referenced asbestos and asbestos-containing products would be used by the purchaser or user without inspection for defects therein or in any of their component parts and without knowledge of the hazards involved in such use.

145. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the

product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants' asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products from causing Plaintiff John A. Tibbs's lung cancer, due to an inability of any asbestos-alternative to penetrate the pleural lining of Plaintiff's lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or their "alternate entities." Said alternatives were of comparable utility to the asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products of Defendants and/or their "alternate entities." The gravity of the potential harm resulting from the use of Defendants' asbestos or asbestos-containing products, and the likelihood such harm would occur, far outweighed any additional cost or marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use.

146. The defect existed in the said products at the time they left the possession of defendants and/or their "alternate entities," and each of them. Said products were intended to reach the ultimate consumer in the same condition as it left defendants. Said products did, in fact, cause personal injuries, including lung cancer, asbestosis, other lung damage, and cancer to "exposed persons," including Plaintiff John A. Tibbs herein, while being used in a reasonably foreseeable manner, thereby rendering the same defective, unsafe and dangerous for use.

147. Plaintiff John A. Tibbs, his father John H. Tibbs, and other exposed persons did not know of the substantial danger of using Defendants' asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Plaintiff John A. Tibbs, his father John H. Tibbs, or other exposed persons. Said Defendants and/or their "alternate entities" further failed to

adequately warn of the risks to which Plaintiff John A. Tibbs, his father John H. Tibbs, and others similarly situated were exposed.

148. Defendants' defective products as described above were a direct cause of Plaintiff John A. Tibbs's injuries, and the damages thereby sustained.

149. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, Defendants and/or their "alternate entities," and each of them, did so with conscious disregard for the safety of Plaintiff John A. Tibbs, his father John H. Tibbs, and other exposed persons who came in contact with the asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, in that Defendants and/or their "alternate entities" had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products, including, but not limited to, lung cancer, asbestosis, other lung damages and cancers. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their "alternate entities."

150. Defendants and/or their "alternate entities" were aware that members of the general public and other exposed persons, who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products could cause injury. Defendants and/or their "alternate entities" further knew that members of the general public and other exposed persons, who came in contact with asbestos, asbestos-containing

products, and products manufactured for foreseeable use with asbestos products would assume, and in fact did assume, that exposure to asbestos and asbestos- containing products was safe, when in fact exposure was extremely hazardous to health and human life.

151. The above-referenced conduct of Defendants and/or their “alternate entities” motivated by the financial interest of Defendants, their “alternate entities,” and each of them, in the continuing and uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection, installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products. Defendants and/or their “alternate entities” consciously disregarded the safety of “exposed persons” in their pursuit of profit and in fact consciously intended to cause injury to Plaintiff John A. Tibbs, his father John H. Tibbs, and other exposed persons and induced persons to work with, be exposed to, and thereby injured by asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products.

152. Defendants are liable for the fraudulent, oppressive, and malicious acts of their “alternate entities,” and each Defendant's officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and knew, or should have known of, the acts of each of their “alternate entities” as set forth herein.

153. The conduct of said defendants, their “alternate entities,” and each of them as set forth in this Complaint, was and is willful, malicious, fraudulent, outrageous and in conscious disregard and indifference to the safety and health of exposed persons. Plaintiffs, for the sake of example and by way of punishing said Defendants, seeks punitive damages according to proof against all defendants.

154. At all times herein mentioned, each of the named Defendants, and/or their “alternate entities,” was an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as “alternate entities,” engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain product, namely asbestos, other products containing asbestos and products manufactured for foreseeable use with asbestos products.

FOR A THIRD CAUSE OF ACTION
(Vicarious Liability of Defendants Based upon Respondeat Superior)

As a Third Distinct Cause of Action Against Defendants, Plaintiffs Bring this Third Cause of Action for Vicarious Liability of Defendants Based upon Respondeat Superior and Allege as Follows:

155. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

156. Prior to and during all relevant times Defendants and/or their “alternate entities” employed workers (hereinafter “employees”) in areas where defendants owned, maintained, controlled, managed and/or conducted business activities where Plaintiff John A. Tibbs and/or his father John H. Tibbs worked and/or spent time as alleged above.

157. At all times herein mentioned, Defendants’ employees frequently encountered asbestos-containing products, materials, and debris during the course and scope of their employment, and during their regular work activities negligently disturbed asbestos-containing materials to which Plaintiff John A. Tibbs and his father John H. Tibbs were exposed.

158. Employees handling and disturbing asbestos-containing products in Plaintiff John A. Tibbs's and his father John H. Tibbs's vicinity were the agents and employees of defendants and at all times relevant were subject to the control of Defendants with respect to their acts, labor, and work involving (a) the removal, transport, installation, cleaning, handling, and maintenance of asbestos-containing products, materials, and debris, and (b) the implementation of safety policies and procedures. Defendants controlled both the means and manner of performance of the work of their employees as described herein.

159. Employees handling and disturbing asbestos-containing products in Plaintiff John A. Tibbs's, Plaintiff's family members and others' vicinity received monetary compensation from Defendants in exchange for the work performed and these employees performed the work in the transaction and furtherance of Defendants' businesses.

160. Harmful asbestos fibers were released during Defendants' employees' use, handling, breaking, or other manipulation of asbestos-containing products and materials.

161. Once released, the asbestos fibers contaminated the clothes, shoes, skin, hair, and body parts of those exposed, including Plaintiff John A. Tibbs and his father John H. Tibbs, who also inhaled those fibers, and on the surfaces of work areas, where further activity caused the fibers to once again be released into the air and inhaled by Plaintiff John A. Tibbs.

162. The asbestos and asbestos-containing materials were unsafe in that handling and disturbing products containing asbestos causes the release of asbestos fibers into the air onto surrounding surfaces, and onto persons in the area. The inhalation of asbestos fibers can cause serious disease and death.

163. Defendants' employees' use, handling and manipulation of asbestos-containing materials, as required by their employment and occurring during the course and scope of their

employment, did in fact, cause personal injuries, including lung cancer and other lung damage, to exposed persons including Plaintiff John A. Tibbs.

164. Defendants' employees were negligent in their use, handling and manipulation of said products in that they failed to isolate their work with asbestos and/or to suppress asbestos fibers from being released into the air and surrounding areas. They also failed to take appropriate steps to learn how to prevent exposure to asbestos, failed to warn and/or adequately warn Plaintiff John A. Tibbs and his father John H. Tibbs that they were being exposed to asbestos, failed to adequately warn Plaintiff John A. Tibbs and his father John H. Tibbs of the harm associated with his exposure to asbestos, and provide them with protection to prevent their inhalation of asbestos.

165. Defendants' employees knew or should have known that failure to take such steps would result in exposure to bystanders including Plaintiff John A. Tibbs and his father John H. Tibbs.

166. Defendants' employees owed Plaintiff John A. Tibbs and his father John H. Tibbs a duty to exercise due care and diligence in their activities while they were lawfully on the premises so as not to cause them harm.

167. Defendants' employees breached this duty of care as described above.

168. At all times mentioned, Plaintiff John A. Tibbs and his father John H. Tibbs were unaware of the dangerous condition and unreasonable risk of personal injury created by Defendants' employees' use of and work with asbestos-containing products and materials.

169. As a direct result of the Defendants' employees conduct, Plaintiff John A. Tibbs's and his father John H. Tibbs's exposure to asbestos, asbestos-containing materials, and products manufactured for foreseeable use with asbestos products, each individually and together, caused severe and permanent injury to Plaintiff John A. Tibbs and the damages and injuries as complained of herein by Plaintiffs.

170. The risks herein alleged and the resultant damages suffered by the Plaintiff John A. Tibbs were typical of or broadly incidental to Defendants' business enterprises. As a practical matter, the losses caused by the torts of Defendants' employees as alleged were sure to occur in the conduct of Defendants' business enterprises. Nonetheless, Defendants engaged in, and sought to profit by, their business enterprises without exercising due care as described in this Complaint, which, on the basis of past experience, involved harm to others as shown through the torts of employees.

171. Based on the foregoing, Defendants as the employers of said employees are vicariously liable under the doctrine of respondeat superior for all negligent acts and omissions committed by their employees in the course and scope of their work that caused harm to Plaintiff John A. Tibbs.

FOR A FOURTH CAUSE OF ACTION
(Premises Liability: Negligence as to Premises Owner/Contractor)

As a Fourth Distinct Cause of Action for General Negligence, Plaintiffs Complain of Defendants, and Allege as Follows:

172. Plaintiffs incorporate by reference, the preceding paragraphs as if fully set forth herein.

173. Prior to and during all relevant times, the Defendants and/or their "alternate entities" employed workers in areas where Defendants owned, maintained, controlled, managed and/or conducted business activities where Plaintiff John A. Tibbs and his father John H. Tibbs worked and/or spent time.

174. At all times herein mentioned, Defendants selected, supplied, and distributed asbestos-containing materials to their employees for use during their regular work activities, and said employees disturbed those asbestos-containing materials.

175. Defendants were negligent in selecting, supplying, distributing and disturbing the asbestos-containing products and in that said products were unsafe. Said products were unsafe because they released asbestos fibers and dust into air when used which would be inhaled by Plaintiff John A. Tibbs, and his father John H. Tibbs, and settled onto their clothes, shoes, hands, face, hair, skin, and other body parts thus creating a situation whereby workers and by-standers including Plaintiff John A. Tibbs would be exposed to dangerous asbestos dust beyond the present.

176. The asbestos, asbestos-containing materials, and products manufactured for foreseeable use with asbestos products described herein were unsafe in that handling and disturbing products containing asbestos causes the release of asbestos fibers into the air, and the inhalation of asbestos fibers causes serious disease and death. Here, the handling of the above-described asbestos-containing materials by Defendants' employees, as required by their employment and occurring during the course and scope of their employment, did, in fact, cause personal injuries, including lung cancer and other lung damage, to exposed persons, including Plaintiffs.

177. At all times herein mentioned, Defendants knew or should have known that its employees and bystanders thereto, including Plaintiff John A. Tibbs and his father John H. Tibbs, frequently encountered asbestos-containing products and materials during the course and scope of their work activities.

178. At all times herein mentioned, Defendants knew or should have known that the asbestos-containing materials encountered by its employees and bystanders thereto including Plaintiff John A. Tibbs and his father John H. Tibbs were unsafe in that harmful asbestos fibers were released during the use, handling, breaking, or other manipulation of asbestos-containing products and materials, and that once released, asbestos fibers can be inhaled, and can alight on the clothes, shoes, skin, hair, and body parts of those exposed, where further activity causes the

fibers to once again be released into the air where they can be inhaled, all of which causes serious disease and/or death.

179. At all times herein mentioned, Defendants, in the exercise of reasonable diligence, should have known that absent adequate training and supervision, their employees and bystanders thereto, including Plaintiff John A. Tibbs and his father John H. Tibbs, were neither qualified nor able to identify asbestos-containing products nor to identify the hazardous nature of their work activities involving asbestos-containing products.

180. At all times herein mentioned, Plaintiff John A. Tibbs and his father John H. Tibbs were unaware of the dangerous condition and unreasonable risk of personal injury created by the presence and use of asbestos-containing products and materials.

181. At all times herein mentioned, Defendants, in the exercise of reasonable diligence, should have known that workers and bystanders thereto, would bring dangerous dust home from the workplace and contaminate their family cars and homes, continuously exposing and potentially causing injury to others off the premises.

182. At all times herein mentioned, Defendants had a duty to use due care in the selection, supply, distribution and disturbance of asbestos-containing products and materials to its employees, to adequately instruct, train, and supervise their employees and to implement adequate safety policies and procedures to protect workers and persons encountering those workers, including Plaintiff John A. Tibbs, from suffering injury or death as a result of the asbestos hazards encountered and created by the work of Defendants' employees.

183. Defendants' duties as alleged herein exist and existed independently of Defendants' duties to maintain their premises in reasonably safe condition, free from concealed hazards.

184. Defendants negligently selected, supplied, and distributed the asbestos-containing materials and failed to adequately train or supervise their employees to identify asbestos-

containing products and materials; to ensure the safe handling of asbestos-containing products and materials encountered during the course of their work activities; and to guard against inhalation of asbestos fibers and against the inhalation of asbestos fibers by those who would come into close contact with them after they had used, disturbed, or handled, said asbestos-containing products and materials during the course and scope of their employment by Defendants.

185. Defendants failed to warn their employees and bystanders thereto, including Plaintiff John A. Tibbs and his father John H. Tibbs, of the known hazards associated with asbestos and the asbestos-containing materials they were using and/or disturbing.

186. As a direct and proximate result of the conduct of Defendants in selecting, supplying, distributing and disturbing asbestos-containing materials or products manufactured for foreseeable use with asbestos products and failing to adequately train and supervise their employees and failing to adopt and implement adequate safety policies and procedures as alleged herein, Plaintiff John A. Tibbs became exposed to and inhaled asbestos fibers, which was a substantial factor in causing Plaintiff John A. Tibbs to develop asbestos-related lung cancer, and to suffer all damages attendant thereto.

FOR A FIFTH CAUSE OF ACTION
(Negligence Per Se)

As a Fifth Distinct Cause of Action for Negligence Per Se, Plaintiffs Complain of Defendants, and Allege as Follows:

187. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

188. The actions of Defendants also constituted negligence per se.

189. Defendants violated federal and state regulations relating to asbestos exposure. Such violations constitute negligence per se or negligence as a matter of law. Further, each such violation resulted in dangerous and unlawful exposures to asbestos for Plaintiff John A. Tibbs.

Plaintiffs are not making any claims under federal law; instead, Plaintiffs are simply using the violation of federal standards as proof of liability on their state-law theories. Further, the reference to Federal regulations does not create a federal question. *See Merrell Dow Pharms., Inc. v. Thompson*, 478 U.S. 804 (1986). Any removal on this basis will be met with an immediate motion for remand and for sanctions.

190. The negligence per se of Defendants was a proximate cause of Plaintiff John A. Tibbs's injuries.

FOR A SIXTH CAUSE OF ACTION
(Negligence as to Design Defendants)

As a Sixth Distinct Cause of Action for Negligence, Plaintiffs Complain of Design Defendants and Allege as Follows:

191. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

192. The work performed by the Design Defendants was defective in all, but not limited to, the following particulars:

- (a) In failing and neglecting to properly inspect the building for defects in the construction, design, and defects in the asbestos-containing products, materials and/or equipment.
- (b) In failing and neglecting to properly train employees in the proper installation of asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (c) In failing and neglecting to properly supervise employees, contractors, subcontractors, and/or suppliers in the proper installation of asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (d) In failing and neglecting to employ careful contractors and/or employees.
- (e) In failing and neglecting to properly install asbestos-containing products, materials and/or equipment, including but not limited to asbestos.

- (f) In failing to properly install the asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (g) In failing to properly warn Plaintiff John A. Tibbs and his father John H. Tibbs of dangers and risks associated with the conditions of the material and work product which was being installed for use by Plaintiff, his father, and others in their vicinity.
- (h) By such other failures as will be proved at trial.

All of which is contrary to one or more of workmanlike practice; the plans, specifications, and other contract documents; manufacturers' recommendations and instructions; trade custom and usage; and applicable building codes.

193. As a direct, proximate, and foreseeable result of the negligence of the Design Defendants, Plaintiff John A. Tibbs suffered and incurred actual damages, as described hereinabove, and are entitled to recover such damages from the Design Defendants in such an amount as the trier of fact may find. The actions and omissions to act of the Design Defendants were willful, wanton, reckless and grossly negligent, so as to entitle the Plaintiffs to recover punitive damages.

FOR A SEVENTH CAUSE OF ACTION
(Negligent Design Services Against Design Defendants)

As a Seventh Distinct Cause of Action for Negligent Design Services, Plaintiffs Complain of Design Defendants and Allege as Follows:

194. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

195. Design Defendants owed Plaintiff John A. Tibbs and his father John H. Tibbs a duty to perform professional design services, including construction administration, in accordance with professional standards obtained in South Carolina for the delivery and performance of such services.

196. Design Defendants breached such professional standards in all, but not limited to, the following particulars:

- (a) In failing and neglecting to take reasonable care in the design of said building.
- (b) In failing and neglecting to properly design said building, to issue proper construction, to prevent continuous and substantial exposure to asbestos and/or asbestos-containing products.
- (c) In failing and neglecting to properly supervise the construction of said building.
- (d) In failing and neglecting to properly and reasonably design said building to eliminate exposure to asbestos and/or asbestos-containing products, including but not limited to asbestos-containing insulation.
- (e) In negligently specifying the use of inappropriate, improper and/or defective and deficient building systems, materials, and components, including but not limited to asbestos-containing insulation.
- (f) By such other failures as will be proved at trial.

197. As a direct, proximate, and foreseeable result of the negligence of the Design Defendants, Plaintiff John A. Tibbs suffered and incurred actual damages, as described hereinabove, and are entitled to recover such damages from the Design Defendants in such an amount as the trier of fact may find. The actions and omissions to act of the Design Defendants were willful, wanton, reckless and grossly negligent, so as to entitle the Plaintiffs to recover punitive damages.

FOR AN EIGHTH CAUSE OF ACTION

(Product Liability: Breach of Implied Warranties - S.C. Code Ann. § 36-2-314)

As an Eighth Distinct Cause of Action for Breach of Implied Warranties, Plaintiffs Complain of Defendants and Allege as Follows:

198. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

199. Each of the Defendants and/or their “alternate entities” impliedly warranted that their asbestos materials or asbestos-containing products were of good and merchantable quality and fit for their intended use.

200. The implied warranty made by the Defendants and/or their “alternate entities” that the asbestos and asbestos-containing products were of good and merchantable quality and fit for the particular intended use, was breached. As a result of that breach, asbestos was given off into the atmosphere where Plaintiff John A. Tibbs and his father John H. Tibbs carried out their duties and was inhaled by Plaintiff John A. Tibbs.

201. As a direct and proximate result of the breach of the implied warranty of good and merchantable quality and fitness for the particular intended use, Plaintiff John A. Tibbs and his father John H. Tibbs were exposed to Defendants’ asbestos, asbestos-containing products, and/or products manufactured for foreseeable use with asbestos products, and Plaintiff John A. Tibbs consequently developed lung cancer, causing Plaintiffs to suffer all damages attendant thereto.

FOR A NINTH CAUSE OF ACTION
(Fraudulent Misrepresentation)

For a Ninth Distinct Cause of Action for Fraudulent Misrepresentation, Plaintiffs Complain of Defendants, and Allege as Follows:

202. Plaintiffs repeat and re-allege the portions of the above paragraphs where relevant.

203. That during, before and after Plaintiff John A. Tibbs’s exposure to asbestos products manufactured by Defendants and/or their “alternate entities”, the Defendants and/or their “alternate entities” falsely represented facts, including the dangers of asbestos exposure to Plaintiff John A. Tibbs and his father John H. Tibbs in the particulars alleged in the paragraphs above, while Defendants each had actual knowledge of said dangers of asbestos exposure to persons such as Plaintiff John A. Tibbs and his father John H. Tibbs. At the same time of these misrepresentations,

Defendants each knew of the falsity of their representations and/or made the representations in reckless disregard of their truth or falsity.

204. The foregoing representations were material conditions precedent to Plaintiff John A. Tibbs's continued exposure to asbestos-containing products. Defendants and/or their "alternate entities" each intended that Plaintiff John A. Tibbs act upon the representations by continuing his work around, and thereby exposure to, the asbestos products. Plaintiff John A. Tibbs was ignorant of the falsity of Defendants' representations and rightfully relied upon the representations.

205. As a direct and proximate result Plaintiff John A. Tibbs's and his father John H. Tibbs's reliance upon Defendants' false representations, Plaintiffs have suffered injury and damages as described herein.

FOR A TENTH CAUSE OF ACTION

(Conspiracy, Concert of Action – Defendant Metropolitan Life Insurance Company)

For a Tenth Distinct Cause of Action for Fraudulent Misrepresentation, Plaintiff Complains of Defendant Metropolitan Life Insurance Company, and Alleges as Follows:

206. Plaintiffs repeat and re-allege the portions of the above paragraphs where relevant.

207. Beginning in the late 1920's, conspirators including Defendant Metropolitan Life Insurance Company ("Met Life"), as well as Johns-Manville, Raybestos-Manhattan and others, undertook a duty to conduct research on asbestos-related health problems and to inform the public about any health risks that could be associated therewith. In or about 1929, Met Life, through its agents and employees acting within the scope of their agency and employment, including but not limited to Dr. Anthony J. Lanza ("Lanza"), began an investigation of asbestos-related health hazards. In 1935, this study was altered by Lanza, with the full knowledge of Met Life, at the request of and in concert with the asbestos industry in order to wrongly influence the United States Public Health Service, the United States medical community and various state legislatures.

208. Thereafter, Defendant Met Life through the acts and omissions of its employees, most notably Lanza, undertook a series of activities with various members of the asbestos industry including but not limited to Johns-Manville, Raybestos-Manhattan/Raymark Industries, Inc., United States Gypsum, American Brake Blok/Abex, and others to suppress and misrepresent the dangers of exposure to asbestos dust to employees of Met Life's insureds and the general public and the medical community.

209. The conspirators through their agent, Lanza of Met Life, made a concerted effort to discredit and to terminate the experiments of certain scientists who were developing data of profound importance for the area of public health in relation to the cancer hazard which existed for workers and bystanders in the asbestos industry.

210. As a direct and proximate result of Met Life's intentional publication of deceptive and misleading medical data and information, and other conspiratorial acts and omissions, Defendant caused asbestos to be used in the settings from which Plaintiff John A. Tibbs and his father John H. Tibbs were exposed to and breathed asbestos dust which resulted in Plaintiff John A. Tibbs's injuries. Defendant Met Life, through its agents and employees and officers, aided and abetted and gave substantial assistance to Johns-Manville and Raybestos-Manhattan in their tortious selling of asbestos products and voluntarily undertook a duty to warn the United States Public Health Service, the medical community, and others about the danger of asbestos and consciously and negligently misrepresented the dangers of asbestos to the United States Public Health Service, the medical community, and others, all to the ultimate harm of Plaintiff herein.

211. Defendant Met Life rendered substantial aid and assistance to the manufacturers of asbestos-containing products to which Plaintiff John A. Tibbs and his father John H. Tibbs were exposed, and such assistance by Met Life aided and abetted the negligence and the marketing of

unreasonably dangerous asbestos-containing products by such manufacturers which proximately caused Plaintiff John A. Tibbs's illness.

212. In both conducting tests and in publishing their alleged results, Met Life failed to exercise reasonable care to conduct or publish complete, adequate and accurate tests of the health effects of asbestos. Met Life also caused to be published intentionally false, misleading, inaccurate and deceptive information about the health effects of asbestos exposure.

213. Plaintiff John A. Tibbs and his father John H Tibbs unwittingly and justifiably relied upon the thoroughness of Met Life's tests and information dissemination, the results of which Met Life published in leading medical journals.

214. As a direct and proximate contributing result of Met Life's failures to conduct or accurately publish adequate tests or disseminate accurate and truthful information, after undertaking to do so; (i) the risk of harm to Plaintiff John A. Tibbs from asbestos exposure was increased, and (ii) Plaintiff suffered the injuries described herein.

215. In failing to test fully and adequately for the adverse health effects from exposure to asbestos; in delaying the publication of such results; and in falsely editing such results as were obtained; in suppressing relevant medical inquiry and knowledge about those hazards to promote the sale and distribution of asbestos as a harmless product; and in collaborating with the other Defendants materially to understate the hazards of asbestos exposure, all for its own profit and gain, Met Life acted recklessly, wantonly, and in calculated disregard for the welfare of the general public, including Plaintiff John A. Tibbs and his father John H. Tibbs.

216. Additionally and alternatively, as a direct and proximate result of Met Life's actions and omissions, Plaintiff John A. Tibbs and his father John H. Tibbs were caused to remain ignorant of all the dangers of asbestos resulting in Plaintiff and his father, their co-workers, their wives, their family, and the general public to be unaware of the true and full dangers of asbestos, depriving

Plaintiff John A. Tibbs and his father John H. Tibbs of the opportunity to decide for themselves whether they wanted to take the risk of being exposed to asbestos, denied Plaintiff and his father the opportunity to take precautions against the dangers of asbestos and proximately caused Plaintiff's damages herein.

217. During the relevant time period the Plaintiff John A. Tibbs and his father John H. Tibbs were exposed to and did inhale and/or ingest asbestos dust, fibers, and particles, which dust, fibers, and particles came from the asbestos or asbestos-containing products which were mined, milled, manufactured, fabricated, supplied, and/or sold by the Johns Manville and/or Raybestos/Raymark.

218. Defendant, Met Life, together with Manville, Raymark and other persons and entities, known and unknown at times relevant hereto, engaged in a conspiracy or concert of action to inflict injury on the Plaintiff John A. Tibbs, and his father John H. Tibbs, and to withhold, alter, suppress and misrepresent information about the health effects of asbestos exposure. One or more of said conspirators did cause tortious injury to the Plaintiff in the course of or as a consequence of the conspiracy or concert of action. At least the following enumerated acts were undertaken by the conspirators in the course of and in furtherance of the conspiracy or concert of action:

- (a) In 1932, Met Life, through Lanza and others, assisted Manville with medical examinations of over 1,000 employees of Manville's factory in Manville, New Jersey. The report of this study shows that a large percentage of the employees suffered from asbestosis including employees not directly involved in the manufacturing process. This 1932 medical survey was not published in the medical literature and, therefore, was unavailable to scientists studying the issue of asbestos-related disease. Further collaboration between Manville and Met Life continued the cover-up.
- (b) Beginning in approximately 1934, Manville, through its agents, Vandiver Brown and Attorney J.C. Hobart, suggested to Lanza, Associate Director of Met Life, which was then insurer of Manville and Raymark, that Lanza publish a study on asbestosis in which Lanza would affirmatively misrepresent material facts about the health consequences of asbestos

exposure. This was accomplished through intentional deletion of Lanza's description of asbestosis as 'fatal' and through other selective editing that affirmatively misrepresent asbestosis as a disease process less serious than it actually is and was known to be. As a result, Lanza's study was published in the medical literature in this misleading fashion in 1935. The conspirators were motivated, in part, to effectuate this fraudulent misrepresentation and fraudulent nondisclosure by the desire to influence proposed legislation to regulate asbestos exposure and to provide a defense in lawsuits involving Manville, Raymark, and Met Life as insurer. Furthermore, upon information and belief, it is alleged that Met Life, at all times relevant hereto, had substantial monetary investments in Manville and Raymark, among other asbestos product manufacturers and distributors.

- (c) In 1936, the conspirators or some of them entered into an agreement with the Saranac Laboratories. Under this agreement, these conspirators acquired the power to decide what information Saranac could publish about asbestos disease and to control in what form such publications would occur. This agreement gave these conspirators power to affirmatively misrepresent the results of the work at Saranac, and also gave these conspirators power to material facts included in any study. On numerous occasions thereafter, the conspirators exercised their power to prevent Saranac scientists from disclosing material scientific data, resulting in numerous misstatements of fact being made at scientific meetings.
- (d) By November 1948, or earlier, Manville, Met Life (acting through Lanza), Raymark, and others decided to exert their influence to materially alter and misrepresent material facts about the substance of research started by Dr. Leroy Gardner at the Saranac Laboratories beginning in 1936. Dr. Gardner's research involved carcinogenicity of asbestos in mice and also included an evaluation of the health effects of asbestos on humans with a critical review of the then-existing standards of dust exposure for asbestos and asbestos products.
- (e) At a meeting on November 11, 1948, these conspirators and others intentionally and affirmatively determined that Dr. Gardner's work should be edited to specifically delete material facts about the cancer-causing propensities of asbestos and the health effects of asbestos on humans and they determined that only an edited version would be published. These conspirators thereby fraudulently misrepresented the risks of asbestos exposure to the public, in general, and to the class of persons exposed to asbestos, including the Plaintiff John A. Tibbs and his father John H. Tibbs.
- (f) As a direct result of influence exerted by the above described conspirators, Dr. Arthur Vorwald published Dr. Gardner's edited work in the Journal of Industrial Hygiene, AMA Archives of Industrial Hygiene and Occupational Health in 1951 in a form that stressed those portions of Dr. Gardner's work that the conspirators wished stressed, but which omitted references to

human asbestosis and cancer, thereby fraudulently and affirmatively misrepresenting the extent of the risks. The conspirators affirmatively and deliberately disseminated this misleading Vorwald publication to universities, libraries, government officials, agencies and others.

- (g) Such action constituted a material affirmative misrepresentation of the material facts involved in Dr. Gardner's work and resulted in creating an appearance that inhalation of asbestos was a less serious health concern than Dr. Gardner's unedited work indicated.
- (h) For many decades, Met Life, individually, jointly and in conspiracy with Manville and Raymark, have been in possession of medical and scientific data, literature, and test reports which clearly indicated that the inhalation of asbestos dust and fibers resulting from the ordinary foreseeable use of said asbestos-containing products and/or machinery requiring or calling for the use of asbestos or asbestos-containing products were unreasonably dangerous, hazardous, deleterious to human health, carcinogenic, and potentially deadly.
- (i) Despite the medical and scientific data, literature and test reports possessed by and available to Met Life, individually and in conspiracy with Manville and Raymark, Fraudulently, willfully and maliciously withheld, concealed and suppressed said medical and scientific data, literature and test reports regarding the risks of asbestosis, lung cancer, and other illnesses and diseases from Plaintiff who using and being exposed to Manville or Raymark asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products; caused to be released, published and disseminated medical and scientific data, literature and test reports containing information and statements regarding the risks of asbestosis, lung cancer, and other illnesses and diseases, which Metropolitan, Manville and Raymark knew were either incorrect, incomplete, outdated and misleading; distorted the results of medical examinations conducted upon workers who were using asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products and being exposed to the inhalation of asbestos dust and fibers by falsely stating and/or concealing the nature and extent of the harm which workers suffered; and failed to adequately warn the Plaintiff of the dangers to which he was exposed when they knew of the dangers.
- (j) By the false and fraudulent representations, omissions, failures, and concealments set forth above, Met Life, Manville and Raymark, individually, jointly, and in conspiracy with each other, intended to induce the Plaintiff John A. Tibbs and his father John H. Tibbs to rely upon said false and fraudulent representations, omissions, failures, and concealments, to continue to expose themselves to the dangers inherent in the use of and exposure to their asbestos-containing products and/or machinery requiring

or calling for the use of asbestos and/or asbestos-containing products. Said misrepresentations were false, incomplete, and misleading and constitute negligent misrepresentations as defined by Sections 311 and 522 of the Restatement (Second) of Torts.

219. Plaintiff John A. Tibbs and his father John H. Tibbs reasonably and in good faith relied upon the false and fraudulent representations, omissions, failures, and concealments made by Met Life, Manville, and Raymark regarding the nature of their asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products.

220. As a direct and proximate result of the conspiracy and concert of action between Met Life, Manville and Raymark, the Plaintiff John A. Tibbs and his father John H. Tibbs were deprived of the opportunity of informed free choice and connection with the use of and exposure to Manville and Raymark's asbestos and asbestos-containing products, and therefore continued to work with and be exposed to the co-conspirator corporation's asbestos and asbestos-containing products and as a result brought asbestos dust or fibers home on their clothes, hair, shoes, and contracted asbestos-related diseases and other conditions, and/or aggravated pre-existing conditions, as a result of which the Plaintiff has been damaged.

FOR AN ELEVENTH CAUSE OF ACTION
(Loss of Consortium)

For an Eleventh Distinct Cause of Action for Loss of Consortium, Plaintiff Margaret B. Tibbs Complains of Defendants, and Alleges as Follows:

221. Plaintiff incorporates by reference, the preceding paragraphs, where relevant.

222. Plaintiffs John A. Tibbs and Margaret B. Tibbs were married on or about June 23, 1962 and at all times relevant to their action were husband and wife.

223. Prior to his injuries as alleged, Plaintiff John A. Tibbs was able and did perform his spousal duties. As a proximate result thereof, subsequent to the injuries, Plaintiff John A. Tibbs has been unable to perform his spousal duties and the work and service usually performed in the

care, maintenance and management of the family home. As a proximate result thereof, Plaintiff Margaret B. Tibbs was deprived of the consortium of her spouse, including the performance of duties, all to Plaintiffs' damages, in an amount presently unknown to Plaintiffs but which will be proven at time of trial.

224. As a direct and proximate result of the acts of Defendants and/or their "alternate entities" and the severe injuries caused to Plaintiff John A. Tibbs as set forth herein, Plaintiff's spouse and co-Plaintiff Margaret B. Tibbs suffered loss of consortium, including but not by way of limitation, loss of services, marital relations, society, comfort, companionship, love and affection of her spouse, and has suffered severe mental and emotional distress and general nervousness. Plaintiff prays judgment against Defendants, their "alternate entities" and each of them, as hereinafter set forth.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray judgment, joint and several, against Defendants and/or their "alternate entities" in an amount to be proved at trial, as follows:

1. For Plaintiffs' actual damages according to proof, including pain and suffering, mental distress, as well as medical, surgical and hospital bills;
2. For loss of income or earnings according to proof;
3. For loss of care, comfort and society;
4. For punitive damages according to proof;
5. For cost of suit herein;
6. For damages for breach of implied warranty according to proof;
7. For damages for fraudulent misrepresentation according to proof;
8. For damages for conspiracy, concert of action (as to Defendant Metropolitan Life Insurance Company); and

9. For such other and further relief as the Court may deem just and proper, including costs and prejudgment interest as provided by South Carolina law.

A JURY IS RESPECTFULLY DEMANDED TO TRY THESE ISSUES.

Respectfully submitted,

/s/ Theile B. McVey

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April 5, 2023
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

JOHN A. TIBBS and
MARGARET B. TIBBS

Plaintiffs,

v.

3M COMPANY
f/k/a MINNESOTA MINING AND
MANUFACTURING COMPANY

4520 CORP., INC.
individually and as successor-in-interest to
BENJAMIN F. SHAW COMPANY

A.O. SMITH CORPORATION

A.W. CHESTERTON COMPANY

ABB INC.

AIR & LIQUID SYSTEMS CORPORATION
individually and as successor-in-interest to
BUFFALO PUMPS, INC.

AIW-2010 WIND DOWN CORP.
individually and as successor-in-interest to
AMERICAN INSULATED WIRE
CORPORATION

AMENTUM ENVIRONMENT & ENERGY,
INC. f/k/a AECOM ENERGY &
CONSTRUCTION, INC., individually and as
successor-in-interest to YEARGIN
CONSTRUCTION COMPANY, INC.
successor to IMPAC, INC.

ANCHOR/DARLING VALVE COMPANY

ARMSTRONG INTERNATIONAL, INC.

ASBESTOS CORPORATION LIMITED

C/A NO. 2023-CP-40-01759

In Re:
Asbestos Personal Injury Litigation
Coordinated Docket
Living Lung Cancer

FIRST AMENDED COMPLAINT

(Jury Trial Demanded)



ASCO, L.P.	)
f/k/a ASCO VALVE, INC.	)
	)
ATLAS ASBESTOS CO	)
	)
ATLAS TURNER, INC.	)
as successor to ATLAS ASBESTOS CO, a	)
foreign company	)
	)
AWT AIR COMPANY, INC.	)
f/k/a RESEARCH-COTTRELL, INC.	)
	)
BAHNSON, INC.	)
	)
BANNER INDUSTRIES INTERNATIONAL,	)
INC.	)
	)
BANNER INDUSTRIES, LLC	)
	)
BANNER INDUSTRIES OF N.E., INC.	)
individually and as successor-in-interest to	)
BANNER INDUSTRIES, INC.	)
	)
BARRETT'S MINERALS INC.	)
	)
BEATY INVESTMENTS, INC.	)
f/k/a GUY M. BEATY & CO.	)
	)
BECHTEL CORPORATION	)
	)
THE BONITZ COMPANY	)
f/k/a BONITZ INSULATION COMPANY	)
	)
BRAND INSULATIONS, INC.	)
	)
BW/IP INC.	)
and its wholly-owned subsidiaries	)
	)
CANVAS CT, LLC	)
individually and as successor to MARLEY	)
COOLING TOWER COMPANY	)
	)
CAPE PLC	)
individually and as successor-in-interest to	)
CAPE INDUSTRIES LTD. f/k/a CAPE	)
ASBESTOS COMPANY LTD. and its	)
subsidiaries and global affiliates	)

CARBOLINE COMPANY

CB&I LAURENS, INC.

individually and as successor-in-interest to
CHICAGO BRIDGE & IRON COMPANY

CLEAVER-BROOKS, INC.

f/k/a AQUA-CHEM, INC.
d/b/a CLEAVER-BROOKS DIVISION

**CONSOLIDATED ELECTRICAL
DISTRIBUTORS, INC.**

d/b/a CED, INC., individually and as successor-
in-interest to MILL-POWER SUPPLY
COMPANY

COPE-S-VULCAN, INC.

COVIL CORPORATION

**CRANE INSTRUMENTATION &
SAMPLING, INC.**

f/k/a CIRCOR INSTRUMENTATION
TECHNOLOGIES, INC. f/k/a HOKE INC.

CROSBY VALVE, LLC

**DANIEL INTERNATIONAL
CORPORATION**

**DAVIS MECHANICAL CONTRACTORS,
INC.**

DEZURIK, INC.

