

RECEIVED

Nov 27 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. 2022-CP-40-03834

Donna B. Welch, individually and as Personal Representative of the Estate of
Melvin G. Welch, deceased,

Respondent,

v.

Advance Auto Parts, Inc., American Honda Motor Co., Inc., Atlas Asbestos Co,
Atlas Turner, Inc. as successor to Atlas Asbestos Co, a foreign company, Bahnson,
Inc., Covil Corporation, Daniel International Corporation, Davis Mechanical
Contractors, Inc., Ellington Insulation Company, Inc., Fluor Constructors
International f/k/a Fluor Corporation, Fluor Constructors International, Inc., Fluor
Daniel Services Corporation, Fluor Enterprises, Inc., General Parts, Inc.
individually and as successor-in-interest to Carquest Corporation, Goodrich
Corporation f/k/a The B. F. Goodrich Company, The Goodyear Tire & Rubber
Company, Graybar Electric Company, Inc., Honeywell International, Inc.
individually and as successor-in-interest to Allied Signal, Inc., as successor to
Bendix Corporation, Morse Tec LLC f/k/a Borgwarner Morse Tec LLC, and
successor-by-merger to Borg-Warner Corporation, Occidental Chemical
Corporation as successor to Durez Corporation, O'reilly Automotive Stores, Inc.,
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, Pneumo Abex
LLC successor-in-interest to Abex Corporation, Redco Corporation f/k/a Crane
Co., Reinz Wisconsin Gasket LLC f/k/a and/or successor to Reinz Wisconsin
Gasket Co. and Wisconsin Gasket Manufacturing Co., a wholly owned subsidiary
of Dco LLC, Rust Engineering & Construction, Inc., Rust International Inc.,
Southern Insulation, Inc., Spirax Sarco, Inc., Union Carbide Corporation, Westrock
MWV, LLC individually and as successor-in-interest to Westvaco, ZF Active
Safety US Inc. f/k/a Kelsey-Hayes Company,

Defendants,

Of which Atlas Turner, Inc. is the

Appellant.

APPELLANT'S REPLY TO PURPORTED RECEIVER'S REQUEST FOR DISMISSAL
OF APPELLANT'S VERIFIED PETITION FOR SUPERSEDEAS

**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

Appellant, Atlas Turner, Inc., incorrectly identified in this action as Atlas Turner, Inc., as successor to Atlas Asbestos Co., for itself and on behalf of Atlas Asbestos Co. (all of whom are referred to in the singular as “Atlas”),¹ by and through its undersigned counsel, files this reply in opposition to Mr. Protopapas’ request for dismissal of Appellant’s petition for supersedeas. In his introduction, Mr. Protopapas, through counsel, states that this has “become a coordinated abuse of the state’s civil and appellate process through a barrage of unprecedented efforts to shut down the South Carolina trial court’s orderly operation of the long-standing asbestos docket in the wake of long forgotten and undisclosed insurance assets.” Mr. Protopapas goes on to state “Atlas joins the efforts to obstruct and delay the courts through its petition asking this Court to impose a supersedeas in the receivership action below.” (Motion to Dismiss p. 1). This is rank speculation.

All actions taken by Atlas have been done not to delay the disposition of this or any case, but to protect its legal interests as it and its counsel are allowed to do. In fact, its counsel is mandated to do so. It is interesting what Mr. Protopapas fails to state from Chief Justice Beatty’s order which he cites as Exhibit A to his Motion to Dismiss².

We understand the complexity of the issues in this litigation, and we acknowledge parties in any given case have the right to protect and further their interests within the bounds of applicable rules and case law. Attorneys for the parties have an obligation to protect and further their clients’ respective interests within the bounds of applicable rules and case law.

¹ Atlas Asbestos Co. and Atlas Turner, Inc. are incorrectly identified in this action as separate Defendants. Atlas Asbestos Co. and Atlas Turner, Inc. are not different entities, but rather different names for the same entity, which was formerly named Atlas Asbestos Co. but is now named Atlas Turner, Inc.

² Unless noted to the contrary, all references to are Atlas’ motion for simplicity.

BACKGROUND

Since Mr. Protopapas has been appointed by the circuit court, he has started accepting service of process of various lawsuits against Atlas, a corporation organized and existing under the laws of Canada and the Province of Quebec. Atlas has never appointed an agent for service of process in the United States. The circuit court apparently thinks it can allow Mr. Protopapas to become one. This is contrary to how the process works for service on foreign corporations.

