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

Appellate Case No. 2023-000727
Circuit Court Case No. 2021-CP-40-03484

Lenora Childers, Individually and as Personal Representative of the Estate of Lewis C. Childers, ... Plaintiff,

v.

Davis Mechanical Contractors, Inc.; Flame Refractories, Inc.; General Boiler Casing Company, Inc.; HEFCO, Inc.; J.R. Dean Company, Inc.; Payne & Keller Company; SFB, Incorporated; Stafford Insulation Company; Standard Insulation Company of N.C., Inc.; Systra Engineering, Inc.; United Construction Co. of Rome, Inc.; Wind Up, Ltd., Individually and as Successor-in-Interest to Pipe & Boiler Insulation, Inc. f/k/a Carolina Industrial Insulating Co., ... Defendants,

Flame Refractories, Inc., United Construction Co. of Rome, Inc., Wind Up, Ltd., Individually and as Successor-in-Interest to Pipe & Boiler Insulation, Inc. f/k/a Carolina Industrial Insulating Co., Payne & Keller Company, and PBI QSF, LLC, By and Through Their Duly Appointed Receiver Peter D. Protopapas, ... Third-Party Plaintiffs,

v.

Zurich American Insurance Company (Individually and as Successor to Northern Insurance Company of New York, Maryland American General Insurance Company, and Maryland Casualty Company); Allstate Insurance Company; John Tighe; Sean Anthony Beatty; Dennis William Cahill; Catherine Ann Carlino; Andre Lefebvre; David Dean Shumway; Gil Chandler, Michael Davenport; Linda Young Pettigrew; Gwyn Wallace Fuller; Daniel Robert Keddie; Julie Ann Fortune; Michael John Crall; James Francis Meehan; Larry Gene Simmons; Arrowpoint Group, Inc.; Arrowpoint Capital Corp.; Admiral Insurance Company; Continental Insurance Company (Individually and as Successor in interest to Harbor Insurance Company); Hartford Accident and

Indemnity Company, Travelers Casualty & Surety Company f/k/a Aetna Casualty & Surety Company, National Union Fire Insurance Company of Pittsburgh, PA, Medmarc Casualty Insurance Company, Individually and as Successor in Interest to Dependable Insurance Company, Inc., Berkshire Hathaway Specialty Insurance Company f/k/a Stonewall Insurance Company, Individually and as Successor in interest to Stonewall Surplus Lines Insurance Company, Lexington Insurance Company, First State Insurance Company, Birmingham Fire Insurance Company, Certain Underwriters at Lloyd's of London and various London Market Companies, South Carolina Property and Casualty Insurance Guaranty Association, R.L. Jarrett (Underwriting) Agency, Inc., U.S. Risk, L.L.C., Rexel USA, Inc., Compass Risk Services, LLC, SKRLA, LLC, Century Indemnity Company, in its own capacity and as successor to CCI Insurance Company, as successor to Insurance Company of North America, United States Fire Insurance Company, and Fireman's Fund Insurance Company, Third-Party Defendants,

of which

Payne & Keller Company, By and Through Their Duly Appointed Receiver, Peter D. Protopapas, is the ..... Respondent,

and

AIG Property Casualty Company, formerly known as Birmingham Fire Insurance Company; Lexington Insurance Company; National Union Fire Insurance Company of Pittsburgh, PA; Berkshire Hathaway Specialty Insurance Company, formerly known as Stonewall Insurance Company; Individually and as Successor in interest to Stonewall Surplus Lines Insurance Company; and Continental Insurance Company, individually and as successor in interest to Harbor Insurance Company;

and

Travelers Casualty and Surety Company, f/k/a the Aetna Casualty and Surety Company, are the ..... Appellants.

APPELLANTS' RETURN TO RESPONDENT'S MOTION FOR SANCTIONS

Appellants AIG Property Casualty Company, formerly known as Birmingham Fire Insurance Company; Lexington Insurance Company; National Union Fire Insurance Company of

Pittsburgh, PA; Berkshire Hathaway Specialty Insurance Company, formerly known as Stonewall Insurance Company; and The Continental Insurance Company, individually and as successor in interest to Harbor Insurance Company ("Appellants"), submit this Return in opposition to the Motion for Sanctions filed by Respondent Peter D. Protopapas as court-appointed Receiver (the "Receiver") for Payne & Keller Company ("Payne & Keller").

SUMMARY

This Court has twice rejected the Receiver's arguments that this appeal of the Circuit Court's March 31, 2023 Order, which continued the receivership and the Receiver's claims on behalf of Payne & Keller against Appellants, is not properly before the Court. (Aug. 9, 2023 Order; Sept. 8, 2023 Order). By his motion for sanctions ("Mot."), the Receiver seeks another bite at the apple, asking this Court to sanction Appellants by dismissing their appeal. Thus, the Receiver yet again seeks to avoid this Court's consideration of the merits. But his current request is similarly ill-founded.