DUKE ENERGY CAROLINAS, LLC
f/k/a DUKE ENERGY CORPORATION

DUKE ENERGY CORPORATION

EATON CORPORATION

**ELLINGTON INSULATION COMPANY,
INC.**

EMERSON ELECTRIC CO.

individually and as successor-in-interest to)
 COPELAND CORPORATION)
)
FISHER CONTROLS INTERNATIONAL)
LLC)
)
FLAME REFRACTORIES, INC.)
)
FLOWSERVE CORPORATION)
 f/k/a THE DURIRON COMPANY INC.)
)
FLOWSERVE US INC.)
 individually and as successor-in-interest to)
 EDWARD VALVES, INC. and ROCKWELL)
 MANUFACTURING COMPANY)
)
FLUOR CONSTRUCTORS)
INTERNATIONAL)
 f/k/a FLUOR CORPORATION)
)
FLUOR CONSTRUCTORS)
INTERNATIONAL, INC.)
)
FLUOR DANIEL SERVICES)
CORPORATION)
)
FLUOR ENTERPRISES, INC.)
)
FMC CORPORATION)
 on behalf of its former Peerless Pump business)
)
FOSTER WHEELER ENERGY)
CORPORATION)
)
GARDNER DENVER NASH, LLC)
 individually and as successor-in-interest to THE)
 NASH ENGINEERING COMPANY)
)
GENERAL BOILER CASING COMPANY,)
INC.)
)
GENERAL CABLE CORPORATION)
)
GENERAL CABLE INDUSTRIES, INC.)
 individually and as successor-in-interest to)
 CAROL CABLE CO.)
)

GENERAL ELECTRIC COMPANY)
)
GOULD ELECTRONICS INC.)
 individually and as successor-in-interest to ITE)
 CIRCUIT BREAKER CO.)
)
GOULDS PUMPS, INCORPORATED)
)
GOULDS PUMPS LLC)
 f/k/a GOULDS PUMPS INC.)
)
GREAT BARRIER INSULATION CO.)
)
GRINNELL LLC)
 d/b/a GRINNELL CORPORATION)
)
HAJOCA CORPORATION)
)
HOWDEN NORTH AMERICA INC.)
 f/k/a HOWDEN BUFFALO, INC., individually)
 and as successor-in-interest to BUFFALO)
 FORGE COMPANY and NEW)
 PHILADELPHIA FAN CO.)
)
HPC INDUSTRIAL SERVICES, LLC)
 f/k/a CLEAN HARBORS INDUSTRIAL)
 SERVICES INC., solely in its capacity as the)
 successor-by-merger and name change to)
 BRAND INSULATIONS, INC.)
)
IMO INDUSTRIES INC.)
)
ITT LLC)
 f/k/a ITT CORPORATION, ITT INDUSTRIES)
 INC., ITT FLUID PRODUCTS CORP.,)
 HOFFMAN SPECIALTY MFG. CORP., BELL)
 & GOSSETT COMPANY, ITT MARLOW and)
 KENNEDY VALVE COMPANY)
)
JOY GLOBAL UNDERGROUND MINING)
LLC)
 f/k/a JOY TECHNOLOGIES, INC., f/k/a JOY)
 TECHNOLOGIES LLC)
)
K-MAC SERVICES INCORPORATED)
)
)

METROPOLITAN LIFE INSURANCE COMPANY)
a wholly owned subsidiary of METLIFE INC.)
MINE SAFETY APPLIANCES COMPANY, LLC)
MP SUPPLY, INC.)
f/k/a MILL-POWER SUPPLY COMPANY)
THE NASH ENGINEERING COMPANY)
OCCIDENTAL CHEMICAL CORPORATION)
individually and as successor-in-interest to)
DUREZ CORPORATION)
PARAMOUNT GLOBAL)
f/k/a VIACOMCBS INC., f/k/a CBS)
CORPORATION, a Delaware corporation f/k/a)
VIACOM, INC., successor-by-merger to CBS)
CORPORATION, a Pennsylvania corporation,)
f/k/a WESTINGHOUSE ELECTRIC)
CORPORATION and as successor-in-interest to)
BF STURTEVANT)
PATTERSON PUMP COMPANY)
PECW HOLDING COMPANY)
f/k/a PLASTICS ENGINEERING COMPANY)
PFIZER INC.)
PIEDMONT INSULATION, INC.)
PLASTICS ENGINEERING COMPANY)
d/b/a PLENCO)
PRESNELL INSULATION CO., INC.)
REDCO CORPORATION)
f/k/a CRANE CO.)
RILEY POWER INC.)
f/k/a BABCOCK BORSIG POWER INC.,)
f/k/a DB RILEY, INC., f/k/a RILEY STOKER)
CORPORATION)

ROCKWELL AUTOMATION, INC.
 individually and as successor-in-interest to
 ALLEN-BRADLEY COMPANY LLC f/k/a
 ROCKWELL INTERNATIONAL
 CORPORATION

RSCC WIRE & CABLE LLC
 d/b/a ROCKBESTOS SUPERNANT CABLE
 CORP.

SCHNEIDER ELECTRIC USA, INC.
 f/k/a SQUARE D COMPANY

SEQUOIA VENTURES INC.
 f/k/a BECHTEL CORPORATION

SPIRAX SARCO, INC.

SPX CORPORATION
 individually and as successor-in-interest to
 KINNEY PUMPS

STAFFORD INSULATION COMPANY

**STANDARD INSULATION COMPANY OF
 N. C., INC.**

STARR DAVIS COMPANY, INC.

STARR DAVIS COMPANY OF S.C., INC.

STERLING FLUID SYSTEMS (USA) LLC

TE WIRE & CABLE LLC

THERMO ELECTRIC COMPANY, INC.
 f/k/a THERMO ELECTRIC WIRE & CABLE
 CO.

UNION CARBIDE CORPORATION

VALVES AND CONTROLS US, INC.
 f/k/a WEIR VALVES & CONTROLS USA
 INC. d/b/a ATWOOD & MORRILL CO., INC.

VELAN VALVE CORP.

VIKING PUMP, INC.

VISTRA INTERMEDIATE COMPANY
LLC

individually and as successor-in-interest to
CRSS INC.

THE WILLIAM POWELL COMPANY

WIND UP, LTD.

YUBA HEAT TRANSFER LLC

ZURN INDUSTRIES, LLC

individually and as successor-in-interest to
ZURN INDUSTRIES, INC.

Defendants.

PLAINTIFFS' FIRST AMENDED COMPLAINT

Plaintiffs, JOHN A. TIBBS and MARGARET B. TIBBS (hereinafter "Plaintiffs"), sue the named Defendants for compensatory and punitive damages, by and through their attorneys, and come before this court and allege as follows:

GENERAL ALLEGATIONS

1. Plaintiff John A. Tibbs has been diagnosed with lung cancer.

2. This Court has personal jurisdiction over Defendants because Plaintiffs' claims arise from Defendants' conduct in:

- (a) Transacting business in this State, including the sale, supply, purchase, and/or use of asbestos and/or asbestos-containing products, within this State;
- (b) Contracting to supply services or things in the State;
- (c) Commission of a tortious act in whole or in part in this State;
- (d) Having an interest in, using, or possessing real property in this State; and/or

- (e) Entering into a contract to be performed in whole or in part by either party in this State.

3. Each Defendant, or its predecessors in interest, that manufactured, sold, and/or distributed asbestos-containing products or raw asbestos materials for use in South Carolina and other states at times relevant to this action are referred to herein as “Product Defendants.” At all times relevant to this action, the Product Defendants and the predecessors of the Product Defendants for whose actions the Product Defendants are legally responsible, were engaged in the manufacture, sale and distribution of asbestos-containing products and raw materials.

4. Each Defendant, or its predecessors in interest, that owned and/or controlled the work sites where Plaintiff John A. Tibbs experienced occupational exposure as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment in his immediate vicinity are referred to herein as the “Premises Defendants.” At all times relevant to this action:

- (a) the Premises Defendants owned the property and approved the use of asbestos-containing materials on its premises.
- (b) the Premises Defendants invited the Plaintiff John A. Tibbs as a mechanic electrician, and/or his father as a superintendent of maintenance, on to Defendants’ premises to perform construction work for Defendants’ benefit. Plaintiff was an invitee who had express permission to enter Defendants’ premises for the purpose of benefitting the owner (Defendant).
- (c) the Premises Defendants owed a duty of due care to discover risks and take safety precautions to warn of and eliminate unreasonable risks.
- (d) the Premises Defendants’ failure to warn of or eliminate the unreasonable risks associated with working on or around asbestos-containing materials on Defendants’ premises was a substantial factor contributing to cause Plaintiff John A. Tibbs’s lung cancer.

5. Each Defendant, or its predecessors in interest, that provided labor, materials, goods, and/or services as architects, consultants, engineers, draftsmen, technicians, surveyors, or

otherwise in connection with the design and/or repairs at the work sites where Plaintiff John A. Tibbs and/or his father experienced occupational exposure as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment, are referred to herein as the “Design Defendants.”

6. Plaintiffs’ claims against the Product Defendants, as defined herein, arise out of Defendants’ purposeful efforts to serve directly or indirectly the market for their asbestos and/or asbestos-containing products in this State, either through direct sales or through utilizing an established distribution channel with the expectation that their products would be purchased and/or used within South Carolina.

7. Plaintiffs’ claims against the Premises Defendants, as defined herein, arise out of Defendants’ ownership and/or control of real property located in South Carolina and North Carolina, and the purchase and use of asbestos-containing products on their premises located in South Carolina and North Carolina, and/or contracting with the employer of Plaintiff John A. Tibbs and/or his father John H. Tibbs in South Carolina and North Carolina for Plaintiff and others to cross state lines to work on Defendant’s premises.

8. Plaintiffs’ claims against the Design Defendants, as defined herein, arise out of Defendants’, and/or Defendants’ employees’, direct and/or indirect purchase and use of asbestos and/or asbestos-containing products, materials, or equipment at the various industrial sites located in South Carolina where Plaintiff John A. Tibbs experienced occupational exposure to lethal doses of asbestos as a result of working with and around others working with asbestos and/or asbestos-containing products, materials, or equipment.

9. All of the named Defendants are corporations who purposefully availed themselves of the privilege of doing business in this State, and whose substantial and/or systematic business in South Carolina exposed Plaintiff John A. Tibbs to asbestos in this State, subjecting them to the

jurisdiction of the South Carolina courts pursuant to the South Carolina Long-Arm Statute and the United States Constitution.

10. In addition to being exposed through his own work, Plaintiff John A. Tibbs was exposed to asbestos through asbestos dust and fibers brought home on his father John H. Tibbs's work clothes, from asbestos dust in his vehicle and asbestos dust on his body including his hair, and from the dust being distributed and re-entrained in the family home. Plaintiff John A. Tibbs's exposure to asbestos dust and fibers occurred through his contact with his father John H. Tibbs's work clothing and person when greeting him and interacting with him on a daily basis at the end of each workday. Plaintiff John A. Tibbs's exposure to asbestos dust and fibers also occurred through spending time in his father's vehicle in which asbestos dust and fibers had been deposited, and through sharing a home contaminated with asbestos fibers that were constantly being stirred up and re-entrained in the air that they breathed throughout their family home.

11. Plaintiff John A. Tibbs's cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products, individually and together, was a substantial factor in causing Plaintiff John A. Tibbs's lung cancer and other related injuries and therefore under South Carolina law, is the legal cause of Plaintiff's injuries and damages.

12. Plaintiffs were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

13. Plaintiff John A. Tibbs worked with, or in close proximity to others who worked with, asbestos-containing materials including but not limited to asbestos-containing products and other asbestos-containing materials manufactured and/or sold by Defendants identified above.

14. Each of the named Defendants is liable for damages stemming from its own tortious conduct or the tortious conduct of an "alternate entity" as hereinafter defined. Defendants are liable for the acts of their "alternate entity" and each of them, in that there has been a corporate

name change, Defendant is the successor by merger, by successor in interest, or by other acquisition resulting in a virtual destruction of Plaintiffs' remedy against each such "alternate entity"; Defendants, each of them, have acquired the assets, product line, or a portion thereof, of each such "alternate entity"; such "alternate entities" have acquired the assets, product line, or a portion thereof of each such Defendant; Defendants, and each of them, caused the destruction of Plaintiffs' remedy against each such "alternate entity"; each such Defendant has the ability to assume the risk-spreading role of each such "alternate entity;" and that each such defendant enjoys the goodwill originally attached to each "alternate entity."

DEFENDANT	ALTERNATE ENTITY
3M COMPANY	MINNESOTA MINING AND MANUFACTURING COMPANY
4520 CORP., INC.	BENJAMIN F. SHAW COMPANY
AIR & LIQUID SYSTEMS CORPORATION	BUFFALO PUMPS, INC.
AIW-2010 WIND DOWN CORP.	AMERICAN INSULATED WIRE CORPORATION
AMENTUM ENVIRONMENT & ENERGY, INC.	AECOM ENERGY & CONSTRUCTION, INC., YEARGIN CONSTRUCTION COMPANY, INC., and IMPAC, INC.
ASCO, L.P.	ASCO VALVE, INC.
ATLAS TURNER, INC.	ATLAS ASBESTOS CO
AWT AIR COMPANY, INC.	RESEARCH-COTTRELL, INC.
BANNER INDUSTRIES OF N.E., INC.	BANNER INDUSTRIES, INC.
BEATY INVESTMENTS, INC.	GUY M. BEATY & CO.

DEFENDANT	ALTERNATE ENTITY
THE BONITZ COMPANY	BONITZ INSULATION COMPANY
BW/IP INC.	its wholly owned subsidiaries
CANVAS CT, LLC	MARLEY COOLING TOWER COMPANY
CAPE PLC	CAPE INDUSTRIES LTD., CAPE ASBESTOS COMPANY LTD., and its subsidiaries and global affiliates
CB&I LAURENS, INC.	CHICAGO BRIDGE & IRON COMPANY
CLEAVER-BROOKS, INC.	AQUA-CHEM, INC. and CLEAVER-BROOKS DIVISION
CONSOLIDATED ELECTRICAL DISTRIBUTORS, INC.	CED, INC. and MILL-POWER SUPPLY COMPANY
CRANE INSTRUMENTATION & SAMPLING, INC.	CIRCOR INSTRUMENTATION TECHNOLOGIES, INC. and HOKE INC.
DUKE ENERGY CAROLINAS, LLC	DUKE ENERGY CORPORATION
EMERSON ELECTRIC CO.	COPELAND CORPORATION
FLOWERVE CORPORATION	THE DURIRON COMPANY INC.
FLOWERVE US INC.	EDWARD VALVES, INC. and ROCKWELL MANUFACTURING COMPANY
FLUOR CONSTRUCTORS INTERNATIONAL	FLUOR CORPORATION
FMC CORPORATION	PEERLESS PUMP
GARDNER DENVER NASH, LLC	THE NASH ENGINEERING COMPANY

DEFENDANT	ALTERNATE ENTITY
GENERAL CABLE INDUSTRIES, INC.	CAROL CABLE CO.
GOULD ELECTRONICS INC.	ITE CIRCUIT BREAKER CO.
GOULDS PUMPS LLC	GOULDS PUMPS INC.
GRINNELL LLC	GRINNELL CORPORATION
HOWDEN NORTH AMERICA INC.	HOWDEN BUFFALO INC., BUFFALO FORGE COMPANY, and NEW PHILADELPHIA FAN CO.
HPC INDUSTRIAL SERVICES, LLC	CLEAN HARBORS INDUSTRIAL SERVICES INC. and BRAND INSULATIONS, INC.
ITT LLC	ITT CORPORATION, ITT INDUSTRIES INC., ITT FLUID PRODUCTS CORP., HOFFMAN SPECIALTY MFG. CORP., BELL & GOSSETT COMPANY, ITT MARLOW and KENNEDY VALVE COMPANY
JOY GLOBAL UNDERGROUND MINING LLC	JOY TECHNOLOGIES, INC. and JOY TECHNOLOGIES LLC
METROPOLITAN LIFE INSURANCE COMPANY	METLIFE INC.
MP SUPPLY, INC.	MILL-POWER SUPPLY COMPANY
OCCIDENTAL CHEMICAL CORPORATION	DUREZ CORPORATION
PARAMOUNT GLOBAL	VIACOMCBS INC., CBS CORPORATION, a Delaware corporation, VIACOM, INC., CBS CORPORATION, a Pennsylvania corporation, WESTINGHOUSE ELECTRIC CORPORATION, and BF STURTEVANT
PECW HOLDING COMPANY	PLASTICS ENGINEERING COMPANY

DEFENDANT	ALTERNATE ENTITY
PLASTICS ENGINEERING COMPANY	PLENCO
REDCO CORPORATION	CRANE CO.
RILEY POWER INC.	BABCOCK BORSIG POWER INC., DB RILEY, INC., and RILEY STOKER CORPORATION
ROCKWELL AUTOMATION, INC.	ALLEN-BRADLEY COMPANY LLC and ROCKWELL INTERNATIONAL CORPORATION
RSCC WIRE & CABLE LLC	ROCKBESTOS SUPERNANT CABLE CORP.
SCHNEIDER ELECTRIC USA, INC.	SQUARE D COMPANY
SEQUOIA VENTURES INC.	BECHTEL CORPORATION
SPX CORPORATION	KINNEY PUMPS
THERMO ELECTRIC COMPANYYY, INC.	THERMO ELECTRIC WIRE & CABLE CO.
VALVES AND CONTROLS US, INC.	WEIR VALVES & CONTROLS USA INC. and ATWOOD MORRILL CO., INC.
VISTRA INTERMEDIATE COMPANY LLC	CRSS INC.
WIND UP, LTD.	PIPE & BOILER INSULATION, INC. and CAROLINA INDUSTRIAL INSULATING CO.
ZURN INDUSTRIES, LLC	ZURN INDUSTRIES, INC.

15. Plaintiffs have been informed and believe, and thereon allege, that at all times herein mentioned, Defendants or their “alternate entities” were or are corporations, partnerships, unincorporated associations, sole proprietorships and/or other business entities organized and

existing under and by virtue of the laws of the State of South Carolina, or the laws of some other state or foreign jurisdiction, and that said Defendants were and/or are authorized to do business in the State of South Carolina, and that said Defendants have regularly conducted business in the State of South Carolina.

16. Plaintiffs have been informed and believe, and thereon allege, that progressive lung disease, lung cancer and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

17. As a direct and proximate result of the conduct as alleged within, Plaintiff John A. Tibbs suffered permanent injuries, including, but not limited to, lung cancer and other lung damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

18. As a direct and proximate result of the conduct as hereinafter alleged, Plaintiff John A. Tibbs incurred liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to Plaintiffs at this time. Plaintiffs request leave to supplement this Court and all parties accordingly when the true and exact cost of Plaintiff John A. Tibbs's medical treatment is ascertained.

19. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiff John A. Tibbs incurred, and will continue to incur, loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs. Plaintiffs pray leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

20. Plaintiffs hereby disclaim each and every claim or cause of action which does or may arise from or on any federal enclave. Plaintiffs are disclaiming each and every claim or cause of action arising from any exposure to asbestos as a result of the Plaintiffs presence on or at any federal enclave. Plaintiffs further disclaim each and every claim or cause of action arising under the United States Constitution and under any Federal Law or Regulation. Finally, Plaintiffs disclaim each and every claim or cause of action which may be asserted under federal admiralty or maritime law. Courts across the Country have found that such disclaimers are proper and within the province of the Plaintiffs to disclaim. Any removal by any defendant on the basis of the disclaimed claims will result in a motion for sanctions and seeking attorneys' fees.

THE PARTIES

21. Plaintiffs John A. Tibbs and Margaret B. Tibbs are currently residents of the State of North Carolina. Plaintiff John A. Tibbs was exposed to asbestos during the course of his career at various job sites, primarily located in South Carolina and North Carolina. He was also exposed to asbestos fibers carried home on the clothing and person of his father while he also worked as a superintendent of maintenance at various jobsites while Plaintiff John A. Tibbs lived in the family home.

22. Defendant, **3M COMPANY** f/k/a MINNESOTA MINING AND MANUFACTURING COMPANY, was and is a Delaware corporation with its principal place of business in Minnesota. At all times material hereto, 3M COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, or products fraudulently marketed to prevent asbestos exposure including, but not limited to, 3M masks and other asbestos-containing products. 3M COMPANY is sued as a Product

Defendant. Plaintiffs' claims against 3M COMPANY arise out of this Defendant's business activities in the State of South Carolina.

23. Defendant, **4520 CORP., INC.**, as successor-in-interest to BENJAMIN F. SHAW COMPANY, was and is a Delaware corporation with its principal place of business in Oregon. At all times material hereto, 4520 CORP., INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. 4520 CORP., INC. is sued as a Product Defendant. 4520 CORP., INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against 4520 CORP., INC. arise out of this Defendant's business activities in the State of South Carolina.

24. Defendant, **A.O. SMITH CORPORATION**, was and is a Delaware corporation with its principal place of business in Wisconsin. At all times material hereto, A.O. SMITH CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing boilers and heaters, including Burkey boilers, present at numerous jobsites in South Carolina and North Carolina. A.O. SMITH CORPORATION is sued as a Product Defendant. Plaintiffs' claims against A.O. SMITH CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

25. Defendant, **A.W. CHESTERTON COMPANY**, was and is a Massachusetts corporation with its principal place of business in Massachusetts. At all times material hereto, A.W. CHESTERTON COMPANY manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing cloth, gaskets, packing, and rope, present at numerous jobsites in South Carolina and North Carolina. A.W. CHESTERTON COMPANY is sued as a Product Defendant. Plaintiffs' claims against A.W. CHESTERTON COMPANY arise out of this Defendant's business activities in the State of South Carolina.

26. Defendant, **ABB INC.**, was and is a Delaware corporation with its principal place of business in North Carolina. At all times material hereto, ABB INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing ITE circuit breakers, present at numerous jobsites in South Carolina and North Carolina. ABB INC. is sued as a Product Defendant. Plaintiffs' claims against ABB INC. arise out of this Defendant's business activities in the State of South Carolina.

27. Defendant, **AIR & LIQUID SYSTEMS CORPORATION**, individually and as successor-in-interest to BUFFALO PUMPS, INC., was and is a Pennsylvania corporation with its principal place of business in Pennsylvania. At all times material hereto, AIR & LIQUID SYSTEMS CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Buffalo pumps present at numerous jobsites in South Carolina and North Carolina. AIR & LIQUID SYSTEMS CORPORATION is sued as a Product Defendant. Plaintiffs'

claims against AIR & LIQUID SYSTEMS CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

28. Defendant, **AIW-2010 WIND DOWN CORP.**, individually and as successor-in-interest to AMERICAN INSULATED WIRE CORPORATION, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, AIW-2010 WIND DOWN CORP. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing electrical wires, present at numerous jobsites in South Carolina and North Carolina. AIW-2010 WIND DOWN CORP. is sued as a Product Defendant. Plaintiffs' claims against AIW-2010 WIND DOWN CORP. arise out of this Defendant's business activities in the State of South Carolina.

29. Defendant, **AMENTUM ENVIRONMENT & ENERGY, INC.**, f/k/a AECOM ENERGY & CONSTRUCTION, INC., individually and as successor-in-interest to YEARGIN CONSTRUCTION COMPANY, INC. successor to IMPAC, INC., was and is an Ohio corporation with its principal place of business in Ohio. At all times material hereto, AMENTUM ENVIRONMENT & ENERGY, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. AMENTUM ENVIRONMENT & ENERGY, INC. is sued as a Product Defendant. AMENTUM ENVIRONMENT & ENERGY, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of

asbestos. Plaintiffs' claims against AMENTUM ENVIRONMENT & ENERGY, INC. arise out of this Defendant's business activities in the State of South Carolina.

30. Defendant, **ANCHOR/DARLING VALVE COMPANY**, was and is a Pennsylvania corporation with its principal place of business in Texas. At all times material hereto, ANCHOR/DARLING VALVE COMPANY manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Darling valves present at numerous jobsites in South Carolina and North Carolina. ANCHOR/DARLING VALVE COMPANY is sued as a Product Defendant. Plaintiffs' claims against ANCHOR/DARLING VALVE COMPANY arise out of this Defendant's business activities in the State of South Carolina.

31. Defendant, **ARMSTRONG INTERNATIONAL, INC.**, was and is a Michigan corporation with its principal place of business in Michigan. At all times material hereto, ARMSTRONG INTERNATIONAL, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including but not limited to Armstrong steam traps and strainers present at numerous jobsites in South Carolina and North Carolina. ARMSTRONG INTERNATIONAL, INC. is sued as a Product Defendant. Plaintiffs' claims against ARMSTRONG INTERNATIONAL, INC. arise out of this Defendant's business activities in the State of South Carolina.

32. Defendant, **ASBESTOS CORPORATION LIMITED**, was and is a corporation organized and existing under the laws of the country of Canada, with its principal place of business in Canada. At all times material hereto, ASBESTOS CORPORATIONN LIMITED mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced,

repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers present at numerous jobsites in South Carolina and North Carolina. ASBESTOS CORPORATION LIMITED is sued as a Product Defendant. Plaintiffs' claims against ASBESTOS CORPORATION LIMITED arise out of this Defendant's business activities in the State of South Carolina.

33. Defendant, **ASCO, L.P.**, f/k/a ASCO VALVE, INC., was and is a Delaware limited partnership with its principal place of business in New Jersey. At all times material hereto, ASCO, L.P. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing ASCO valves present at numerous jobsites in South Carolina and North Carolina. ASCO, L.P. is sued as a Product Defendant. Plaintiffs' claims against ASCO, L.P. arise out of this Defendant's business activities in the State of South Carolina.

34. Defendant, **ATLAS ASBESTOS CO**, was and is a corporation organized and existing under the laws of the country of Canada, with its principal place of business in Canada. At all times material hereto, ATLAS ASBESTOS CO mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers present at numerous jobsites in South Carolina and North Carolina. ATLAS ASBESTOS CO is sued as a Product Defendant. Plaintiffs' claims against ATLAS ASBESTOS CO arise out of this Defendant's business activities in the State of South Carolina.

35. Defendant, **ATLAS TURNER, INC.**, as successor to ATLAS ASBESTOS CO, was and is a corporation organized and existing under the laws of the country of Canada, with its principal place of business in Canada. At all times material hereto, ATLAS TURNER, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers present at jobsites in South Carolina and North Carolina. ATLAS TURNER, INC. is sued as a Product Defendant. Plaintiffs' claims against ATLAS TURNER, INC. arise out of this Defendant's business activities in the State of South Carolina.

36. Defendant, **AWT AIR COMPANY, INC.**, f/k/a RESEARCH-COTTRELL, INC., was and is a New Jersey corporation with its principal place of business in New Jersey. At all times material hereto, AWT AIR COMPANY, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing precipitators present at numerous jobsites in South Carolina and North Carolina. AWT AIR COMPANY, INC. is sued as a Product Defendant. Plaintiffs' claims against AWT AIR COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

37. Defendant, **BAHNSON, INC.**, was and is a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, BAHNSON, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other

asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. BAHNSON, INC. is sued as a Product Defendant. BAHNSON, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against BAHNSON, INC. arise out of this Defendant's business activities in the State of South Carolina.

38. Defendant, **BANNER INDUSTRIES INTERNATIONAL, INC.**, was and is a Delaware corporation with its principal place of business in Massachusetts. At all times material hereto, BANNER INDUSTRIES INTERNATIONAL, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Patterson pumps present at numerous jobsites in South Carolina and North Carolina. BANNER INDUSTRIES INTERNATIONAL, INC. is sued as a Product Defendant. Plaintiffs' claims against BANNER INDUSTRIES INTERNATIONAL, INC. arise out of this Defendant's business activities in the State of South Carolina.

39. Defendant, **BANNER INDUSTRIES, LLC**, was and is a Delaware limited liability company with its principal place of business in Massachusetts. At all times material hereto, BANNER INDUSTRIES, LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Patterson pumps present at numerous jobsites in South Carolina and North Carolina. BANNER INDUSTRIES, LLC is sued as a Product Defendant. Plaintiffs' claims against BANNER INDUSTRIES, LLC arise out of this Defendant's business activities in the State of South Carolina.

40. Defendant, **BANNER INDUSTRIES OF N.E., INC.**, individually and as successor-in-interest to BANNER INDUSTRIES, INC., was and is a Massachusetts corporation with its principal place of business in Massachusetts. At all times material hereto, BANNER INDUSTRIES OF N.E., INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Patterson pumps present at numerous jobsites in South Carolina and North Carolina. BANNER INDUSTRIES OF N.E., INC. is sued as a Product Defendant. Plaintiffs' claims against BANNER INDUSTRIES OF N.E., INC. arise out of this Defendant's business activities in the State of South Carolina.

41. Defendant, **BARRETTS MINERALS INC.**, was and is a Delaware corporation with its principal place of business in Montana. At all times material hereto, BARRETTS MINERALS INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing talc present at numerous jobsites in South Carolina and North Carolina. BARRETTS MINERALS INC. is sued as a Product Defendant. Plaintiffs' claims against BARRETTS MINERALS INC. arise out of this Defendant's business activities in the State of South Carolina.

42. Defendant, **BEATY INVESTMENTS, INC.** f/k/a GUY M. BEATY & CO., was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, BEATY INVESTMENTS, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to

gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. BEATY INVESTMENTS, INC. is sued as a Product Defendant. BEATY INVESTMENTS, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Beaty Investments, Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against BEATY INVESTMENTS, INC. arise out of this Defendant's business activities in the State of South Carolina.

43. Defendant, **BECHTEL CORPORATION**, was and is a Nevada corporation with its principal place of business in Virginia. At all times material hereto, BECHTEL CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. BECHTEL CORPORATION is sued as a Product Defendant. BECHTEL CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against BECHTEL CORPORATION arise out of this Defendant's business activities in the State of South Corporation.

44. Defendant, **THE BONITZ COMPANY** f/k/a BONITZ INSULATION COMPANY, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, THE BONITZ COMPANY manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment,

including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. THE BONITZ COMPANY is sued as a Product Defendant. THE BONITZ COMPANY is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of The Bonitz Company, exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against THE BONITZ COMPANY arise out of this Defendant's business activities in the State of South Carolina.

45. Defendant, **BRAND INSULATIONS, INC.**, was and is an Illinois corporation with its principal place of business in Illinois. At all times material hereto, BRAND INSULATIONS, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. BRAND INSULATIONS, INC. is sued as a Product Defendant. BRAND INSULATIONS, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against BRAND INSULATIONS, INC. arise out of this Defendant's business activities in the State of South Corporation.

46. Defendant, **BW/IP INC.** and its wholly-owned subsidiaries, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, BW/IP INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing

products, materials, or equipment, including, but not limited to, asbestos-containing Byron Jackson pumps and Borg Warner pumps and valves present at numerous jobsites in South Carolina and North Carolina. BW/IP INC. is sued as a Product Defendant. Plaintiffs' claims against BW/IP INC. arise out of this Defendant's business activities in the State of South Carolina.

47. Defendant, **CANVAS CT, LLC**, individually and as successor to MARLEY COOLING TOWER COMPANY, was and is a Delaware limited liability company with its principal place of business in Kansas. At all times material hereto, CANVAS CT, LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Marley cooling towers present at numerous jobsites in South Carolina and North Carolina. CANVAS CT, LLC is sued as a Product Defendant. Plaintiffs' claims against CANVAS CT, LLC arise out of this Defendant's business activities in the State of South Carolina.

48. Defendant, **CAPE PLC**, individually and as successor-in-interest to CAPE INDUSTRIES LTD f/k/a CAPE ASBESTOS COMPANY LTD., and its subsidiaries and global affiliates, was and is a private liability company organized and existing under the laws of the United Kingdom of Great Britain and Northern Ireland with its court appointed Receiver maintaining its principal place of business in South Carolina. At all times material hereto, CAPE PLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers present at numerous jobsites in South Carolina and North Carolina. CAPE PLC is sued as a Product Defendant. Plaintiffs' claims against CAPE PLC arise out of this Defendant's business activities in the State of South Carolina.

49. Defendant, **CARBOLINE COMPANY**, was and is a Delaware corporation with its principal place of business in Missouri. At all times material hereto, CARBOLINE COMPANY manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing coatings present at numerous jobsites in South Carolina and North Carolina. CARBOLINE COMPANY is sued as a Product Defendant. Plaintiffs' claims against CARBOLINE COMPANY arise out of this Defendant's business activities in the State of South Carolina.

50. Defendant, **CB&I LAURENS, INC.**, individually and as successor-in-interest to CHICAGO BRIDGE & IRON COMPANY, was and is a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, CB&I LAURENS, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Foxboro valves present at numerous jobsites in South Carolina and North Carolina. CB&I LAURENS, INC. is sued as a Product Defendant. Plaintiffs' claims against CB&I LAURENS, INC. arise out of this Defendant's business activities in the State of South Carolina.

51. Defendant, **CLEAVER-BROOKS, INC.** f/k/a AQUA-CHEM, INC. d/b/a CLEAVER-BROOKS DIVISION, was and is a Delaware corporation with its principal place of business in Georgia. At all times material hereto, CLEAVER-BROOKS, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Cleaver-Brooks boilers and distillers present at numerous jobsites in South Carolina and North Carolina. CLEAVER-BROOKS, INC.

is sued as a Product Defendant. Plaintiffs' claims against CLEAVER-BROOKS, INC. arise out of this Defendant's business activities in the State of South Carolina.

52. Defendant, **CONSOLIDATED ELECTRICAL DISTRIBUTORS, INC.**, d/b/a CED, INC., individually and as successor-in-interest to MILL-POWER SUPPLY COMPANY, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, CONSOLIDATED ELECTRICAL DISTRIBUTORS, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing insulation materials, gaskets, packing, fireproofing, refractory products, and equipment which contained asbestos-containing materials present at numerous jobsites in South Carolina and North Carolina. CONSOLIDATED ELECTRICAL DISTRIBUTORS, INC. is sued as a Product Defendant. Plaintiffs' claims against CONSOLIDATED ELECTRICAL DISTRIBUTORS, INC. arise out of this Defendant's business activities in the State of South Carolina.

53. Defendant, **COPES-VULCAN, INC.**, was and is a Delaware corporation with its principal place of business in Pennsylvania. At all times material hereto, COPES-VULCAN, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Vulcan blowers and valves present at numerous jobsites in South Carolina and North Carolina. COPES-VULCAN, INC. is sued as a Product Defendant. Plaintiffs' claims against COPES-VULCAN, INC. arise out of this Defendant's business activities in the State of South Carolina.

54. Defendant, **COVIL CORPORATION**, was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, COVIL

CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. COVIL CORPORATION is sued as a Product Defendant. COVIL CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Covil Corporation, exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against COVIL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

55. Defendant, **CRANE INSTRUMENTATION & SAMPLING, INC.**, f/k/a CIRCOR INSTRUMENTATION TECHNOLOGIES, INC., f/k/a HOKE INC., was and is a New York corporation with its principal place of business in South Carolina. At all times material hereto, CRANE INSTRUMENTATION & SAMPLING, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Hoke valves present at numerous jobsites in South Carolina and North Carolina. CRANE INSTRUMENTATION & SAMPLING, INC. is sued as a Product Defendant. Plaintiffs' claims against CRANE INSTRUMENTATION & SAMPLING, INC. arise out of this Defendant's business activities in the State of South Carolina.

56. Defendant, **CROSBY VALVE, LLC**, was and is a Nevada limited liability company with its principal place of business in Missouri. At all times material hereto, CROSBY VALVE, LLC manufactured, processed, imported, converted, compounded, supplied, installed,

replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Crosby valves present at numerous jobsites in South Carolina and North Carolina. CROSBY VALVE, LLC is sued as a Product Defendant. Plaintiffs' claims against CROSBY VALVE, LLC arise out of this Defendant's business activities in the State of South Carolina.

57. Defendant, **DANIEL INTERNATIONAL CORPORATION**, was and is a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, DANIEL INTERNATIONAL CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. DANIEL INTERNATIONAL CORPORATION is sued as a Product Defendant. DANIEL INTERNATIONAL CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs to lethal doses of asbestos. Plaintiffs' claims against DANIEL INTERNATIONAL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

58. Defendant, **DAVIS MECHANICAL CONTRACTORS, INC.**, was a South Carolina corporation with its principal place of business in North Carolina. At all times material hereto, DAVIS MECHANICAL CONTRACTORS, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not

limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. DAVIS MECHANICAL CONTRACTORS, INC. is sued as a Product Defendant. DAVIS MECHANICAL CONTRACTORS, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Davis Mechanical Contractors, Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against DAVIS MECHANICAL CONTRACTORS, INC. arise out of this Defendant's business activities in the State of South Carolina.

59. Defendant, **DEZURIK, INC.**, was and is a Delaware corporation with its principal place of business in Minnesota. At all times material hereto, DEZURIK, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Vulcan blowers and valves present at numerous jobsites in South Carolina and North Carolina. DEZURIK, INC. is sued as a Product Defendant. Plaintiffs' claims against DEZURIK, INC. arise out of this Defendant's business activities in the State of South Carolina.

60. Defendant, **DUKE ENERGY CAROLINAS, LLC** f/k/a DUKE ENERGY CORPORATION, was and is a North Carolina limited liability company with its principal place of business in North Carolina. At all times material hereto, DUKE ENERGY CAROLINAS, LLC owned and/or controlled premises at which Plaintiff John A. Tibbs and his father John H. Tibbs was exposed to asbestos-containing products, equipment, and asbestos dust from said products at various facilities in South Carolina and North Carolina, including but not limited to the Duke power plants listed in paragraph 134 of this Complaint. DUKE ENERGY CAROLINAS, LLC is sued as a Premises Defendant.

61. Defendant, **DUKE ENERGY CORPORATION**, was and is a Delaware corporation with its principal place of business in North Carolina. At all times material hereto, DUKE ENERGY CORPORATION owned and/or controlled premises at which Plaintiff John A. Tibbs and his father John H. Tibbs was exposed to asbestos-containing products, equipment, and asbestos dust from said products at various facilities in South Carolina and North Carolina, including but not limited to the Duke power plants listed in paragraph 134 of this Complaint. DUKE ENERGY CORPORATION is sued as a Premises Defendant.

62. Defendant, **EATON CORPORATION**, was and is an Ohio corporation with its principal place of business in Ohio. At all times material hereto, EATON CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Cutler-Hammer electrical products present at numerous jobsites in South Carolina and North Carolina. EATON CORPORATION is sued as a Product Defendant. Plaintiffs' claims against EATON CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

63. Defendant, **ELLINGTON INSULATION COMPANY, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, ELLINGTON INSULATION COMPANY, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. ELLINGTON INSULATION COMPANY, INC. is sued as a Product Defendant. ELLINGTON INSULATION COMPANY,

INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Ellington Insulation Company, Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against ELLINGTON INSULATION COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

64. Defendant, **EMERSON ELECTRIC CO.**, individually and as successor-in-interest to COPELAND CORPORATION, was and is a Missouri corporation with its principal place of business in Missouri. At all times material hereto, EMERSON ELECTRIC CO. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Hancock valves present at numerous jobsites in South Carolina and North Carolina. EMERSON ELECTRIC CO. is sued as a Product Defendant. Plaintiffs' claims against EMERSON ELECTRIC CO. arise out of this Defendant's business activities in the State of South Carolina.

65. Defendant, **FISHER CONTROLS INTERNATIONAL LLC**, was and is a Delaware limited liability company with its principal place of business in Missouri. At all times material hereto, FISHER CONTROLS INTERNATIONAL LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Fisher valves present at numerous jobsites in South Carolina and North Carolina. FISHER CONTROLS INTERNATIONAL LLC is sued as a Product Defendant. Plaintiffs' claims against FISHER CONTROLS INTERNATIONAL LLC arise out of this Defendant's business activities in the State of South Carolina.

66. Defendant, **FLAME REFRACTORIES, INC.**, was a North Carolina corporation with its principal place of business in Florida. At all times material hereto, FLAME REFRACTORIES, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. FLAME REFRACTORIES, INC. is sued as a Product Defendant. FLAME REFRACTORIES, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Flame Refractories, Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against FLAME REFRACTORIES, INC. arise out of this Defendant's business activities in the State of South Carolina.