Based on an order from the Richland County circuit court, Mr. Protopapas is now accepting service not only in South Carolina, but also Indiana and Pennsylvania.³ Atlas denies this is proper and legal service as a Richland County circuit court cannot under South Carolina or any applicable law establish a receivership covering the 50 states of the United States and in a foreign country and province as well. The circuit court took this action even though Atlas has never owned, leased, or otherwise used any real property in South Carolina. (Ex. 1 ¶ 6; Ex. 2 ¶ 5.) Nor has Atlas ever transacted any business in South Carolina (or, for that matter, been authorized to do so), commenced any litigation in South Carolina, maintained any bank accounts in South Carolina, or paid any taxes or fees in South Carolina. (Ex. 1 ¶¶ 5, 7–9; Ex. 2 ¶¶ 4–6.) Atlas has no judgments against it, nor any other indebtedness, in South Carolina. Yet the circuit court appointed Mr. Protopapas as receiver over all of Atlas’ “insurance assets” under a forced combination of an insurance statute and one case in South Carolina which involved ownership of physical property in South Carolina. To the best of Atlas’ knowledge, neither the circuit court, the underlying Respondents nor any of the parties have been able to provide authority which supports the rulings

³ There may be other purported acceptances of service which Atlas is not aware of at this time. Atlas reserves all rights to contest such actions. Attached as Exhibit A are documents related to actions of Mr. Protopapas in allegedly accepting service on behalf of Atlas.

made and steps used by the circuit court and Mr. Protopapas to take control over Canadian assets under statutes which limit the court to receiverships over insurance assets.

In one known case (*Perry*) where service was allegedly accepted by Mr. Protopapas, he allowed Atlas to go into default and has taken no steps per the court's electronic records to lift the entry of default in the *Perry* action since the entry of default. In footnote 2 of its Request for Dismissal, Mr. Protopapas states "Atlas failed to inform the court, however, that the receiver immediately tendered the *Perry* complaint to Atlas' insurers for defense – consistent with his duties as receiver for the insurance assets of Atlas." One need not accept service to tender to a carrier. Counsel does not believe this excuse for failing to answer in a timely fashion constitutes that which is necessary to lift an entry of default in this state. Is Mr. Protopapas doing this in other cases where he is allegedly accepting service?

These cases show why there is or should be an automatic stay or this Court of Appeals should issue a Writ of Supersedeas staying Mr. Protopapas from accepting service or taking other actions detrimental to Atlas⁴. This Court of Appeals will decide on the merits whether the actions of the circuit court in setting up receiverships such as the one entered against Atlas in this case to not only marshal the insurance assets but also protect the best interests of Atlas are consistent with South Carolina law and whether they are serving the purpose of the receivership statutes or being used for other purposes. This motion is necessary, however, to determine how this Court of Appeals or the circuit court will undo that which Mr. Protopapas has done if it is found that the circuit court erred in its rulings. What if Mr. Protopapas decides to allow the other cases referenced

⁴ Mr. Protopapas is charged with, *inter alia*, "taking any and all steps necessary to protect the interest of Atlas whatever they may be." By allowing an entry of default in *Perry*, Mr. Protopapas likely waived all of Atlas' defenses.

above to go into default? How will those be fixed? Surely the liability for such defaults should not fall to Atlas.

Throughout this Request for Dismissal, counsel attempts to merge Atlas and various insurance carriers it has tendered claim to or believes may have coverage into one entity. Atlas is a Canadian Corporation incorporated in the Province of Quebec. It has no assets in South Carolina. The circuit court's theory regarding S.C. Code Ann. § 38-61-20 and *Sangamo Weston, Inc. v. National Sur. Corp.*, 307 S.C. 143, 414 S.E.2d 127 (1992) giving it the right to place a company under receivership is simply unsupported by any other law. It is nothing more than a mirage created to try and expand the powers of the courts of South Carolina beyond our state boundaries. This is simply not allowed by the law. Imagine an insurance policy which covers risks in the 50 states. Would that policy be enough to allow a circuit judge in every state to appoint their own receiver? No. When this issue was brought before the circuit court, it was dismissed with the comment that this system has worked well for getting cases settled. That is not the question. Is it proper? Is it consistent with our state's laws? Does it protect the rights of all involved? There will remain many unanswered questions until this Court of Appeals, and perhaps our Supreme Court, review this particular case, which differs from *Covil* and *Childers* as well as all of the other receiverships established where there was no live company to object.

Mr. Protopapas argues there are no extraordinary circumstances under Rule 241 in this case which justify a stay. The facts and cases discussed above show a receiver where one should not have been appointed. Permanent and irrevocable damage is and will continue to harm Atlas if Mr. Protopapas allows a default, accepts service all over the country for Atlas, and waives key defenses. Interestingly, upon information and belief, the majority if not all of the cases Mr. Protopapas has attempted to accept service on, including the default in *Perry*, are cases brought by

Dean Omar. Further, upon information and belief and based upon review of the court's electronic records, most if not all settlements and recoveries appear to be sealed. Respectfully, these all constitute and contribute to extraordinary circumstances. *Kearney v. Allen*, 287 S.C. 324, 338 S.E.2d 335, 337-38 (1985); *State v. Cooper* 342 S.C. 389, 398, 536 S.E.2d 870, 875-76 (2000). Atlas' answer was struck. This is the event per the circuit court that led to the appointment of a receiver. If the striking of an answer is stayed, that which follows from it should be stayed. Atlas properly brought this matter to this Court of Appeals as only it can prevent irreversible harm by staying the actions of the purported receiver.