The Receiver mainly premises his request for sanctions on the fact that on October 23, 2023, Appellants filed an emergency motion with this Court asking it to clarify its "exclusive jurisdiction" over the subject matter of the appeal under Rule 205, SCACR. Appellants filed that motion after the Circuit Court entered its October 5, 2023 Order ("October 5 Order") addressing and ruling on whether the 1986 dissolution of Payne & Keller could be revoked, even though that same issue is before the Court on this appeal. There was nothing frivolous about Appellants' Rule 205 request, and the Receiver does not even argue to the contrary. The motion was based on the plain text of Rule 205, numerous South Carolina appellate cases applying the rule, and Appellants' view of the facts—that the October 5 Order addressed issues raised in this appeal. Granting

sanctions against Appellants, including the draconian sanction of dismissal immunizing the March 31, 2023 Order from review, would be contrary to, and unprecedented under, South Carolina law.

Nor, in filing their emergency motion, did Appellants "ignor[e]" (Mot. 6) this Court's September 8 ruling that the underlying proceedings are not stayed under Rule 241, as the Receiver also alleges. Whether an appeal stays proceedings under Rule 241 is a different question from whether this Court has exclusive jurisdiction under Rule 205 as to matters affected by the appeal. Although the Court denied Appellants' emergency motion "[a]fter careful consideration," it did so because the October 5 Order is not currently before it, and it did not address whether that order infringed this Court's exclusive jurisdiction.[1] (Nov. 21, 2023 Order).

The Receiver's other accusations in his sanctions motion are also meritless. For example, he contends that Appellants are delaying because they have not yet filed their initial brief. (Mot. 7). But Appellants' brief is not due yet. The Court's Case Management System shows that this case is held in abeyance because Zurich's motion to join this appeal is still pending. Thus, Appellants' initial brief is not yet due. And Appellants intend to seek an even more prompt resolution of this appeal: Appellants intend to file a motion with the Supreme Court to certify this appeal for review, expediting the appellate process.

The Receiver also contends, as a justification for sanctions, that Appellants have "initiat[ed] and coordinat[ed] … legal action in Texas against the Receiver." (Mot. 8). This is false. The Receiver only refers to two legal proceedings in Texas, neither of which Appellants started.

[1] Appellants have asked the Circuit Court to reconsider the October 5 Order. A ruling on that motion would permit Appellants to appeal that order to this Court. Appellants filed the motion on October 16, 2023. On October 25, 2023, the Circuit Court stated that it would be holding that motion in abeyance. (Ex. 1, Oct. 25, 2023 Tr. 56:4-9) ("But I am going to hold in abeyance any ruling on the motion that I reconsider my October order. So it will simply stay there with a pending motion for reconsideration").

In the first case, an asbestos plaintiff sued Payne & Keller, and Payne & Keller's appointed counsel defended. That defense, which the Receiver wanted to forgo, was successful; the plaintiffs dropped the case, thereby eliminating a potential liability for Payne & Keller. In the second, the *Receiver* initiated legal action in Texas by surreptitiously attempting to domesticate the Circuit Court's October 5 Order there, omitting Appellants from the caption of his filing and failing to serve them in the Texas action. When Appellants found out about what the Receiver had done, Appellant National Union intervened in the *Receiver's* action, and merely sought to vacate the domesticated order. According to the Receiver, Appellants should have no right to appeal in South Carolina; Appellants should have no ability to seek to vacate the domestication of the October 5 Order in Texas; and he should be permitted to avoid any review on the merits in either state. The Court should reject the Receiver's position and deny the motion for sanctions.

ARGUMENT

Rule 269, SCACR, only permits sanctions when "an appeal, petition, motion or return is frivolous or taken solely for the purposes of delay, or is not in compliance with these Rules ...." Rule 269 sanctions of any sort—especially dismissing an appeal—are exceedingly rare. Zero reported decisions expressly impose Rule 269 sanctions. The Receiver has made no showing of any conduct by Appellants that would justify the draconian sanction he requests.

I. Appellants' filing of a single, expedited motion seeking to apply Rule 205 is not conduct that could justify the sanction of dismissal of the appeal.