67. Defendant, **FLOWERVE CORPORATION**, f/k/a THE DURIRON COMPANY INC., was and is a New York corporation with its principal place of business in Texas. At all times material hereto, FLOWERVE CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Duriron pumps present at numerous jobsites in South Carolina and North Carolina. FLOWERVE CORPORATION is sued as a Product Defendant. Plaintiffs' claims against FLOWERVE CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

68. Defendant, **FLOWERVE US INC.**, individually and as successor-in-interest to EDWARD VALVES, INC. and ROCKWELL MANUFACTURING COMPANY, was and is a

Delaware corporation with its principal place of business in Texas. At all times material hereto, FLOWERVE US INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Edward valves and Rockwell valves present at numerous jobsites in South Carolina and North Carolina. FLOWERVE US INC. is sued as a Product Defendant. Plaintiffs' claims against FLOWERVE US INC. arise out of this Defendant's business activities in the State of South Carolina.

69. Defendant, **FLUOR CONSTRUCTORS INTERNATIONAL** f/k/a/ FLUOR CORPORATION, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR CONSTRUCTORS INTERNATIONAL mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. FLUOR CONSTRUCTORS INTERNATIONAL is sued as a Product Defendant. FLUOR CONSTRUCTORS INTERNATIONAL is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against FLUOR CONSTRUCTORS INTERNATIONAL arise out of this Defendant's business activities in the State of South Carolina.

70. Defendant, **FLUOR CONSTRUCTORS INTERNATIONAL, INC.**, was and is a California corporation with its principal place of business in Texas. At all times material hereto,

FLUOR CONSTRUCTORS INTERNATIONAL, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. FLUOR CONSTRUCTORS INTERNATIONAL, INC. is sued as a Product Defendant. FLUOR CONSTRUCTORS INTERNATIONAL, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against FLUOR CONSTRUCTORS INTERNATIONAL, INC. arise out of this Defendant's business activities in the State of South Carolina.

71. Defendant, **FLUOR DANIEL SERVICES CORPORATION**, was and is a Delaware corporation with its principal place of business in Texas. At all times material hereto, FLUOR DANIEL SERVICES CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. FLUOR DANIEL SERVICES CORPORATION is sued as a Product Defendant. FLUOR DANIEL SERVICES CORPORATION is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to

lethal doses of asbestos. Plaintiffs' claims against FLUOR DANIEL SERVICES CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

72. Defendant, **FLUOR ENTERPRISES, INC.**, was and is a California corporation with its principal place of business in Texas. At all times material hereto, FLUOR ENTERPRISES, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. FLUOR ENTERPRISES, INC. is sued as a Product Defendant. FLUOR ENTERPRISES, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against FLUOR ENTERPRISES, INC. arise out of this Defendant's business activities in the State of South Carolina.

73. Defendant, **FMC CORPORATION** on behalf of its former Peerless Pump business, was and is a Delaware corporation with its principal place of business in Pennsylvania. At all times material hereto, FMC CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Peerless pumps present at numerous jobsites in South Carolina and North Carolina. FMC CORPORATION is sued as a Product Defendant. Plaintiffs' claims against FMC CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

74. Defendant, **FOSTER WHEELER ENERGY CORPORATION**, was and is a Delaware corporation with its principal place of business in New Jersey. At all times material hereto,

FOSTER WHEELER ENERGY CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Foster Wheeler boilers and exhausters present at numerous jobsites in South Carolina and North Carolina. FOSTER WHEELER ENERGY CORPORATION is sued as a Product Defendant. Plaintiffs' claims against FOSTER WHEELER ENERGY CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

75. Defendant, **GARDNER DENVER NASH, LLC**, individually and as successor-in-interest to THE NASH ENGINEERING COMPANY, was and is a Delaware limited liability company with its principal place of business in Pennsylvania. At all times material hereto, GARDNER DENVER NASH, LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Nash pumps present at numerous jobsites in South Carolina and North Carolina. GARDNER DENVER NASH, LLC is sued as a Product Defendant. Plaintiffs' claims against GARDNER DENVER NASH, LLC arise out of this Defendant's business activities in the State of South Carolina.

76. Defendant, **GENERAL BOILER CASING COMPANY, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, GENERAL BOILER CASING COMPANY, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at

numerous jobsites throughout the southeastern United States. GENERAL BOILER CASING COMPANY, INC. is sued as a Product Defendant. GENERAL BOILER CASING COMPANY, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of General Boiler Casing Company, Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against GENERAL BOILER CASING COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

77. Defendant, **GENERAL CABLE CORPORATION**, was and is a Delaware corporation with its principal place of business in Kentucky. At all times material hereto, GENERAL CABLE CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Carol wires present at numerous jobsites in South Carolina and North Carolina. GENERAL CABLE CORPORATION is sued as a Product Defendant. Plaintiffs' claims against GENERAL CABLE CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

78. Defendant, **GENERAL CABLE INDUSTRIES, INC.**, individually and as successor-in-interest to CAROL CABLE CO., was and is a Delaware corporation with its principal place of business in Kentucky. At all times material hereto, GENERAL CABLE INDUSTRIES, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Carol wires present at numerous jobsites in South Carolina and North Carolina. GENERAL CABLE

INDUSTRIES, INC. is sued as a Product Defendant. Plaintiffs' claims against GENERAL CABLE INDUSTRIES, INC. arise out of this Defendant's business activities in the State of South Carolina.

79. Defendant, **GENERAL ELECTRIC COMPANY**, was and is a New York corporation with its principal place of business in Massachusetts. At all times material hereto, GENERAL ELECTRIC COMPANY manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing General Electric turbines present at numerous jobsites in South Carolina and North Carolina. GENERAL ELECTRIC COMPANY is sued as a Product Defendant. Plaintiffs' claims against GENERAL ELECTRIC COMPANY arise out of this Defendant's business activities in the State of South Carolina.

80. Defendant, **GOULD ELECTRONICS INC.**, individually and as successor-in-interest to ITE CIRCUIT BREAKER CO., was and is a Arizona corporation with its principal place of business in Ohio. At all times material hereto, GOULD ELECTRONICS INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing ITE circuit breakers present at numerous jobsites in South Carolina and North Carolina. GOULD ELECTRONICS INC. is sued as a Product Defendant. Plaintiffs' claims against GOULD ELECTRONICS INC. arise out of this Defendant's business activities in the State of South Carolina.

81. Defendant, **GOULDS PUMPS, INCORPORATED**, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, GOULDS PUMPS, INCORPORATED manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or

asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Goulds pumps present at numerous jobsites in South Carolina and North Carolina. GOULDS PUMPS, INCORPORATED is sued as a Product Defendant. Plaintiffs' claims against GOULDS PUMPS, INCORPORATED arise out of this Defendant's business activities in the State of South Carolina.

82. Defendant, **GOULDS PUMPS LLC** f/k/a GOULDS PUMPS INC., was and is a Delaware limited liability company with its principal place of business in New York. At all times material hereto, GOULDS PUMPS LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Goulds pumps present at numerous jobsites in South Carolina and North Carolina. GOULDS PUMPS LLC is sued as a Product Defendant. Plaintiffs' claims against GOULDS PUMPS LLC arise out of this Defendant's business activities in the State of South Carolina.

83. Defendant, **GREAT BARRIER INSULATION CO.**, was an Alabama corporation with its principal place of business in Florida. At all times material hereto, GREAT BARRIER INSULATION CO. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. GREAT BARRIER INSULATION CO. is sued as a Product Defendant. GREAT BARRIER INSULATION CO. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Great

Barrier Insulation Co., exposed tens of thousands of people, including the Plaintiff John A. Tibbs to lethal doses of asbestos. Plaintiffs' claims against GREAT BARRIER INSULATION CO. arise out of this Defendant's business activities in the State of South Carolina.

84. Defendant, **GRINNELL, LLC** d/b/a GRINNELL CORPORATION, was and is a Delaware limited liability company with its principal place of business in Florida. At all times material hereto, GRINNELL, LLC mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Grinnell valves used at numerous jobsites in South Carolina and North Carolina. GRINNELL, LLC is sued as a Product Defendant. Plaintiffs' claims against GRINNELL, LLC arise out of this Defendant's business activities in the State of South Carolina.

85. Defendant, **HAJOCA CORPORATION**, was and is a Maine corporation with its principal place of business in Pennsylvania. At all times material hereto, HAJOCA CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing transite pipe at numerous jobsites in South Carolina and North Carolina. HAJOCA CORPORATION is sued as a Product Defendant. Plaintiffs' claims against HAJOCA CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

86. Defendant, **HOWDEN NORTH AMERICA, INC.** f/k/a HOWDEN BUFFALO INC., individually and as successor-in-interest to BUFFALO FORGE COMPANY and NEW PHILADELPHIA FAN CO., was and is a Delaware corporation with its principal place of business in South Carolina. At all times material hereto, HOWDEN NORTH AMERICA, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced,

repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Buffalo Forge fans and New Philadelphia fans present at numerous jobsites in South Carolina and North Carolina. HOWDEN NORTH AMERICA, INC. is sued as a Product Defendant. Plaintiffs' claims against HOWDEN NORTH AMERICA, INC. arise out of this Defendant's business activities in the State of South Carolina.

87. Defendant, **HPC INDUSTRIAL SERVICES, LLC**, f/k/a CLEAN HARBORS INDUSTRIAL SERVICES INC., solely in its capacity as the successor-by-merger and name change to BRAND INSULATIONS, INC., was and is a Delaware limited liability company with its principal place of business in Massachusetts. At all times material hereto, HPC INDUSTRIAL SERVICES, LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. HPC INDUSTRIAL SERVICES, LLC is sued as a Product Defendant. HPC INDUSTRIAL SERVICES, LLC is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against HPC INDUSTRIAL SERVICES, LLC arise out of this Defendant's business activities in the State of South Corporation.

88. Defendant, **IMO INDUSTRIES INC.**, was and is a Delaware corporation with its principal place of business in New Jersey. At all times material hereto, IMO INDUSTRIES INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced,

repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing DeLaval pumps used at numerous jobsites in South Carolina and North Carolina. IMO INDUSTRIES INC. is sued as a Product Defendant. Plaintiffs' claims against IMO INDUSTRIES INC. arise out of this Defendant's business activities in the State of South Carolina.

89. Defendant, **ITT LLC** f/k/a ITT CORPORATION, ITT INDUSTRIES INC., ITT FLUID PRODUCTS CORP., HOFFMAN SPECIALTY MFG. CORP., BELL & GOSSETT COMPANY, ITT MARLOW, and KENNEDY VALVE COMPANY, was and is an Indiana limited liability company with its principal place of business in Connecticut. At all times material hereto, ITT LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Kennedy valves present at numerous jobsites in South Carolina and North Carolina. ITT LLC is sued as a Product Defendant. Plaintiffs' claims against ITT LLC arise out of this Defendant's business activities in the State of South Carolina.

90. Defendant, **JOY GLOBAL UNDERGROUND MINING LLC**, f/k/a JOY TECHNOLOGIES, INC., f/k/a JOY TECHNOLOGIES LLC, was and is a Delaware limited liability company with its principal place of business in Pennsylvania. At all times material hereto, JOY GLOBAL UNDERGROUND MINING LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Joy compressors present at numerous jobsites in South Carolina and North Carolina. JOY GLOBAL UNDERGROUND MINING LLC is sued as a Product Defendant.

Plaintiffs' claims against JOY GLOBAL UNDERGROUND MINING LLC arise out of this Defendant's business activities in the State of South Carolina.

91. Defendant, **K-MAC SERVICES, INC.**, was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, K-MAC SERVICES, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. K-MAC SERVICES, INC. is sued as a Product Defendant. K-MAC SERVICES, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of K-Mac Services, Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs to lethal doses of asbestos. Plaintiffs' claims against K-MAC SERVICES, INC. arise out of this Defendant's business activities in the State of South Carolina.

92. Defendant, **METROPOLITAN LIFE INSURANCE COMPANY**, a wholly-owned subsidiary of METLIFE INC., was and is a New York corporation with its principal place of business in New York. METROPOLITAN LIFE INSURANCE COMPANY has done and does business in the State of South Carolina. METROPOLITAN LIFE INSURANCE COMPANY is named as a conspiracy defendant.

93. Defendant, **MINE SAFETY APPLIANCES COMPANY, LLC**, was and is a Pennsylvania limited liability company with its principal place of business in Pennsylvania. At all times material hereto, MINE SAFETY APPLIANCES COMPANY, LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or

equipment, or products fraudulently marketed to prevent asbestos exposure including, but not limited to, MSA masks and respirators and other asbestos-containing products. MINE SAFETY APPLIANCES COMPANY, LLC is sued as a Product Defendant. Plaintiffs' claims against MINE SAFETY APPLIANCES COMPANY, LLC arise out of this Defendant's business activities in the State of South Carolina.

94. Defendant, **MP SUPPLY, INC.** f/k/a MILL-POWER SUPPLY COMPANY, was and is a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, MP SUPPLY, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing insulation materials, gaskets, packing, fireproofing, refractory products, and equipment which contained asbestos-containing materials present at numerous jobsites in South Carolina and North Carolina. MP SUPPLY, INC. is sued as a Product Defendant. Plaintiffs' claims against MP SUPPLY, INC. arise out of this Defendant's business activities in the State of South Carolina.

95. Defendant, **THE NASH ENGINEERING COMPANY**, was and is a Connecticut corporation with its principal place of business in Maine. At all times material hereto, THE NASH ENGINEERING COMPANY manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Nash pumps used at numerous jobsites in South Carolina and North Carolina. THE NASH ENGINEERING COMPANY is sued as a Product Defendant. Plaintiffs' claims against THE NASH ENGINEERING COMPANY arise out of this Defendant's business activities in the State of South Carolina.

96. Defendant, **OCCIDENTAL CHEMICAL CORPORATION**, individually and as successor-in-interest to DUREZ CORPORATION, was and is a New York corporation with its principal place of business in Texas. At all times material hereto, OCCIDENTAL CHEMICAL CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers used at numerous jobsites in South Carolina and North Carolina. OCCIDENTAL CHEMICAL CORPORATION is sued as a Product Defendant. Plaintiffs' claims against OCCIDENTAL CHEMICAL CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

97. Defendant, **PARAMOUNT GLOBAL** f/k/a VIACOMCBS INC., f/k/a CBS CORPORATION, a Delaware corporation, f/k/a VIACOM, INC., successor-by-merger to CBS CORPORATION, a Pennsylvania corporation, f/k/a WESTINGHOUSE ELECTRIC CORPORATION and as successor-in-interest to BF STURTEVANT, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, PARAMOUNT GLOBAL manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Westinghouse turbines and BF Sturtevant forced-draft blowers present at numerous jobsites in South Carolina and North Carolina. PARAMOUNT GLOBAL is sued as a Product Defendant. Plaintiffs' claims against PARAMOUNT GLOBAL arise out of this Defendant's business activities in the State of South Carolina.

98. Defendant, **PATTERSON PUMP COMPANY**, was and is an Ohio corporation with its principal place of business in Georgia. At all times material hereto, PATTERSON PUMP

COMPANY manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Patterson pumps present at numerous jobsites in South Carolina and North Carolina. PATTERSON PUMP COMPANY is sued as a Product Defendant. Plaintiffs' claims against PATTERSON PUMP COMPANY arise out of this Defendant's business activities in the State of South Carolina.

99. Defendant, **PECW HOLDING COMPANY**, f/k/a PLASTICS ENGINEERING COMPANY, was and is a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, PECW HOLDING COMPANY manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers used at numerous jobsites in South Carolina and North Carolina. PECW HOLDING COMPANY is sued as a Product Defendant. Plaintiffs' claims against PECW HOLDING COMPANY arise out of this Defendant's business activities in the State of South Carolina.

100. Defendant, **PFIZER INC.**, was and is a Delaware corporation with its principal place of business in New York. At all times material hereto, PFIZER INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing talc used at numerous jobsites in South Carolina and North Carolina. PFIZER INC. is sued as a Product Defendant. Plaintiffs' claims against PFIZER INC. arise out of this Defendant's business activities in the State of South Carolina.

101. Defendant, **PIEDMONT INSULATION, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, PIEDMONT INSULATION, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. PIEDMONT INSULATION, INC. is sued as a Product Defendant. PIEDMONT INSULATION, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Piedmont Insulation, Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs to lethal doses of asbestos. Plaintiffs' claims against PIEDMONT INSULATION, INC. arise out of this Defendant's business activities in the State of South Carolina.

102. Defendant, **PLASTICS ENGINEERING COMPANY**, d/b/a PLENCO, was and is a Wisconsin corporation with its principal place of business in Wisconsin. At all times material hereto, PLASTICS ENGINEERING COMPANY manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, raw asbestos fibers used at numerous jobsites in South Carolina and North Carolina. PLASTICS ENGINEERING COMPANY is sued as a Product Defendant. Plaintiffs' claims against PLASTICS ENGINEERING COMPANY arise out of this Defendant's business activities in the State of South Carolina.

103. Defendant, **PRESNELL INSULATION CO., INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto,

PRESNELL INSULATION CO., INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. PRESNELL INSULATION CO., INC. is sued as a Product Defendant. PRESNELL INSULATION CO., INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Presnell Insulation Co., Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs to lethal doses of asbestos. Plaintiffs' claims against PRESNELL INSULATION CO., INC. arise out of this Defendant's business activities in the State of South Carolina.

104. Defendant, **REDCO CORPORATION** f/k/a CRANE CO., was and is a Delaware corporation with its principal place of business in Connecticut. At all times material hereto, REDCO CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Crane pumps and valves, Chempump pumps, Deming pumps, and Jenkins valves used at numerous jobsites in South Carolina and North Carolina. REDCO CORPORATION is sued as a Product Defendant. Plaintiffs' claims against REDCO CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

105. Defendant, **RILEY POWER INC.** f/k/a BABCOCK BORSIG POWER INC., f/k/a DB RILEY, INC., f/k/a RILEY STOKER CORPORATION, was and is a Massachusetts corporation with its principal place of business in Massachusetts. At all times material hereto, RILEY POWER INC. manufactured, processed, imported, converted, compounded, supplied,

installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Riley Stoker boilers and associated asbestos materials present at numerous jobsites in South Carolina and North Carolina. RILEY POWER INC. is sued as a Product Defendant. Plaintiffs' claims against RILEY POWER INC. arise out of this Defendant's business activities in the State of South Carolina.

106. Defendant, **ROCKWELL AUTOMATION, INC.**, individually and as successor-in-interest to ALLEN-BRADLEY COMPANY LLC f/k/a ROCKWELL INTERNATIONAL CORPORATION, was and is a Delaware corporation with its principal place of business in Wisconsin. At all times material hereto, ROCKWELL AUTOMATION, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Allen-Bradley electrical panels and electrical products used at numerous jobsites in South Carolina and North Carolina. ROCKWELL AUTOMATION, INC. is sued as a Product Defendant. Plaintiffs' claims against ROCKWELL AUTOMATION, INC. arise out of this Defendant's business activities in the State of South Carolina.

107. Defendant, **RSCC WIRE & CABLE LLC**, d/b/a ROCKBESTOS SUPERNANT CABLE CORP., was and is a Delaware limited liability company with its principal place of business in Connecticut. At all times material hereto, RSCC WIRE & CABLE LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Rockbestos wire and cable used at numerous jobsites in South Carolina and North Carolina. RSCC WIRE & CABLE LLC is sued as

a Product Defendant. Plaintiffs' claims against RSCC WIRE & CABLE LLC arise out of this Defendant's business activities in the State of South Carolina.

108. Defendant, **SCHNEIDER ELECTRIC USA, INC.**, f/k/a SQUARE D COMPANY, was and is a Delaware corporation with its principal place of business in Massachusetts. At all times material hereto, SCHNEIDER ELECTRIC USA, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Square D electrical panels and components used at numerous jobsites in South Carolina and North Carolina. SCHNEIDER ELECTRIC USA, INC. is sued as a Product Defendant. Plaintiffs' claims against SCHNEIDER ELECTRIC USA, INC. arise out of this Defendant's business activities in the State of South Carolina.

109. Defendant, **SEQUOIA VENTURES INC.** f/k/a BECHTEL CORPORATION, was and is a Delaware corporation with its principal place of business in Virginia. At all times material hereto, SEQUOIA VENTURES INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. SEQUOIA VENTURES INC. is sued as a Product Defendant. SEQUOIA VENTURES INC. is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against

SEQUOIA VENTURES INC. arise out of this Defendant's business activities in the State of South Carolina.

110. Defendant, **SPIRAX SARCO, INC.**, was and is a Delaware corporation with its principal place of business in South Carolina. At all times material hereto, SPIRAX SARCO, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing steam traps and valves present at numerous jobsites in South Carolina and North Carolina. SPIRAX SARCO, INC. is sued as a Product Defendant. Plaintiffs' claims against SPIRAX SARCO, INC. arise out of this Defendant's business activities in the State of South Carolina.

111. Defendant, **SPX CORPORATION**, individually and as successor-in-interest to KINNEY PUMPS, was and is a Delaware corporation with its principal place of business in North Carolina. At all times material hereto, SPX CORPORATION manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Kinney pumps present at numerous jobsites in South Carolina and North Carolina. SPX CORPORATION is sued as a Product Defendant. Plaintiffs' claims against SPX CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

112. Defendant, **STAFFORD INSULATION COMPANY**, was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, STAFFORD INSULATION COMPANY manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited

to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. STAFFORD INSULATION COMPANY is sued as a Product Defendant. STAFFORD INSULATION COMPANY is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Stafford Insulation Company, exposed tens of thousands of people, including the Plaintiff John A. Tibbs to lethal doses of asbestos. Plaintiffs' claims against STAFFORD INSULATION COMPANY arise out of this Defendant's business activities in the State of South Carolina.

113. Defendant, **STANDARD INSULATION COMPANY OF N. C., INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, STANDARD INSULATION COMPANY OF N. C., INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. STANDARD INSULATION COMPANY OF N. C., INC. is sued as a Product Defendant. STANDARD INSULATION COMPANY OF N. C., INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Standard Insulation Company of N. C., Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against STANDARD INSULATION COMPANY OF N. C., INC. arise out of this Defendant's business activities in the State of South Carolina.

114. Defendant, **STARR DAVIS COMPANY, INC.**, was a North Carolina corporation with its principal place of business in North Carolina. At all times material hereto, STARR DAVIS COMPANY, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. STARR DAVIS COMPANY, INC. is sued as a Product Defendant. STARR DAVIS COMPANY, INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Starr Davis Company Inc., exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against STARR DAVIS COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

115. Defendant, **STARR DAVIS COMPANY OF S.C., INC.**, was a South Carolina corporation with its principal place of business in North Carolina. At all times material hereto, STARR DAVIS COMPANY OF S.C., INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. STARR DAVIS COMPANY OF S.C., INC. is sued as a Product Defendant. STARR DAVIS COMPANY OF S.C., INC. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Starr Davis Company of S.C. Inc., exposed tens of thousands of people, including

the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against STARR DAVIS COMPANY OF S.C., INC. arise out of this Defendant's business activities in the State of South Carolina.

116. Defendant, **STERLING FLUID SYSTEMS (USA) LLC**, was and is a Delaware limited liability company with its principal place of business in Indiana. At all times material hereto, STERLING FLUID SYSTEMS (USA) LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Peerless pumps present at numerous jobsites in South Carolina and North Carolina. STERLING FLUID SYSTEMS (USA) LLC is sued as a Product Defendant. Plaintiffs' claims against STERLING FLUID SYSTEMS (USA) LLC arise out of this Defendant's business activities in the State of South Carolina.

117. Defendant, **TE WIRE & CABLE LLC**, was and is a Delaware limited liability company with its principal place of business in New Jersey. At all times material hereto, TE WIRE & CABLE LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Thermo Electric wire and cable used at numerous jobsites in South Carolina and North Carolina. TE WIRE & CABLE LLC is sued as a Product Defendant. Plaintiffs' claims against TE WIRE & CABLE LLC arise out of this Defendant's business activities in the State of South Carolina.

118. Defendant, **THERMO ELECTRIC COMPANY, INC.**, f/k/a THERMO ELECTRIC WIRE & CABLE CO., was and is a Delaware corporation with its principal place of business in New Jersey. At all times material hereto, THERMO ELECTRIC COMPANY, INC. manufactured, processed, imported, converted, compounded, supplied, installed, replaced,

repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Thermo Electric wire and cable used at numerous jobsites in South Carolina and North Carolina. THERMO ELECTRIC COMPANY, INC. is sued as a Product Defendant. Plaintiffs' claims against THERMO ELECTRIC COMPANY, INC. arise out of this Defendant's business activities in the State of South Carolina.

119. Defendant, **UNION CARBIDE CORPORATION**, was and is a New York corporation with its principal place of business in Texas. At all times material hereto, UNION CARBIDE CORPORATION mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Calidria raw asbestos fibers used in drywall compounds and Bakelite boards at numerous jobsites in South Carolina and North Carolina. UNION CARBIDE CORPORATION is sued as a Product Defendant. Plaintiffs' claims against UNION CARBIDE CORPORATION arise out of this Defendant's business activities in the State of South Carolina.

120. Defendant, **VALVES AND CONTROLS US, INC.**, f/k/a WEIR VALVES & CONTROLS USA INC. d/b/a ATWOOD & MORRILL CO., INC., was and is a Texas corporation with its principal place of business in Oregon. At all times material hereto, VALVES AND CONTROLS US, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Atwood & Morrill valves at numerous jobsites in South Carolina and North Carolina. VALVES AND CONTROLS US, INC. is sued as a Product Defendant. Plaintiffs' claims against

VALVES AND CONTROLS US, INC. arise out of this Defendant's business activities in the State of South Carolina.

121. Defendant, **VELAN VALVE CORP.**, was and is a Delaware corporation with its principal place of business in Vermont. At all times material hereto, VELAN VALVE CORP. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Velan valves at numerous jobsites in South Carolina and North Carolina. VELAN VALVE CORP. is sued as a Product Defendant. Plaintiffs' claims against VELAN VALVE CORP. arise out of this Defendant's business activities in the State of South Carolina.

122. Defendant, **VIKING PUMP, INC.**, was and is a Delaware corporation with its principal place of business in Iowa. At all times material hereto, VIKING PUMP, INC. mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Viking pumps at numerous jobsites in South Carolina and North Carolina. VIKING PUMP, INC. is sued as a Product Defendant. Plaintiffs' claims against VIKING PUMP, INC. arise out of this Defendant's business activities in the State of South Carolina.

123. Defendant, **VISTRA INTERMEDIATE COMPANY LLC**, individually and as successor-in-interest to CRSS INC., was and is a Delaware limited liability corporation with its principal place of business in Texas. At all times material hereto, VISTRA INTERMEDIATE COMPANY LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the design of facilities

that included the use of asbestos-containing materials, and the installation and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. VISTRA INTERMEDIATE COMPANY LLC is sued as a Product Defendant and a Design Defendant. VISTRA INTERMEDIATE COMPANY LLC is also sued for the work it did at the various industrial sites in the southeastern United States which exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiffs' claims against VISTRA INTERMEDIATE COMPANY LLC arise out of this Defendant's business activities in the State of South Carolina.

124. Defendant, **THE WILLIAM POWELL COMPANY**, was and is an Ohio corporation with its principal place of business in Ohio. At all times material hereto, THE WILLIAM POWELL COMPANY mined, manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Powell valves at numerous jobsites in South Carolina and North Carolina. THE WILLIAM POWELL COMPANY is sued as a Product Defendant. Plaintiffs' claims against THE WILLIAM POWELL COMPANY arise out of this Defendant's business activities in the State of South Carolina.

125. Defendant, **WIND UP, LTD.**, individually and as successor-in-interest to PIPE & BOILER INSULATION, INC. f/k/a CAROLINA INDUSTRIAL INSULATING CO., was a South Carolina corporation with its principal place of business in South Carolina. At all times material hereto, WIND UP, LTD. manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, the installation

and removal of asbestos-containing materials, including but not limited to gaskets, packing, insulation and other asbestos materials on piping and equipment at numerous jobsites throughout the southeastern United States. WIND UP, LTD. is sued as a Product Defendant. WIND UP, LTD. is also sued for the work it did at the various industrial sites in the southeastern United States which, during the actual operations of Wind Up, Ltd., exposed tens of thousands of people, including the Plaintiff John A. Tibbs, to lethal doses of asbestos. Plaintiff's claims against WIND UP, LTD. arise out of this Defendant's business activities in the State of South Carolina.

126. Defendant, **YUBA HEAT TRANSFER LLC**, was and is a Delaware limited liability company with its principal place of business in Oklahoma. At all times material hereto, YUBA HEAT TRANSFER LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Yuba water pre-heaters present at numerous jobsites in South Carolina and North Carolina. YUBA HEAT TRANSFER LLC is sued as a Product Defendant. Plaintiffs' claims against YUBA HEAT TRANSFER LLC arise out of this Defendant's business activities in the State of South Carolina.

127. Defendant, **ZURN INDUSTRIES, LLC**, individually and as successor-in-interest to ZURN INDUSTRIES, INC., was and is a Delaware limited liability company with its principal place of business in Wisconsin. At all times material hereto, ZURN INDUSTRIES, LLC manufactured, processed, imported, converted, compounded, supplied, installed, replaced, repaired, used, and/or retailed substantial amounts of asbestos and/or asbestos-containing products, materials, or equipment, including, but not limited to, asbestos-containing Zurn boilers present at numerous jobsites in South Carolina and North Carolina. ZURN INDUSTRIES, LLC is

sued as a Product Defendant. Plaintiffs' claims against ZURN INDUSTRIES, LLC arise out of this Defendant's business activities in the State of South Carolina.

128. Plaintiff John A. Tibbs experienced further occupational exposure as a result of working with asbestos-containing equipment in his immediate vicinity at his work site, the premises of Defendants DUKE ENERGY CAROLINAS, LLC and DUKE ENERGY CORPORATION (collectively, hereinafter the "Premises Defendants"). All other Defendants (except for METROPOLITAN LIFE INSURANCE COMPANY), or their applicable predecessors in interest, were engaged in the manufacture, sale, distribution and/or installation of asbestos-containing products or raw asbestos materials for use in South Carolina and other states at times relevant to this action. At all times relevant to this action, the Defendants and the predecessors of the Defendants, for whose actions the Defendants are legally responsible, were engaged in the manufacture, sale, distribution, and/or installation of asbestos-containing products and raw materials for use in South Carolina and other states at times relevant to this action.

BACKGROUND FACTS

129. Plaintiffs bring this action for monetary damages as a result of Plaintiff John A. Tibbs contracting an asbestos-related disease.

130. Plaintiff John A. Tibbs was diagnosed with lung cancer on or about December 15, 2022.

131. Plaintiff John A. Tibbs's lung cancer was caused by his exposure to asbestos during the course of his employment, as well as through the asbestos carried home on the clothing and person of his father during the years in which he lived in the family home.

132. During his work history, Plaintiff John A. Tibbs was exposed to Defendants' asbestos-containing products through his work as a mechanic electrician from approximately the late 1950s to the late 1970s, at various industrial jobsites located primarily in South Carolina and

North Carolina. Plaintiff performed a variety of tasks throughout his worksites, which include but are not limited to, working on asbestos-containing pipe, block, cement, insulation, turbines, boilers, valves, steam traps, pumps, furnaces, and other equipment, as well as cutting, repairing, installing and removing asbestos-containing insulation, materials and other products. All of these activities exposed Plaintiff to asbestos and asbestos-dust.

133. During his work history, Plaintiff was further exposed through his work around other trades including carpenters, mechanics, pipefitters, boilermakers, insulators, and electricians. Plaintiff worked near and closely to a variety of tradesmen working on asbestos-containing pipe, block, cement, insulation, turbines, boilers, valves, steam traps, pumps, furnaces, and other equipment, as well as tradesmen mixing, cutting, repairing, installing and removing asbestos-containing insulation, materials and other products. All of these activities exposed Plaintiff to asbestos and asbestos-dust.

134. Plaintiff John A. Tibbs was exposed to Defendants' asbestos-containing products through his work as a mechanic electrician for Duke Power Company from approximately the late 1950s to the late 1970s, at various locations, including but not limited to the following:

- Ninety-Nine Islands Hydroelectric Station – Blacksburg, SC
- Gaston Shoals Hydroelectric Station – Blacksburg, SC
- Portman Shoals Hydroelectric Station – Williamston, SC
- Rocky Creek Hydroelectric Station – Great Falls, SC
- Cedar Creek Hydroelectric Station – Great Falls, SC
- Boyd's Mill Hydroelectric Station – Poplar Springs, SC
- Oxford Hydroelectric Station – Conover, NC
- Rhodhiss Hydroelectric Station – Rhodhiss, NC
- Tumbling Shoals Hydroelectric Station/Dam – Lake Lure, NC
- Holiday's Bridge Hydroelectric Station – Belton, SC
- Riverbend Steam Station – Mount Holly, NC
- Cowans Ford Hydroelectric Station/Dam – Huntersville, NC
- Marshall Steam Station – Sherrills Ford, NC
- Dan River Steam Station – Eden, NC
- Oconee Nuclear Station – Seneca, SC
- Jocassee Hydroelectric Station/Dam – Salem, SC

- Keowee Hydroelectric Station – Seneca, SC
- Cliffside Steam Station – Mooresboro, NC
- Belews Creek Steam Station – Belews Creek, NC
- Allen Steam Station – Belmont, NC
- Buck Steam Station – Salisbury, NC
- Lee Steam Station – Williamston, SC

135. During the course of Plaintiff John A. Tibbs's employment at the location(s) mentioned above, during other occupational and non-occupational work projects and in other ways, Plaintiff was exposed to and inhaled, ingested, or otherwise absorbed asbestos dust and fibers emanating from certain products he was working around.

136. Plaintiff John A. Tibbs was further exposed as a result of his father John H. Tibbs's employment as a superintendent of maintenance for Duke Power Company from approximately the late 1930s to the early 1980s. Plaintiff's father was exposed to asbestos through his work throughout the various facilities, and was further exposed through his work around various other trades, including but not necessarily limited to premises workers, maintenance workers, insulators, pipefitters, welders, boilermakers, electricians, and others who installed and removed asbestos-containing materials.

137. While employed as a superintendent of maintenance, Plaintiff's father John H. Tibbs wore his own clothes to work, was exposed to asbestos dust and fibers that he brought home on his work clothes, fell off in his vehicle and were on his body including his hair, that distributed and re-entrained in his vehicle and home which caused Plaintiff John A. Tibbs to be exposed to said asbestos dust in sufficient amounts as to cause him to develop lung cancer.

138. From approximately the early 1940s to the early 1960s, Plaintiff John A. Tibbs was exposed to asbestos dust and fibers from products, services, and goods manufactured, distributed and/or sold by Defendants for use at Plaintiff's father's jobsites which Plaintiff came in contact with off premises through contact with his father's work clothes, personal possessions, and vehicle.

Plaintiff's exposure to asbestos dust and fibers occurred through his contact with his father's work clothing and person when greeting him at the end of the workday, through spending time in his father's vehicle in which asbestos dust and fibers had been deposited, and through sharing a home contaminated with asbestos fibers that were constantly being stirred up and re-entrained in the air that they breathed throughout their home.

139. Plaintiff John A. Tibbs's cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products, individually and together, was a substantial factor in causing Plaintiff John A. Tibbs's lung cancer and other related injuries and therefore under South Carolina law, is the legal cause of Plaintiff's injuries and damages.

140. Plaintiffs and Plaintiff John A. Tibbs's father John H. Tibbs were not aware at the time of exposure that asbestos and/or asbestos-containing products presented any risk of injury and/or disease.

141. Plaintiffs are informed and believe, and thereon allege, that progressive lung disease, lung cancer and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

142. As a direct and proximate result of the conduct as alleged within, Plaintiff John A. Tibbs suffered permanent injuries, including, but not limited to, lung cancer and other lung damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

143. As a direct and proximate result of the conduct as hereinafter alleged, Plaintiff John A. Tibbs has incurred, and will continue to incur, liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof

being unknown to Plaintiffs at this time. Plaintiffs request leave to supplement this Court and all parties accordingly when the true and exact cost of Plaintiff John A. Tibbs's medical treatment is ascertained.

144. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiffs have incurred loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs. Plaintiffs request leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

FOR A FIRST CAUSE OF ACTION
(Product Liability: Negligence)

Plaintiffs Complain of Defendants for a Cause of Action for Negligence Alleging as Follows:

145. Plaintiffs incorporate herein by reference, as though fully set forth herein, each and every paragraph of the General Allegations above.

146. At all times herein mentioned, each of the named Defendants was an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as "alternate entities," engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable use with asbestos products.

147. At all times herein mentioned, Defendants, and/or their “alternate entities” singularly and jointly, negligently and carelessly researched, manufactured, fabricated, designed, modified, tested or failed to test, abated or failed to abate, inadequately warned or failed to warn of the health hazards, failed to provide adequate use instructions for eliminating the health risks inherent in the use of the products, labeled, assembled, distributed, leased, bought, offered for sale, supplied, sold, inspected, serviced, installed, contracted for installation, repaired, marketed, warranted, rebranded, manufactured for others, packaged and advertised, a certain product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable use with asbestos products, in that said products caused personal injuries to Plaintiff John A. Tibbs and others similarly situated, (hereinafter collectively called “exposed persons”), while being used for their intended purpose and in a manner that was reasonably foreseeable.

148. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants’ asbestos and asbestos-containing products, and products manufactured for foreseeable use with asbestos products from causing Plaintiff John A. Tibbs’s lung cancer, due to an inability of any asbestos-alternative to penetrate the pleural lining of Plaintiff’s lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or their “alternate entities.” Said alternatives were of comparable utility to the asbestos or asbestos-containing products of Defendants and/or their “alternate entities.” The gravity of the potential harm resulting from the use of Defendants’ asbestos or asbestos-containing products, and the likelihood such harm would occur to users of its products, far outweighed any additional cost or marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate

use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use by Plaintiff John A. Tibbs and his father John H. Tibbs. Defendants and/or their “alternate entities” had a duty to exercise due care in the pursuance of the activities mentioned above and Defendants, each of them, breached said duty of due care.

149. Defendants, and/or their “alternate entities” knew or should have known, and intended that the aforementioned asbestos and asbestos-containing products would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other applications, including, but not limited to grinding, sawing, chipping, hammering, scraping, sanding, breaking, removal, “rip-out,” and other manipulation, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling by exposed persons, including Plaintiff John A. Tibbs and his father John H. Tibbs, would use or be in proximity to and exposed to said asbestos fibers.