Finally, this is not a case where Welch simply moved for the appointment of "a receiver" and the circuit court selected Mr. Protopapas solely of its own accord. Rather, Welch's counsel expressly asked the circuit court to appoint Mr. Protopapas, in particular, as receiver for Atlas,⁵ and the circuit court obliged. (Ex. 14.2.) 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 firm representing in this case, Dean Omar. No one other than those involved know what the receiver or the attorneys that he hires recover off of their actions as the circuit court appears to seal all records related to fees if at all possible. When applicable South Carolina authority was pointed out to the circuit judge, she dismissed it as an old case. There is nothing showing this principle has been overturned by our courts. Surely this Court of Appeals can see why the status quo should be preserved under these extraordinary facts.

The purported receiver argues 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 against a dissolved company, Payne & Keller, where all parties

⁵ (Ex. 14.1 p. 4.)

acknowledged that Payne & Keller was a Texas corporation that 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. Atlas takes no position on the propriety of this ruling as its underlying facts and supporting case law materially differ from the instant case.

Upon information and belief, outside of the purported Atlas and Asbestos Corporation Limited 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. Atlas was the first to step forward and assert its rights as a Canadian corporation 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.” **This is why this case differs from any other cases related to receiverships.**

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 Atlas and his appointment is later reversed, how will Atlas 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

Atlas is not asking for a ruling on the merits of this case. All it seeks is to make sure that whatever ruling is ultimately made is not meaningless due to the actions of Mr. Protopapas, who should not have been named as a purported receiver by the circuit court. As such, a stay or supersedeas is required.

[signature on following page]

[Signature page for Appellant's Reply to Purported Receiver's Request for Dismissal of Appellant's Verified Petition For Supersedeas, Appellate Case No. 2023-001096]

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 27, 2023

Exhibit A

Lindsay Valek

From: Lindsay Valek
Sent: Tuesday, August 22, 2023 4:00 PM
To: Gemberling, Kristina; Pace, Armand C; Koch,Fletcher
Cc: Peter Protopapas; Danny Nieto
Subject: Tender of new ATLAS TURNER MATTER (Perry 2023-CP-40-04072)
Attachments: Perry - Filed S&C (w5 Exhs & Path Rpt) - FILED 08.04.23.pdf; Perry - Motion to Expedite (wExh A) - FILED 08.07.23.pdf

Please be advised that the Receiver for Atlas Turner accepted service today, August 22, 2023, of the following lawsuit against Atlas Turner alleging asbestos bodily injury:

Michael L. Perry and Lonnie L. Long vs. American International Industries, et al.
2023-CP-40-04072

This matter is pending in Richland County, SC. A copy of the operative complaint is attached. PLEASE NOTE THAT PLAINTIFF HAS ALSO FILED A MOTION TO EXPEDITE (ATTACHED).

The Receiver for Atlas Turner respectfully provides notice and tender and requests that the insurers provide a full defense and complete indemnification under all applicable insurance policies to Atlas Turner for amounts incurred or which may be incurred in relation to the defense and resolution of this asbestos suit. To the extent that a defense will not be provided, please advise so that the Receiver can take the actions necessary to protect Atlas Turner. To the extent the information has not been provided to the Receiver already, we request copies of each, and every policy issued to, or otherwise protective of, Atlas Turner.

We request that you confirm in writing your receipt of this notice and tender and your acknowledgment of your insurance obligations with respect to the above-referenced suit.

As always, thank you for your attention to this matter and please don't hesitate to reach out if you have any questions or concerns.

Lindsay H. Valek

Lindsay H. Valek

Paralegal



2110 N. Bellline Blvd.
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Lindsay Valek

From: Peter Protopapas
Sent: Wednesday, October 18, 2023 10:14 AM
To: Lindsay Valek; Gemberling, Kristina; Pace, Armand C; Koch,Fletcher
Cc: Danny Nieto; Lindsay Valek
Subject: RE: Tender of new ATLAS TURNER MATTER (Perry 2023-CP-40-04072)
Attachments: Atlas 2023.10.04 Motion for Default Judgment as to Atlas Turner.pdf; Atlas 2023.10.04 Affidavit of Default.pdf

All

Attached is a notice of default filed in Atlas. There is currently no defense counsel assigned to this matter. We need to move quickly if we are going to undo this.

