

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jean H. Toal
Acting Circuit Court Judge

Case No. 2022-CP-40-06627

Appellate Case No. 2023-001629

Terry L. Green, Sr., as the Personal Representative
of the Estate of Robert J. Green, Deceased and
Evelyn V. Green, Individually.....Plaintiffs,

v.

3M Company; Advance Stores Company Incorporated;
Amentum Environment & Energy, Inc.; AutoZone, Inc.; Beaty
Investments, Inc.; The Bonitz Company; CH2M Hill Engineers,
Inc.; Cleaver-Brooks, Inc.; Covil Corporation; Daniel International
Corporation; Davis Mechanical Contractors, Inc.; Eaton Corporation;
Ellington Insulation Company, Inc.; Fluor Constructors International;
Fluor Enterprises, Inc.; Ford Motor Company; General Electric
Company; General Parts, Inc.; Genuine Parts Company;
GG of Florida, Inc.; The Goodyear Tire & Rubber Company;
Great Barrier Insulation Co.; Heat & Frost Insulation Company;
ITT LLC; J. & L. Insulation, Inc.; K-Mac Services, Inc.; LGE
(OLD Co.), Inc.; LGE&C (OLD Co.) LLC; Metropolitan Life
Insurance Company; Michelin Corporation; Michelin North America,
Inc.; O'Reilly Auto Enterprises, LLC; O'Reilly Automotive Stores, Inc.;
Occidental Chemical Corporation; Paramount Global; Plastics
Engineering Company; Pneumo Abex LLC; Presnell Insulation Co.,
Inc.; RedCo Corporation; Rockwell Automation, Inc.; Schneider
Electric USA, Inc.; Southern Insulation, Inc.; Spirax Sarco, Inc.;
Springs Industries, Inc.; Springs Industries, LLC; Standard Insulation
Company of N.C., Inc.; Starr Davis Company, Inc.; Starr Davis
Company of S.C., Inc.; Thermo-Kinetics Industries, Inc.;
Union Carbide Corporation; Wind Up, Ltd.,.....Defendants,

Davis Mechanical Contractors, Inc.,
by and through its Receiver Peter D. Protopapas.....Third-Party Plaintiff,

v.

American Home Assurance Company; Columbia
Casualty Company; Continental Casualty Company;
Continental Insurance Company; Federal Insurance
Company; Fireman’s Fund Insurance Company;
Republic Insurance Company, now known as
Starr Indemnity & Liability Company; United States
Fire Insurance Company; Brandywine Holdings Corporation;
and Riverstone Claims Management, LLC,Third-Party Defendants,

of which

Davis Mechanical Contractors, Inc.,
through its Receiver Peter D. Protopapas, is theRespondent,

and

Republic Insurance Company n/k/a
Starr Indemnity & Liability Company is theAppellant.

APPELLANT’S MOTION FOR LEAVE TO FILE SURRESPONSE

Appellant respectfully requests the Court’s leave to file a limited surresponse to address (1) Receiver’s newly-cited authority, *First Carolina Nat. Bank v. A & S Enters, Inc.*, 277 S.C. 591, 594, 291 S.E.2d 380, 382 (1982); (2) Receiver’s new argument that Republic was required to file a Rule 60 motion; (3) Receiver’s misapplication of the “plain error rule” in circumstances where no contemporaneous objection was possible; and (4) Receiver’s newly-offered proposals that this matter should have been returned to the circuit court on an appellate stay or via Rule 60 motion.

Republic recognizes the importance of this Court's time and respectfully requests the opportunity for a surrejoinder given, among other things:

- the extraordinary circumstances in which this matter arrived at this Court, and
- the apparently undisputed state and federal due process constitutional issues at play.

For these reasons, Republic requests five days to file a surrejoinder of not more than seven pages.

Respectfully submitted,

s/Brandon R. Gottschall
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December 1, 2023
Columbia, SC