150. At all times relevant, Defendants and/or their “alternate entities” were aware of their asbestos and asbestos-containing products’ defect but failed to adequately warn Plaintiff John A. Tibbs, Plaintiff’s family members or others in their vicinity, as well as failed to adequately warn others of the known hazards associated with their products and/or failed to recall or retrofit their products. A reasonable manufacturer, distributor, or seller of Defendants’ products would have, under the same or similar circumstances, adequately warned of the hazards associated with their products.

151. Plaintiff John A. Tibbs, Plaintiff’s family members and others in their vicinity used, handled or were otherwise exposed to asbestos and asbestos-containing products referred to herein

in a manner that was reasonably foreseeable. Plaintiff's and his father John H. Tibbs's exposure to asbestos and asbestos-containing products occurred at various locations as set forth in this Complaint.

152. Plaintiff John A. Tibbs suffers from lung cancer, a cancer related to exposure to asbestos and asbestos-containing products. Plaintiff John A. Tibbs and his father John H. Tibbs were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury or disease.

153. Defendants' conduct and defective products as described in this cause of action were a direct cause of Plaintiff John A. Tibbs's injuries, and all damages thereby sustained by Plaintiff John A. Tibbs. Plaintiffs therefore seek all compensatory damages in order to make them whole, according to proof.

154. Furthermore, the conduct of Defendants and/or their "alternate entities" in continuing to market and sell products which they knew were dangerous to Plaintiff John A. Tibbs and the public without adequate warnings or proper use instructions was done in a conscious disregard and indifference to the safety and health of Plaintiff John A. Tibbs and others similarly situated.

155. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, failing to recall or retrofit, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, Defendants and/or their "alternate entities" did so with conscious disregard for the safety of "exposed persons" who came in contact with asbestos and asbestos-containing products, in that Defendants and/or their "alternate entities"

had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos, asbestos-containing products or products manufactured for foreseeable use with asbestos products, including, but not limited to, asbestosis, lung cancer, and other lung damages. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their “alternate entities.”

156. Defendants and their “alternate entities” were aware that members of the general public and other “exposed persons,” who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products, could cause injury, and Defendants, and their “alternate entities,” each of them, knew that members of the general public and other “exposed persons,” who came in contact with asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, would assume, and in fact did assume, that exposure to asbestos and asbestos-containing products was safe, when in fact said exposure was extremely hazardous to health and human life.

157. The above-referenced conduct of Defendants, and their “alternate entities,” was motivated by the financial interest of Defendants, their “alternate entities,” and each of them, in the continuing, uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection, installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing products and products manufactured for foreseeable use with asbestos products. Defendants, their “alternate entities,” and each of them consciously disregarded the safety of “exposed persons” in pursuit of profit. Defendants were consciously willing and intended to permit asbestos and asbestos-containing

products to cause injury to “exposed persons” without warning them of the potential hazards and further induced persons to work with and be exposed thereto, including Plaintiff John A. Tibbs.

158. Plaintiff John A. Tibbs, his father John H. Tibbs, and other exposed persons did not know of the substantial danger of using Defendants’ asbestos, asbestos containing-products, and products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Plaintiff John A. Tibbs, his father John H. Tibbs, or other exposed persons. Defendants and/or their "alternate entities" further failed to adequately warn of the risks to which Plaintiff and others similarly situated were exposed.

159. Defendants and/or their “alternate entities” are liable for the fraudulent, oppressive, and malicious acts of their “alternate entities,” and each Defendant's officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and had full knowledge of, or should have known of, the acts of each of their “alternate entities” as set forth herein.

160. The herein-described conduct of Defendants and their “alternate entities,” was and is willful, malicious, fraudulent, and outrageous and in conscious disregard and indifference to the safety and health of persons foreseeably exposed. Plaintiffs, for the sake of example and by way of punishing said Defendants, seek punitive damages according to proof against all defendants.

FOR A SECOND CAUSE OF ACTION

(Product Liability: Strict Liability - S.C. Code Ann. § 15-73-10, et seq.)

As a Second and Distinct Cause of Action for Strict Liability, Plaintiffs Complain of Defendants, and Allege as Follows:

161. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

162. Plaintiff John A. Tibbs suffers from lung cancer, a cancer related to exposure to asbestos, asbestos-containing products and products manufactured for foreseeable use with

asbestos products. Plaintiff John A. Tibbs and his father John H. Tibbs were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

163. The Product Defendants' conduct and defective products as described above were a direct cause of Plaintiff John A. Tibbs's injuries, and the injuries and damages thereby sustained by Plaintiffs.

164. Furthermore, the Defendants' conduct and that of their "alternate entities" in continuing to market and sell products which they knew were dangerous to Plaintiff John A. Tibbs, his father John H. Tibbs, and the public without adequate warnings or proper use instructions, was done in a conscious disregard and indifference to the safety and health of Plaintiff John A. Tibbs, his father John H. Tibbs, and others similarly situated.

165. Defendants and/or their "alternate entities" knew or should have known, and intended that the aforementioned asbestos and products containing asbestos would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other applications, including, but not limited to grinding, sawing, chipping, hammering, scraping, sanding, breaking, removal, "rip-out," and other manipulation, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling, "exposed persons," including Plaintiff John A. Tibbs and his father John H. Tibbs, would use or be in proximity to and exposed to said asbestos fibers.

166. Plaintiff John A. Tibbs, Plaintiff's family members, and others in their vicinity used, handled or were otherwise exposed to asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, referred to herein in a manner that was

reasonably foreseeable. Plaintiff's and his father John H. Tibbs's exposure to asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products occurred at various locations as set forth in this Complaint.

167. Defendants and/or their "alternate entities" knew and intended that the above-referenced asbestos and asbestos-containing products would be used by the purchaser or user without inspection for defects therein or in any of their component parts and without knowledge of the hazards involved in such use.

168. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants' asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products from causing Plaintiff John A. Tibbs's lung cancer, due to an inability of any asbestos-alternative to penetrate the pleural lining of Plaintiff's lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or their "alternate entities." Said alternatives were of comparable utility to the asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products of Defendants and/or their "alternate entities." The gravity of the potential harm resulting from the use of Defendants' asbestos or asbestos-containing products, and the likelihood such harm would occur, far outweighed any additional cost or marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use.

169. The defect existed in the said products at the time they left the possession of defendants and/or their "alternate entities," and each of them. Said products were intended to reach

the ultimate consumer in the same condition as it left defendants. Said products did, in fact, cause personal injuries, including lung cancer, asbestosis, other lung damage, and cancer to “exposed persons,” including Plaintiff John A. Tibbs herein, while being used in a reasonably foreseeable manner, thereby rendering the same defective, unsafe and dangerous for use.

170. Plaintiff John A. Tibbs, his father John H. Tibbs, and other exposed persons did not know of the substantial danger of using Defendants’ asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Plaintiff John A. Tibbs, his father John H. Tibbs, or other exposed persons. Said Defendants and/or their “alternate entities” further failed to adequately warn of the risks to which Plaintiff John A. Tibbs, his father John H. Tibbs, and others similarly situated were exposed.

171. Defendants’ defective products as described above were a direct cause of Plaintiff John A. Tibbs’s injuries, and the damages thereby sustained.

172. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, Defendants and/or their “alternate entities,” and each of them, did so with conscious disregard for the safety of Plaintiff John A. Tibbs, his father John H. Tibbs, and other exposed persons who came in contact with the asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, in that Defendants and/or their “alternate entities” had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos or asbestos-containing products or products manufactured for

foreseeable use with asbestos products, including, but not limited to, lung cancer, asbestosis, other lung damages and cancers. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their “alternate entities.”

173. Defendants and/or their “alternate entities” were aware that members of the general public and other exposed persons, who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products could cause injury. Defendants and/or their “alternate entities” further knew that members of the general public and other exposed persons, who came in contact with asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products would assume, and in fact did assume, that exposure to asbestos and asbestos-containing products was safe, when in fact exposure was extremely hazardous to health and human life.

174. The above-referenced conduct of Defendants and/or their “alternate entities” motivated by the financial interest of Defendants, their “alternate entities,” and each of them, in the continuing and uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection, installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products. Defendants and/or their “alternate entities” consciously disregarded the safety of “exposed persons” in their pursuit of profit and in fact consciously intended to cause injury to Plaintiff John A. Tibbs, his father John H. Tibbs, and other exposed persons and induced persons to work with, be exposed to, and thereby injured by asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products.

175. Defendants are liable for the fraudulent, oppressive, and malicious acts of their “alternate entities,” and each Defendant's officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and knew, or should have known of, the acts of each of their “alternate entities” as set forth herein.

176. The conduct of said defendants, their “alternate entities,” and each of them as set forth in this Complaint, was and is willful, malicious, fraudulent, outrageous and in conscious disregard and indifference to the safety and health of exposed persons. Plaintiffs, for the sake of example and by way of punishing said Defendants, seeks punitive damages according to proof against all defendants.

177. At all times herein mentioned, each of the named Defendants, and/or their “alternate entities,” was an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as “alternate entities,” engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain product, namely asbestos, other products containing asbestos and products manufactured for foreseeable use with asbestos products.

FOR A THIRD CAUSE OF ACTION
(Vicarious Liability of Defendants Based upon Respondeat Superior)

As a Third Distinct Cause of Action Against Defendants, Plaintiffs Bring this Third Cause of Action for Vicarious Liability of Defendants Based upon Respondeat Superior and Allege as Follows:

178. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

179. Prior to and during all relevant times Defendants and/or their “alternate entities” employed workers (hereinafter “employees”) in areas where defendants owned, maintained, controlled, managed and/or conducted business activities where Plaintiff John A. Tibbs and/or his father John H. Tibbs worked and/or spent time as alleged above.

180. At all times herein mentioned, Defendants’ employees frequently encountered asbestos-containing products, materials, and debris during the course and scope of their employment, and during their regular work activities negligently disturbed asbestos-containing materials to which Plaintiff John A. Tibbs and his father John H. Tibbs were exposed.

181. Employees handling and disturbing asbestos-containing products in Plaintiff John A. Tibbs’s and his father John H. Tibbs’s vicinity were the agents and employees of defendants and at all times relevant were subject to the control of Defendants with respect to their acts, labor, and work involving (a) the removal, transport, installation, cleaning, handling, and maintenance of asbestos-containing products, materials, and debris, and (b) the implementation of safety policies and procedures. Defendants controlled both the means and manner of performance of the work of their employees as described herein.

182. Employees handling and disturbing asbestos-containing products in Plaintiff John A. Tibbs’s, Plaintiff’s family members and others’ vicinity received monetary compensation from

Defendants in exchange for the work performed and these employees performed the work in the transaction and furtherance of Defendants' businesses.

183. Harmful asbestos fibers were released during Defendants' employees' use, handling, breaking, or other manipulation of asbestos-containing products and materials.

184. Once released, the asbestos fibers contaminated the clothes, shoes, skin, hair, and body parts of those exposed, including Plaintiff John A. Tibbs and his father John H. Tibbs, who also inhaled those fibers, and on the surfaces of work areas, where further activity caused the fibers to once again be released into the air and inhaled by Plaintiff John A. Tibbs.

185. The asbestos and asbestos-containing materials were unsafe in that handling and disturbing products containing asbestos causes the release of asbestos fibers into the air onto surrounding surfaces, and onto persons in the area. The inhalation of asbestos fibers can cause serious disease and death.

186. Defendants' employees' use, handling and manipulation of asbestos-containing materials, as required by their employment and occurring during the course and scope of their employment, did in fact, cause personal injuries, including lung cancer and other lung damage, to exposed persons including Plaintiff John A. Tibbs.

187. Defendants' employees were negligent in their use, handling and manipulation of said products in that they failed to isolate their work with asbestos and/or to suppress asbestos fibers from being released into the air and surrounding areas. They also failed to take appropriate steps to learn how to prevent exposure to asbestos, failed to warn and/or adequately warn Plaintiff John A. Tibbs and his father John H. Tibbs that they were being exposed to asbestos, failed to adequately warn Plaintiff John A. Tibbs and his father John H. Tibbs of the harm associated with his exposure to asbestos, and provide them with protection to prevent their inhalation of asbestos.

188. Defendants' employees knew or should have known that failure to take such steps would result in exposure to bystanders including Plaintiff John A. Tibbs and his father John H. Tibbs.

189. Defendants' employees owed Plaintiff John A. Tibbs and his father John H. Tibbs a duty to exercise due care and diligence in their activities while they were lawfully on the premises so as not to cause them harm.

190. Defendants' employees breached this duty of care as described above.

191. At all times mentioned, Plaintiff John A. Tibbs and his father John H. Tibbs were unaware of the dangerous condition and unreasonable risk of personal injury created by Defendants' employees' use of and work with asbestos-containing products and materials.

192. As a direct result of the Defendants' employees conduct, Plaintiff John A. Tibbs's and his father John H. Tibbs's exposure to asbestos, asbestos-containing materials, and products manufactured for foreseeable use with asbestos products, each individually and together, caused severe and permanent injury to Plaintiff John A. Tibbs and the damages and injuries as complained of herein by Plaintiffs.

193. The risks herein alleged and the resultant damages suffered by the Plaintiff John A. Tibbs were typical of or broadly incidental to Defendants' business enterprises. As a practical matter, the losses caused by the torts of Defendants' employees as alleged were sure to occur in the conduct of Defendants' business enterprises. Nonetheless, Defendants engaged in, and sought to profit by, their business enterprises without exercising due care as described in this Complaint, which, on the basis of past experience, involved harm to others as shown through the torts of employees.

194. Based on the foregoing, Defendants as the employers of said employees are vicariously liable under the doctrine of respondeat superior for all negligent acts and omissions

committed by their employees in the course and scope of their work that caused harm to Plaintiff John A. Tibbs.

FOR A FOURTH CAUSE OF ACTION
(Premises Liability: Negligence as to Premises Owner/Contractor)

As a Fourth Distinct Cause of Action for General Negligence, Plaintiffs Complain of Defendants, and Allege as Follows:

195. Plaintiffs incorporate by reference, the preceding paragraphs as if fully set forth herein.

196. Prior to and during all relevant times, the Defendants and/or their “alternate entities” employed workers in areas where Defendants owned, maintained, controlled, managed and/or conducted business activities where Plaintiff John A. Tibbs and his father John H. Tibbs worked and/or spent time.

197. At all times herein mentioned, Defendants selected, supplied, and distributed asbestos-containing materials to their employees for use during their regular work activities, and said employees disturbed those asbestos-containing materials.

198. Defendants were negligent in selecting, supplying, distributing and disturbing the asbestos-containing products and in that said products were unsafe. Said products were unsafe because they released asbestos fibers and dust into air when used which would be inhaled by Plaintiff John A. Tibbs, and his father John H. Tibbs, and settled onto their clothes, shoes, hands, face, hair, skin, and other body parts thus creating a situation whereby workers and by-standers including Plaintiff John A. Tibbs would be exposed to dangerous asbestos dust beyond the present.

199. The asbestos, asbestos-containing materials, and products manufactured for foreseeable use with asbestos products described herein were unsafe in that handling and disturbing products containing asbestos causes the release of asbestos fibers into the air, and the inhalation of asbestos fibers causes serious disease and death. Here, the handling of the above-

described asbestos-containing materials by Defendants' employees, as required by their employment and occurring during the course and scope of their employment, did, in fact, cause personal injuries, including lung cancer and other lung damage, to exposed persons, including Plaintiffs.

200. At all times herein mentioned, Defendants knew or should have known that its employees and bystanders thereto, including Plaintiff John A. Tibbs and his father John H. Tibbs, frequently encountered asbestos-containing products and materials during the course and scope of their work activities.

201. At all times herein mentioned, Defendants knew or should have known that the asbestos-containing materials encountered by its employees and bystanders thereto including Plaintiff John A. Tibbs and his father John H. Tibbs were unsafe in that harmful asbestos fibers were released during the use, handling, breaking, or other manipulation of asbestos-containing products and materials, and that once released, asbestos fibers can be inhaled, and can alight on the clothes, shoes, skin, hair, and body parts of those exposed, where further activity causes the fibers to once again be released into the air where they can be inhaled, all of which causes serious disease and/or death.

202. At all times herein mentioned, Defendants, in the exercise of reasonable diligence, should have known that absent adequate training and supervision, their employees and bystanders thereto, including Plaintiff John A. Tibbs and his father John H. Tibbs, were neither qualified nor able to identify asbestos-containing products nor to identify the hazardous nature of their work activities involving asbestos-containing products.

203. At all times herein mentioned, Plaintiff John A. Tibbs and his father John H. Tibbs were unaware of the dangerous condition and unreasonable risk of personal injury created by the presence and use of asbestos-containing products and materials.

204. At all times herein mentioned, Defendants, in the exercise of reasonable diligence, should have known that workers and bystanders thereto, would bring dangerous dust home from the workplace and contaminate their family cars and homes, continuously exposing and potentially causing injury to others off the premises.

205. At all times herein mentioned, Defendants had a duty to use due care in the selection, supply, distribution and disturbance of asbestos-containing products and materials to its employees, to adequately instruct, train, and supervise their employees and to implement adequate safety policies and procedures to protect workers and persons encountering those workers, including Plaintiff John A. Tibbs, from suffering injury or death as a result of the asbestos hazards encountered and created by the work of Defendants' employees.

206. Defendants' duties as alleged herein exist and existed independently of Defendants' duties to maintain their premises in reasonably safe condition, free from concealed hazards.

207. Defendants negligently selected, supplied, and distributed the asbestos-containing materials and failed to adequately train or supervise their employees to identify asbestos-containing products and materials; to ensure the safe handling of asbestos-containing products and materials encountered during the course of their work activities; and to guard against inhalation of asbestos fibers and against the inhalation of asbestos fibers by those who would come into close contact with them after they had used, disturbed, or handled, said asbestos-containing products and materials during the course and scope of their employment by Defendants.

208. Defendants failed to warn their employees and bystanders thereto, including Plaintiff John A. Tibbs and his father John H. Tibbs, of the known hazards associated with asbestos and the asbestos-containing materials they were using and/or disturbing.

209. As a direct and proximate result of the conduct of Defendants in selecting, supplying, distributing and disturbing asbestos-containing materials or products manufactured for

foreseeable use with asbestos products and failing to adequately train and supervise their employees and failing to adopt and implement adequate safety policies and procedures as alleged herein, Plaintiff John A. Tibbs became exposed to and inhaled asbestos fibers, which was a substantial factor in causing Plaintiff John A. Tibbs to develop asbestos-related lung cancer, and to suffer all damages attendant thereto.

FOR A FIFTH CAUSE OF ACTION
(Negligence Per Se)

As a Fifth Distinct Cause of Action for Negligence Per Se, Plaintiffs Complain of Defendants, and Allege as Follows:

210. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

211. The actions of Defendants also constituted negligence per se.

212. Defendants violated federal and state regulations relating to asbestos exposure. Such violations constitute negligence per se or negligence as a matter of law. Further, each such violation resulted in dangerous and unlawful exposures to asbestos for Plaintiff John A. Tibbs. Plaintiffs are not making any claims under federal law; instead, Plaintiffs are simply using the violation of federal standards as proof of liability on their state-law theories. Further, the reference to Federal regulations does not create a federal question. *See Merrell Dow Pharms., Inc. v. Thompson*, 478 U.S. 804 (1986). Any removal on this basis will be met with an immediate motion for remand and for sanctions.

213. The negligence per se of Defendants was a proximate cause of Plaintiff John A. Tibbs's injuries.

FOR A SIXTH CAUSE OF ACTION
(Negligence as to Design Defendants)

As a Sixth Distinct Cause of Action for Negligence, Plaintiffs Complain of Design Defendants and Allege as Follows:

214. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

215. The work performed by the Design Defendants was defective in all, but not limited to, the following particulars:

- (a) In failing and neglecting to properly inspect the building for defects in the construction, design, and defects in the asbestos-containing products, materials and/or equipment.
- (b) In failing and neglecting to properly train employees in the proper installation of asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (c) In failing and neglecting to properly supervise employees, contractors, subcontractors, and/or suppliers in the proper installation of asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (d) In failing and neglecting to employ careful contractors and/or employees.
- (e) In failing and neglecting to properly install asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (f) In failing to properly install the asbestos-containing products, materials and/or equipment, including but not limited to asbestos.
- (g) In failing to properly warn Plaintiff John A. Tibbs and his father John H. Tibbs of dangers and risks associated with the conditions of the material and work product which was being installed for use by Plaintiff, his father, and others in their vicinity.
- (h) By such other failures as will be proved at trial.

All of which is contrary to one or more of workmanlike practice; the plans, specifications, and other contract documents; manufacturers' recommendations and instructions; trade custom and usage; and applicable building codes.

216. As a direct, proximate, and foreseeable result of the negligence of the Design Defendants, Plaintiff John A. Tibbs suffered and incurred actual damages, as described hereinabove, and are entitled to recover such damages from the Design Defendants in such an amount as the trier of fact may find. The actions and omissions to act of the Design Defendants were willful, wanton, reckless and grossly negligent, so as to entitle the Plaintiffs to recover punitive damages.

FOR A SEVENTH CAUSE OF ACTION
(Negligent Design Services Against Design Defendants)

As a Seventh Distinct Cause of Action for Negligent Design Services, Plaintiffs Complain of Design Defendants and Allege as Follows:

217. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

218. Design Defendants owed Plaintiff John A. Tibbs and his father John H. Tibbs a duty to perform professional design services, including construction administration, in accordance with professional standards obtained in South Carolina for the delivery and performance of such services.

219. Design Defendants breached such professional standards in all, but not limited to, the following particulars:

- (a) In failing and neglecting to take reasonable care in the design of said building.
- (b) In failing and neglecting to properly design said building, to issue proper construction, to prevent continuous and substantial exposure to asbestos and/or asbestos-containing products.
- (c) In failing and neglecting to properly supervise the construction of said building.
- (d) In failing and neglecting to properly and reasonably design said building to eliminate exposure to asbestos and/or asbestos-containing products, including but not limited to asbestos-containing insulation.

- (e) In negligently specifying the use of inappropriate, improper and/or defective and deficient building systems, materials, and components, including but not limited to asbestos-containing insulation.
- (f) By such other failures as will be proved at trial.

220. As a direct, proximate, and foreseeable result of the negligence of the Design Defendants, Plaintiff John A. Tibbs suffered and incurred actual damages, as described hereinabove, and are entitled to recover such damages from the Design Defendants in such an amount as the trier of fact may find. The actions and omissions to act of the Design Defendants were willful, wanton, reckless and grossly negligent, so as to entitle the Plaintiffs to recover punitive damages.

FOR AN EIGHTH CAUSE OF ACTION

(Product Liability: Breach of Implied Warranties - S.C. Code Ann. § 36-2-314)

As an Eighth Distinct Cause of Action for Breach of Implied Warranties, Plaintiffs Complain of Defendants and Allege as Follows:

221. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

222. Each of the Defendants and/or their “alternate entities” impliedly warranted that their asbestos materials or asbestos-containing products were of good and merchantable quality and fit for their intended use.

223. The implied warranty made by the Defendants and/or their “alternate entities” that the asbestos and asbestos-containing products were of good and merchantable quality and fit for the particular intended use, was breached. As a result of that breach, asbestos was given off into the atmosphere where Plaintiff John A. Tibbs and his father John H. Tibbs carried out their duties and was inhaled by Plaintiff John A. Tibbs.

224. As a direct and proximate result of the breach of the implied warranty of good and merchantable quality and fitness for the particular intended use, Plaintiff John A. Tibbs and his father John H. Tibbs were exposed to Defendants' asbestos, asbestos-containing products, and/or products manufactured for foreseeable use with asbestos products, and Plaintiff John A. Tibbs consequently developed lung cancer, causing Plaintiffs to suffer all damages attendant thereto.

FOR A NINTH CAUSE OF ACTION
(Fraudulent Misrepresentation)

For a Ninth Distinct Cause of Action for Fraudulent Misrepresentation, Plaintiffs Complain of Defendants, and Allege as Follows:

225. Plaintiffs repeat and re-allege the portions of the above paragraphs where relevant.

226. That during, before and after Plaintiff John A. Tibbs's exposure to asbestos products manufactured by Defendants and/or their "alternate entities", the Defendants and/or their "alternate entities" falsely represented facts, including the dangers of asbestos exposure to Plaintiff John A. Tibbs and his father John H. Tibbs in the particulars alleged in the paragraphs above, while Defendants each had actual knowledge of said dangers of asbestos exposure to persons such as Plaintiff John A. Tibbs and his father John H. Tibbs. At the same time of these misrepresentations, Defendants each knew of the falsity of their representations and/or made the representations in reckless disregard of their truth or falsity.

227. The foregoing representations were material conditions precedent to Plaintiff John A. Tibbs's continued exposure to asbestos-containing products. Defendants and/or their "alternate entities" each intended that Plaintiff John A. Tibbs act upon the representations by continuing his work around, and thereby exposure to, the asbestos products. Plaintiff John A. Tibbs was ignorant of the falsity of Defendants' representations and rightfully relied upon the representations.

228. As a direct and proximate result Plaintiff John A. Tibbs's and his father John H. Tibbs's reliance upon Defendants' false representations, Plaintiffs have suffered injury and damages as described herein.

FOR A TENTH CAUSE OF ACTION
(Conspiracy, Concert of Action – Defendant Metropolitan Life Insurance Company)

For a Tenth Distinct Cause of Action for Fraudulent Misrepresentation, Plaintiff Complains of Defendant Metropolitan Life Insurance Company, and Alleges as Follows:

229. Plaintiffs repeat and re-allege the portions of the above paragraphs where relevant.

230. Beginning in the late 1920's, conspirators including Defendant Metropolitan Life Insurance Company ("Met Life"), as well as Johns-Manville, Raybestos-Manhattan and others, undertook a duty to conduct research on asbestos-related health problems and to inform the public about any health risks that could be associated therewith. In or about 1929, Met Life, through its agents and employees acting within the scope of their agency and employment, including but not limited to Dr. Anthony J. Lanza ("Lanza"), began an investigation of asbestos-related health hazards. In 1935, this study was altered by Lanza, with the full knowledge of Met Life, at the request of and in concert with the asbestos industry in order to wrongly influence the United States Public Health Service, the United States medical community and various state legislatures.

231. Thereafter, Defendant Met Life through the acts and omissions of its employees, most notably Lanza, undertook a series of activities with various members of the asbestos industry including but not limited to Johns-Manville, Raybestos-Manhattan/Raymark Industries, Inc., United States Gypsum, American Brake Blok/Abex, and others to suppress and misrepresent the dangers of exposure to asbestos dust to employees of Met Life's insureds and the general public and the medical community.

232. The conspirators through their agent, Lanza of Met Life, made a concerted effort to discredit and to terminate the experiments of certain scientists who were developing data of

profound importance for the area of public health in relation to the cancer hazard which existed for workers and bystanders in the asbestos industry.

233. As a direct and proximate result of Met Life's intentional publication of deceptive and misleading medical data and information, and other conspiratorial acts and omissions, Defendant caused asbestos to be used in the settings from which Plaintiff John A. Tibbs and his father John H. Tibbs were exposed to and breathed asbestos dust which resulted in Plaintiff John A. Tibbs's injuries. Defendant Met Life, through its agents and employees and officers, aided and abetted and gave substantial assistance to Johns-Manville and Raybestos-Manhattan in their tortious selling of asbestos products and voluntarily undertook a duty to warn the United States Public Health Service, the medical community, and others about the danger of asbestos and consciously and negligently misrepresented the dangers of asbestos to the United States Public Health Service, the medical community, and others, all to the ultimate harm of Plaintiff herein.

234. Defendant Met Life rendered substantial aid and assistance to the manufacturers of asbestos-containing products to which Plaintiff John A. Tibbs and his father John H. Tibbs were exposed, and such assistance by Met Life aided and abetted the negligence and the marketing of unreasonably dangerous asbestos-containing products by such manufacturers which proximately caused Plaintiff John A. Tibbs's illness.

235. In both conducting tests and in publishing their alleged results, Met Life failed to exercise reasonable care to conduct or publish complete, adequate and accurate tests of the health effects of asbestos. Met Life also caused to be published intentionally false, misleading, inaccurate and deceptive information about the health effects of asbestos exposure.

236. Plaintiff John A. Tibbs and his father John H Tibbs unwittingly and justifiably relied upon the thoroughness of Met Life's tests and information dissemination, the results of which Met Life published in leading medical journals.

237. As a direct and proximate contributing result of Met Life's failures to conduct or accurately publish adequate tests or disseminate accurate and truthful information, after undertaking to do so; (i) the risk of harm to Plaintiff John A. Tibbs from asbestos exposure was increased, and (ii) Plaintiff suffered the injuries described herein.

238. In failing to test fully and adequately for the adverse health effects from exposure to asbestos; in delaying the publication of such results; and in falsely editing such results as were obtained; in suppressing relevant medical inquiry and knowledge about those hazards to promote the sale and distribution of asbestos as a harmless product; and in collaborating with the other Defendants materially to understate the hazards of asbestos exposure, all for its own profit and gain, Met Life acted recklessly, wantonly, and in calculated disregard for the welfare of the general public, including Plaintiff John A. Tibbs and his father John H. Tibbs.

239. Additionally and alternatively, as a direct and proximate result of Met Life's actions and omissions, Plaintiff John A. Tibbs and his father John H. Tibbs were caused to remain ignorant of all the dangers of asbestos resulting in Plaintiff and his father, their co-workers, their wives, their family, and the general public to be unaware of the true and full dangers of asbestos, depriving Plaintiff John A. Tibbs and his father John H. Tibbs of the opportunity to decide for themselves whether they wanted to take the risk of being exposed to asbestos, denied Plaintiff and his father the opportunity to take precautions against the dangers of asbestos and proximately caused Plaintiff's damages herein.

240. During the relevant time period the Plaintiff John A. Tibbs and his father John H. Tibbs were exposed to and did inhale and/or ingest asbestos dust, fibers, and particles, which dust, fibers, and particles came from the asbestos or asbestos-containing products which were mined, milled, manufactured, fabricated, supplied, and/or sold by the Johns Manville and/or Raybestos/Raymark.

241. Defendant, Met Life, together with Manville, Raymark and other persons and entities, known and unknown at times relevant hereto, engaged in a conspiracy or concert of action to inflict injury on the Plaintiff John A. Tibbs, and his father John H. Tibbs, and to withhold, alter, suppress and misrepresent information about the health effects of asbestos exposure. One or more of said conspirators did cause tortious injury to the Plaintiff in the course of or as a consequence of the conspiracy or concert of action. At least the following enumerated acts were undertaken by the conspirators in the course of and in furtherance of the conspiracy or concert of action:

- (a) In 1932, Met Life, through Lanza and others, assisted Manville with medical examinations of over 1,000 employees of Manville's factory in Manville, New Jersey. The report of this study shows that a large percentage of the employees suffered from asbestosis including employees not directly involved in the manufacturing process. This 1932 medical survey was not published in the medical literature and, therefore, was unavailable to scientists studying the issue of asbestos-related disease. Further collaboration between Manville and Met Life continued the cover-up.
- (b) Beginning in approximately 1934, Manville, through its agents, Vandiver Brown and Attorney J.C. Hobart, suggested to Lanza, Associate Director of Met Life, which was then insurer of Manville and Raymark, that Lanza publish a study on asbestosis in which Lanza would affirmatively misrepresent material facts about the health consequences of asbestos exposure. This was accomplished through intentional deletion of Lanza's description of asbestosis as 'fatal' and through other selective editing that affirmatively misrepresent asbestosis as a disease process less serious than it actually is and was known to be. As a result, Lanza's study was published in the medical literature in this misleading fashion in 1935. The conspirators were motivated, in part, to effectuate this fraudulent misrepresentation and fraudulent nondisclosure by the desire to influence proposed legislation to regulate asbestos exposure and to provide a defense in lawsuits involving Manville, Raymark, and Met Life as insurer. Furthermore, upon information and belief, it is alleged that Met Life, at all times relevant hereto, had substantial monetary investments in Manville and Raymark, among other asbestos product manufacturers and distributors.
- (c) In 1936, the conspirators or some of them entered into an agreement with the Saranac Laboratories. Under this agreement, these conspirators acquired the power to decide what information Saranac could publish about asbestos disease and to control in what form such publications would occur. This agreement gave these conspirators power to affirmatively misrepresent the

results of the work at Saranac, and also gave these conspirators power to material facts included in any study. On numerous occasions thereafter, the conspirators exercised their power to prevent Saranac scientists from disclosing material scientific data, resulting in numerous misstatements of fact being made at scientific meetings.

- (d) By November 1948, or earlier, Manville, Met Life (acting through Lanza), Raymark, and others decided to exert their influence to materially alter and misrepresent material facts about the substance of research started by Dr. Leroy Gardner at the Saranac Laboratories beginning in 1936. Dr. Gardner's research involved carcinogenicity of asbestos in mice and also included an evaluation of the health effects of asbestos on humans with a critical review of the then-existing standards of dust exposure for asbestos and asbestos products.
- (e) At a meeting on November 11, 1948, these conspirators and others intentionally and affirmatively determined that Dr. Gardner's work should be edited to specifically delete material facts about the cancer-causing propensities of asbestos and the health effects of asbestos on humans and they determined that only an edited version would be published. These conspirators thereby fraudulently misrepresented the risks of asbestos exposure to the public, in general, and to the class of persons exposed to asbestos, including the Plaintiff John A. Tibbs and his father John H. Tibbs.
- (f) As a direct result of influence exerted by the above described conspirators, Dr. Arthur Vorwald published Dr. Gardner's edited work in the Journal of Industrial Hygiene, AMA Archives of Industrial Hygiene and Occupational Health in 1951 in a form that stressed those portions of Dr. Gardner's work that the conspirators wished stressed, but which omitted references to human asbestosis and cancer, thereby fraudulently and affirmatively misrepresenting the extent of the risks. The conspirators affirmatively and deliberately disseminated this misleading Vorwald publication to universities, libraries, government officials, agencies and others.
- (g) Such action constituted a material affirmative misrepresentation of the material facts involved in Dr. Gardner's work and resulted in creating an appearance that inhalation of asbestos was a less serious health concern than Dr. Gardner's unedited work indicated.
- (h) For many decades, Met Life, individually, jointly and in conspiracy with Manville and Raymark, have been in possession of medical and scientific data, literature, and test reports which clearly indicated that the inhalation of asbestos dust and fibers resulting from the ordinary foreseeable use of said asbestos-containing products and/or machinery requiring or calling for the use of asbestos or asbestos-containing products were unreasonably dangerous, hazardous, deleterious to human health, carcinogenic, and potentially deadly.

- (i) Despite the medical and scientific data, literature and test reports possessed by and available to Met Life, individually and in conspiracy with Manville and Raymark, Fraudulently, willfully and maliciously withheld, concealed and suppressed said medical and scientific data, literature and test reports regarding the risks of asbestosis, lung cancer, and other illnesses and diseases from Plaintiff who using and being exposed to Manville or Raymark asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products; caused to be released, published and disseminated medical and scientific data, literature and test reports containing information and statements regarding the risks of asbestosis, lung cancer, and other illnesses and diseases, which Metropolitan, Manville and Raymark knew were either incorrect, incomplete, outdated and misleading; distorted the results of medical examinations conducted upon workers who were using asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products and being exposed to the inhalation of asbestos dust and fibers by falsely stating and/or concealing the nature and extent of the harm which workers suffered; and failed to adequately warn the Plaintiff of the dangers to which he was exposed when they knew of the dangers.
- (j) By the false and fraudulent representations, omissions, failures, and concealments set forth above, Met Life, Manville and Raymark, individually, jointly, and in conspiracy with each other, intended to induce the Plaintiff John A. Tibbs and his father John H. Tibbs to rely upon said false and fraudulent representations, omissions, failures, and concealments, to continue to expose themselves to the dangers inherent in the use of and exposure to their asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products. Said misrepresentations were false, incomplete, and misleading and constitute negligent misrepresentations as defined by Sections 311 and 522 of the Restatement (Second) of Torts.

242. Plaintiff John A. Tibbs and his father John H. Tibbs reasonably and in good faith relied upon the false and fraudulent representations, omissions, failures, and concealments made by Met Life, Manville, and Raymark regarding the nature of their asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products.

243. As a direct and proximate result of the conspiracy and concert of action between Met Life, Manville and Raymark, the Plaintiff John A. Tibbs and his father John H. Tibbs were deprived of the opportunity of informed free choice and connection with the use of and exposure

to Manville and Raymark's asbestos and asbestos-containing products, and therefore continued to work with and be exposed to the co-conspirator corporation's asbestos and asbestos-containing products and as a result brought asbestos dust or fibers home on their clothes, hair, shoes, and contracted asbestos-related diseases and other conditions, and/or aggravated pre-existing conditions, as a result of which the Plaintiff has been damaged.

FOR AN ELEVENTH CAUSE OF ACTION
(Loss of Consortium)

For an Eleventh Distinct Cause of Action for Loss of Consortium, Plaintiff Margaret B. Tibbs Complains of Defendants, and Alleges as Follows:

244. Plaintiff incorporates by reference, the preceding paragraphs, where relevant.

245. Plaintiffs John A. Tibbs and Margaret B. Tibbs were married on or about June 23, 1962 and at all times relevant to their action were husband and wife.

246. Prior to his injuries as alleged, Plaintiff John A. Tibbs was able and did perform his spousal duties. As a proximate result thereof, subsequent to the injuries, Plaintiff John A. Tibbs has been unable to perform his spousal duties and the work and service usually performed in the care, maintenance and management of the family home. As a proximate result thereof, Plaintiff Margaret B. Tibbs was deprived of the consortium of her spouse, including the performance of duties, all to Plaintiffs' damages, in an amount presently unknown to Plaintiffs but which will be proven at time of trial.

247. As a direct and proximate result of the acts of Defendants and/or their "alternate entities" and the severe injuries caused to Plaintiff John A. Tibbs as set forth herein, Plaintiff's spouse and co-Plaintiff Margaret B. Tibbs suffered loss of consortium, including but not by way of limitation, loss of services, marital relations, society, comfort, companionship, love and affection of her spouse, and has suffered severe mental and emotional distress and general

nervousness. Plaintiff prays judgment against Defendants, their “alternate entities” and each of them, as hereinafter set forth.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray judgment, joint and several, against Defendants and/or their “alternate entities” in an amount to be proved at trial, as follows:

1. For Plaintiffs’ actual damages according to proof, including pain and suffering, mental distress, as well as medical, surgical and hospital bills;
2. For loss of income or earnings according to proof;
3. For loss of care, comfort and society;
4. For punitive damages according to proof;
5. For cost of suit herein;
6. For damages for breach of implied warranty according to proof;
7. For damages for fraudulent misrepresentation according to proof;
8. For damages for conspiracy, concert of action (as to Defendant Metropolitan Life Insurance Company); and
9. For such other and further relief as the Court may deem just and proper, including costs and prejudgment interest as provided by South Carolina law.