Peter

From: Lindsay Valek <Lindsay@rplegalgroup.com>
Sent: Tuesday, August 22, 2023 4:00 PM
To: Gemberling, Kristina <KGEMBERL@travelers.com>; Pace, Armand C <armand.pace@brandywineholdings.com>; Koch,Fletcher <Fletcher.Koch@cna.com>
Cc: Peter Protopapas <pdp@rplegalgroup.com>; Danny Nieto <danny@rplegalgroup.com>
Subject: Tender of new ATLAS TURNER MATTER (Perry 2023-CP-40-04072)

Please be advised that the Receiver for Atlas Turner accepted service today, August 22, 2023, of the following lawsuit against Atlas Turner alleging asbestos bodily injury:

Michael L. Perry and Lonnie L. Long vs. American International Industries, et al.
2023-CP-40-04072

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The Receiver for Atlas Turner respectfully provides notice and tender and requests that the insurers provide a full defense and complete indemnification under all applicable insurance policies to Atlas Turner for amounts incurred or which may be incurred in relation to the defense and resolution of this asbestos suit. To the extent that a defense will not be provided, please advise so that the Receiver can take the actions necessary to protect Atlas Turner. To the extent the information has not been provided to the Receiver already, we request copies of each, and every policy issued to, or otherwise protective of, Atlas Turner.

We request that you confirm in writing your receipt of this notice and tender and your acknowledgment of your insuring obligations with respect to the above-referenced suit.

As always, thank you for your attention to this matter and please don't hesitate to reach out if you have any questions or concerns.

Lindsay H. Valek

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Paralegal



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Subject: Tender of new Atlas Turner Matter JOHNSON GD NO 23-011531
Date: 11/20/2023 11:03 AM
From: "Lindsay Valek" <Lindsay@rplegalgroup.com>
"Pace, Armand C" <armand.pace@brandywineholdings.com>, "Chubb Claims"
<chubbclaims@chubb.com>, "Keith Rahman"
<krahman@resolutemgmt.com>, "mark.royko@aviva.com"
To: <mark.royko@aviva.com>, "Gemberling, Kristina"
<KGEMBERL@travelers.com>, "Koch,Fletcher" <Fletcher.Koch@cna.com>, "Chuck
Feeley" <chuck.feeley@allstate.com>, "ClaimReporting"
<claimreporting@resolutemgmt.com>, "Stefanie Haines"
<shaines@resolutemgmt.com>, "sbrown@ycrlaw.com" <sbrown@ycrlaw.com>
Cc: "Peter Protopapas" <pdp@rplegalgroup.com>, "Danny Nieto" <danny@rplegalgroup.com>

Please be advised that the Receiver for Atlas Turner, Inc. (Atlas) accepted service today, November 20, 2023, of the following lawsuit against Atlas alleging asbestos bodily injury:

Roger E. Johnson and Cathy Johnson vs. 4520 Corp., et al.
GD Number 23-011531

This matter is pending in Allegheny County, Pennsylvania.

A copy of the operative complaint is attached.

The Receiver for Atlas respectfully provides notice and tender and requests that the insurers provide a full defense and complete indemnification under all applicable insurance policies to Atlas for amounts incurred or which may be incurred in relation to the defense and resolution of this asbestos suit. To the extent that a defense will not be provided, please advise so that the Receiver can take the actions necessary to protect Atlas. To the extent the information has not been provided to the Receiver already, we request copies of each and every policy issued to, or otherwise protective of, Atlas.

We request that you confirm in writing your receipt of this notice and tender and your acknowledgment of your insuring obligations with respect to the above-referenced suit.

As always, thank you for your attention to this matter and please don't hesitate to reach out if you have any questions or concerns.

Best regards,

Lindsay H. Valek
Paralegal



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Subject: Tender of new Atlas Turner Matter MCDOWELL 2023-CP-40-06157
Date: 11/21/2023 10:35 AM
From: "Lindsay Valek" <Lindsay@rplegalgroup.com>
"Pace, Armand C" <armand.pace@brandywineholdings.com>, "Chubb Claims" <chubbclaims@chubb.com>, "Keith Rahman" <krahman@resolutemgmt.com>, "mark.royko@aviva.com" <mark.royko@aviva.com>, "Gemberling, Kristina" <KGEMBERL@travelers.com>, "Koch,Fletcher" <Fletcher.Koch@cna.com>, "Chuck Feeley" <chuck.feeley@allstate.com>, "ClaimReporting" <claimreporting@resolutemgmt.com>, "Stefanie Haines" <shaines@resolutemgmt.com>, "sbrown@ycrlaw.com" <sbrown@ycrlaw.com>
To:
Cc: "Peter Protopapas" <pdp@rplegalgroup.com>, "Danny Nieto" <danny@rplegalgroup.com>

Please be advised that the Receiver for Atlas Turner, Inc. (Atlas) accepted service today, November 21, 2023, of the following lawsuit against Atlas alleging asbestos bodily injury:

Donald I. McDowell and Rhonda V. McDowell vs. AO Smith Corporation, et al.
Case Number 2023-CP-40-06157

This matter is pending in Richland County, South Carolina. A copy of the operative complaint is attached. **Please note that Plaintiff has also filed a Motion to Expedite.**

The Receiver for Atlas respectfully provides notice and tender and requests that the insurers provide a full defense and complete indemnification under all applicable insurance policies to Atlas for amounts incurred or which may be incurred in relation to the defense and resolution of this asbestos suit. To the extent that a defense will not be provided, please advise so that the Receiver can take the actions necessary to protect Atlas. To the extent the information has not been provided to the Receiver already, we request copies of each and every policy issued to, or otherwise protective of, Atlas.