A JURY IS RESPECTFULLY DEMANDED TO TRY THESE ISSUES.

Respectfully submitted,

/s/ Theile B. McVey

Theile B. McVey (SC Bar No. 16682)

Jamie D. Rutkoski (SC Bar No. 103270)

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ATTORNEYS FOR PLAINTIFFS

May 3, 2023

Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
JOHN A. TIBBS and	)	C/A NO. 2023-CP-40-01759
MARGARET B. TIBBS	)	
	)	In Re:
Plaintiffs,	)	Asbestos Personal Injury Litigation
	)	Coordinated Docket
v.	)	
	)	
3M COMPANY, et al,	)	
	)	
Defendants.	)	

EXHIBIT

3

MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION
OF DEFENDANT ASBESTOS CORPORATION LIMITED

Defendant Asbestos Corporation Limited (“ACL”), on behalf of itself, by and through undersigned counsel, hereby moves to dismiss Plaintiffs’ Amended Complaint pursuant to Rule 12(b)(2) of the South Carolina Rules of Civil Procedure on the ground that this Court lacks personal jurisdiction over it.

1. Plaintiffs’ Amended Complaint alleges that John A. Tibbs developed lung cancer as the result of exposure to, among other things, various asbestos-containing products or raw asbestos materials.¹

2. Plaintiffs' Amended Complaint lists ACL “as a Product Defendant” and alleges that ACL “mined... asbestos...present at numerous jobsites in South Carolina and North Carolina.”²

3. Plaintiffs further allege that their claims against Asbestos Corporation Limited arises out of Asbestos Corporation Limited’s “business activities” in the State of South Carolina.³

4. Plaintiffs have failed to make a *prima facie* showing that ACL is subject to either

¹ Pl.’s Am. Compl. at ¶¶ 1,3,11.

² Pl.’s Am. Compl. at ¶ 32.

³ Pl.’s Am. Compl. at ¶ 32.

general or specific personal jurisdiction in South Carolina. Whether a foreign defendant, such as ACL, is subject to this Court's personal jurisdiction is an individualized analysis that is dependent on the facts of each case. *Cockrell v. Hillerich & Bradsby Co.*, 363 S.C. 485, 491, 611 S.E.2d 505, 508 (2005). At the pretrial stage Plaintiffs bear the burden of establishing personal jurisdiction either by factual allegations in the complaint or in affidavits. *Id.* Where a defendant moves to dismiss for lack of jurisdiction, the court may look to affidavits and other evidence to determine whether jurisdiction exists. *Sullivan v. Hawker Beechcraft Corp.*, 397 S.C. 143, 150, 723 S.E.2d 835, 839 (Ct. App. 2012). Here, Plaintiff's generic and conclusory jurisdiction allegations are just that: bare boilerplate statements, unsupported by fact, which are insufficient to establish this Court's jurisdiction over ACL. *Id.* at 150-51, 723 S.E.2d at 839 ("The repeating of the statute is insufficient to support a finding of personal jurisdiction ... [a] prima facie showing of personal jurisdiction can be made through *factual* allegations in the complaint or through affidavits").

5. First, the Court does not have general personal jurisdiction over ACL because it does not have continuous and systematic contacts with South Carolina such that it is essentially "at home" in this state. *See Coggeshall v. Reprod. Endocrine Assocs. of Charlotte*, 376 S.C. 12, 16, 655 S.E.2d 476, 478 (2007); *see also* S.C. Code Ann § 36-2-802. ACL is not a South Carolina corporation and does not have its principal place of business in South Carolina; therefore, it is not subject to general jurisdiction in South Carolina.⁴ *See e.g., Daimler AG v. Bauman*, 571 U.S. 117, 137 (2014) ("With respect to a corporation, the place of incorporation and principal place of business are 'paradig[m] ... bases for general jurisdiction.'")

6. Second, Plaintiffs have not shown that this Court has specific personal jurisdiction over ACL. Specific personal jurisdiction is granted pursuant to South Carolina's long arm statute,

⁴ Plaintiffs correctly state that ACL "was and is a corporation organized and existing under the laws of the county of Canada, with its principal place of business in Canada." Pl.'s Am. Compl. at ¶ 32.

S.C. Code Ann § 36-2-803, which has been construed to extend to the outer limits of the due process clause. *Cockrell*, 363 S.C. at 491, 611 S.E.2d at 508. Due process requires (1) that minimum contacts exist between ACL and South Carolina such that maintaining the suit does not offend “traditional notions of fair play and substantial justice” and (2) that the exercise of jurisdiction be reasonable and fair. *Id.* at 491-492, 611 S.E.2d at 508. When examining whether exercise of jurisdiction would be reasonable and fair, the Court must examine (1) the duration of ACL’s activities in South Carolina, (2) the character and circumstances of ACL’s acts, (3) the inconvenience resulting to ACL by either conferring or refusing jurisdiction, and (4) South Carolina’s interest in exercising jurisdiction. *Id.* at 492, 611 S.E.2d at 508.

7. Plaintiffs have not shown, and cannot show, ACL has sufficient minimum contacts with South Carolina. “A minimum contacts analysis requires a court to find the defendant directed its activities to a resident of this State and that the cause of action arises out of or relates to those activities.” *S. Plastics Co. v. S. Commerce Bank*, 310 S.C. 256, 260, 423 S.E.2d 128, 131 (1992). *See also Bristol-Meyers Squibb Co. v. Superior Court of California, San Francisco County*, 582 U.S. 255, 263 (2017); *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, at 296-297 (1980); *Hanson v. Denckla*, 357 U.S. 235, 251, 253 (1958). ACL has not purposefully directed *any* activities at South Carolina that the cause of action arises out of or related to; therefore, there are not sufficient minimum contacts with South Carolina to render this Court’s exercise of personal jurisdiction permissible under the Due Process Clause. *See Coggeshall*, 376 S.C. at 16, 655 S.E.2d at 478 (“Due process requires some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum state.”)

8. Because the Court lacks both general personal jurisdiction and specific personal jurisdiction over ACL, Plaintiffs’ Amended Complaint must be dismissed with respect to ACL.

This Motion is based upon, and may be further supplemented with, applicable pleadings, discovery, affidavits, exhibits, deposition transcripts, controlling law, supporting memoranda of law, and such other and further material as the Court may deem appropriate. ACL's participating in discovery prior to a hearing on this Motion shall not be construed as a waiver by ACL of any rights, defenses, or objections, including lack of personal jurisdiction, all of which are expressly reserved.

/s/Jonathan H. Dunlap

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*Attorney for Defendant Asbestos Corporation
Limited*

Asheville, North Carolina
May 17, 2023

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

C/A NO. 2023-CP-40-01759

JOHN A. TIBBS and)
MARGARET B. TIBBS)
Plaintiffs,)
v.)
ATLAS TURNER, INC., *et al.*,)
Defendants.)



ORDER DENYING ASBESTOS CORPORATION'S MOTION TO DISMISS

Asbestos Corporation Ltd (ACL)'s Motion to Dismiss for lack of personal jurisdiction was heard on July 10, 2022. ACL contends that this Court lacks specific jurisdiction. ACL has refused to participate in any jurisdictional discovery. Despite ACL's refusal, Plaintiffs submitted evidence of ACL's sales of its asbestos product directly into South Carolina. Therefore, ACL's Motion to Dismiss is DENIED. ACL is ordered to answer discovery and to produce a 30(b)(6) witness by July 24, 2023. Failure to answer the Court ordered discovery and to provide a corporate representative for deposition shall result in ACL being held in contempt.

IT IS SO ORDERED.

[JUDGE'S SIGNATURE PAGE FOLLOWS]



Richland Common Pleas

Case Caption: John A Tibbs , plaintiff, et al vs 3M Company , defendant, et al

Case Number: 2023CP4001759

Type: Order/Other

So Ordered

Jean H. Toal

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FIFTH JUDICIAL CIRCUIT
	)	
JOHN A. TIBBS AND MARGARET B. TIBBS ,	)	CASE NO. 2023-CP-40-01759
	)	
	)	In Re:
PLAINTIFFS,	)	Asbestos Personal Injury Litigation
	)	Coordinated Docket
vs.	)	
	)	
3M COMPANY, ET AL.,	)	
	)	
DEFENDANTS.	)	
	)	

EXHIBIT

5

ANSWER TO FIRST AMENDED COMPLAINT
ON BEHALF OF ASBESTOS CORPORATION LIMITED

Subject to and without waiving its Motion to Dismiss for Lack of Personal Jurisdiction, Defendant Asbestos Corporation Limited (“ACL” or “Defendant”), by and through the undersigned counsel, and presents the following Answers and Defenses to Plaintiffs’ First Amended Complaint (“Complaint”).

GENERAL DENIAL

Each and every allegation of the Complaint is expressly denied unless specifically admitted, qualified, or explained herein.

RESPONSE TO GENERAL ALLEGATIONS

1. ACL is without sufficient information or knowledge to form a belief as to the truth of the allegations in paragraph 1 and, therefore, denies the allegations.

2. ACL denies the allegations in paragraph 2, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 2 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

3. ACL denies the allegations in paragraph 3, including all subparts, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 3 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

4. ACL denies the allegations in paragraph 4, including all subparts, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 4 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

5. ACL denies the allegations in paragraph 5, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 5 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

6. ACL denies the allegations in paragraph 6, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 6 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

7. ACL denies the allegations in paragraph 7, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 7 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

8. ACL denies the allegations in paragraph 8, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 8 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

9. ACL denies the allegations in paragraph 9, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 9 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

10. ACL denies the allegations in paragraph 10, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 10 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

11. ACL denies the allegations in paragraph 11, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 11 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

12. ACL is without sufficient information or knowledge to form a belief as to the truth of the allegations in paragraph 12 and, therefore, denies the allegations.

13. ACL denies the allegations in paragraph 13, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 13 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

14. ACL denies the allegations in paragraph 14, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 14 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

15. ACL denies the allegations in paragraph 15, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 15 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

16. ACL denies the allegations in paragraph 16, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 16 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

17. ACL denies the allegations in paragraph 17, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 17 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

18. ACL denies the allegations in paragraph 18, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 18 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

19. ACL denies the allegations in paragraph 19, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 19 state legal conclusions or are not directed at

ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

20. Paragraph 20 affirmatively disclaims any cause of action related to (a) any United States armed forces service, (b) any federal enclave, (c) the United States Constitution or any federal law or regulations, and (d) federal admiralty or maritime law. To the extent that Plaintiffs' allegations of exposure to asbestos against ACL derive from service in the United States armed forces or at any federal enclave, or to the extent that Plaintiff attempts to assert a claim against ACL that arises under federal law or regulation or under federal admiralty or maritime law, those allegations are now expressly waived and the Complaint must be dismissed as to ACL. ACL denies any remaining allegations in paragraph 20.

RESPONSE TO THE PARTIES

21. ACL denies the allegations in paragraph 21, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 21 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

22. The allegations in paragraph 22 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

23. The allegations in paragraph 23 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

24. The allegations in paragraph 24 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

25. The allegations in paragraph 25 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

26. The allegations in paragraph 26 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

27. The allegations in paragraph 27 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

28. The allegations in paragraph 28 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

29. The allegations in paragraph 29 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

30. The allegations in paragraph 30 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

31. The allegations in paragraph 31 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

32. Defendant ACL admits it is a Canadian corporation organized and existing under the laws of Canada, that its principal place of business is in Quebec, and that it is headquartered in the Province of Quebec. ACL denies the remaining allegations contained in paragraph 32. Defendant specifically denies that the Court has jurisdiction over it in this case.

33. The allegations in paragraph 33 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

34. The allegations in paragraph 34 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

35. The allegations in paragraph 35 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

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38. The allegations in paragraph 38 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

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96. The allegations in paragraph 96 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

97. The allegations in paragraph 97 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

98. The allegations in paragraph 98 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

99. The allegations in paragraph 99 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

100. The allegations in paragraph 100 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

101. The allegations in paragraph 101 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

102. The allegations in paragraph 102 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

103. The allegations in paragraph 103 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

104. The allegations in paragraph 104 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

105. The allegations in paragraph 105 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

106. The allegations in paragraph 106 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

107. The allegations in paragraph 107 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

108. The allegations in paragraph 108 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

109. The allegations in paragraph 109 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

110. The allegations in paragraph 110 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

111. The allegations in paragraph 111 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

112. The allegations in paragraph 112 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

113. The allegations in paragraph 113 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

114. The allegations in paragraph 114 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

115. The allegations in paragraph 115 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

116. The allegations in paragraph 116 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

117. The allegations in paragraph 117 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

118. The allegations in paragraph 118 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

119. The allegations in paragraph 119 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

120. The allegations in paragraph 120 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

121. The allegations in paragraph 121 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

122. The allegations in paragraph 122 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

123. The allegations in paragraph 123 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

124. The allegations in paragraph 124 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

125. The allegations in paragraph 125 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

126. The allegations in paragraph 126 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

127. The allegations in paragraph 127 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

128. ACL denies the allegations in paragraph 128, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 128 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

RESPONSE TO BACKGROUND FACTS

129. ACL denies the allegations in paragraph 129, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 129 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

130. ACL is without sufficient information or knowledge to form a belief as to the truth of the allegations in paragraph 130 and, therefore, denies the allegations.

131. ACL denies the allegations in paragraph 131, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 131 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

132. ACL denies the allegations in paragraph 132, insofar as the allegations pertain to ACL. As to those allegations contained in paragraph 132 that contain allegations about Plaintiff John A. Tibbs's work history, ACL is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 132 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

133. ACL denies the allegations in paragraph 133, insofar as the allegations pertain to ACL. As to those allegations contained in paragraph 133 that contain allegations about Plaintiff John A. Tibbs's work history, ACL is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 133 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

134. ACL denies the allegations in paragraph 134, insofar as the allegations pertain to ACL. As to those allegations contained in paragraph 134 that contain allegations about Plaintiff John A. Tibbs's work history, ACL is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 134 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

135. ACL denies the allegations in paragraph 135, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 135 state legal conclusions or are not directed at

ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

136. ACL denies the allegations in paragraph 136, insofar as the allegations pertain to ACL. As to those allegations contained in paragraph 136 that contain allegations about Plaintiff John A. Tibbs's father's work history, ACL is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 136 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

137. ACL denies the allegations in paragraph 137, insofar as the allegations pertain to ACL. As to those allegations contained in paragraph 137 that contain allegations about Plaintiff John A. Tibbs's father's work history, ACL is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 137 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

138. ACL denies the allegations in paragraph 138, insofar as the allegations pertain to ACL. As to those allegations contained in paragraph 138 that contain allegations about Plaintiff John A. Tibbs's father's work history, ACL is without sufficient information or knowledge to form a belief as to the truth of the allegations, and it therefore denies the allegations. Any remaining allegations in paragraph 138 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

139. ACL denies the allegations in paragraph 139, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 139 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations. Defendant specifically denies that this Court has jurisdiction over it in this case.

140. ACL denies the allegations in paragraph 140, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 140 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

141. ACL denies the allegations in paragraph 141, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 141 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

142. ACL denies the allegations in paragraph 142, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 142 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

143. ACL denies the allegations in paragraph 143, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 143 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

144. ACL denies the allegations in paragraph 144, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 144 state legal conclusions or are not directed at

ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

RESPONSE TO THE FIRST CAUSE OF ACTION
(Product Liability: Negligence)

145. Responding to paragraph 145, ACL incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

146. ACL denies the allegations in paragraph 146, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 146 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

147. ACL denies the allegations in paragraph 147, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 147 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

148. ACL denies the allegations in paragraph 148, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 148 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

149. ACL denies the allegations in paragraph 149, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 149 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

150. ACL denies the allegations in paragraph 150, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 150 state legal conclusions or are not directed at

ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

151. ACL denies the allegations in paragraph 151, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 151 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

152. ACL denies the allegations in paragraph 152, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 152 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

153. ACL denies the allegations in paragraph 153, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 153 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

154. ACL denies the allegations in paragraph 154, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 154 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

155. ACL denies the allegations in paragraph 155, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 155 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

156. ACL denies the allegations in paragraph 156, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 156 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

157. ACL denies the allegations in paragraph 157, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 157 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

158. ACL denies the allegations in paragraph 158, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 158 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

159. ACL denies the allegations in paragraph 159, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 159 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

160. ACL denies the allegations in paragraph 160, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 160 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

RESPONSE TO THE SECOND CAUSE OF ACTION

(Product Liability: Strict Liability – S.C. Code Ann. § 15-73-10, et seq.)

161. Responding to paragraph 161, ACL incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

162. ACL denies the allegations in paragraph 162, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 162 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

163. ACL denies the allegations in paragraph 163, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 163 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

164. ACL denies the allegations in paragraph 164, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 164 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

165. ACL denies the allegations in paragraph 165, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 165 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

166. ACL denies the allegations in paragraph 166, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 166 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

167. ACL denies the allegations in paragraph 167, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 167 state legal conclusions or are not directed at

ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

168. ACL denies the allegations in paragraph 168, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 168 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

169. ACL denies the allegations in paragraph 169, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 169 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

170. ACL denies the allegations in paragraph 170, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 170 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

171. ACL denies the allegations in paragraph 171, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 171 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

172. ACL denies the allegations in paragraph 172, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 172 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

173. ACL denies the allegations in paragraph 173, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 173 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

174. ACL denies the allegations in paragraph 174, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 174 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

175. ACL denies the allegations in paragraph 175, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 175 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

176. ACL denies the allegations in paragraph 176, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 176 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

177. ACL denies the allegations in paragraph 177, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 177 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

RESPONSE TO THE THIRD CAUSE OF ACTION
(Vicarious Liability of Defendants Based upon Respondeat Superior)

178. Responding to paragraph 178, ACL incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

179. ACL denies the allegations in paragraph 179, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 179 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

180. ACL denies the allegations in paragraph 180, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 180 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

181. ACL denies the allegations in paragraph 181, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 181 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

182. ACL denies the allegations in paragraph 182, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 182 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

183. ACL denies the allegations in paragraph 183, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 183 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

184. ACL denies the allegations in paragraph 184, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 184 state legal conclusions or are not directed at

ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

185. ACL denies the allegations in paragraph 185, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 185 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

186. ACL denies the allegations in paragraph 186, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 186 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

187. ACL denies the allegations in paragraph 187, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 187 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

188. ACL denies the allegations in paragraph 188, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 188 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

189. ACL denies the allegations in paragraph 189, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 189 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

190. ACL denies the allegations in paragraph 190, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 190 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

191. ACL denies the allegations in paragraph 191, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 191 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

192. ACL denies the allegations in paragraph 192, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 192 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

193. ACL denies the allegations in paragraph 193, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 193 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

194. ACL denies the allegations in paragraph 194, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 194 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

RESPONSE TO THE FOURTH CAUSE OF ACTION
(Premises Liability: Negligence as to Premises Owner/Contractor)

195. Responding to paragraph 195, ACL incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

196. ACL denies the allegations in paragraph 196, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 196 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

197. ACL denies the allegations in paragraph 197, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 197 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

198. ACL denies the allegations in paragraph 198, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 198 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

199. ACL denies the allegations in paragraph 199, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 199 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

200. ACL denies the allegations in paragraph 200, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 200 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

201. ACL denies the allegations in paragraph 201, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 201 state legal conclusions or are not directed at

ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

202. ACL denies the allegations in paragraph 202, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 202 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

203. ACL denies the allegations in paragraph 203, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 203 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

204. ACL denies the allegations in paragraph 204, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 204 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

205. ACL denies the allegations in paragraph 205, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 205 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

206. ACL denies the allegations in paragraph 206, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 206 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

207. ACL denies the allegations in paragraph 207, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 207 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

208. ACL denies the allegations in paragraph 208, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 208 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

209. ACL denies the allegations in paragraph 209, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 209 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

RESPONSE TO THE FIFTH CAUSE OF ACTION
(Negligence Per Se)

210. Responding to paragraph 210, ACL incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

211. ACL denies the allegations in paragraph 211, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 211 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

212. ACL denies the allegations in paragraph 212, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 212 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

213. ACL denies the allegations in paragraph 213, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 213 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

RESPONSE TO THE SIXTH CAUSE OF ACTION
(Negligence as to Design Defendants)

214. Responding to paragraph 214, ACL incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

215. The allegations in paragraph 215, including all subparts, are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

216. The allegations in paragraph 216 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

RESPONSE TO THE SEVENTH CAUSE OF ACTION
(Negligent Design Services Against Design Defendants)

217. Responding to Paragraph 217, ACL incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

218. The allegations in paragraph 218 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

219. The allegations in paragraph 219, including all subparts, are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

220. The allegations in paragraph 220 are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

RESPONSE TO THE EIGHTH CAUSE OF ACTION**(Product Liability: Breach of Implied Warranties – S.C. Code Ann. § 36-2-314)**

221. Responding to paragraph 221, ACL incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

222. ACL denies the allegations in paragraph 222, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 222 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

223. ACL denies the allegations in paragraph 223, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 223 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

224. ACL denies the allegations in paragraph 224, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 224 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

RESPONSE TO THE NINTH CAUSE OF ACTION**(Fraudulent Misrepresentation)**

225. Responding to paragraph 225, ACL incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

226. ACL denies the allegations in paragraph 226, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 226 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

227. ACL denies the allegations in paragraph 227, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 227 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

228. ACL denies the allegations in paragraph 228, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 228 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

RESPONSE TO THE TENTH CAUSE OF ACTION

(Conspiracy, Concert of Action – Defendant Metropolitan Life Insurance Company)

229. Responding to paragraph 229, ACL incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

230. ACL denies the allegations in paragraph 230, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 230 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

231. ACL denies the allegations in paragraph 231, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 231 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

232. ACL denies the allegations in paragraph 232, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 232 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

233. ACL denies the allegations in paragraph 233, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 233 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

234. ACL denies the allegations in paragraph 234, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 234 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

235. ACL denies the allegations in paragraph 235, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 235 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

236. ACL denies the allegations in paragraph 236, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 236 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

237. ACL denies the allegations in paragraph 237, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 237 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

238. ACL denies the allegations in paragraph 238, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 238 state legal conclusions or are not directed at

ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

239. ACL denies the allegations in paragraph 239, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 239 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

240. ACL denies the allegations in paragraph 240, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 240 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

241. ACL denies the allegations in paragraph 241, including all subparts, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 241 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

242. ACL denies the allegations in paragraph 242, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 242 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

243. ACL denies the allegations in paragraph 243, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 243 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

RESPONSE TO THE ELEVENTH CAUSE OF ACTION
(Loss of Consortium)

244. Responding to paragraph 244, ACL incorporates by reference, as if fully set forth herein, its responses to the preceding allegations of the Complaint.

245. ACL is without sufficient information or knowledge to form a belief as to the truth of the allegations in paragraph 245 and, therefore, denies the allegations.

246. ACL denies the allegations in paragraph 246, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 246 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

247. ACL denies the allegations in paragraph 247, insofar as the allegations pertain to ACL. Any remaining allegations in paragraph 247 state legal conclusions or are not directed at ACL, and therefore no response is required. To the extent a response is required, ACL denies the allegations.

**RESPONDING TO PLAINTIFFS’
AD DAMNUM AND/OR PRAYER FOR RELIEF**

248. ACL denies the allegations contained in the paragraph beginning with “Wherefore” and following underneath the “PRAYER FOR RELIEF” immediately following paragraph 247 of the Complaint, as well as those nine (9) subparagraphs following that “Wherefore” paragraph of the Complaint, insofar as the allegations therein are directed against it.

- a. As to the remainder of the allegations, they do not apply to this Defendant, and therefore, this Defendant does not respond to same. To the extent that these paragraphs of the Complaint state legal conclusions, no response is required to

those legal conclusions, but to the extent that one is required at this time, this Defendant denies the same.

FOR A FIRST DEFENSE

249. This Court lacks both general and specific personal jurisdiction over ACL. Plaintiffs cannot meet the requirements of the South Carolina Long Arm Statute or the traditional due process requirements to assert personal jurisdiction over ACL in South Carolina.

FOR A SECOND DEFENSE

250. Plaintiffs' Complaint fails to state facts sufficient to constitute a cause of action against ACL and therefore must be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

FOR A THIRD DEFENSE

251. Plaintiffs' claims, in whole or in part, are barred by any applicable statutes of limitations and/or repose.

FOR A FOURTH DEFENSE

252. Plaintiffs' fraudulent misrepresentation claim must be dismissed because they failed to plead circumstances allegedly constituting fraud or mistake with particularity, as required by Rule 9(b) of the South Carolina Rules of Civil Procedure.

FOR A FIFTH DEFENSE

253. Plaintiffs' claims are barred by the doctrines of waiver, estoppel, laches, and unclean hands.

FOR A SIXTH DEFENSE

254. Plaintiffs voluntarily and knowingly assumed the risk of incurring any of the injuries or damages alleged and, therefore, are not entitled to recover from ACL.

FOR A SEVENTH DEFENSE

255. Plaintiffs' claims are barred, in whole or in part, by the comparative negligence of the Plaintiffs or Plaintiff John A. Tibbs's father; in the alternative, any award to Plaintiffs should be reduced by the percentage that the Plaintiffs' or Plaintiff John A. Tibbs's father's conduct caused Plaintiffs' damages.

FOR AN EIGHTH DEFENSE

256. Any injury or damage suffered by Plaintiffs was due to or caused by unforeseen intervening or superseding events for which ACL is not responsible and, therefore, Plaintiffs' claims should be barred or reduced accordingly.

FOR A NINTH DEFENSE

257. Any damages suffered by Plaintiffs were caused by the acts or omissions of third parties and are not attributable to ACL.

FOR A TENTH DEFENSE

258. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs failed to mitigate their damages.

FOR AN ELEVENTH DEFENSE

259. ACL did not owe any recognized legal duties to the Plaintiffs or Plaintiff John A. Tibbs's father, and Plaintiffs' claims fail to state facts sufficient to make a legally cognizable cause of action against it. Therefore, Plaintiffs cannot recover against ACL.

FOR A TWELFTH DEFENSE

260. ACL's actions were at all times reasonable, appropriate, and in conformance with reasonable, ordinary, and due care.

FOR A THIRTEENTH DEFENSE

261. Should the jury find that ACL was in any way a contributing proximate cause to the accident in question, which is denied, then ACL's liability was less than fifty percent of the total fault and it should be liable only for that percentage of the indivisible damages determined by the jury or trier of fact pursuant to S.C. Code Ann. § 15-38-15.

FOR A FOURTEENTH DEFENSE

262. ACL is entitled to have the jury apportion fault to all potential tortfeasors, regardless of whether the other potential tortfeasors were named as defendants or are parties to the case. Denial of a full and fair apportionment of fault would deprive ACL of its constitutional rights to due process, equal protection, and a jury trial.

FOR A FIFTEENTH DEFENSE

263. Plaintiffs or Plaintiff John A. Tibbs's father were not exposed to any asbestos materials through any act or omission of ACL or, if any exposure occurred, which is denied, the exposure was of such insufficient quantities, at such infrequent intervals, for such short periods of time, or under such conditions as to amount to no proximate cause of Plaintiffs' damages, if any, as a matter of law. Therefore, ACL denies that any of its products or any alleged action or inaction on its part damaged or injured Plaintiffs or Plaintiff John A. Tibbs's father in any manner or at any time.

FOR A SIXTEENTH DEFENSE

264. Plaintiffs and others misused or improperly used the products allegedly manufactured and/or sold by ACL, if any exist, and such misuse or improper use proximately caused or contributed to, in whole or in part, the alleged conditions described in the Complaint and the alleged damages Plaintiffs claim were sustained, and, therefore, ACL is not liable for any injuries or damages claimed by Plaintiffs.

FOR A SEVENTEENTH DEFENSE

265. ACL is not liable to Plaintiffs with respect to the injuries alleged in the Complaint because such injuries, if any, were caused by pure accident in terms of law.

FOR AN EIGHTEENTH DEFENSE

266. There is a lack of joinder of one or more parties who should or must be joined and, without the joinder of these proper parties, complete relief cannot be accorded among those already attempted to be made parties to this civil action.

FOR A NINETEENTH DEFENSE

267. To the extent that Plaintiffs have received payment from any alleged joint tortfeasor in full satisfaction of any of the alleged injuries and/or claims against ACL and/or other alleged joint tortfeasors, Plaintiffs' claims are barred by the defenses of payment and accord and satisfaction.

FOR A TWENTIETH DEFENSE

268. Should Plaintiffs recover, ACL is entitled to and hereby requests an offset in any amounts Plaintiffs have obtained through settlements with others.

FOR A TWENTY-FIRST DEFENSE

269. Plaintiffs' Complaint fails to set forth a claim for punitive damages upon which relief may be granted.

FOR A TWENTY-SECOND DEFENSE

270. Pursuant to S.C. Code Ann. § 15-32-520, ACL hereby requests trial bifurcation on the issues of actual damages and punitive damages. To the extent the Court submits the question of punitive damages to the jury, the award of punitive damages, if any, is subject to the caps and limitations set forth in S.C. Code Ann. § 15-32-530, and ACL pleads and incorporates all

defenses, limitations on damages, and other privileges contained in S.C. Code Ann. §§ 15-32-520 and 15-32-530 as if fully stated herein verbatim.

FOR A TWENTY-THIRD DEFENSE

271. To the extent Plaintiffs' Complaint asserts a demand for punitive damages, ACL specifically incorporates by reference any and all standards of limitations regarding the determination and/or enforceability of punitive damage awards that arose in the decisions of *BMW of North America, Inc. v. Gore*, 517 U.S. 559 (1996); *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 532 U.S. 424 (2001); and *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538 U.S. 408 (2003).

FOR A TWENTY-FOURTH DEFENSE

272. Plaintiffs are not entitled to an award of punitive damages because, among other reasons, such damages violate the Fifth and Fourteenth Amendments of the United States Constitution and Article I, Section 3 of the South Carolina Constitution in that:

- (a) The South Carolina judiciary's ability to correct a punitive damages award at the appellate level is inconsistent with due process guarantees;
- (b) Any award of punitive damages serving a compensatory function is inconsistent with due process guarantees;
- (c) To the extent an award of punitive damages is excessive, such award violates due process guarantees;
- (d) The jury's unfettered power to award punitive damages in any amount it chooses is wholly devoid of meaningful standards and is inconsistent with due process guarantee;
- (e) Even if it could be argued that the standard governing the imposition of punitive damages exists, the standard is void for vagueness; and
- (f) The claim for punitive damages violates the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, and Article I, Section 3 of the South Carolina Constitution in that the amount of punitive damages is based upon the wealth and status of ACL

FOR A TWENTY-FIFTH DEFENSE

273. ACL at all times used reasonable care, skill, and diligence and complied with generally established and accepted standards in the industry.

FOR A TWENTY-SIXTH DEFENSE

274. ACL had no duty to warn Plaintiffs or Plaintiff John A. Tibbs's father of the risks and dangers, if any, associated with asbestos or asbestos-related products. ACL further had no post-sale duty to warn under South Carolina law.

FOR A TWENTY-SEVENTH DEFENSE

275. There has been no concert of action between ACL and any of the other named defendants. The defendants are not joint tortfeasors and, therefore, ACL may not be held jointly and severally liable with the other named defendants.

FOR A TWENTY-EIGHTH DEFENSE

276. If Plaintiffs sustained the injuries and/or damages alleged, which is denied, then such injuries and/or damages were proximately caused by the acts and/or omissions of Plaintiffs' employers with respect to the maintenance of a healthy and safe work site and environment, which were under the employers' exclusive control and possession.

FOR A TWENTY-NINTH DEFENSE

277. Venue is improper in this action. ACL reserves its rights to move for dismissal and/or transfer of the action based on improper and/or inconvenient venue and further reserves its rights to seek application of the law of the appropriate venue on all issues, including but not limited to statute of limitations, statute of repose, and punitive damages.

FOR A THIRTIETH DEFENSE

278. Plaintiffs' Complaint should be dismissed for its failure to comply with the requirements of section 44-135-10 et seq. of the South Carolina Code, also known as the "Asbestos and Silica Claims Procedure Act of 2006," because Plaintiffs have failed to make the prima facie showing required by the Act. In the alternative, the case should not be placed on any active trial

docket and should not be the subject of any discovery until Plaintiffs comply with the provisions of the Act.

FOR A THIRTY-FIRST DEFENSE

279. ACL is not liable to Plaintiffs because Plaintiffs' injuries were not caused by any products manufactured, sold, or otherwise placed into the stream of commerce by ACL.

FOR A THIRTY-SECOND DEFENSE

280. To the extent that any of the foregoing affirmative defenses would preclude recovery on the claims asserted on behalf of Plaintiff John A. Tibbs, Plaintiff Margaret B. Tibbs's loss of consortium claims also fail because they are solely derivative of the claims asserted on behalf of Plaintiff John A. Tibbs.

FOR A THIRTY-THIRD DEFENSE

281. Plaintiffs cannot satisfy the frequency, regularity, and proximity test as to ACL under *Henderson v. Allied-Signal, Inc.*, 373 S.C. 179, 644 S.E.2d 724 (2007).

FOR A THIRTY-FOURTH DEFENSE

282. ACL is not liable to Plaintiffs because Plaintiffs' or Plaintiff John A. Tibbs's father's employer(s), union, or entities other than ACL were learned intermediaries and/or sophisticated users of the products in question who were warned of, were otherwise aware of, or should have been aware of the alleged potential risks and dangers inherent in the product(s), were in a position to understand and inform Plaintiffs or Plaintiff John A. Tibbs's father of the alleged risks, and had an independent duty to protect Plaintiffs or Plaintiff John A. Tibbs's father from, and/or warn Plaintiffs or Plaintiff John A. Tibbs's father of, any alleged potential risks or dangers, thereby relieving ACL of any alleged duty.

FOR A THIRTY-FIFTH DEFENSE

283. To the extent the injury complained of occurred outside South Carolina, under the doctrine of *lex loci delicti* or its analogues, the law of the state or non-state jurisdiction in which the injury occurred applies.

FOR A THIRTY-SIXTH DEFENSE

284. Plaintiffs' claims are barred by the applicable statutory or special employee/employer and/or workers' compensation laws.

FOR A THIRTY-SEVENTH DEFENSE

285. ACL had no duty to warn Plaintiffs or Plaintiff John A. Tibbs's father because the hazards of asbestos were open and obvious and Plaintiffs and Plaintiff John A. Tibbs's father and/or their employers knew or should have known of the hazard.

FOR A THIRTY-EIGHTH DEFENSE

286. ACL's alleged premises, if any are at issue, were or may have been under contract with or controlled by the United States Government or its agencies pursuant to contract. The knowledge of the United States Government or its agencies pertaining to the possible hazards to Plaintiffs was equal to or superior to that of ACL and, by reason thereof, ACL is not liable to Plaintiffs under any theory of law asserted in this civil action.

FOR A THIRTY-NINTH DEFENSE

287. If any alleged asbestos-containing products manufactured or supplied by ACL or used on premises owned or operated by ACL were involved or in any manner alleged in any of Plaintiffs' claims, ACL asserts that the products were abused, misused, or otherwise substantially altered or changed in their condition by others. ACL cannot be held liable for any injury or disease caused by any such abuse, misuse, or alteration.

FOR A FORTIETH DEFENSE

288. The allegations against ACL, regarding asbestos products allegedly having a legal connection with it, must be evaluated according to the state of the medical and industrial art and the state of the law existing at the pertinent time. ACL invokes all state-of-the-art defenses applicable to Plaintiffs' claims. Further, the state of the art, *i.e.*, the science of medicine, industrial hygiene and industrial application of asbestos-containing products, was at all material times such that ACL neither breached any duty allegedly owed to Plaintiffs or Plaintiff John A. Tibbs's father, nor did ACL know, nor could it have known, that the use of any asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products presented a foreseeable risk of harm to Plaintiffs or others.

FOR A FORTY-FIRST DEFENSE

289. Plaintiffs cannot recover against ACL under any failure to warn or inadequacy of warnings theory because, at all times pertinent to Plaintiffs' claims, Plaintiff or Plaintiff John A. Tibbs's father possessed or should have possessed sufficient knowledge which negated any need for any warning and/or were required to follow specific written safety procedures as established by the employer which negated the need or requirement for any such warning.

FOR A FORTY-SECOND DEFENSE

290. ACL pleads that punitive damages may not be awarded against it because to do that would violate the complicity rule which bars the imposition of vicarious liability for punitive damages with the exception of certain circumstances not applicable here. See Restatement (Second) of Torts § 909. Any acts, statements, representations or omissions by persons or entities other than ACL that caused damage to Plaintiffs, which ACL does not concede, were not authorized by ACL and were not performed or given with actual, implied, or apparent authority of ACL.

FOR A FORTY-THIRD DEFENSE

291. All of Plaintiffs' claims and issues contained therein are barred by the doctrines of collateral estoppel and *res judicata*.

FOR A FORTY-FOURTH DEFENSE

292. At all pertinent times, any asbestos-containing products supplied or used by ACL complied with all industry standards and all reasonable standards, as well as federal and state standards and regulations governing any asbestos-containing products, and as such the products were not unsafe, unfit, or unreasonably dangerous for normal use or operation.

FOR A FORTY-FIFTH DEFENSE

293. ACL is not liable for the acts or omissions of independent contractors.

FOR A FORTY-SIXTH DEFENSE

294. Plaintiffs' design defect claims are barred because no reasonable alternative design existed at the time Plaintiffs or Plaintiff John A. Tibbs's father allegedly encountered any product for which ACL may be responsible.

FOR A FORTY-SEVENTH DEFENSE

295. ACL is not legally responsible for products that it did not manufacture, sell, supply, or otherwise place in the stream of commerce; and ACL is not legally responsible for products manufactured, sold, or supplied by third parties, such as replacement parts or "after affixed" parts.

FOR A FORTY-EIGHTH DEFENSE

296. Plaintiffs lack capacity to sue ACL in South Carolina under the door closing statute, S.C. Code Ann. § 15-5-150.

FOR A FORTY-NINTH DEFENSE

297. Plaintiffs' strict liability claims are barred because any products at issue were placed into the stream of commerce prior to the enactment of S.C. Code Ann. § 15-73-10, which does not apply retroactively.

FOR A FIFTIETH DEFENSE

298. If Plaintiffs were injured by any products supplied or manufactured by ACL or any of its predecessors, or any products located on the alleged premises of ACL or any of its predecessors, which is denied, Plaintiffs or Plaintiff John A. Tibbs's father discovered any defect in the products and was aware of the dangers thereof but nevertheless proceeded unreasonably to make use of the same and is therefore barred from recovery by S.C. Code Ann. § 15-73-20.