We request that you confirm in writing your receipt of this notice and tender and your acknowledgment of your insuring obligations with respect to the above-referenced suit.

As always, thank you for your attention to this matter and please don't hesitate to reach out if you have any questions or concerns.

Best regards,

Lindsay H. Valek
Paralegal



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Subject: Tender of new Atlas Turner Matter CRAWFORD 49D13-2306-CT-024909
Date: 11/22/2023 9:56 AM
From: "Lindsay Valek" <Lindsay@rplegalgroup.com>
"Pace, Armand C" <armand.pace@brandywineholdings.com>, "Chubb Claims" <chubbclaims@chubb.com>, "Keith Rahman" <krahman@resolutemgmt.com>, "mark.royko@aviva.com" <mark.royko@aviva.com>, "Gemberling, Kristina"
To: <KGEMBERL@travelers.com>, "Koch,Fletcher" <Fletcher.Koch@cna.com>, "Chuck Feeley" <chuck.feeley@allstate.com>, "ClaimReporting" <claimreporting@resolutemgmt.com>, "Stefanie Haines" <shaines@resolutemgmt.com>, "sbrown@ycrlaw.com" <sbrown@ycrlaw.com>
Cc: "Peter Protopapas" <pdp@rplegalgroup.com>, "Danny Nieto" <danny@rplegalgroup.com>

Please be advised that the Receiver for Atlas Turner, Inc. (Atlas) is aware of and hereby tenders the following lawsuit against Atlas alleging asbestos bodily injury:

Hugh G. Crawford vs. American Optical Corporation, et al.
Case Number 49D13-2306-CT-024909.

This matter is pending in Marion County, Indiana. A copy of the Complaint is attached.

The Receiver for Atlas respectfully provides notice and tender and requests that the insurers provide a full defense and complete indemnification under all applicable insurance policies to Atlas for amounts incurred or which may be incurred in relation to the defense and resolution of this asbestos suit. To the extent that a defense will not be provided, please advise so that the Receiver can take the actions necessary to protect Atlas. To the extent the information has not been provided to the Receiver already, we request copies of each and every policy issued to, or otherwise protective of, Atlas.

We request that you confirm in writing your receipt of this notice and tender and your acknowledgment of your insuring obligations with respect to the above-referenced suit.

As always, thank you for your attention to this matter and please don't hesitate to reach out if you have any questions or concerns.

Best regards,

Lindsay H. Valek
Paralegal



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IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

ROGER E. JOHNSON and,
CATHY JOHNSON,

Plaintiffs,

vs.

4520 CORP., INC.

Individually and as successor-in-interest to
Benjamin F. Shaw Company;
A.O. SMITH CORPORATION;
AMENTUM ENVIRONMENT & ENERGY,
INC.,
f/k/a AECOM Energy & Construction, Inc.,
individually and as successor-in-interest to
Yeargin Construction Company, Inc.
successor-in-interest to IMPAC, Inc.;
individually and as a subsidiary of American
Electric Power Company, Inc. successor-in-
interest to American Gas & Electric Company;
ARMSTRONG INTERNATIONAL, INC.;
ATLAS TURNER INC.

f/k/a Atlas Asbestos Company Ltd;
BEAZER EAST, INC.,
individually and as successor-in-interest to
Koppers Company, Inc., f/k/a The Koppers
Company;
BECHTEL CORPORATION;
BMI REFRACTORY SERVICES, INC.
f/k/a Premier Refractories, Inc.;
BRIDGESTONE AMERICAS TIRE
OPERATIONS, LLC,
as successor-in-interest to The Firestone Tire
& Rubber Company, as successor-by-merger
to Dayton Tire;
BURNHAM LLC,
d/b/a Burnham Commercial and f/k/a Burnham
Corporation;
CANVAS CT, LLC,
individually and as successor-in-interest to
Marley Cooling Tower Company;
CLARK INDUSTRIAL INSULATION, CO.;

CIVIL DIVISION – ASBESTOS

G.D. NO. 23-011531

Issue No.

COMPLAINT IN CIVIL ACTION

Code: 012 – Asbestos

Filed on Behalf of Plaintiff

Counsel of Record for this Party:

Cori J. Kapusta, Esq.
PA. I.D. No. 91958

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JURY TRIAL DEMANDED

THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY;
COPEES-VULCAN, INC.;
CROWN CORK & SEAL COMPANY, INC.,
individually and as successor-in-interest to
Mundet Cork Company;
DEZURIK, INC.;
DTE ENERGY COMPANY;
DUQUESNE LIGHT COMPANY;
E.I. DU PONT DE NEMOURS AND
COMPANY;
ECODYNE CORPORATION;
EICHLEAY CORPORATION,
a dissolved Delaware Corporation;
ELECTROLUX HOME PRODUCTS, INC.,
individually and as successor-in-interest to
Copes-Vulcan;
FIRSTENERGY CORP.;
FISCHBACH, LLC;
individually and as successor-in-interest to
Natkin & Company, Inc.;
FLOWSERVE US INC.,
individually and as successor-in-interest to
Edwards Valves, Inc., Rockwell
Manufacturing Company, and Vogt Valve
Company;
FLUOR CONSTRUCTORS INTERNATIONAL,
f/k/a Fluor Corporation;
FLUOR CONSTRUCTORS INTERNATIONAL,
INC.;
FLUOR DANIEL SERVICES CORPORATION;
FLUOR ENTERPRISES, INC.;
FOSECO, INC.;
FOSTER WHEELER ENERGY
CORPORATION;
GARDNER DENVER NASH, LLC,
individually and as successor-in-interest to The
Nash Engineering Company;
GENERAL ELECTRIC COMPANY;
THE GOODYEAR TIRE & RUBBER
COMPANY;
GOULDS PUMPS LLC,
f/k/a Goulds Pumps Inc.;
GRINNELL LLC,
d/b/a Grinnell Corporation;
HENRY PRATT COMPANY, LLC

a subsidiary of Mueller Co. LLC d/b/a Pratt Company;

HONEYWELL INTERNATIONAL, INC.,
individually and as successor-in-interest to Allied Signal, Inc., as successor to Bendix Corporation;

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.;

INTERNATIONAL PAPER COMPANY;

ITT LLC,
f/k/a ITT Corporation, ITT industries Inc., ITT Fluid Products Corp., Hoffman Specialty Mfg. Corp., Bell and Gossett Company, and ITT Marlow;

JOHN CRANE, INC.;

LOUISIANA-PACIFIC CORPORATION;

M.S. JACOBS & ASSOCIATES, INC.;

METROPOLITAN LIFE INSURANCE COMPANY,
a wholly-owned subsidiary of MetLife Inc.;

MONONGAHELA POWER 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;

PENNSYLVANIA ELECTRIC COMPANY;

PENNSYLVANIA POWER COMPANY;

POWER PIPING COMPANY;

PPL ELECTRIC UTILITIES CORPORATION;

REDCO CORPORATION,
f/k/a Crane Co.;

RILEY POWER, INC.
f/k/a Babcock Borsig Power, Inc., f/k/a DB Riley, Inc., f/ka Riley Stoker;

SEQUOIA VENTURES INC.,
f/k/a Bechtel Corporation;

SHELL OIL COMPANY;

STEEL GRIP, INC.
f/k/a Industrial Gloves Co. f/k/a Steel Grip Safety;

TALEN ENERGY CORPORATION;
THIEM CORPORATION,
and its Division Universal Refractories;
UB WEST VIRGINIA, INC.,
 f/k/a Union Boiler Company;
UNION CARBIDE CORPORATION;
UNITED CONVEYOR CORPORATION;
 individually and as successor-in-interest to
 American Steel & Wire Company;
WEST END CONTRACTING CORPORATION,
 formerly known as Minnotte Contracting
 Corporation;
ZURN INDUSTRIES, LLC,
 individually and as successor-in-interest to
 Zurn Industries, Inc.
 Defendants.

STATE OF INDIANA)
) MARION COUNTY SUPERIOR COURT
) CIVIL DIVISION ROOM NO. 13
COUNTY OF MARION) CAUSE NO. _____

HUGH G. CRAWFORD)
)
) Plaintiff,)

v.)

AMERICAN OPTICAL CORPORATION;)
ARMSTRONG INTERNATIONAL, INC.;)
ASBESTOS CORPORATION LIMITED;)
ATLAS TURNER INC.,)

f/k/a Atlas Asbestos Company Ltd.)

CHICAGO PNEUMATIC TOOL COMPANY LLC;)
GENERAL ELECTRIC COMPANY;)
HOWMET AEROSPACE INC.;)
INDUCTOTHERM CORP.;)

JOY GLOBAL SURFACE MINING INC.,)
f/k/a P&H Mining Equipment f/k/a Harnischfeger)
Corporation;)

METROPOLITAN LIFE INSURANCE COMPANY,)
a wholly-owned subsidiary of MetLife Inc.;)

NIBCO, INC.;)

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;)

PYROTEK, INC.;)

REDCO COPORATION,)
f/k/a Crane Co.)

STERLING INDUSTRIAL, LLC)
individually and as successor-by-merger to)
Industrial Contractors Skanska, Inc.f/k/a)
Industrial Contractors, Inc.)

SWINDELL-DRESSLER INTERNATIONAL)
COMPANY;)

TRIANGLE ENTERPRISES INC.; and)

UNION CARBIDE CORPORATION;)

Defendants.