FOR A FIFTY-FIRST DEFENSE

299. Plaintiffs cannot satisfy their burden to prove Plaintiff John A. Tibbs was exposed to asbestos from products attributable to ACL and cannot prove any such products contained asbestos.

FOR A FIFTY-SECOND DEFENSE

300. To the extent Plaintiffs prove that any products ACL sold or installed contained asbestos, which is denied, Plaintiffs cannot prove that the asbestos therein was in a friable form or otherwise inhalable by Plaintiff John A. Tibbs's.

FOR A FIFTY-THIRD DEFENSE

301. ACL adopts and asserts any and all applicable defenses asserted by any other defendant in this action.

JURY TRIAL DEMAND

This Defendant requests trial by jury by all issues so triable.

WHEREFORE, having fully responded to the allegations of Plaintiffs' Complaint and having asserted the above-noted other defenses, Defendant ACL requests of the Court as follows:

1. That Plaintiffs have and recover nothing from ACL by means of this action;
2. That ACL recover its costs for this action, including attorneys' fees and expenses;
and
3. For such other and further relief as the Court may deem just and proper.

*[signature page for Answer to First Amended Complaint on behalf of
Asbestos Corporation Limited, Case No. 2023-CP-40-01759]*

CLEMENT RIVERS, LLP

By: s/Stephen L. Brown

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Attorneys for Asbestos Corporation Limited

Charleston, South Carolina

Dated: August 2, 2023

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND)

FOR THE FIFTH JUDICIAL CIRCUIT

JOHN A. TIBBS and)
MARGARET B. TIBBS)

C/A NO. 2023-CP-40-01759

Plaintiffs,)

v.)

ASBESTOS COMPANY, LTD., *at al.*,)Defendants.)
_____)**EXHIBIT**

6

**PLAINTIFFS' MOTION TO HOLD ASBESTOS COMPANY, LTD. IN
CONTEMPT AND TO STRIKE ACL'S PLEADINGS**

Asbestos Company, Ltd. ("ACL") is a defendant in the above referenced matter. On July 10, 2023, this Court, in open court ordered ACL to fully answer discovery and appear for a deposition so that this matter could be prepared for trial. On July 19, 2023, this Court entered an Order stating: "Failure to answer the Court Ordered discovery and to provide a corporate representative for deposition shall result in ACL being held in contempt."

ACL failed to produce a witness as ordered by the Court. ACL has also refused to identify a witness or a date on which it will produce a witness. Moreover, ACL has wholly failed to produce any documents as requested by the 30(b)(6) notice properly served on it.

ACL has made clear it does not intend to participate in this matter and that this Court's orders on discovery will continue to be ignored. Plaintiffs request that this Court hold ACL in contempt of Court. Further, should this Court hold ACL in contempt, Plaintiff requests that the Court strike ACL's pleadings.

LAW AND ANALYSIS

A determination of contempt resides in the sound discretion of the trial judge. *Hook v. South Carolina Dept. of Health and Environmental Control*, 439 S.C. 52 (Ct. App. March 15, 2023). “Courts have no more important function to perform in the administration of justice than to ensure their orders are obeyed.” *Id.* The power of a court to punish for contempt “is essential to the preservation of order in judicial proceedings and to the enforcement of the judgments, orders and writs of the courts, and consequently to the due administration of justice.” *Miller v. Miller*, 375 S.C. 443 (Ct. App. 2007).

“The rights of discovery provided by the Rules give the trial lawyer the means to be prepared for trial.” *Downey v. Dixon*, 294 S.C. 42, 46, 362 S.E.2d 317, 319 (Ct. App. 1987). “Where these rights are not accorded, prejudice must be presumed and, unless the party who has failed to submit to discovery can show a lack of prejudice,” sanctions must be imposed. *Id.* Without adequate sanctions, discovery procedures would be ineffectual. *Id.* As a result, over leniency must be avoided. *Id.* “If a party fails to obey an order or provide or permit discovery, the trial court may impose sanctions such as striking pleadings, dismissing the action, or rendering a default judgment.” *Griffin Grading & Clearing, Inc. v. Tire Serv. Equipment Mfg. Co., Inc.*, 334 S.C. 193, 198, 511 S.E.2d 716, 718 (Ct. App. 1999).

“In determining the appropriateness of a sanction, the court should consider such factors as the precise nature of the discovery and the discovery posture of the case, willfulness, and degree of prejudice.” *Id.* at 199, 511 S.E.2d at 719. In *Samples v. Mitchell*, 329 S.C. 105, 495 S.E.2d 213 (Ct. App. 1997), the South Carolina Court of Appeals stated “[t]he entire thrust of the discovery rules involves full and fair disclosure, to prevent a trial from becoming a guessing game or one of surprise for either party.” *Id.* “Discovery

sanctions are imposed to penalize those whose conduct may be deemed to warrant such a sanction, and to deter those who might be tempted to such conduct in the absence of such a deterrent.” *Creighton v. Coligny Plaza Ltd. P’ship*, 334 S.C. 96, 123, 512 S.E.2d 510, 524 (Ct. App. 1998).

ACL has failed to produce a witness. ACL has refused to produce any discovery documents responsive to the South Carolina standard discovery. ACL contends that it may send old corporate testimony that has little to no bearing on this case. Indeed, ACL, like its sister corporation Atlas Turner, has made clear it does not intend to comply with this Court’s orders. Given this intentional and willful refusal to participate in discovery, Plaintiffs request that the Court strike Atlas’ pleadings.

[Signature appears on the following page.]

Respectfully submitted,

/s/ Theile B. McVey

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ATTORNEYS FOR PLAINTIFFS

July 26, 2023

Columbia, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

JOHN A. TIBBS and
MARGARET B. TIBBS

Plaintiffs,

v.

3M COMPANY
f/k/a MINNESOTA MINING AND
MANUFACTURING COMPANY, et al.

Defendants.

C/A NO. 2023-CP-40-01759



PLAINTIFFS' SECOND AMENDED NOTICE OF 30(b)(6) DEPOSITION OF
DEFENDANT ASBESTOS CORPORATION LIMITED
AND SUBPOENA DUCES TECUM

TO: ALL DEFENDANTS AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Plaintiffs, pursuant to Rule 30 of the South Carolina Rules of Civil Procedure, will take the videotaped deposition of the designated representative of Defendant **Asbestos Corporation Limited** on **July 24, 2023, at 10:00am ET** and will take place at the location indicated below, at which time you are notified to appear and take part as you see fit and proper in such examination. The deposition will take place before a certified court reporter and videographer. If necessary, the deposition shall continue day to day.

Join Zoom Meeting

[*****us02web.zoom.us/j/81363402027?pwd=aDIvZ3FRWm1zdU1tTmVEWENpRzY5QT09](https://us02web.zoom.us/j/81363402027?pwd=aDIvZ3FRWm1zdU1tTmVEWENpRzY5QT09)

Meeting ID: 813 6340 2027

Passcode: 491642

Dial by your location

+1 312 626 6799 US (Chicago)

+1 929 436 2866 US (New York)

+1 301 715 8592 US (Washington DC)

The deposition is to be taken for the purpose of discovery or for use at trial, or both. The topics to be covered at the deposition are listed in Exhibit “A” attached hereto. Pursuant to Rule 30(b)(5), Defendant is requested to produce documents responsive to the requests listed in Exhibit “B” also attached hereto. Pursuant to Rule 30(b)(5) the time for production of these documents is governed by Rule 34, which holds all responsive documents are due produced to Plaintiffs in 2 weeks from service, or specifically no later than June 9, 2023.¹

Respectfully submitted,

/s/ David C. Humen

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ATTORNEYS FOR PLAINTIFFS

July 11, 2023
 Dallas, Texas.

¹

CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2023 a true and correct copy of the above and foregoing instrument was served on counsel for all parties via Certified U.S. Mail Return Receipt, U.S. Mail Standard First Class, and/or electronic mail.

s/ David C. Humen
Attorney for Plaintiffs

EXHIBIT A

For purposes of these topics, the following words shall have the following meanings: Definitions: "RECORD" or "RECORDS" or "DOCUMENT" or "DOCUMENTS" means any and all written, printed, typed, recorded or graphic material, however produced, or reproduced, stored, known to exist, by way of example and not by limitation, invoices, contracts evidencing purchase or receipt, ledger cards, material requests, communications, writings, printings, records, worksheets, abstracts, summaries, statistics, notes, market data, journals, ledgers, expense reports, specifications, contracts, contract bids, purchase orders, bills of lading, shipping orders, dock receipts, cancelled checks, computer print-outs, microfilm, microfiche, which in any way pertain to the document request made herein.

The terms "YOU" and "YOUR" mean responding party and all of its divisions, predecessors- in-interest, successors-in-interest, subsidiaries, parent companies, sister companies, joint ventures, partners and divisions thereof, including all current and former owners, employees, managers, officers, directors, agents, attorneys and any other person(s) acting upon its behalf.

The term "PERSON" and "PERSONS" means a natural person, firm, association, organization, partnership, business trust, limited liability company, corporation, or public entity.

Please provide a corporate representative to be deposed on the following subject matters:

1. Asbestos Corporation Limited's Affirmative Defenses.
2. Whether Asbestos Corporation Limited or its predecessor(s) or subsidiaries have ever held a certificate of authority to do business or is otherwise licensed to do business in the State of South Carolina and/or has ever regularly conducted business in South Carolina.
3. The address of Asbestos Corporation Limited's registered office or offices within the United States of America including, but not limited to, any such office in South Carolina.
4. Asbestos Corporation Limited's complete corporate history, including any mergers, consolidations, predecessors, prior names, asset purchases, acquisitions or spinoffs having to do with the mining of asbestos fibers or sale or supply of asbestos fibers.
5. The management and structure of Asbestos Corporation Limited including, but not limited to, the structure of the sales department and if each salesperson or team of sales people are given a specific geographic region to serve.
6. Any and all court actions in which Asbestos Corporation Limited has been a party to in the State of South Carolina.
7. Whether Asbestos Corporation Limited is authorized to do business in South Carolina including: (a) the inclusive dates during which Asbestos Corporation

Limited was authorized to transact business in South Carolina; (b) the name and address of Asbestos Corporation Limited's registered office for each period; (c) the name, address and title of Asbestos Corporation Limited's agent for service of process for each period; and (d) the manner in which Asbestos Corporation Limited's authorization to transact business within the State of South Carolina was terminated for each period (i.e., revocation of corporate certificate, cancellation, voluntary withdrawal, etc.).

8. All contracts and agreements entered into between Asbestos Corporation Limited and any other person or entity that included a choice of law provision stating that the laws of the State of South Carolina shall apply (or other similar language).
9. Asbestos Corporation Limited's sale, supply and/or distribution of asbestos in and/or to the State of South Carolina including the volume of sales in terms of units or dollars per year, who purchased the asbestos and/or products, and the address in South Carolina where they were shipped.
10. Each bank account maintained by Asbestos Corporation Limited at any time, in any bank located within the State of South Carolina and, for each bank account: (a) the name and address of the bank and branch where the account was administered; (b) the account name; and (c) the inclusive dates during which the account was maintained.
11. Whether Asbestos Corporation Limited ever purchased, sold, or leased property within the State of South Carolina, including the address, purchase, sale and/or lease price and date of transaction. (The term "property" includes real property, personal property, intangible property, and all other types of property).
12. Whether Asbestos Corporation Limited had any knowledge that its asbestos was incorporated into products that were marketed, supplied, and/or distributed in South Carolina.
13. The locations in the State of South Carolina, if any, where Asbestos Corporation Limited marketed and markets its asbestos and/or products.
14. Asbestos Corporation Limited's current and former office locations in the State of South Carolina.
15. All phone listings for Asbestos Corporation Limited in the State of South Carolina.
16. All current and former mailing addresses including, but not limited to, P.O. Boxes in the State of South Carolina.
17. Taxes paid in the State of South Carolina including the years paid.
18. Asbestos Corporation Limited's employees and/or agents who resided or reside in the State of South Carolina.
19. Advertisements, marketing and/or solicitation for products and/or services in the State of South Carolina.

20. What asbestos and/or products, if any, Asbestos Corporation Limited directly marketed to and currently markets to the State of South Carolina.
21. Asbestos Corporation Limited's sale, marketing supply and/or distribution of asbestos and/or products to Pneumo Abex in South Carolina.
22. Asbestos Corporation Limited's sale, marketing supply and/or distribution of asbestos and/or products to Maremont Corporation in South Carolina.
23. All property in which Asbestos Corporation Limited maintained an interest and currently maintains an interest in the State of South Carolina.
24. Asbestos Corporation Limited's current and previous distribution locations located in the State of South Carolina.
25. Asbestos Corporation Limited's representatives currently located or previously located in the State of South Carolina.
26. Documents produced in response to the attached Subpoena Duces Tecum.

EXHIBIT B

For purposes of these requests, the following words shall have the following meanings:

The terms "RECORD" or "RECORDS" or "DOCUMENT" or "DOCUMENTS" means any and all written, printed, typed, recorded or graphic material, however produced, or reproduced, stored, known to exist, by way of example and not by limitation, invoices, contracts evidencing purchase or receipt, ledger cards, material requests, communications, writings, printings, records, worksheets, abstracts, summaries, statistics, notes, market data, journals, ledgers, expense reports, specifications, contracts, contract bids, purchase orders, bills of lading, shipping orders, dock receipts, cancelled checks, computer print-outs, microfilm, microfiche, which in any way pertain to the document request made herein.

The terms "YOU" and "YOUR" mean responding party and all of its divisions, predecessors-in-interest, successors-in-interest, subsidiaries, parent companies, sister companies, joint ventures, partners and divisions thereof, including all current and former owners, employees, managers, officers, directors, agents, attorneys and any other person(s) acting upon its behalf.

The term "PERSON" and "PERSONS" means a natural person, firm, association, organization, partnership, business trust, limited liability company, corporation, or public entity.

Please produce the following:

1. Any and all items or documents responsive or related to the topics / categories described in this deposition notice.

[illegible]

On July 19, 2023, this Court entered an order denying Asbestos Company, Ltd.’s (“ACL”) motion to dismiss for lack of personal jurisdiction. The Court further ordered ACL to fully answer discovery and to produce a corporate representative for deposition. The Court stated: “Failure to answer the Court ordered discovery and to provide a corporate representative for deposition shall result in ACL being held in contempt.”¹ As a result, Plaintiffs have moved for an Order holding ACL in contempt and to strike ACL’s pleadings as a result of their failure to participate in discovery in violation of the Court’s Orders. Should the Court strike ACL’s pleadings, Plaintiffs submit this motion to appoint a Receiver and would respectfully show the court as follows:

BACKGROUND

As this Court has already seen, ACL supplied asbestos to companies and contractors throughout the southeastern United States, including, without limitations, to companies and contractors in North and South Carolina. Plaintiffs served discovery on ACL in the form of interrogatories and deposition notices with document requests. Despite having specifically sold to

¹ See Order Denying Asbestos Corporation's Motion to Dismiss Entered July 19, 2023. Exhibit 1

companies in South Carolina, ACL demurred and alleged that this court had no personal jurisdiction over it because it is a Canadian company.

After briefing and a hearing, this Court overruled ACL's objections and ordered it to produce a fully prepared witness and documents. ACL refused. ACL has been clear that it does not intend to comply with this Court's order to fully answer discovery or to produce a witness or otherwise participate in this litigation.

LAW AND ARGUMENT

If this Court determines that the appropriate sanction for ACL's contempt is the striking of ACL's answer, Plaintiffs next move this court for an order appointing a receiver over ACL. This motion is made pursuant to S.C. Code §§ 15-65-10(4) and (5).

ACL is a company organized and existing under the laws of Canada, with its principal place of business in Canada. At all times relevant, ACL was involved in all elements of the global asbestos industry, but in particular, mining many thousands of tons of raw asbestos fiber in Canada and then selling it to the most dominant manufacturers of asbestos-containing products in the United States—substantial quantities of which were used in South Carolina. ACL also concocted a scheme to avoid its legal responsibilities to persons injured from using those end products. Rather than defending its conduct in front of juries in the United States, ACL decided to simply contest personal jurisdiction and, where it loses that battle, they simply refuse to participate in cases in which they are a named defendant. Although ACL stiff-arms its creditors in the United States—namely, workers exposed to asbestos and asbestos containing products manufactured and/or sold by ACL—and absconded to Canada, certain of its insurance assets appear to remain. There is no evidence which suggests that ACL currently operates in any way to do anything other than to defend and indemnify lawsuits, thus, making ACL nothing more than an insurance company.

Plaintiffs believe, that like ACL's sister company, Atlas, ACL is refusing to tender the defense to its' insurance carriers.² This pattern of conduct of both ACL and Atlas is clearly intended to leave victim's of their conduct without any recourse against them. The appointment of a receiver to control ACL's defense in US asbestos litigation, tender ACL's claims to its' carriers and marshal ACL's insurance assets and satisfy claims is therefore the appropriate remedy.

LAW AND ARGUMENT

South Carolina Code § 15-65-10(4) states that:

A receiver may be appointed by a judge of the circuit court, either in or out of court:
... (4) When a corporation has been dissolved, is insolvent or in imminent danger of insolvency or has forfeited its corporate rights, and, in like cases, of the property within this State of foreign corporations

It is undisputed that ACL has intentionally fled the United States to avoid its liabilities and obligations to its creditors and to the extent it ever properly qualified itself to do business in South Carolina has forfeited those rights. *See, e.g.,* Black's Law Dictionary (11th ed. 2019), *forfeiture* ("loss of a right, privilege, or property because of a crime, breach of obligation, or neglect of duty") Thus, appointment of a receiver over ACL and its affiliates is appropriate under subsection (4).

South Carolina Code §15-65-10(5), moreover, states that:

A receiver may be appointed by a judge of the circuit court, either in or out of court:
... (5) In such other cases as are provided by law or may be in accordance with the existing practice

Section 15-65-10(5) reflects an "old practice" of equity and "important principle of law" to correct injustice, particularly "when a debtor is trying to defeat his creditors by an act or course of conduct which indicates moral fraud—a conscious intent to defeat, delay, or hinder his creditors in the

² See Motion to Clarify Receivership Order to Assume Control over the Defense of Atlas Turner's United States Asbestos Litigation filed in Welch v. Atlas Turner: Civil Action No: 2022-CP-40-03824 filed on July 25, 2023, attached as Exhibit 2.

collection of their debts.” *Va.-Carolina Chem. Co. v. Hunter*, 66 S.E. 177, 179 (S.C. 1909). Thus, if a business “disposes of large resources” but “leaves . . . debts unpaid”—while “set[ting] creditors at arm’s length by refusing . . . to take any interest in the satisfaction of their claims”—then there is a prima facie case of fraud warranting appointment of a receiver. *Id.* at 180 (citing *Miller v. Hughes*, 12 S.E. 419 (S.C. 1890)). It is respectfully submitted that the appointment of a receiver over ACL is appropriate under subsection (5) because ACL engaged in an intentional scheme to defraud its creditors by refusing to appear or accept service in the United States after being faced with substantial asbestos-related liabilities.

Section 15-65-20 requires four days’ notice of this application be provided to the party to the action whose property is sought to be put in the hands of the receiver. Plaintiffs, concurrently herewith, have provided copies of this motion to ACL’s counsel.

CONCLUSION

As set forth above, ACL refuses to comply with this Court’s orders. The sanction for that action should be the striking of ACLs’ answer. After ACL’ answer is stricken, this court should enter an order appointing a receiver as soon as practically possible. Plaintiffs respectfully suggest that Peter Protopapas be appointed the receiver over ACL.

Respectfully submitted,

/s/ Theile B. McVey

Theile B. McVey (SC Bar No. 16682)

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ATTORNEYS FOR PLAINTIFFS

July 28, 2023
Columbia, South Carolikna

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND) FIFTH JUDICIAL CIRCUIT

JOHN A. TIBBS AND MARGARET B.) CASE NO. 2023-CP-40-01759

TIBBS ,)

PLAINTIFFS,)

vs.)

3M COMPANY, ET AL.,)

DEFENDANTS.)

EXHIBIT

9

**MEMORANDUM IN OPPOSITION TO
MOTION FOR CONTEMPT, TO STRIKE
ANSWER AND APPOINT A RECEIVER**

The Defendant Asbestos Corporation Limited (“ACL”), subject to and without waiving its arguments and defenses including those related to a lack of personal jurisdiction, files this memorandum of law in opposition to Plaintiffs’ motions to hold it in contempt; to strike its pleadings and to appoint Peter Protopapas as a receiver pursuant to S.C. Code Ann. §§ 15-65-10(4) and (5).

ACL respectfully asserts its actions show no willful disobedience of the Court, but rather establish an attempt to comply with the Court’s ruling under the challenging circumstances presented. As such, it does not meet the standard for contempt, much less the willful and deliberate disobedience, which must be established to strike a party’s answer or responsive pleadings. Finally, contrary to Plaintiff’s assertion, if this Court determines that the appropriate sanction for ACL’s contempt is the striking of ACL’s answer, is not also appropriate for this Court to appoint a receiver. This is especially true when the proposed receiver is one suggested by Plaintiff’s counsel who serves in such role repeatedly and the entity over which he attempts to assert authority is an existing Canadian corporation with no assets in South Carolina and does not meet the requirements of S.C. Code Ann. §§ 15-65-10(4) or (5). A receiver must be

absolutely fair and impartial, for the receiver represents all parties interested but also is an officer of the court. *Penn. Mut. Life Ins. Co. v. Cudd*, 172 S.C. 88, 172 S.E. 787 (1934). Plaintiffs' motions should be denied.

STATEMENT OF THE FACTS

ACL is an existing Canadian corporation, which is located in the Province of Quebec. Based on the facts, evidence, law and arguments set forth in ACL's motion to dismiss and supporting memorandum of law, with exhibits which are incorporated herein by reference, ACL asserts there is no personal jurisdiction over it in South Carolina. While the Court and Plaintiffs' counsel disagree, there is no provision in the law which mandates ACL to acknowledge personal jurisdiction when it believes it does not exist. Likewise, ACL has been consistent in its position that it cannot produce a Rule 30(b)(6), SCRCF witness, as all such witnesses known to ACL have unfortunately passed away.

ACL filed a motion to dismiss for lack of personal jurisdiction. Plaintiffs attempted to notice a Rule 30(b)(6), SCRCF witness in this case. They were informed there were no individuals alive and capable of responding to the issues proposed. On July 10, 2023, this Court conducted a hearing on ACL's motion to dismiss and denied it. The Court went on to state "ACL is ordered to answer discovery and to produce a 30(b)(6) witness by July 24, 2023. Failure to answer the Court ordered discovery and to provide a corporate representative for deposition shall result in ACL being held in contempt." (July 19, 2023 Order p. 1).

ACL answered the court ordered discovery, which has been in place since Judge (now Justice) Hill presided over the asbestos court.¹ In addition, the undersigned counsel called Plaintiffs' counsel, Ms. McVey, in advance and advised her ACL has no living employee or

¹ Attached as Exhibit 1 is a copy of ACL's responses.

person who could satisfy this Court's requirements as to a Rule 30(b)(6), SCRCF witness. Counsel further informed her ACL would produce copies of depositions and transcripts from previous witnesses (which were obviously given before they passed away) in a good faith effort to show an attempt to comply with this Court's order. The only response received was "what am I supposed to do with them?"

The following transcripts were provided to Plaintiff:²

- A. William Callan: *Abercrombie v. Abex Corp., et al.*, Superior Court of the State of California, County of San Francisco, No. 941345, April 2, 1996, Tooker & Antz Court Reporters, 131 Steuart Street, Ste. 201, San Francisco, CA 94105, Brayton Purcell, 222 Rush Landing Rd, Novato, CA 94948; *Shaw v. Pittsburgh Corning Corp., et al.*, Superior Court of the State of Washington, County of King, No. 94-2-25707-2, September 14, 1995, Sharon Rindal & Assoc. Court Reporters, 10224 – 21st S.W., Ste. B, Seattle, Washington 98146; *Austin v. Johns-Manville, et al.*, U.S. District Court, New Jersey, No. 75-754, October 22, 1980 and November 24, 1980, Esquire Reporting Company, 41 East 42nd Street, New York, NY 10017; and *Bailey v. Johns-Manville, et al.*, Philadelphia Court of Common Pleas, May Term 1981, No. I675 (551), April 10 and 11, 1984, Lynn Mountain Court Reporters, James R. Kahn, Esq., Desjardins, Ducharme, et al., 635 Dorchester Blvd West, Montreal, Quebec, Canada.
- B. Marcel DeRouin: *Shaw v. Pittsburgh Coming Corp., et al.*, Superior Court of the State of Washington, County of King, No. 94-2-25707-2, September 14, 1995, Sharon Rindal & Assoc. Court Reporters, 10224 – 21st S.W., Ste. B, Seattle, Washington 98146.
- C. Ian Cadogan Campbell: *Austin v. Johns-Manville, et al.*, U.S. District Court, New Jersey, No. 75-754, September 7, 1976, Federal Court Reporters, Gelman & Gelman; *Ciccarelli v. Carey Canadian Mines, et al.*, U.S. District Court, Eastern District of Pennsylvania, No. 79-2122, September 27, 1979, Knipes-Cohen Association Reporters.
- D. George Alexander McCammon: *Hayes v. Johns-Manville, et al.*, U.S. District Court, Eastern Division of Missouri, No. 80-0706-C(B), April 7, 1982, Anna M. Lloyd, Court Reporter, Montreal, Canada; *In Re Johns-Manville Plantworker Cases*, New Jersey Superior Court, Middlesex County, No. L-37243-79, January 14, 1987, Anna M. Lloyd, Court Reporter, Montreal, Canada, Willentz, Goldman & Spitzer, 900 Route 9, P.O. Box 10, Woodbridge, N.J. 07095.
- E. Alex Sakiz: *Canadian Johns-Manville/Asbestos Corporation Limited Cases*, U.S. District Court, Northern District of Illinois, No. 77C3534, January 22, 1982, Anna Cordier, Court Reporter, Montreal, Canada.

² Copies are attached as Exhibit 2.

- F. Thomas Donald Johnson: *In Re Fibreboard Plantworker Asbestos Cases*, California Superior court, Alameda County, No. 537064-7, January 18, 19, 20, 1984, Vilaire & Associates, 4 est. Notre Dame, Bureau 603, Montreal, H2Y 1B8, Kazan, McClain, Edises, Simon & Abrams, 171 Twelfth Street, Third Floor, Oakland, CA 94607.
- G. Alain Dulude: *In Re Fibreboard Plantworker Asbestos Cases*, California Superior Court, Alameda County, No. 537064-7, January 26 and 27, 1984, Vilaire & Associates, 4 est. Notre Dame, Bureau 603, Montreal, H2Y 1B8.
- H. Jean-Marie Laliberte: *James & Elizabeth Scott v. 3M Company, et al.*, Superior Court of New Jersey, Middlesex County, Docket No.:L-7550-11 AS, March 2, 2015, Sonia Undseth, AD/T 590, KLJ Transcription Services, LLC, P.O. Box 8627, Saddle River, NJ 07663; March 3, 2015, Sandra Carbonaro, AC/T 259, KLJ Transcription Services, LLC, P.O. Box 8627, Saddle River, NJ 07663, William L. Kuzmin, Esq. Cohen, Placitella & Roth, 127 Maple Avenue, Red Bank, NJ 07701.

Two days later, counsel filed a motion to hold ACL in contempt and to strike ACL's pleadings. Two days after that motion was filed, Plaintiffs filed a Motion for the appointment of a Receiver. For the reasons set forth below, all of Plaintiffs' motions should be denied.

CONTEMPT IS NOT APPROPRIATE UNDER THE FACTS OF THIS CASE.

All courts have the inherent power to punish for contempt; however, contempt is an **extreme measure and the power to adjudge a party in contempt is not to be taken lightly.** *Hook v. South Carolina Dept. of Health and Environmental Control*, 439 S.C. 52, 74, 885 S.E.2d 442, 454 (Ct. App. 2023) (emphasis added). Even though a party is found to have violated a court order, the question of whether or not to impose sanctions remains a question for the court's discretion, which should be determined under the specific facts of the case in issue. *Id.*

Once the movant makes a *prima facie* showing by pleading an order and demonstrating noncompliance, the burden shifts to the respondent to establish its defense and inability to comply. *Id.* at 75, 885 S.E.2d at 454. Contempt results from willful disobedience of a court order. *Id.* at 75, 885 S.E.2d at 455 (emphasis added). A willful act is one done voluntarily and intentionally with the specific intent to do something the law forbids, or with the specific intent

to fail to do something the law requires to be done; that is to say with a bad purpose either to disobey or disregard the laws. *Id.* at 76, 885 S.E.2d at 455.

In its Order Denying ACL's Motion to Dismiss for lack of personal jurisdiction, this court held "ACL is ordered to answer discovery and to produce a 30(b)(6) witness by July 24, 2023. Failure to answer the Court ordered discovery and to provide a corporate representative for depositions shall result in ACL being held in contempt." (July 19, 2023 Order p. 1). Inability to comply is a defense to contempt.

ACL has no current or former employees to testify to the topics listed in the Rule 30(b)(6), SCRCF Notice.³ It does not maintain or possess records that would be necessary to educate a witness to be able to testify to matters contained in the Rule 30(b)(6), SCRCF Notice. To the extent that relevant records do exist, their production would be prohibited by the QBCRA as interpreted by the courts in Canada and the Province of Quebec, as discussed below.

If a corporation genuinely cannot provide an appropriate designee because it does not have the information, cannot reasonably obtain it from other sources, and still lacks knowledge after reviewing all available information, then its obligations under the Rule cease. *QBE Ins. Corp. v. Jorda Enterprises, Inc.*, 277 F.R.D. 676, 690 (S.D. Fla. 2012). A party cannot produce documents it does not possess, and a party cannot create documents that do not exist and is not obligated to create new documents. *See United States v. Remain at Home Senior Care, LLC*, Case No. 1:17-cv-01493-JMC, at *5-6 (D.S.C. Jan. 14, 2022).

This Court can order it. Plaintiff can want it. ACL can do all in its power to comply, to the extent the laws of its home jurisdiction allow, but as nearly every circuit judge has told counsel at one hearing or another, the other side cannot produce that which it does not have. It

³ Plaintiffs' Second Amended Notice of Rule 30(b)(6), SCRCF Deposition with topics is attached as Exhibit 3.

cannot produce witnesses who are no longer with us. These same rules and common sense apply, even in this court. ACL has shown a good faith attempt to comply with this Court's order. It should not be held in contempt.⁴

The Quebec Business Concerns Records Act (QBCRA) Prohibits ACL Under Threat of Criminal and/or Civil Contempt from Providing Business Records, or Information from Business Records, Located in Quebec.

ACL is a Quebec corporation whose office is located in the province. Under Section 2 of the QBCRA, a copy of which is attached as Exhibit 4:

Subject to section 3, no person shall, pursuant to or under any requirement issued by any legislative, judicial, or administrative authority outside Quebec, remove or cause to be removed, or send or cause to be sent, from any place in Quebec to a place outside Quebec, any document or résumé or digest of any document relating to any concern.

The term "document" is defined as "any account, balance sheet, statement of receipts and expenditure, profit and loss statement, statement of assets and liabilities, inventory, report and any other writing or material forming part of the records or archives of a business concern." QBCRA, § 1(a). The term "concern" is defined as "any business concern in Quebec." QBCRA, § 1(b). The term "requirement" is defined as "any demand, direction, order, subpoena or summons." QBCRA § 1(c). The exception in Section 3 is limited to intra-company transfer in the normal course of business, the sale of securities, and as "authorized by any law of Quebec or of the Parliament of Canada, in accordance with their respective jurisdictions." QBCRA, § 3. Any person who infringes the provisions of Section 2 **shall** be guilty of contempt of court. QBCRA §

⁴ The court's July 19, 2023 order is less than clear whether contempt is automatic or dependent upon the examination of the attempts by ACL to comply with this court's order ("Failure to answer the Court ordered discovery and to produce a 30(b)(6) witness...shall result in ACL being held in contempt."). An automatic ruling of contempt without an examination of steps taken towards compliance would be inconsistent with South Carolina law. *Skywaves Corp. v. Branch Banking and Trust Co.*, 423 S.C. 432, 814 S.E.2d 643 (Ct. App. 2018). (In determining the appropriateness of a sanction, the court should not go beyond the necessities of the situation to foreclose a decision on the merits.)

5 (emphasis added). Quebec courts have made clear that other Quebec “concerns” like ACL are subject to criminal and/or civil penalties if they produce, in United States litigation, information or documents from their files in Quebec.⁵

ACL acknowledges that two decisions by the federal district court in South Carolina have ruled unfavorably as to the QBCRA: *Lyons v. Bell Asbestos Mines, Ltd.*, 119 F.R.D. 384 (D.S.C. 1988); and *Central Wesleyan College v. W. R. Grace & Co.*, 143 F.R.D. 628 (D.S.C. 1992). With due respect to the judges in each case, those cases failed to accurately assess the operation of the QBCRA upon Quebec entities like ACL and the potential exposure they faced for compliance. Moreover, while this Court seems limited by these opinions, neither is binding authority, nor controlling.

The South Carolina federal courts’ interpretations in *Lyons* and *Central Wesleyan* understate the liability of a company in ACL’s position under the QBCRA and the dilemma it faces when called upon to produce documents and a witness in a Rule 30(b)(6), SCRCF situation like the one at issue. Such decisions only show that ACL is stuck between the proverbial “rock and a hard place.” It is stuck between facing mandatory contempt of court in its domicile or suffering contempt and not only displeasing this Court if it does not produce a witness to Plaintiffs’ satisfaction, but having this Court strike its answer and attempt to appoint a receiver that in no manner complies with the laws of Quebec or South Carolina. While the goal is never to displease a court, ACL has no choice in this matter. It can face contempt of court in Quebec where it is located and does business as an ongoing concern or have this Court attempt to place it under a receivership by virtue of a statute that has no applicability in a state with no personal jurisdiction over it.

⁵ The transcripts produced to Plaintiffs came from sources in the United States and thus their production does not violate the QBCRA.

ACL takes its discovery obligations seriously, but asks this Court to recognize and consider that it cannot please both masters at the same time. Other courts have recognized this conundrum.

In *Jenness v. Turner and Newall Ltd.*, No. 83-61-L (D. N.H. Dec. 5, 1984), a copy of which is attached as Exhibit 5, plaintiff served interrogatories to ACL to investigate how much raw asbestos ACL sold to her employer. ACL admitted that it had sold asbestos to the plaintiff's employer but could not "give the detailed answers that are required to be given to plaintiff's interrogatories without reference to [ACL's] business records located in Canada." *Id.* at p. 2. As a result, the plaintiff moved for sanctions against ACL when it did not comply with the court's discovery order. The U.S. District Court for the District of New Hampshire described ACL's predicament: ACL found itself "between the Scylla of the criminal sanctions of the [QBCRA] and the Charybdis of the civil sanctions of this Court." *Id.* at p. 2. Considering ACL's quandary, the *Jenness* court found that ACL had "made a good faith effort to comply with this Court's order to answer the interrogatories" and that ACL's "fear that answering the interrogatories or giving the depositions would violate the [QBCRA] to be well founded." *Id.* at p. 3. The court ordered ACL to answer the plaintiff's interrogatories from documents and information that existed outside Quebec, but ruled that ACL did not have to answer the interrogatories from documents and information contained within Quebec. *Id.* at pp. 3-4.

Similarly, in *Maryland v. Keene Corp.*, No. 1108600 (Md. Cir. Ct. July 10, 1986), a copy of which is attached as Exhibit 6, ACL sought a protective order from the plaintiff's discovery due to threat of sanctions under the QBCRA. Exhibit 6, at pp. 1-2. The *Keene* court concluded that because the QBCRA's potential penalties were "an annoyance, embarrassment and undue burden" to ACL, the court was "not convinced that it [wa]s necessary for ACL to face" the

QBCRA's sanctions. *Id.* at p. 2. The court ordered that any of ACL's United States-based documents and information were discoverable but that "ACL's Canadian documents should enjoy the full protection which this Court can afford to them...." *Id.* at 3.

Further, in *Fears v. Cassair Mining, Corp.*, No. 91-98C(5) (E.D. Mo. Jan. 5, 1993), a copy of which is attached as Exhibit 7, the U. S. District Court for the Eastern District of Missouri did not find the analysis in *Lyons* persuasive because it did not deal with the Canadian courts' interpretation of the QBCRA or with the prior rulings of American courts. Rather, it adopted the *Jenness* and *Keene* courts' reasoning, concluding that "the approach taken by [those] courts is equitable and just in that it provides a broad opportunity for plaintiffs to achieve the discovery to which they are entitled without exposing [ACL] to criminal sanctions in Quebec." Exhibit 7, at p. 3. The *Fears* court allowed discovery into ACL's documents and information contained in the United States but upheld the QBCRA's prohibition on discovery into ACL's Quebec documents and information. *Id.*

Because ACL faces criminal and/or penalties if it violates the QBCRA or contempt and severe sanctions including default and a purported receivership, the Court should make a comity analysis using the factors set forth in *Societe Nationale Industrielle Aerospatiale v. United States District Court for Southern District of Iowa*, 482 U.S. 522, 107 S.Ct. 2542 (1987) (*Aerospatiale*) and Restatement (Third) of Foreign Relations Law of the United States, § 442 (1987) (Restatement).⁶ In *Aerospatiale*, the Supreme Court dealt with a French "Blocking

⁶ ACL acknowledges that the court in *Lyons* referenced *Aerospatiale* in relation to the QBCRA. *Id.*, 119 F.R.D. at 389 (D.S.C. 1988). Further, in *Lyons*, although Judge Anderson ruled unfavorably as to the QBCRA, he referenced *Aerospatiale* and noted that consideration "of foreign law problems in a discovery context is required in dealing with sanctions to be imposed for disobedience", thereby acknowledging that any punishment should not necessarily immediately go to the most severe sanction available but should take into account the conflicting legal obligations faced by the party. *Lyons*, 119 F.R.D. at 389.

Statute.” The Court directed that district courts could find their guide to a comity analysis using factors articulated in the *Restatement. Aerospatiale*, 482 U.S. at 544, footnote 28. These factors are (1) the importance to the...litigation of the documents or other information requested; (2) the degree of specificity of the request; (3) whether the information originated in the United States; (4) the availability of alternative means of securing the information; and (5) the extent to which noncompliance with the request would undermine important interests of the United States, or compliance with the request would undermine important interests of the state where the information is located.