CASE-SPECIFIC COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL
CIVIL THIRTEEN MASS TORT ASBESTOS DOCKET CASE

GENERAL ALLEGATIONS

1. DOBS & Farinas Living Master Complaint and Jury Demand, TID 66533695, is incorporated by reference. **Hugh Crawford** is referred to as “Exposed Plaintiff” in the Master Complaint and in this Case-Specific Complaint.

2. Exposed Plaintiff was diagnosed with malignant pleural mesothelioma on or about January 3, 2023.

3. Asbestos caused Exposed Plaintiff’s disease.

4. Exposed Plaintiff was directly exposed to asbestos fibers related to his own work and work performed around him during his lifetime and career as a laborer at the ALCOA Plant located in Newburgh, Indiana from approximately 1968 to 1970 and as a truck driver for McLean Trucking Company from approximately 1970 and 1985.

5. Plaintiff did not know of the dangers of asbestos or asbestos-containing products at the time he was exposed to asbestos.

6. Defendants had superior knowledge to Plaintiff about the dangers of asbestos or asbestos-containing products at the time Plaintiff was exposed to asbestos.

7. Further case specific information will be provided in the Verified Disclosure Statement as provided by Local Rule.

PREMISES DEFENDANTS

8. The following Defendants owned, operated, or controlled premises where Exposed Plaintiff was exposed to asbestos. They are referred to as “Premises Defendants” in the Master Complaint and in this Case-Specific Complaint.

GENERAL ELECTRIC COMPANY

9. Exposed Plaintiff was exposed to asbestos attributable to Premises Defendants.

PRODUCT DEFENDANTS

10. The following Defendants manufactured, sold, or distributed asbestos or asbestos containing products to which Exposed Plaintiff was exposed. They are referred to as “Product Defendants” in the Master Complaint and in this Case-Specific Complaint:

AMERICAN OPTICAL CORPORATION
ARMSTRONG INTERNATIONAL, INC.
ASBESTOS CORPORATION LIMITED
ATLAS TURNER INC., f/k/a Atlas Asbestos Company Ltd.
CHICAGO PNEUMATIC TOOL COMPANY LLC
HOWMET AEROSPACE INC.
INDUCTOTHERM CORP
JOY GLOBAL SURFACE MINING INC., f/k/a P&H Mining Equipment f/k/a
Harnischfeger Corporation
NIBCO, INC.
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
PYROTEK, INC.
REDCO COPORATION, f/k/a Crane Co.
SWINDELL-DRESSLER INTERNATIONAL COMPANY
UNION CARBIDE CORPORATION

11. Exposed Plaintiff was exposed to asbestos attributable to Product Defendants.

CONTRACTORS

12. The following Defendants were Contractors who created airborne asbestos through activities such as installing, removing, maintaining, demolishing, disturbing, replacing, cleaning, testing, labeling, and surveying areas where asbestos was located. They are referred to as “Contractor Defendants” in the Master Complaint and in this Case-Specific Complaint.

STERLING INDUSTRIAL, LLC, individually and as successor-by-merger to Industrial
Contractors Skanska, Inc., f/k/a Industrial Contractors, Inc.
TRIANGLE ENTERPRISES, INC.

13. Exposed Plaintiff was exposed to asbestos disturbed by Contractor Defendants.

CONSPIRATOR

14. The following Defendant conspired to misrepresent and hide the dangers of asbestos. They are referred to as “Conspirators” in the Master Complaint and in this Case-Specific Complaint:

METROPOLITAN LIFE INSURANCE COMPANY, a wholly-owned subsidiary of
MetLife Inc.

15. Conspirators’ actions, as set forth in this Case-Specific Complaint, the Master Complaint, and/or the Verified Initial Disclosure contributed to cause Plaintiff’s injury, disease, and/or death.

DAMAGES

16. Plaintiff requests all damages available by law, including without limitation pain, suffering, mental anguish, disability, medical expenses, lost income, loss of earning potential, decreased life expectancy, loss of enjoyment of life, loss of care, comfort, companionship and consortium, and all other compensatory damages.

17. Foreign State Law Damages: Plaintiff requests all damages available under any foreign state law which may apply to any particular Defendant or claim.

18. Punitive Damages: Defendant’s actions and/or inaction as set forth in this Complaint were done with malice, gross negligence, and/or willful and wanton conduct, and were more than ordinary negligence.

19. Punitive Damages: Plaintiff requests all damages available under Ind. Code 34-51-3-1, *et. seq.*

CASE STATUS AND LIMITATION OF ALLEGATIONS

20. Plaintiff requests this case be treated as *EXIGENT* pursuant to the Marion County Mass Tort Local Rules.

JURY DEMAND

21. Plaintiff respectfully requests a trial by jury.

Respectfully submitted on June 22, 2023

/s/ Sarah Broderick

Kathleen A. Farinas, 20283-34

Todd Barnes, 25904-49

Sarah Broderick, 31908-49

Derek Johnson, 25924-06

DOBS & Farinas, LLP

951 North Delaware St.

Indianapolis, IN 46202

Phone/Fax: (317) 854-3003

sbroderick@dobslegal.com

CERTIFICATE OF SERVICE

I hereby certify that this Complaint was served on all counsel of record on e-File and Serve pursuant to Marion County LR49-TR8 Rule 701 and Trial Rule 86 using Efile Indiana and File & ServeXpress. Complaint, Appearance and Summons were also served on all Defendants pursuant to Trial Rule 4.

/s/ Sarah Broderick

Sarah Broderick

RECEIVED

Nov 27 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. 2022-CP-40-03834
Appellate Case No. 2023-001096

Donna B. Welch, individually and as Personal Representative of the Estate of
Melvin G. Welch, deceased,

Respondent,

v.

Advance Auto Parts, Inc., American Honda Motor Co., Inc., Atlas Asbestos Co,
Atlas Turner, Inc. as successor to Atlas Asbestos Co, a foreign company, Bahnson,
Inc., Covil Corporation, Daniel International Corporation, Davis Mechanical
Contractors, Inc., Ellington Insulation Company, Inc., Fluor Constructors
International f/k/a Fluor Corporation, Fluor Constructors International, Inc., Fluor
Daniel Services Corporation, Fluor Enterprises, Inc., General Parts, Inc.
individually and as successor-in-interest to Carquest Corporation, Goodrich
Corporation f/k/a The B. F. Goodrich Company, The Goodyear Tire & Rubber
Company, Graybar Electric Company, Inc., Honeywell International, Inc.
individually and as successor-in-interest to Allied Signal, Inc., as successor to
Bendix Corporation, Morse Tec LLC f/k/a Borgwarner Morse Tec LLC, and
successor-by-merger to Borg-Warner Corporation, Occidental Chemical
Corporation as successor to Durez Corporation, O'reilly Automotive Stores, Inc.,
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, Pneumo Abex
LLC successor-in-interest to Abex Corporation, Redco Corporation f/k/a Crane
Co., Reinz Wisconsin Gasket LLC f/k/a and/or successor to Reinz Wisconsin
Gasket Co. and Wisconsin Gasket Manufacturing Co., a wholly owned subsidiary
of Dco LLC, Rust Engineering & Construction, Inc., Rust International Inc.,
Southern Insulation, Inc., Spirax Sarco, Inc., Union Carbide Corporation, Westrock
MWV, LLC individually and as successor-in-interest to Westvaco, ZF Active
Safety US Inc. f/k/a Kelsey-Hayes Company,

Defendants,

Of which Atlas Turner, Inc. is the

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
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(843) 720-5488

Attorneys for Appellant

I, Stephen L. Brown, of Clement Rivers, LLP, attorneys for Appellant, hereby certify that **APPELLANT’S REPLY TO PURPORTED RECEIVER’S REQUEST FOR DISMISSAL OF APPELLANT’S VERIFIED PETITION FOR SUPERSEDEAS** was served on all other parties to this appeal on November 27, 2023, via email (see attached) to their counsel of record:

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Jamie D. Rutkoski, Esquire
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*Receiver for “insurance assets”
of Atlas Turner, Inc. per appealed order*

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*Attorneys for Receiver for “insurance assets”
of Atlas Turner, Inc. per appealed order*

Respectfully submitted,
CLEMENT RIVERS, LLP

By: s/Stephen L. Brown
Stephen L. Brown (SC Bar No. 66468)

Attorneys for Appellant

Charleston, South Carolina

November 27, 2023

Bell, Pollyana (Polly)

From: Bell, Pollyana (Polly)
Sent: Monday, November 27, 2023 6:11 PM
To: 'tmcvey@kassellaw.com'; 'jrutkoski@kassellaw.com'; 'EMoultrie@kassellaw.com'; 'pdp@rplegalgroup.com'; 'jchandler@rplegalgroup.com'; 'bb@rplegalgroup.com'; 'lindsay@rplegalgroup.com'; 'achapman@dobslegal.com'; 'khardin@dobslegal.com'; 'tbranham@dobslegal.com'; 'tbarnes@dobslegal.com'; 'lshirley@dobslegal.com'; 'murrell@smithrobinsonlaw.com'; 'jon@smithrobinsonlaw.com'; 'shanonp@smithrobinsonlaw.com'
Cc: 'Stephen Brown (sbrown@yclaw.com)'; 'Hines, Russell'; 'Gandy, III, James D. (Tripp)'; 'Justman, Aimee'; 'Olive, IV, Graydon'
Subject: Welch v. Atlas Turner, Inc.; Appellate Case No. 2023-001096 (CR 230593)
Attachments: Appellant's Reply to Purported Receiver's Request for Dismissal of Verified Petition for Supersedeas .pdf; Ex. A.pdf

Enclosed please find Appellant's Reply to Purported Receiver's Request for Dismissal of Appellant's Verified Petition for Supersedeas and Exhibit A 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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FOR GREAT