A comity analysis using the factors set forth in *Aerospatiale* supports relief for ACL. The information requested is unrelated to the primary case, but centers more on an effort to establish insurance coverage for the purported receiver. As for the second factor – the degree of specificity – many of Plaintiffs’ requests are overly broad.⁷ Plaintiff cannot show and ACL has established to the extent any such documents exist, they would be in Quebec. Plaintiff has shown it attempted no alternatives legal means to try to obtain any information in issue. Finally, this information does not undermine important interests of South Carolina.

APPOINTMENT OF A RECEIVER IS INAPPROPRIATE FROM A LEGAL, JURISDICTIONAL AND STATUTORY BASIS.

Plaintiff moves ever so rapidly to assert, with no relevant or applicable case law, that this Court should attempt to place ACL under a receivership.⁸ ACL is a Canadian Corporation located in the Province of Quebec. As set forth in ACL’s prior Motion to Dismiss for Lack of Personal Jurisdiction and Memorandum of Law with Exhibits, this Court has no jurisdiction or authority to

⁷ See Plaintiffs’ Second Amended Notice of Rule 30(b)(6), SCRCF Deposition of ACL and Subpoena Duces Tecum, attached as Exhibit 3.

⁸ The motion is not clear as to whether this is purportedly an “insurance asset” receivership as on appeal in *Welch* or some other form of receivership. The relief sought does not comply with the statutory provisions cited.

place on ongoing Canadian corporation into a South Carolina based receivership. While Plaintiffs make allegations with absolutely no evidentiary basis, such as “ACL has intentionally fled the United States to avoid its liabilities’ or that it is “trying to defeat [its] creditors by an act or course of conduct which indicates moral fraud...”, and is ACL “refuses to accept service in in the United States after being faced with substantial asbestos-related liabilities.”

As stated earlier, Plaintiffs and this Court want ACL to give up or walk away from its personal jurisdictional arguments. It will not do so. Plaintiff has no judgment against ACL. Even if this court holds ACL in default, it does not follow as this Court stated in *Welch* that a default judgment is a ministerial act. *Beckham v. Durant*, 300 S.C. 329, 387 S.E.2d 701 (Ct. App. 1989). *In re Estate of Weeks*, 329 S.C. 251, 495 S.E.2d 454 (Ct. App. 1997). (Party requesting judgment by default is not entitled to one as a matter of right even when the defendant is technically in default.”). As such, ACL does not meet the requirements of S.C. Code Ann. § 15-65-10(4). Likewise, there is no way the action of attempting to appoint a receiver could be deemed “in accordance with the existing practice.” S.C. Code Ann. § 15-65-10(5) is not satisfied. Finally, S.C. Code Ann. § 15-65-10 (4) limits itself to “property within this State of foreign corporations.” Plaintiff seeks this Court to declare a receivership that is not limited by the boundaries of this state, but also is not limited by the borders of this country. This Court and the South Carolina Legislature lack such authority. A receivership may not be put into place legally. Appointment of a receiver is a “harsh and drastic remedy, one to be granted only with great caution.” *Penn. Mut. Life Ins. Co. v. Cudd*, 172 S.C. 88, 172 S.E. 787 (1934). Any order to do so would be null and void.

CONCLUSION

For the foregoing reasons, the Court should not hold ACL in contempt; should not strike its answer and should not attempt to place it in an illegal and void receivership.

[Signature page for Memorandum in Opposition to Motion for Contempt, to Strike Answer and Appoint a Receiver Case No. 2023-CP-40-01759]

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Québec 

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chapter D-12

BUSINESS CONCERNS RECORDS ACT

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REPEAL SCHEDULE

EXHIBIT

10

RECORDS OF CONCERNS

1. In this Act, the following words mean:

(a) "document": any account, balance sheet, statement of receipts and expenditure, profit and loss statement, statement of assets and liabilities, inventory, report and any other writing or material forming part of the records or archives of a business concern;

(b) "concern": any business concern in Québec;

(c) "requirement": any demand, direction, order, subpoena or summons.

R. S. 1964, c. 278, s. 1.

2. Subject to section 3, no person shall, pursuant to or under any requirement issued by any legislative, judicial or administrative authority outside Québec, remove or cause to be removed, or send or cause to be sent, from any place in Québec to a place outside Québec, any document or résumé or digest of any document relating to any concern.

R. S. 1964, c. 278, s. 2.

3. The prohibition enacted in section 2 shall not apply in the case of the removal or sending of a document out of Québec

(a) by an agency, branch, legal person or firm carrying on business in Québec, to a principal, head office, affiliated legal person or firm, agency or branch situated outside Québec, in the ordinary course of their business;

(b) by or on behalf of a natural or legal person, a partnership or an association that is not a legal person carrying on business in Québec, to a territory subject to another political jurisdiction in which the sale of the securities of such person, partnership or association has been authorized;

(c) by or on behalf of any such person, partnership or association carrying on business in Québec as a broker, security issuer or salesman within the meaning of the Securities Act (chapter V-1.1), to a territory subject to another political jurisdiction in which any such person, partnership or association has been registered or is otherwise authorized to carry on business as broker, security issuer or salesman, as the case may be;

(d) whenever such removal or sending is authorized by any law of Québec or of the Parliament of Canada, in accordance with their respective jurisdictions.

R. S. 1964, c. 278, s. 3; 2009, c. 52, s. 590.

4. Whenever there is reason to believe that a requirement has been or is likely to be made for the removal or sending out of Québec of a document relating to a concern, the Attorney General may apply to a judge of the Court of Québec, in the judicial district where the concern in question is located, for an order requiring any person, whether or not designated in the requirement, to furnish an undertaking or security to ensure that such person will not remove or send out of Québec the document mentioned in the said requirement.

In case of urgency, the application may be filed and presented to the judge without prior service. The judge may however order the service thereof within such time, in such manner and on such conditions as he may consider expedient.

Every person having an interest in a concern may exercise the rights contemplated in this section.

R. S. 1964, c. 278, s. 4; 1965 (1st sess.), c. 17, s. 2; 1983, c. 21, s. 66; 1999, c. 40, s. 109; L.N. 2016-01-01 (NOOP).

5. Every person who, having received notice of an application to a judge of the Court of Québec under section 4, infringes the provisions of section 2, shall be guilty of contempt of court.

RECORDS OF CONCERNS

Every person who has furnished, or has received from the judge an order to furnish, an undertaking or security and who infringes the provisions of section 2 shall be guilty of contempt of court in addition to any obligation provided by the undertaking or security furnished or ordered by the judge.

R. S. 1964, c. 278, s. 5; 1965 (1st sess.), c. 17, s. 2; 1988, c. 21, s. 66; 1990, c. 4, s. 388; 1992, c. 61, s. 267; I.N. 2016-01-01 (NCOP).

6. *(This section ceased to have effect on 17 April 1987).*

1982, c. 21, s. 1; U. K., 1982, c. 11, Sch. B, Part I, s. 33.

RECORDS OF CONCERNS

REPEAL SCHEDULE

In accordance with section 17 of the Act respecting the consolidation of the statutes (chapter R-3), chapter 278 of the Revised Statutes, 1964, in force on 31 December 1977, is repealed effective from the coming into force of chapter D-12 of the Revised Statutes.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
JOHN A. TIBBS and	)	C/A NO. 2023-CP-40-01759
MARGARET B. TIBBS	)	
	)	<i>In Re:</i>
Plaintiff,	)	Asbestos Personal Injury Litigation
	)	Coordinated Docket
v.	)	
	)	
3M COMPANY, et al.	)	
	)	
Defendants.	)	



ORDER HOLDING ATLAS ASBESTOS COMPANY, LTD. IN CONTEMPT

Asbestos Corporation, Ltd. (“ACL”) is a defendant in the above referenced matter. On July 10, 2023, this Court, in open court ordered ACL to fully answer discovery and appear for a deposition so that this matter could be prepared for trial. On July 19, 2023, this Court entered an Order stating: “Failure to answer the Court ordered discovery and to provide a corporate representative for deposition shall result in ACL being held in contempt.”

ACL failed to produce a witness as ordered by the Court. ACL has also refused to identify a witness or a date on which it will produce a witness. Moreover, ACL has failed to fully answer discovery and provide documents ordered to be produced by this Court.

ACL has made it clear that it does not intend to participate in this matter and that this Court’s orders on discovery will continue to be ignored. Plaintiffs moved to have this Court hold ACL in contempt and, as a sanction, to strike ACL’s answer.

LAW AND ANALYSIS

A determination of contempt resides in the sound discretion of the trial judge. *Hook v. South Carolina Dept. of Health and Environmental Control*, 439 S.C. 52 (Ct. App. March 15, 2023). “Courts have no more important function to perform in the administration of justice than to ensure their orders are obeyed.” *Id.* The power of a court to punish for contempt “is essential to the preservation of order in judicial proceedings and to the enforcement of the judgments, orders and writs of the courts, and consequently to the due administration of justice.” *Miller v. Miller*, 375 S.C. 443 (Ct. App. 2007).

“The rights of discovery provided by the Rules give the trial lawyer the means to be prepared for trial.” *Downey v. Dixon*, 294 S.C. 42, 46, 362 S.E.2d 317, 319 (Ct. App. 1987). “Where these rights are not accorded, prejudice must be presumed and, unless the party who has failed to submit to discovery can show a lack of prejudice,” sanctions must be imposed. *Id.* Without adequate sanctions, discovery procedures would be ineffectual. *Id.* As a result, over leniency must be avoided. *Id.* “If a party fails to obey an order or provide or permit discovery, the trial court may impose sanctions such as striking pleadings, dismissing the action, or rendering a default judgment.” *Griffin Grading & Clearing, Inc. v. Tire Serv. Equipment Mfg. Co., Inc.*, 334 S.C. 193, 198, 511 S.E.2d 716, 718 (Ct. App. 1999).

“In determining the appropriateness of a sanction, the court should consider such factors as the precise nature of the discovery and the discovery posture of the case, willfulness, and degree of prejudice.” *Id.* at 199, 511 S.E.2d at 719. In *Samples v. Mitchell*, 329 S.C. 105, 495 S.E.2d 213 (Ct. App. 1997), the South Carolina Court of Appeals stated “[t]he entire thrust of the discovery rules involves full and fair disclosure, to prevent a trial from becoming a guessing game or one of surprise for either party.” *Id.* “Discovery sanctions are imposed to penalize those whose conduct may be deemed to warrant such a sanction, and to deter those

who might be tempted to such conduct in the absence of such a deterrent.” *Creighton v. Coligny Plaza Ltd. P’ship*, 334 S.C. 96, 123, 512 S.E.2d 510, 524 (Ct. App. 1998).

Here there is no dispute that ACL has violated this Court’s orders. Moreover, ACL has indicated that it does not intend to comply with those orders in the future. In light of ACL’s position, this Court has no choice but to find ACL in contempt of court. ACL has failed to produce a witness. ACL has refused to participate in meaningful discovery. It has refused to produce documents. Given this intentional and willful refusal to participate in discovery, the Court hereby strikes ACL’s pleadings.

IT IS SO ORDERED.

[JUDGE’S SIGNATURE PAGE FOLLOWS]



Richland Common Pleas

Case Caption: John A Tibbs , plaintiff, et al vs 3M Company , defendant, et al

Case Number: 2023CP4001759

Type: Order/Sanctions

So Ordered

Jean H. Toal

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

JOHN A. TIBBS and
MARGARET B. TIBBS

Plaintiff,

v.

3M COMPANY, et al.

Defendants.

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

C/A NO. 2023-CP-40-01759

In Re:

Asbestos Personal Injury Litigation

Coordinated Docket

EXHIBIT

12

ORDER ON PLAINTIFFS' MOTION TO APPOINT A RECEIVER

This order follows the Court's order finding Asbestos Corporation Ltd. ("ACL") in contempt of court and striking ACL's pleadings. Before the Court is Plaintiffs' Motion to Appoint a Receiver over ACL's insurance assets.

BACKGROUND

For the reasons set for below, the Court grants Plaintiffs motion to appoint a receiver over the Insurance Assets¹ of ACL and to allow the Receiver to assume control of the defense of asbestos claims made against Asbestos Corporation, Ltd in the United States. Peter Protopapas is appointed as receiver over those Insurance Assets and the Court expects anyone or any entity having information or materials which are reasonably calculated to lead to the discovery of admissible evidence to cooperate with this Court's Receiver in locating and marshalling those assets. Further, Mr. Protopapas is tasked with tendering current and future claims from Plaintiffs suffering from

¹ This term is defined below.

asbestos disease brought against ACL to which those policies are responsive. Finally, Mr. Protopapas is tasked with the control of the defense of those claims for ACL.

PROCEEDURAL BACKGROUND

On July 19, 2023, this Court ordered ACL to fully answer discovery and to provide a corporate representative for deposition. The Court further held that failure to do so would result ACL being held in contempt. Subsequently, this Court held ACL in contempt and, as a sanction, struck the pleadings of ACL. The Court based its contempt order on ACL's flat refusal to comply with this Court's orders to produce documents, a witness or otherwise participate in discovery.

Now, having struck ACL's answer, ACL is in default.²

LAW AND ANALYSIS

A. Appointment of a Receiver is Appropriate and Warranted

The South Carolina receivership statute provides in relevant part that a receiver may be appointed in cases in accordance with "existing practice." S.C. Code Ann. 15-65-10(5).³

² The process of actually entering default judgment is merely a ministerial process. In the absence of an answer, default is nothing more than that ministerial act. *Stark Truss Co., Inc. v. Superior Const. Corp.* 360 S.C. 503 (Ct. App. 2004)

³ A receiver is also available to carry a judgment into effect, which is the practical result of the coming default following the striking of ACL's answer.

Historically, receivers are appointed by courts sitting in equity in order to ensure a fair result. *First Carolinas Joint Stock Land Bank of Columbia v. Knotts*, 191 S.C. 384 (1939). Indeed, “[t]he right to have a receiver appointed is an ancient one” *Pelzer v. Hughes*, 27 S.C. 408 (1887) But where, as here, ACL’s answer has been struck, and thus only a ministerial action being left for ACL to be in judgment, a receiver to take possession of and, to the extent necessary, litigate ACL’s insurance assets as well as to assume control of the defense of asbestos claims made against ACL in the United States is exactly the type of historical circumstances, the Court’s of this state have found appropriate. Specifically, where, as here, a debtor, solvent or otherwise,

is trying to defeat his creditors by an act or course of conduct which indicates moral fraud—a conscious intent to defeat, delay or hinder creditors in the collection of debts—then a court will grant any relief within its jurisdiction appropriate and effective to protect creditors against the fraud without requiring the creditor to run the risk of losing his debt from the delay of obtaining judgment and return of nulla bona on the execution.

Virginia Carolina Chemical v. Hunter, 84 S.C. 214 (1909).

Here it is exactly the moral fraud of ACL’s personal jurisdiction claims, exposed by decades of opinions dismissing those very assertions and ACL’s continued refusal to participate in this that warrants the appointment of a receiver. Thus, where there is active wrongdoing and illegal refusal to comply with this Court’s orders, the appointment of a receiver is appropriate.

As Plaintiffs have requested, a receiver appointed here would have the authority to administer “any insurance assets” including “any claims related to the actions or failure to act of ACL’s insurance carriers.” The Receiver would assume control of the defense of asbestos claims made against ACL in the United States. This Court’s view of the scope of a receiver’s authority is not unique. The United States Supreme Court recognized in *Porter v. Sabin*, 149 U.S. 473 (1893) that “[t]he whole property of the corporation [is] within the jurisdiction of the court which

appointed the receiver, **including all its rights of action**, except so far as already lawfully disposed of under orders of that court, [and] remains in its custody, to be administered and distributed by it.” *Id.* at 480 (emphasis added).

That the South Carolina receivership references “property within this state” is not a limitation on the Receiver’s authority in this case. Instead, the statutory reference is consistent with principles of comity, which deter a state court from reaching beyond a state’s borders and asserting jurisdiction over such property located in another jurisdiction. These same principles of comity support a state court’s authority to vest a statutory receiver to assert an insolvent corporation’s rights of action. See *e.g. Hirson v. United Stores Corp.* 263 A.D. 646, 34 N.Y.S.2d 122 (App. Div. 1st Dep. 1942), *aff’d* 43 N.E.2d 712 (N.Y. App. Ct. 1942) (holding that title to choses in action held by a receiver appointed pursuant to Delaware law would be afforded “full faith and credit”). That is the authority given to be given the receiver here.

That authority includes the insurance assets of ACL, including the right to assume control of the defense of asbestos claims made against ACL in the United States and tender claims to applicable insurance policies. Even assuming ACL’s interpretation of §15-65-10 is correct, to the extent they exist, ACL’s Insurance Assets ² would be intended to protect the lives, interests and property within South Carolina. The result is that the insuring assets are subject to the laws of South Carolina, including the duly appointed Receiver.

² For purpose of clarity, this Court defines “Insurance Assets” as any insurance policy, proceeds of insurance policies, claims relating to such insurance policies, including but not limited to, claims relating to any breaches of duty relating to those policies, information relating to those insurance policies including, but not limited to mail, files of counsel, or other information which is reasonably calculated to lead to the discovery of admissible evidence about those insurance policies or any other assets which are related to, touch or are otherwise relevant to such insurance.

S.C. Code Ann §38-61-10 states that

[a]ll contracts of insurance on property, lives, or interests in this state are considered to be made in the State and all contracts of insurance the applications for which are taken within this State are considered to have been made within this State and are subject to the laws of this State.

In interpreting §38-61-10, the South Carolina Supreme Court held that “[i]t is immaterial where the contract was entered into. Further there is no requirement that the policyholders or insurers be citizens of South Carolina. What is solely relevant is where the property, lives, or interests insured are located.” *Sangamo Weston v. Nat’l Sur. Corp.*, 307 S.C. 143, 149, 414 S.E.2d 127, 130 (1992) (Toal, C.J). The result is that “South Carolina substantive law governs [the insuring assets of ACL]” *Id.* Thus, the appointment of a receiver over those assets is appropriate.

B. Due Process has not and will not be violated

ACL continues to ignore the jurisprudence of this state which directly addresses its due process argument. Just as here, *Sangamo* argued that §38-61-10 was “unconstitutional.” *Id.* at 131. The South Carolina Supreme Court there opined that

insuring property, lives and interests in South Carolina constitutes a significant contact with this state. South Carolina has a substantial interest in who bears the liability for operations conducted in this state which result in injury to South Carolina property and citizens. Although the parties are not residents of this state, both parties availed themselves of the law of South Carolina when they respectively provided or received insurance on interests located in this state.

Id. ACL sold its products throughout the United States well knowing that it would end up in the workplaces of working men and women throughout the nation, including sales, specifically to South Carolina. Therefore, under the statutory scheme of this state and its interpreting precedent, whatever insuring assets of ACL exist and related claims are subject to the substantive law of

South Carolina and nothing about that result is violative of due process.

POWERS OF THE RECEIVER

As set forth above, the powers afforded to the receiver here are all related to the insurance assets of ACL. Therefore, this Court hereby orders that Peter Protopapas be and hereby is appointed Receiver in this case with the power and authority fully administer all insurance assets of Asbestos Corporation, Ltd. and any subsidiaries, accept service on behalf of ACL, engage counsel on behalf of ACL, to assume control of the defense of asbestos claims made against ACL in the United States, and take any and all steps necessary to protect the interests of ACL whatever they may be. This order includes the right and obligation to administer any insurance or indemnification assets of ACL as well as any claims related to the actions or failure to act of ACL insurance carriers or other entities, including, but not limited to the officers, directors and/or shareholders of ACL against which the ACL may have claims.

In addition to the powers of the Receiver set forth herein, the Receiver shall have the following rights, powers and authority, insofar as they are related to the discovery of and recovery of insurance assets, to: 1) open any mail which is reasonably believed to contain information relating to insurance assets addressed to the defendant and addressed to any business owned by the ACL; redirect the delivery of any such mail addressed to the ACL or any business of the ACL, so that such mail may come directly to the receiver; 2) endorse and cash all checks and negotiable instruments payable to ACL relating to insurance assets; 3) obtain from any financial institution, bank, credit union, savings and loan or title, credit bureau or any other third party, any financial records belonging to or pertaining to the insurance assets of ACL; 4) hire any person necessary to accomplish any right or power under this Order; 5) to assume control of the defense of asbestos claims made against ACL in the United States; and 6) take all action necessary to gain access to

all storage facilities, safety-deposit boxes, real property, and leased premises wherein any property of ACL may be situated, and to review and obtain copies of all documents related to insurance assets of ACL.

The Court expects the Receiver to investigate the existence of all insurance or indemnifications coverages or claims relating thereto which are potentially available to ACL. The Receiver will provide potential insurers or indemnifiers with lists of work sites, contractors, and insurance brokers and agents to facilitate the insurers' searches for coverage (specifically including coverage provided to any related or subsidiary companies of ACL or any entity for whom ACL did work or supplied materials or licensed products or the use thereof as an "additional insured" under coverage written to another entity). The Court expects all insurers or indemnifiers to comply with subpoenas issued by this Court and its Receiver in effectuating these thorough searches.

This Court notes that under the *Barton* doctrine, suit against the Receiver outside of this Court is expressly prohibited.

CONCLUSION

For the foregoing reasons, the appointment of a receiver for ACL to marshal all of the available insurance assets, including claims related thereto and any other property subject to this receivership of ACL and its subsidiaries, successors, and assigns, is appropriate. Moreover, the Court authorizes Mr. Protopapas to assume the control of the defense of all litigation matters pending in the United States against ACL. Peter Protopapas is hereby appointed the receiver over ACL consistent with this order.

IT IS SO ORDERED.

[JUDGE'S SIGNATURE PAGE FOLLOWS]



Richland Common Pleas

Case Caption: John A Tibbs , plaintiff, et al vs 3M Company , defendant, et al

Case Number: 2023CP4001759

Type: Order/Appointment of Receiver

So Ordered

Jean H. Toal

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
MICHAEL L. PERRY and	)	C/A NO. 2023-CP-40-04072
LONNIE L. LONG,	)	
	)	<i>In Re:</i>
Plaintiffs,	)	Asbestos Personal Injury Litigation
	)	Coordinated Docket
v.	)	
	)	
AMERICAN INTERNATIONAL	)	
INDUSTRIES, et al.	)	
	)	
Defendants.	)	



PERSONALLY, appeared before me, Theile B. McVey, who being duly sworn, deposes and says:

1. I am an attorney of record for the Plaintiffs in the above captioned action.
2. On August 7, 2023, service was obtained on Atlas Turner Inc. through its receiver Peter Protopapas via electronic mail with the Plaintiffs' Original Summons and Complaint. See **Exhibit A**, Return of Service. See also, **Exhibit B**, Plaintiffs' Summons and Original Complaint. The Receiver for Atlas Turner Inc. accepted service for Defendant on August 22, 2023. See **Exhibit C**. Acceptance of Service.
3. Defendant's Answer to Plaintiffs' Original Complaint was due on September 7, 2023. No Answer has been filed by Atlas Turner Inc. The Defendant is now in default.
4. At no time during the pendency of this action was Defendant a minor, incompetent person, or engaged in the military service of the United States of America as is contemplated under what is commonly known and designated as the Soldiers and Sailors Relief Act or 1940, and any amendments thereto.

[SIGNATURE ON FOLLOWING PAGE]

Sworn to before me this

3rd day of Oct, 2023

Elizabeth C. Mentzer
Notary Public for the State of South Carolina

My Commission expires: 02/24/2030

Theile B. McVey

Counsel for Plaintiffs

Tuesday, October 3, 2023 at 20:26:03 Central Daylight Time

Subject: #2023CP4004072; Perry vs. American Int'l Industries, et al. - Service on Receivership Defendant
Date: Monday, August 7, 2023 at 5:00:02 PM Central Daylight Time
From: Lisa Dittemore
To: Peter Protopapas, Lindsay Valek, Danny Nieto
CC: Trey Branham
Attachments: Perry - Motion to Expedite (wExh A) - FILED 08.07.23.pdf, Perry - Filed S&C (w5 Exhs & Path Rpt) - FILED 08.04.23.pdf, image001.jpg

Good afternoon Mr. Protopapas:

Attached please find the filed Summons, Complaint and Motion to Expedite for service of process in the above referenced case. Please advise if you will accept service for the following receivership defendant listed below:

1. ATLAS TURNER INC.

Thank you,

LISA DITTEMORE | Paralegal



O: (214) 722-5990 | **D:** (214) 597-5554

302 N Market St, Suite 300
Dallas, TX 75202

www.dobslegal.com

Tuesday, October 3, 2023 at 20:29:59 Central Daylight Time

Subject: FW: #2023CP4004072; Perry vs. American Int'l Industries, et al. - Service on Receivership Defendant
Date: Tuesday, October 3, 2023 at 8:24:53 PM Central Daylight Time
From: Rachel Gross
To: Rachel Gross
Attachments: image001.jpg

From: Peter Protopapas <pdp@rplegalgroup.com>
Date: Tuesday, August 22, 2023 at 1:25 PM
To: Lisa Dittmore <ldittmore@dobslegal.com>, Lindsay Valek <Lindsay@rplegalgroup.com>, Danny Nieto <danny@rplegalgroup.com>
Cc: Trey Branham <tbranham@dobslegal.com>
Subject: RE: #2023CP4004072; Perry vs. American Int'l Industries, et al. - Service on Receivership Defendant

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I apologize for the delay in responding but we will accept service.

Sincerely

Peter

From: Lisa Dittmore <ldittmore@dobslegal.com>
Sent: Monday, August 7, 2023 6:00 PM
To: Peter Protopapas <pdp@rplegalgroup.com>; Lindsay Valek <Lindsay@rplegalgroup.com>; Danny Nieto <danny@rplegalgroup.com>
Cc: Trey Branham <tbranham@dobslegal.com>
Subject: #2023CP4004072; Perry vs. American Int'l Industries, et al. - Service on Receivership Defendant

Good afternoon Mr. Protopapas:

Attached please find the filed Summons, Complaint and Motion to Expedite for service of process in the above referenced case. Please advise if you will accept service for the following receivership defendant listed below:

1. ATLAS TURNER INC.

Thank you,

LISA DITTEMORE | Paralegal

LAW OFFICES OF

DOBS

O: (214) 722-5990 | D: (214) 597-5554

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

MICHAEL L. PERRY and
LONNIE L. LONG,

Plaintiffs,

v.

AMERICAN INTERNATIONAL
INDUSTRIES, et al.

Defendants.

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

C/A NO. 2023-CP-40-04072

*In Re:*Asbestos Personal Injury Litigation
Coordinated Docket**NOTICE OF MOTION AND**
MOTION FOR DEFAULT JUDGMENT
AS TO ATLAS TURNER INC.

YOU WILL PLEASE TAKE NOTICE that the undersigned as attorney for Plaintiffs will move the Court as soon as counsel may be heard for a judgment by default and a hearing on damages, in accordance with Rule 55 of the South Carolina Rules of Civil Procedure.

/s/ Theile B. McVey

Theile B. McVey (SC Bar No. 16682)

KASSEL MCVEY ATTORNEYS AT LAW

1330 Laurel Street

Post Office Box 1476

Columbia, South Carolina 29202-1476

T: 803-256-4242

tmcvey@kassellaw.comOther email: emoultrie@kassellaw.com

David C. Humen (SC Bar No. 104536)

Rachel A. Gross (To be Admitted *Pro Hac Vice*)**DEAN OMAR BRANHAM SHIRLEY, LLP**

302 N. Market Street, Suite 302

Dallas, TX 75202

T: 214-722-5990

rgross@dobslegal.comOther email: tgilliland@dobslegal.com**ATTORNEYS FOR PLAINTIFF**

October 4, 2023

Columbia, South Carolina.

Peter D. Protopapas, Receiver

2110 N Beltline Blvd – Columbia, South Carolina 29204 – 803.978.6111 – pdp@rplegalgroup.com

September 8, 2023

VIA EMAIL ONLY

Stephen L. Brown (sbrown@ycrlaw.com)

Clement Rivers, LLP

Re: Asbestos Corporation Ltd.

Dear Mr. Brown:

Pursuant to the attached Order of Appointment, I have the authority to hire and fire defense counsel for Asbestos Corp. Ltd. (ACL). Please accept this letter as terminating your services for defending ACL. Please provide your entire ACL file to me.

Also, as the lawyer for Mr. Goldfein, please pass along my request for his entire ACL file and advise if he will comply with the Court Order.

Sincerely,

Peter D Protopapas

Peter D. Protopapas
Receiver



RECEIVED

Sep 13 2023

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from Richland County
Court of Common Pleas
Jean Hoefer Toal, Circuit Court Judge

Case No. 2023-CP-40-01759

EXHIBIT

15

John A. Tibbs and Margaret B. Tibbs,

Respondents,

v.

3M Company; 4520 Corp., Inc.; A.O. Smith Corporation; A.W. Chesterton Company; ABB Inc.; Air & Liquid Systems Corporation; AiW-2010 Wind Down Corp.; Amentum Environment & Energy, Inc.; Anchor/Darling Valve Company; Armstrong International, Inc.; Asbestos Corporation Limited; ASCO, L.P.; Atlas Asbestos Co; Atlas Turner, Inc.; AWT Air Company, Inc.; Bahnson, Inc.; Banner Industries International, Inc.; Banner Industries, LLC; Banner Industries Of N.E., Inc.; Barretts Minerals Inc.; Beaty Investments, Inc.; Bechtel Corporation; The Bonitz Company; Brand Insulations, Inc.; BW/IP Inc.; Canvas Ct, LLC; Cape PLC; Carboline Company; CB&I Laurens, Inc.; Cleaver-Brooks, Inc.; Consolidated Electrical Distributors, Inc.; Copes-Vulcan, Inc.; Covil Corporation; Crane Instrumentation & Sampling, Inc.; Crosby Valve, LLC; Daniel International Corporation; Davis Mechanical Contractors, Inc.; Dezurik, Inc.; Duke Energy Carolinas, LLC; Duke Energy Corporation; Eaton Corporation; Ellington Insulation Company, Inc.; Emerson Electric Co.; Fisher Controls International LLC; Flame Refractories, Inc.; Flowserve Corporation; Flowserve US Inc.; Fluor Constructors International; Fluor Constructors International, Inc.; Fluor Daniel Services Corporation; Fluor Enterprises, Inc.; FMC Corporation; Foster Wheeler Energy Corporation; Gardner Denver Nash, LLC; General Boiler Casing Company, Inc.; General Cable Corporation; General Cable Industries, Inc.; General Electric Company; Gould Electronics Inc.; Goulds Pumps, Incorporated; Goulds Pumps LLC; Great Barrier Insulation Co.; Grinnell LLC; Hajoca Corporation; Howden North America Inc.; HPC Industrial Services, LLC; IMO Industries Inc.; ITT LLC; Joy Global Underground Mining LLC; K-Mac Services Incorporated; Metropolitan Life Insurance Company; Mine Safety Appliances Company, LLC; MP Supply, Inc.; The Nash Engineering Company; Occidental Chemical Corporation; Paramount Global; Patterson Pump Company; PECW Holding Company; Pfizer Inc.; Piedmont Insulation, Inc.; Plastics Engineering Company; Presnell Insulation Co., Inc.; Redco Corporation; Riley Power Inc.; Rockwell Automation, Inc.; RSCC Wire & Cable LLC; Schneider Electric USA, Inc.; Sequoia Ventures Inc.; Spirax Sarco, Inc.; SPX Corporation; Stafford Insulation Company; Standard Insulation Company Of N. C., Inc.; Starr Davis Company, Inc.; Starr Davis Company Of S.C., Inc.; Sterling Fluid Systems (USA) LLC; TE Wire & Cable LLC; Thermo Electric Company, Inc.; Union Carbide Corporation; Valves And Controls Us, Inc.; Velan Valve Corp.; Viking

Pump, Inc.; Vistra Intermediate Company LLC; The William Powell Company Wind
Up, Ltd.; Yuba Heat Transfer LLC; Zurn Industries, LLC,

Defendants,

Of which Asbestos Corporation Limited, is

Appellant.

NOTICE OF APPEAL

**** Counsel identified on next page ****
CLEMENT RIVERS, LLP
Stephen L. Brown (SC Bar No. 66468)
Russell G. Hines (SC Bar No. 72100)
James D. Gandy, III (SC Bar No. 11925)
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and

Aaron D. Chapman
David C. Humen
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Attorneys for Respondent

Peter D. Protopapas
John K. Chandler
Brian M. Barnwell

RIKARD & PROTOPAPAS, LLC
2110 N. Beltline Blvd, Columbia, SC 29204
PO Box 5640, Columbia, SC 29250
(803) 978-6111

*Purported receiver for “insurance assets” of Asbestos Corporation Limited per Order being
appealed*

Defendant Asbestos Corporation Limited hereby appeals the following orders of the Honorable Jean Hoefer Toal, Circuit Court Judge, copies of which are attached hereto:

- **Order Holding Atlas Asbestos in Contempt and Striking Pleadings**, filed September 8, 2023;
- **Order on Plaintiffs' Motion to Appoint a Receiver**, filed September 8, 2023;

Copies of the appealed orders are attached hereto and incorporated herein by reference. Appellant received written notice of entry of the most recent order on September 8, 2023.

Respectfully submitted,
CLEMENT RIVERS, LLP

By: s/Stephen L. Brown
Stephen L. Brown (SC Bar No. 66468)
Russell G. Hines (SC Bar No. 72100)
James D. Gandy, III (SC Bar No. 11925)
25 Calhoun Street, Suite 400
Charleston, South Carolina 29401
P.O. Box 993 (29402)
(843) 720-5488

*Attorneys for Appellant Asbestos
Corporation Limited*

Charleston, South Carolina

September 13, 2023

RECEIVED

Sep 13 2023

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from Richland County
Court of Common Pleas
Jean Hoefer Toal, Circuit Court Judge

Case No. 2023-CP-40-01759

John A. Tibbs and Margaret B. Tibbs,

Respondents,

v.

3M Company; 4520 Corp., Inc.; A.O. Smith Corporation; A.W. Chesterton Company; ABB Inc.; Air & Liquid Systems Corporation; Aiw-2010 Wind Down Corp.; Amentum Environment & Energy, Inc.; Anchor/Darling Valve Company; Armstrong International, Inc.; Asbestos Corporation Limited; ASCO, L.P.; Atlas Asbestos Co; Atlas Turner, Inc.; AWT Air Company, Inc.; Bahnson, Inc.; Banner Industries International, Inc.; Banner Industries, LLC; Banner Industries Of N.E., Inc.; Barretts Minerals Inc.; Beaty Investments, Inc.; Bechtel Corporation; The Bonitz Company; Brand Insulations, Inc.; BW/IP Inc.; Canvas Ct, LLC; Cape PLC; Carboline Company; CB&I Laurens, Inc.; Cleaver-Brooks, Inc.; Consolidated Electrical Distributors, Inc.; Copes-Vulcan, Inc.; Covil Corporation; Crane Instrumentation & Sampling, Inc.; Crosby Valve, LLC; Daniel International Corporation; Davis Mechanical Contractors, Inc.; Dezurik, Inc.; Duke Energy Carolinas, LLC; Duke Energy Corporation; Eaton Corporation; Ellington Insulation Company, Inc.; Emerson Electric Co.; Fisher Controls International LLC; Flame Refractories, Inc.; Flowserve Corporation; Flowserve US Inc.; Fluor Constructors International; Fluor Constructors International, Inc.; Fluor Daniel Services Corporation; Fluor Enterprises, Inc.; FMC Corporation; Foster Wheeler Energy Corporation; Gardner Denver Nash, LLC; General Boiler Casing Company, Inc.; General Cable Corporation; General Cable Industries, Inc.; General Electric Company; Gould Electronics Inc.; Goulds Pumps, Incorporated; Goulds Pumps LLC; Great Barrier Insulation Co.; Grinnell LLC; Hajoca Corporation; Howden North America Inc.; HPC Industrial Services, LLC; IMO Industries Inc.; ITT LLC; Joy Global Underground Mining LLC; K-Mac Services Incorporated; Metropolitan Life Insurance Company; Mine Safety Appliances Company, LLC; MP Supply, Inc.; The Nash Engineering Company; Occidental Chemical Corporation; Paramount Global; Patterson Pump Company; PECW Holding Company; Pfizer Inc.; Piedmont Insulation, Inc.; Plastics Engineering Company; Presnell Insulation Co., Inc.; Redco Corporation; Riley Power Inc.; Rockwell Automation, Inc.; RSCC Wire & Cable LLC; Schneider Electric USA, Inc.; Sequoia Ventures Inc.; Spirax Sarco, Inc.; SPX Corporation; Stafford Insulation Company; Standard Insulation Company Of N. C., Inc.; Starr Davis Company, Inc.; Starr Davis Company Of S.C., Inc.; Sterling Fluid Systems (USA) LLC; TE Wire & Cable LLC; Thermo Electric Company, Inc.; Union Carbide Corporation; Valves And Controls Us, Inc.; Velan Valve Corp.; Viking

Pump, Inc.; Vistra Intermediate Company LLC; The William Powell Company Wind
Up, Ltd.; Yuba Heat Transfer LLC; Zurn Industries, LLC,

Defendants,

Of which Asbestos Corporation Limited, is

Appellant.

PROOF OF SERVICE

**** Counsel identified on next page ****

CLEMENT RIVERS, LLP

Stephen L. Brown (SC Bar No. 66468)

Russell G. Hines (SC Bar No. 72100)

James D. Gandy, III (SC Bar No. 11925)

25 Calhoun Street, Suite 400

Charleston, South Carolina 29401

P.O. Box 993 (29402)

(843) 720-5488

Attorneys for Appellant Asbestos

Corporation Limited

I, Stephen L. Brown, of Clement Rivers, LLP, attorneys for Appellants, hereby certify that **NOTICE OF APPEAL** was served on all other parties to this appeal on September 13, 2023, via email (see attached) to their following counsel of record:

Theile B. McVey
tmcvey@kassellaw.com
Jamie D. Rutkoski
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PO Box 5640, Columbia, SC 29250

Purported receiver for “insurance assets” of Asbestos Corporation Limited per Order being appealed

I also certify that a copy of this **NOTICE OF APPEAL** is this day, September 13, 2023, being E-Filed with the lower court (which will also, i.e., in addition to service by email, effect service of the notice today on Respondent’s above-identified counsel of record via the E-Filing System).

Respectfully submitted,
CLEMENT RIVERS, LLP

By: s/Stephen L. Brown
Stephen L. Brown (SC Bar No. 66468)
Attorneys for Appellants

Charleston, South Carolina

September 13, 2023

Bell, Pollyana (Polly)

From: Bell, Pollyana (Polly)
Sent: Wednesday, September 13, 2023 3:52 PM
To: Theile McVey; jrutkoski@kassellaw.com; achapman@dobslegal.com; 'dhumen@dobslegal.com'; pdp@rplegalgroup.com; jchandler@rplegalgroup.com; bb@rplegalgroup.com
Cc: Brown, Stephen L.; Griffith, Jr., Stephen; Hines, Russell; Gandy, III, James D. (Tripp); Justman, Aimee
Subject: Tibbs v. 3M Company et al. Notice of Appeal; 2023-CP-40-01759 (CR 230595)
Attachments: Notice of Appeal - Tibbs v. 3M Company et al..pdf; 9-8-23-Order Holding Atlas Asbestos Company in Contempt.pdf; 9-8-23-Order on Plts' Mtn to Appoint a Receiver.pdf

Enclosed please find Appellant Asbestos Corporation Limited's Notice of Appeal and the orders referenced therein for service upon you in the above-referenced matter.

Thank you,

Pollyana Bell
Project Assistant
Commercial Litigation Practice Group
Phone:(843)720-5488 | Fax:(843)579-1369



CLEMENT RIVERS, LLP
25 Calhoun Street • Suite 200 • Charleston, SC 29401
704.444.4444

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
MELVIN G. WELCH and DONNA B. WELCH,	)	C/A NO. 2022-CP-40-03834
	)	
Plaintiffs,	)	<i>In Re:</i>
	)	Asbestos Personal Injury Litigation
v.	)	Coordinated Docket
	)	
3M COMPANY, et al.	)	
	)	
Defendants.	)	



MOTION TO LIFT STAY

PLEASE TAKE NOTICE THAT Plaintiffs, by and through the undersigned counsel, hereby move this Court pursuant to SCACR 241 to lift the automatic stay in this matter as to the appointment of a receiver for Atlas Asbestos Company, Ltd. (“Atlas”). While this case awaits resolution via an appellate decision, the potential exists for Atlas to waste its resources by leaving the receiver unable to act in Atlas’s best interests.

BACKGROUND

Plaintiffs filed their initial Complaint, naming Atlas Turner, Inc., and Atlas Asbestos Co. (hereinafter, “the Atlas entities”) on July 25, 2022. Therein, Plaintiffs alleged that Melvin Welch developed mesothelioma as a result of his repeated exposure to asbestos-containing products and/or materials manufactured, sold, and/or distributed by the Atlas entities.

In response to Plaintiffs’ Complaint, the Atlas entities moved to have Plaintiffs’ Complaint dismissed, alleging that this Court lacked personal jurisdiction over Atlas. Plaintiffs defended this Court’s exercise of jurisdiction over Atlas by demonstrating that Atlas, for years, has sold asbestos and asbestos-containing products to South Carolina and, in many instances, asbestos-containing

products directly to the contractors that Melvin Welch worked with and around during his career. Plaintiffs further demonstrated that Atlas supplied asbestos-containing insulation to insulation contractors throughout the southeastern United States, including, without limitation, to insulation contractors based in and/or installing asbestos-containing insulation in South Carolina.

The Court overruled Atlas' objections to this Court's exercise of jurisdiction over it and ordered Atlas to produce a fully prepared witness for deposition and to produce documents relevant to the issues raised in this matter. Atlas repeatedly and vehemently refused, failing to obey this Court's orders directing Atlas to participate in discovery. Also, Atlas demonstrated that it had no intention to participate in the litigation of this matter (or its defense) in any meaningful way. As a result, this Court struck Atlas' answer to Plaintiffs' Complaint and appointed a receiver over Atlas' insurance assets.

On July 6, 2023, Atlas filed its Notice of Appeal, seeking review of the following orders:

- Order Holding Atlas Turner, Inc, in Contempt;
- Form 4 Order, denying Atlas Turner, Inc.'s Motion to Reconsider and Vacate the Court's Contempt Order;
- Order Striking Atlas Turner's Answer;
- Order on Plaintiffs' Motion to Appoint a Receiver;
- Form 4 Order denying Atlas Turner, Inc.'s Motion to Reconsider Order Striking Atlas Turner's Answer;
- Form 4 Order denying Atlas Turner Inc.'s Motion to Reconsider Order on Plaintiffs' Motion to Appoint a Receiver.

Due to the believed liquidity of Atlas' insurance assets and the automatic stay imposed by Atlas' filing of its Notice of Appeal, the potential exists for Atlas to divest itself of the very assets intended to be protected by the appointment of a receiver.

ARGUMENT and AUTHORITIES

As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or decision. This automatic stay continues in effect for the duration of the appeal unless lifted by order of the lower court, the administrative tribunal, appellate court, or judge or justice of the appellate court. The lower court or administrative tribunal retains jurisdiction over matters not affected by the appeal including the authority to enforce any matter not stayed by the appeal.

Pursuant to Rule 205, the service of a notice of appeal divests the trial court of jurisdiction over matters affected by the appeal as it states:

Upon the service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal; the lower court or administrative tribunal shall have jurisdiction to entertain petitions for writs of supersedeas as provided by Rule 241. Nothing in these Rules shall prohibit the lower court, commission or tribunal from proceeding with matters not affected by the appeal.

However, an automatic stay under Rules 205 and 241 is not unassailable: a party to the action need only petition either the trial court or the appellate court for an order lifting the stay. See Rule 241. Rule 241(a), a corollary rule that governs matters stayed on appeal, provides:

As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or decision. This automatic stay continues in effect for the duration of the appeal unless lifted by order of the lower court, the administrative tribunal, appellate court, or judge or justice of the appellate court. The lower court or administrative tribunal retains jurisdiction over matters not affected by the appeal including the authority to enforce any matters not stayed by the appeal.

Rule 241(a), SCACR (emphasis added). “After service of notice of appeal, any party may move [the lower court, administrative tribunal, appellate court, or judge or justice of the appellate court] for an order lifting the automatic stay.” Rule 241(c)(1). The supersedeas or lifting of the automatic stay, as well as any other affirmative relief granted, may be conditioned on such terms as the tribunal, court, judge, or justice entering the order deems appropriate. Rule 241(c)(3).

When a party appeals an order, two questions may arise as to the effect of the appeal: (1) what is the effect of the appeal on matters decided in the order, particularly the immediate effectiveness of relief ordered; and (2) what is the effect of the appeal on the power of the lower court to proceed with the underlying action while the appeal is pending. The answer to the first question is governed by the stay and supersedeas provisions of Rule 241. If a stay exists, either automatically under Rule 241(a) or by supersedeas under Rule 241(c), the appealed order may not be carried out or enforced during the pendency of the appeal. This is the purpose of a stay under Rule 241—to determine whether the appealed order may be carried out or enforced--not to determine whether the action may proceed in the lower court while the appeal is pending.

The second question is whether the lower court may proceed with the action during the pendency of the appeal, and its answer is governed by Rule 205, SCACR. The rule states: “Nothing in these Rules shall prohibit the lower court . . . from proceeding with matters not affected by the appeal.” Rule 205, SCACR; see also Rule 241(a), SCACR (“The lower court . . . retains jurisdiction over matters not affected by the appeal . . .”). Thus, the existence or nonexistence of a stay under Rule 241 does not control the Court’s power to proceed with the action and address matters not affected by the appeal. Rather, the lower court’s power to proceed is determined by whether the issue sought to be litigated in the lower court during the appeal is a “matter affected by the appeal” under Rules 205 and 241(a). See *Arnal v. Fraser*, 371 S.C. 512, 518-19, 641 S.E.2d

419, 422 (2007) (per curiam) (explaining that Rules 205 and 241(a) permit the Court's action on matters not affected by the appeal and prohibit action on matters that are affected by the appeal).

Plaintiffs contend that lifting the automatic stay as to the appointment of a receiver over Atlas' insurance assets is necessary to "prevent a contested issue from becoming moot." SCACR 241(c)(2). While the parties await a resolution from the appellate court on Atlas' presented issues, the potential exists for Atlas to divest itself of the very assets, its insurance, intended to be protected and preserved by the appointment of a receiver. Atlas has already demonstrated its willingness to violates directives from the Court and its inclination to ignore applicable rules and precedent. Indeed, Atlas has been in contact with its insurance companies, despite the appointment of a receiver in order to thwart the receiver in his duties. See **Exhibit A**, Letter from Resolute Management to Peter Protopapas detailing Atlas' meddling dated July 24, 2023, and from Resolute Management to Atlas dated July 21, 2023 attached as **Exhibit B**. Given that the appointed receiver is, during the pendency of this appeal, prohibited from acting to preserve Atlas' assets, Atlas is free to waste its insurance assets and retreat to Canada, making it difficult, if not impossible, for Plaintiffs to resolve their claims against Atlas or collect any judgment imposed.

CONCLUSION

For the reasons expressed herein, Plaintiffs respectfully request that this Court lift the automatic stay imposed by Atlas' filing of its notice of appeal as to the appointment of a receiver.

Respectfully submitted,

/s/ Aaron D. Chapman

Aaron D. Chapman (SC Bar No. 104485)
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ATTORNEYS FOR PLAINTIFFS

August 14, 2023
Dallas, Texas.

EXHIBIT A

Keith Rahman

Account Manager
Direct Claims Division
Phone: 312-345-2093
Fax: 312-750-1706
Email: krahman@resolutemgmt.com

Resolute Management Inc.

141 West Jackson Boulevard
Chicago Board of Trade Annex
Suite 1800A
Chicago, IL 60604

July 24, 2023

VIA EMAIL (pdp@rplegalgroup.com)

Peter Protopapas
Rikard & Protopapas, LLC
2110 N. Beltline Blvd.
Columbia, SC 29204

Re: Atlas Turner Inc. f/k/a Atlas Asbestos Company ("Atlas")

Dear Mr. Protopapas,

Resolute Management Inc. is a third party-administrator for certain claims on behalf of Certain Underwriters at Lloyd's, London ("Lloyd's Underwriters"). Lloyd's Underwriters received the email from Lindsay Valek, paralegal at Rikard & Protopapas, LLC, dated June 21, 2023 and responds to same herein.

As to the asbestos lawsuits filed against Atlas and listed in the June 21 communication ("Asbestos Lawsuits"),¹ Lloyd's Underwriters have been advised by Atlas that Atlas is controlling and defending its own interests in the Asbestos Lawsuits, and that you are not objecting to Atlas's control of its own defense. Atlas is not tendering the Asbestos Lawsuits to Lloyd's Underwriters for defense and indemnity. See enclosed communication to Atlas dated July 21, 2023. Given that Atlas is not tendering the Asbestos Lawsuits, there is no defense or indemnity being requested from Lloyd's Underwriters.

If you have any questions concerning this correspondence, please feel free to contact me at krahman@resolutemgmt.com or 312-345-2093.

Best,



Keith P. Rahman

¹ The lawsuits filed against Atlas are: (1) *Lenora Childers, Individually and as Personal Representative of the Estate of Lewis C. Childers v. 3M Company* (Case No. 2021-CP-40-03484); (2) *Ricky Dean Flynn, as the Executor of the Estate of Jerry Kay Flynn, Deceased v. 3M Company* (Case No. 2023-CP-40-00633); (3) *Sandra M. Gonce, Individually and as Executrix of the Estate of Dwight Gonce, Deceased v. Air & Liquid Systems Corporation* (Case No. 2023-CP-40-02933); (4) *Joe Eldra Goodwin, Individually, and as the Personal Representative of the Estate of Dorothy Jean Fox Goodwin v. Air & Liquid Systems Corporation* (Case No. 2020-CP-40-04613); (5) *Heather Donaghy, as Personal Representative of the Estate of Shirley Smiley Potter, deceased v. 4520 Corp., Inc.* (Case No. 2023-CP-40-03108); (6) *John A. Tibbs and Margaret B. Tibbs v. 3M Company* (2023-CP-40-01759); and (7) *Melvin G. Welch and Donna B. Welch v. 3M Company* (Case No. 2022-CP-40-03834).

EXHIBIT B

Keith Rahman

Account Manager
Direct Claims Division
Phone: 312-345-2093
Fax: 312-750-1706
Email: krahman@resolutemgmt.com

Resolute Management Inc.

141 West Jackson Boulevard
Chicago Board of Trade Annex
Suite 1800A
Chicago, IL 60604

July 21, 2023

VIA UNITED PARCEL SERVICE

Atlas Turner Inc.
854 Boul Ouellet
Thetford Mines
G6G 7A5 Quebec
Canada

Re: Asbestos Lawsuits
Atlas Turner Inc. f/k/a Atlas Asbestos Company ("Atlas")

Dear Atlas,

Resolute Management Inc. is a third party-administrator for certain claims on behalf of Certain Underwriters at Lloyd's, London ("Lloyd's Underwriters"). Lloyd's Underwriters understand that Atlas has been named as a defendant in various asbestos lawsuits in the Court of Common Pleas, Fifth Judicial Circuit South Carolina ("Asbestos Lawsuits"),¹ including the *Welch* lawsuit.

Lloyd's Underwriters are also aware of the order entered by Justice Jean Toal entered on June 20, 2023 ("Receivership Order") in the *Welch* lawsuit stating that it appointed Peter Protopapas as the receiver solely over Atlas' insurance assets, which is defined as proceeds of insurance, claims related to any breaches of duty relating to those policies, information related to those insurance policies and any other assets related to such insurance.² Lloyd's Underwriters have been advised by Atlas that Atlas has continued to control its defense of the Asbestos Lawsuits even after entry of the Receivership Order, which Atlas believes is its right even if the Receivership Order is allowed to stand, and that Peter Protopapas is not objecting to Atlas's control of its own defense.

Lloyd's Underwriters have further been advised by Atlas that Atlas is defending its own interests in the Asbestos Lawsuits, and that Atlas is not tendering the Asbestos Lawsuits to Lloyd's Underwriters for defense or indemnity. Please advise if any of the above is incorrect.

¹ The lawsuits filed against Atlas are: (1) *Lenora Childers, Individually and as Personal Representative of the Estate of Lewis C. Childers v. 3M Company* (Case No. 2021-CP-40-03484); (2) *Ricky Dean Flynn, as the Executor of the Estate of Jerry Kay Flynn, Deceased v. 3M Company* (Case No. 2023-CP-40-00633); (3) *Sandra M. Gonce, Individually and as Executrix of the Estate of Dwight Gonce, Deceased v. Air & Liquid Systems Corporation* (Case No. 2023-CP-40-02933); (4) *Joe Eldra Goodwin, Individually, and as the Personal Representative of the Estate of Dorothy Jean Fox Goodwin v. Air & Liquid Systems Corporation* (Case No. 2020-CP-40-04613); (5) *Heather Donaghy, as Personal Representative of the Estate of Shirley Smiley Potter, deceased v. 4520 Corp., Inc.* (Case No. 2023-CP-40-03108); (6) *John A. Tibbs and Margaret B. Tibbs v. 3M Company* (2023-CP-40-01759); and (7) *Melvin G. Welch and Donna B. Welch v. 3M Company* (Case No. 2022-CP-40-03834).

² Lloyd's Underwriters are aware that Atlas has appealed the Receivership Order and believes it is void.

Atlas Turner, Inc.
July 21, 2023
Page 2 of 2

If you have any questions concerning this correspondence, please feel free to contact me at krahman@resolutemgmt.com or 1-312-345-2093.

Best,

A handwritten signature in black ink, appearing to read "Keith P. Rahman", with a long horizontal flourish extending to the right.

Keith P. Rahman

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF RICHLAND) FOR THE FIFTH JUDICIAL CIRCUIT

**MELVIN G. WELCH and
DONNA B. WELCH**

C/A NO. 2022-CP-40-03834

Plaintiffs,

V.

3M COMPANY
f/k/a MINNESOTA MINING AND
MANUFACTURING COMPANY, et al.

Defendants.

EXHIBIT

17

ORDER ON PLAINTIFFS' MOTION TO APPOINT A RECEIVER

This order follows the Court’s order finding Atlas Turner Inc. f/k/a Atlas Asbestos Company (“Atlas”) in contempt of court and this Court’s entry of an order striking Atlas’ pleadings. Before the Court is Plaintiffs’ Motion to Appoint a Receiver over Atlas Turner, Inc. f/k/a Atlas Asbestos Company, Ltd (“Atlas”).

BACKGROUND

For the reasons set for below, the Court grants Plaintiffs motion to appoint a receiver over the Insurance Assets¹ of Atlas. Peter Protopapas is appointed as receiver over those Insurance Assets and the Court expects anyone or any entity having information or materials which are

¹ This term is defined below.

reasonably calculated to lead to the discovery of admissible evidence to cooperate with this Court's Receiver in locating and marshalling those assets.

PROCEEDURAL BACKGROUND

On May 11, 2023, this Court found Atlas to be in contempt of Court. The Court based its contempt order on Atlas' flat refusal to comply with this Court's orders to produce documents, a witness or otherwise participate in discovery. As part of this Court's order on contempt, the Court ordered Plaintiffs to brief the issue of the sanction requested.

On May 11, 2023, Plaintiffs filed their brief requesting that this Court strike Atlas' pleadings. Atlas' response was filed on May 15, 2023 and Plaintiffs' reply was filed on May 18, 2023. After considering the briefing of the parties, this Court determined that striking Atlas' answer was the appropriate sanction for contempt of this Court's orders.

Now, having struck Atlas' answer, Atlas is in default.²

LAW AND ANALYSIS

A. Appointment of a Receiver is Appropriate and Warranted

The South Carolina receivership statute provides in relevant part that a receiver may be appointed in cases in accordance with "existing practice." S.C. Code Ann. 15-65-10(5).³

² The process of actually entering default judgment is merely a ministerial process. In the absence of an answer, default is nothing more than that ministerial act. *Stark Truss Co., Inc. v. Superior Const. Corp.* 360 S.C. 503 (Ct. App. 2004)

³ A receiver is also available to carry a judgment into effect, which is the practical result of the coming default following the unopposed striking of Atlas' answer. Atlas further argues that there is no evidence of its insolvency, yet it refuses to comply with this Court's orders to discovery that and many other issues. The Court does not believe it is appropriate for Atlas to use this refusal as a sword. Regardless, other elements of the receivership statute are satisfied and thus, this argument is unavailing.

Historically, receivers are appointed by courts sitting in equity in order to ensure a fair result. *First Carolinas Joint Stock Land Bank of Columbia v. Knotts*, 191 S.C. 384 (1939). Indeed, “[t]he right to have a receiver appointed is an ancient one” *Pelzer v. Hughes*, 27 S.C. 408 (1887). But where, as here, Atlas’ has been struck, and thus only a ministerial action being left for Atlas to be in judgment, a receiver to take possession of and, to the extent necessary, litigate Atlas’ insurance assets is exactly the type of historical circumstances, the Court’s of this state have found appropriate. Specifically, where, as here, a debtor, solvent or otherwise,

is trying to defeat his creditors by an act or course of conduct which indicates moral fraud—a conscious intent to defeat, delay or hinder creditors in the collection of debts—then a court will grant any relief within its jurisdiction appropriate and effective to protect creditors against the fraud without requiring the creditor to run the risk of losing his debt from the delay of obtaining judgment and return of nulla bona on the execution.

Virginia Carolina Chemical v. Hunter, 84 S.C. 214 (1909).

Here it is exactly the moral fraud of Atlas’ personal jurisdiction claims, exposed by decades of opinions dismissing those very assertions and Atlas continued refusal to participate in this that warrants the appointment of a receiver.

Thus, where there is active wrongdoing and illegal refusal to comply with this Court’s orders, the appointment of a receiver is appropriate.

As Plaintiffs have requested, a receiver appointed here would have the authority to administer “any insurance assets” including “any claims related to the actions or failure to act of Atlas’s insurance carriers.” This Court’s view of the scope of a receiver’s authority is not unique. The United States Supreme Court recognized in *Porter v. Sabin*, 149 U.S. 473 (1893) that “[t]he whole property of the corporation [is] within the jurisdiction of the court which appointed the receiver, **including all its rights of action**, except so far as already lawfully disposed of under

orders of that court, [and] remains in its custody, to be administered and distributed by it.” *Id.* at 480 (emphasis added).

That the South Carolina receivership references “property within this state” is not a limitation on the Receiver’s authority in this case. Instead, the statutory reference is consistent with principles of comity, which deter a state court from reaching beyond a state’s borders and asserting jurisdiction over such property located in another jurisdiction. These same principles of comity support a state court’s authority to vest a statutory receiver to assert an insolvent corporation’s rights of action. See *e.g. Hirson v. United Stores Corp.* 263 A.D. 646, 34 N.Y.S.2d 122 (App. Div. 1st Dep. 1942), *aff’d* 43 N.E.2d 712 (N.Y. App. Ct. 1942) (holding that title to choses in action held by a receiver appointed pursuant to Delaware law would be afforded “full faith and credit”). That is the authority given to be given the receiver here.

That authority includes the insurance assets of Atlas. Even assuming Atlas’ interpretation of §15-65-10 is correct, to the extent they exist, Atlas’ Insurance Assets⁴ would be intended to protect the lives, interests and property within South Carolina. The result is that the insuring assets are subject to the laws of South Carolina, including the duly appointed Receiver.

S.C. Code Ann §38-61-10 states that

[a]ll contracts of insurance on property, lives, or interests in this state are considered to be made in the State and all contracts of insurance the applications for which are taken within this State are considered to have been made within this State and are subject to the laws of this State.

⁴ For purpose of clarity, this Court defines “Insurance Assets” as any insurance policy, proceeds of insurance policies, claims relating to such insurance policies, including but not limited to, claims relating to any breaches of duty relating to those policies, information relating to those insurance policies including, but not limited to mail, files of counsel, or other information which is reasonably calculated to lead to the discovery of admissible evidence about those insurance policies or any other assets which are related to, touch or are otherwise relevant to such insurance.

In interpreting §38-61-10, the South Carolina Supreme Court held that “[i]t is immaterial where the contract was entered into. Further there is no requirement that the policyholders or insurers be citizens of South Carolina. What is solely relevant is where the property, lives, or interests insured are located.” *Sangamo Weston v. Nat’l Sur. Corp.*, 307 S.C. 143, 149, 414 S.E.2d 127, 130 (1992)(Toal, C.J). The result is that “South Carolina substantive law governs [the insuring assets of Atlas]” *Id.*⁵ Thus the appointment of a receiver over those assets is appropriate.

B. Due Process has not and will not be violated

Atlas continues to ignore the jurisprudence of this state which directly addresses its due process argument. Atlas ignores, again, the teachings of the South Carolina Supreme Court in *Sangamo*.

Just as here, *Sangamo* argued that §38-61-10 was “unconstitutional.” *Id.* at 131. The South Carolina Supreme Court there opined that

insuring property, lives and interests in South Carolina constitutes a significant contact with this state. South Carolina has a substantial interest in who bears the liability for operations conducted in this state which result in injury to South Carolina property and citizens. Although the parties are not residents of this state, both parties availed themselves of the law of South Carolina when they respectively provided or received insurance on interests located in this state.

Id. Atlas sold its poison throughout the United States well knowing that it would end up in the workplaces of working men and women throughout the nation, including sales, specifically to South Carolina. Therefore, under the statutory scheme of this state and its interpreting precedent,

⁵ As more fully set forth above, the funds at issue appear to be the proceeds from settlements involving insurance contracts designed to protect lives, interests and property within the state and thus would also be governed by substantive South Carolina law.

whatever insuring assets of Atlas exist and related claims are subject to the substantive law of South Carolina and nothing about that result is violative of due process.

POWERS OF THE RECEIVER

As set forth above, the powers afforded to the receiver here are all related to the insurance assets of Atlas. Therefore, this Court hereby orders that Peter Protopapas be and hereby is appointed Receiver in this case with the power and authority fully administer all insurance assets of Atlas Turner, Inc. and any subsidiaries, accept service on behalf of Atlas, engage counsel on behalf of Atlas and take any and all steps necessary to protect the interests of Atlas whatever they may be. This order includes the right and obligation to administer any insurance or indemnification assets of Atlas as well as any claims related to the actions or failure to act of Atlas insurance carriers or other entities, including, but not limited to the officers, directors and/or shareholders of Atlas against which the Atlas may have claims.

In addition to the powers of the Receiver set forth herein, the Receiver shall have the following rights, powers and authority, insofar as they are related to the discovery of and recovery of insurance assets, to: 1) open any mail which is reasonably believed to contain information relating to insurance assets addressed to the defendant and addressed to any business owned by the Atlas; redirect the delivery of any such mail addressed to the Atlas or any business of the Atlas, so that such mail may come directly to the receiver; 2) endorse and cash all checks and negotiable instruments payable to Atlas relating to insurance assets; 3) obtain from any financial institution, bank, credit union, savings and loan or title, credit bureau or any other third party, any financial records belonging to or pertaining to the insurance assets of Atlas; 4) hire any person necessary to accomplish any right or power under this Order; and 5) take all action necessary to gain access to all storage facilities, safety-deposit boxes, real property, and leased premises wherein any property

of Atlas may be situated, and to review and obtain copies of all documents related to insurance assets of Atlas.

The Court expects the Receiver to investigate the existence of all insurance or indemnifications coverages or claims relating thereto which are potentially available to Atlas. The Receiver will provide potential insurers or indemnifiers with lists of work sites, contractors, and insurance brokers and agents to facilitate the insurers' searches for coverage (specifically including coverage provided to any related or subsidiary companies of Atlas or any entity for whom Atlas did work or supplied materials or licensed products or the use thereof as an "additional insured" under coverage written to another entity). The Court expects all insurers or indemnifiers to comply with subpoenas issued by this Court and its Receiver in effectuating these thorough searches.

This Court notes that under the *Barton* doctrine, suit against the Receiver outside of this Court is expressly prohibited.

CONCLUSION

For the foregoing reasons, the appointment of a receiver for Atlas to marshal all of the available insurance assets, including claims related thereto and any other property subject to this receivership of Atlas and its subsidiaries, successors, and assigns, is appropriate. Peter Protopapas is hereby appointed the receiver over Atlas consistent with this order.

IT IS SO ORDERED.

[JUDGE'S SIGNATURE PAGE FOLLOWS]



Richland Common Pleas

Case Caption: Melvin G Welch , plaintiff, et al vs 3M Company , defendant, et al

Case Number: 2022CP4003834

Type: Order/Appointment of Receiver

So Ordered

Jean H. Toal

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Nov 22 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Court of Common Pleas

Jean Hoefer Toal, Circuit Court Judge

Case No. 2023-CP-40-01759
Appellate Case No. 2023-001461

John A. Tibbs and Margaret B. Tibbs,

Respondents,

v.

3M Company; 4520 Corp., Inc.; A.O. Smith Corporation; A.W. Chesterton Company; ABB Inc.; Air & Liquid Systems Corporation; AiW-2010 Wind Down Corp.; Amentum Environment & Energy, Inc.; Anchor/Darling Valve Company; Armstrong International, Inc.; Asbestos Corporation Limited; ASCO, L.P.; ACL Asbestos Co; ACL Turner, Inc.; AWT Air Company, Inc.; Bahnson, Inc.; Banner Industries International, Inc.; Banner Industries, LLC; Banner Industries Of N.E., Inc.; Barretts Minerals Inc.; Beaty Investments, Inc.; Bechtel Corporation; The Bonitz Company; Brand Insulations, Inc.; BW/IP Inc.; Canvas Ct, LLC; Cape PLC; Carboline Company; CB&I Laurens, Inc.; Cleaver-Brooks, Inc.; Consolidated Electrical Distributors, Inc.; Copes-Vulcan, Inc.; Covil Corporation; Crane Instrumentation & Sampling, Inc.; Crosby Valve, LLC; Daniel International Corporation; Davis Mechanical Contractors, Inc.; Dezurik, Inc.; Duke Energy Carolinas, LLC; Duke Energy Corporation; Eaton Corporation; Ellington Insulation Company, Inc.; Emerson Electric Co.; Fisher Controls International LLC; Flame Refractories, Inc.; Flowserve Corporation; Flowserve US Inc.; Fluor Constructors International; Fluor Constructors International, Inc.; Fluor Daniel Services Corporation; Fluor Enterprises, Inc.; FMC Corporation; Foster Wheeler Energy Corporation; Gardner Denver Nash, LLC; General Boiler Casing Company, Inc.; General Cable Corporation; General Cable Industries, Inc.; General Electric Company; Gould Electronics Inc.; Goulds Pumps, Incorporated; Goulds Pumps LLC; Great Barrier Insulation Co.; Grinnell LLC; Hajoca Corporation; Howden North America Inc.; HPC Industrial Services, LLC; IMO Industries Inc.; ITT LLC; Joy Global Underground Mining LLC; K-Mac Services Incorporated; Metropolitan Life Insurance Company; Mine Safety Appliances Company, LLC; MP Supply, Inc.; The Nash Engineering Company; Occidental Chemical Corporation; Paramount Global; Patterson Pump Company; PECW Holding Company; Pfizer Inc.; Piedmont Insulation, Inc.; Plastics Engineering Company; Presnell Insulation Co., Inc.; Redco Corporation; Riley Power Inc.; Rockwell Automation, Inc.; RSCC Wire & Cable LLC; Schneider Electric USA, Inc.; Sequoia Ventures Inc.; Spirax Sarco, Inc.; SPX Corporation; Stafford Insulation Company; Standard Insulation Company Of N. C., Inc.; Starr Davis Company, Inc.; Starr Davis Company Of S.C., Inc.; Sterling Fluid Systems

(USA) LLC; TE Wire & Cable LLC; Thermo Electric Company, Inc.; Union Carbide Corporation; Valves And Controls Us, Inc.; Velan Valve Corp.; Viking Pump, Inc.; Vistra Intermediate Company LLC; The William Powell Company Wind Up, Ltd.; Yuba Heat Transfer LLC; Zurn Industries, LLC,

Defendants,

Of which Asbestos Corporation Limited is the

Appellant.

VERIFICATION

CLEMENT RIVERS, LLP
Stephen L. Brown (SC Bar No. 66468)
Russell G. Hines (SC Bar No. 72100)
James D. Gandy, III (SC Bar No. 11925)
25 Calhoun Street, Suite 400
Charleston, South Carolina 29401
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Attorneys for Appellant

I, Richard Dufour, as the duly authorized agent/representative of Petitioner, ASBESTOS CORPORATION LIMITED, being duly sworn, hereby affirm that I have read the foregoing **Verified Petition for Supersedeas**. The facts contained therein concerning ASBESTOS CORPORATION LIMITED are true and correct to the best of my knowledge. As to the matters stated to be on information and belief as well as matters of South Carolina jurisprudence I have no personal knowledge and instead rely on prior filings and the public record.

ASBESTOS CORPORATION LIMITED

By: _____

Its Duly Authorized Agent/Representative

Subscribed to and sworn before me by
communications technology at Thetford
Mines on this 21st day of November 2023.

_____ Karen H. Giroux

Printed Name: Karen H. Giroux

COMMISSIONER OF OATHS FOR THE
JUDICIAL DISTRICT OF FRONTENAC,
PROVINCE OF QUEBEC



RECEIVED

Nov 22 2023

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from Richland County
Court of Common Pleas

Jean Hoefer Toal, Circuit Court Judge

Case No. 2023-CP-40-01759
Appellate Case No. 2023-001461

John A. Tibbs and Margaret B. Tibbs,

Respondents,

v.

3M Company; 4520 Corp., Inc.; A.O. Smith Corporation; A.W. Chesterton Company; ABB Inc.; Air & Liquid Systems Corporation; AiW-2010 Wind Down Corp.; Amentum Environment & Energy, Inc.; Anchor/Darling Valve Company; Armstrong International, Inc.; Asbestos Corporation Limited; ASCO, L.P.; ACL Asbestos Co; ACL Turner, Inc.; AWT Air Company, Inc.; Bahnson, Inc.; Banner Industries International, Inc.; Banner Industries, LLC; Banner Industries Of N.E., Inc.; Barretts Minerals Inc.; Beaty Investments, Inc.; Bechtel Corporation; The Bonitz Company; Brand Insulations, Inc.; BW/IP Inc.; Canvas Ct, LLC; Cape PLC; Carboline Company; CB&I Laurens, Inc.; Cleaver-Brooks, Inc.; Consolidated Electrical Distributors, Inc.; Copes-Vulcan, Inc.; Covil Corporation; Crane Instrumentation & Sampling, Inc.; Crosby Valve, LLC; Daniel International Corporation; Davis Mechanical Contractors, Inc.; Dezurik, Inc.; Duke Energy Carolinas, LLC; Duke Energy Corporation; Eaton Corporation; Ellington Insulation Company, Inc.; Emerson Electric Co.; Fisher Controls International LLC; Flame Refractories, Inc.; Flowserve Corporation; Flowserve US Inc.; Fluor Constructors International; Fluor Constructors International, Inc.; Fluor Daniel Services Corporation; Fluor Enterprises, Inc.; FMC Corporation; Foster Wheeler Energy Corporation; Gardner Denver Nash, LLC; General Boiler Casing Company, Inc.; General Cable Corporation; General Cable Industries, Inc.; General Electric Company; Gould Electronics Inc.; Goulds Pumps, Incorporated; Goulds Pumps LLC; Great Barrier Insulation Co.; Grinnell LLC; Hajoca Corporation; Howden North America Inc.; HPC Industrial Services, LLC; IMO Industries Inc.; ITT LLC; Joy Global Underground Mining LLC; K-Mac Services Incorporated; Metropolitan Life Insurance Company; Mine Safety Appliances Company, LLC; MP Supply, Inc.; The Nash Engineering Company; Occidental Chemical Corporation; Paramount Global; Patterson Pump Company; PECW Holding Company; Pfizer Inc.; Piedmont Insulation, Inc.; Plastics Engineering Company; Presnell Insulation Co., Inc.; Redco Corporation; Riley Power Inc.; Rockwell Automation, Inc.; RSCC Wire & Cable LLC; Schneider Electric USA, Inc.; Sequoia Ventures Inc.; Spirax Sarco, Inc.; SPX Corporation; Stafford Insulation Company; Standard Insulation Company Of N. C., Inc.; Starr Davis Company, Inc.; Starr Davis Company Of S.C., Inc.; Sterling Fluid Systems (USA) LLC; TE Wire & Cable LLC; Thermo Electric

Company, Inc.; Union Carbide Corporation; Valves And Controls Us, Inc.; Velan Valve Corp.; Viking Pump, Inc.; Vistra Intermediate Company LLC; The William Powell Company Wind Up, Ltd.; Yuba Heat Transfer LLC; Zurn Industries, LLC,

Defendants,

Of which Asbestos Corporation Limited is the

Appellant.

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Attorneys for Appellant

I, Stephen L. Brown, of Clement Rivers, LLP, attorneys for Appellant, hereby certify that **APPELLANT'S MOTION TO CONFIRM AUTOMATIC STAY AND/OR PURPORTED RECEIVER'S LACK OF JURISDICTION OR, ALTERNATIVELY, VERIFIED PETITION FOR SUPERSEDEAS** was served on all other parties to this appeal on November 22, 2023, via email (see attached) to their counsel of record:

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per appealed order*

Respectfully submitted,
CLEMENT RIVERS, LLP

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Attorneys for Appellant

Charleston, South Carolina

November 22, 2023

Bell, Pollyana (Polly)

From: Bell, Pollyana (Polly)
Sent: Wednesday, November 22, 2023 11:16 AM
To: 'Theile McVey'; 'jrutkoski@kassellaw.com'; 'achapman@dobslegal.com'; 'dhumen@dobslegal.com'; tbranham@dobslegal.com; khardin@dobslegal.com; 'pdp@rlegalgroup.com'; 'jchandler@rlegalgroup.com'; 'Brian Barnwell'; 'kbell@robinsongray.com'; 'emoultrie@kassellaw.com'; 'jkinkaid@dobslegal.com'; 'sfanning@kassellaw.com'; murrell@smithrobinsonlaw.com; jon@smithrobinsonlaw.com; shanonp@smithrobinsonlaw.com
Cc: Brown, Stephen L.; Hines, Russell; Gandy, III, James D. (Tripp); Justman, Aimee
Subject: Tibbs v. Asbestos Corporation Limited; Appellate Case No. 2023-001461 (CR 230595)
Attachments: Tibbs v. ACL (23-001461) -Motion to Confirm Automatic Stay etc.pdf; Tibbs v. ACL (23-001461)- Verification for Motion to Confirm Automatic Stay etc..pdf; Ex. 1 [Richard Dufour Aff. dated 5-11-23].pdf; Ex. 2.1 [Orig. Compl. (omitting report and dr.'s letter)].pdf; Ex. 2.2 [1st Am. Compl. (omitting report and dr.'s letter)].pdf; Ex. 3 [ACL's Mot. to Dismiss for Lack of Personal Jurisdiction].pdf; Ex. 4 [Order Denying ACL's Mot. to Dismiss].pdf; Ex. 5 [ACL's Answer to 1st Am. Compl.].pdf; Ex. 6 [Pls.' Mot. to Hold ACL in Contempt & Strike Answer].pdf; Ex. 7 [Pls.' 2d Am. 30(b) (6) Notice & STD to ACL].pdf; Ex. 8 [Pls.' Mot. to Appoint Receiver for ACL (omitting exs.)].pdf; Ex. 9 [ACL Mem. in Opp'n to Pls.' Mot. to Hold ACL in Contempt etc. (omitting exs.)].pdf; Ex. 10 [QBCRA].pdf; Ex. 11 [Order Holding ACL in Contempt & Striking its Answer].pdf; Ex. 12 [Order Appointing Receiver].pdf; Ex. 13 [Aff. of Default & Mot. for Entry of Default in Perry].pdf; Ex. 14 [Mr. Protopapas's Ltr. Purporting to Terminate Counsel].pdf; Ex. 15 [Notice of Appeal (omitting appealed orders) & Proof of Service].pdf; Ex. 16 [Mot. to Lift Automatic Stay in Welch].pdf; Ex. 17 [Order Appointing Receiver in Welch].pdf

Enclosed please find Appellant's Motion to Confirm Automatic Stay and/or Purported Receiver's Lack of Jurisdiction or, Alternatively, Verified Petition for Supersedeas, Verification, and the Exhibits referenced therein for service upon you in the above-referenced matter.

Thank you,

Pollyana Bell
Project Assistant
Commercial Litigation Practice Group
Phone:(843)720-5488 | Fax:(843)579-1369



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November 22, 2023

VIA US MAIL

Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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Nov 22 2023

SC Court of Appeals

Re: John A. Tibbs and Margaret B. Tibbs v. 3M Company, et al.
Appellate Case No.: 2023-001461
Case No.: 2023-CP-40-01759
YCR File: 17800-20230595

Dear Ms. Kitchings:

Enclosed please find our firm's check representing the filing fee for Appellant's Motion to Confirm Automatic Stay and/or Purported Receiver's Lack of Jurisdiction or, Alternatively, Verified Petition for Supersedeas, which is being electronically filed on November 22, 2023, in the above-referenced matter.

With best wishes and kindest regards, I am

Sincerely,

CLEMENT RIVERS, LLP

Pollyana Bell
Project Assistant

/pbb
Enclosure(s)