Rule 269 is not a tool for penalizing a party that files a good-faith request for relief. It applies in rare and extreme cases not remotely similar to these circumstances. For example, applying its predecessor rule, the Supreme Court warned a pro se litigant who submitted sixty-four prior frivolous petitions that his continued actions could result in sanctions. *In re Maxon*, 325 S.C. 3, 4-5, 478 S.E.2d 679, 679-80 (1996) ("Petitioner, an inmate, has submitted sixty-four *pro se*

petitions over the past three years, including forty-six so far this year . . . Each petition submitted by petitioner has been frivolous and dismissed . . .. Petitioner is warned that should he continue . . . he may be held in contempt or sanctioned under Rule 240, SCACR"). Even in the face of sixty-four frivolous petitions, the Supreme Court merely required the petitioner to submit an affidavit with future petitions verifying that he believed in good faith that they were non-frivolous, but imposed no other sanctions. *Id.*

Whatever it may take to justify sanctions under Rule 269, Appellants' single motion to clarify does not qualify. The Receiver has made no showing that the motion was frivolous, interposed for purpose of delay, or not in compliance with the Rules. And the Receiver is seeking a sanction—dismissal of the appeal—that is disproportionate even to his baseless accusations.

A. Even though Appellants' Rule 205 motion was denied, it was filed in good faith and well supported.

Appellants are not seeking to relitigate the denial of their motion to clarify by describing here the reasons their motion was not frivolous. In summary, however, Appellants relied in their emergency motion on the plain language of Rule 205 and at least four published appellate decisions applying Rule 205, all of which supported their reading of the rule. Appellants still believe that the October 5 Order infringed on the exclusive jurisdiction of this Court under Rule 205 because that Order involved matters affected by this appeal. The Court, to be sure, denied Appellants' motion to clarify, but it expressly did so because the October 5 Order is not currently on appeal. (Nov. 21, 2023 Order). It did not address whether Appellants were correct on the Rule 205 issue. *Id.*

Nor did this Court's September 8, 2023 order granting the Receiver's motion to clarify resolve the merits of the Rule 205 issue. In *his* motion to clarify, the Receiver merely asked this Court for a declaration that this appeal did not stay the receivership action under Rule 241. (Receiver's Motion to Clarify, Aug. 23, 2023, pp. 4-5). He did not ask this Court to confirm that

the Circuit Court could rule on matters "affected by the appeal," and his motion never referenced Rule 205. The Court's September 8, 2023 order merely granted the relief sought by the Receiver, and the Court did not cite Rule 205 or address the scope of its exclusive jurisdiction under that rule. It merely held that the receivership action and the Receiver's ability to carry out his duties were not stayed, citing Rule 62(a), SCRCP and South Carolina Code § 14-3-450, neither of which address exclusive jurisdiction under Rule 205.

Rule 205's mandate that the appellate court has exclusive jurisdiction over matters "affected by the appeal" still applies even when a case is not stayed under Rule 241. In other words, a case can go forward in the Circuit Court as to matters not affected by the appeal, but the matters affected by the appeal are still the exclusive province of the appellate court. As but one example, the order on appeal in *Tillman v. Oakes* was not subject to a stay because it was a "family court order[] regarding a child." 398 S.C. 245, 254, 728 S.E.2d 45, 50 (Ct. App. 2012) (citing Rule 241(b)(6), SCACR). But even without a stay, then-Chief Judge Few recognized that Rule 205 would still preclude the family court from issuing orders on matters affected by the appeal. *Id.*; *see also Stokes-Craven Holding Corp. v. Robinson*, 416 S.C. 517, 787 S.E.2d 482 (2016) (Rule 205's "exclusive jurisdiction" precluded a subsequent malpractice case against the appealing party's attorney because it involved matters "affected by the appeal").

Moreover, Appellants moved to clarify after the Receiver, Plaintiff Lenora Childers, and the Circuit Court took actions conflicting with this Court's exclusive jurisdiction over this appeal. First, Childers filed a motion asking the Circuit Court to revoke Payne & Keller's 1986 dissolution. That motion addressed the same issues as are pending before this Court: (i) whether Payne & Keller's 1986 dissolution bars all claims by or against it, including the Receiver's and Childers' claims below; (ii) whether a South Carolina court may issue rulings on the corporate status of a

Texas company; and (iii) whether Payne & Keller's dissolution could be revoked under a Texas law enacted decades later, despite the Texas Constitution's clear prohibition on retroactively applying laws that revive claims. The Circuit Court then entered its October 5 Order, ruling on those issues and revoking Payne & Keller's dissolution. The Receiver took the October 5 Order to Texas, attempted to domesticate it, and even delivered it to the Texas Secretary of State, all without notice to Appellants, who had opposed the Order. He only notified Appellants of these events a week later, through a filing in South Carolina. In the face of this conduct, Appellants' motion to enforce this Court's exclusive jurisdiction was hardly frivolous or worthy of sanction.

Finally, the Receiver makes a passing accusation that a "Motion to Clarify" is improper because it serves as a motion to reconsider in violation of Rule 221(c), SCACR. But it was the *Receiver himself* who first filed a Motion to Clarify in this appeal, after the Court denied his request to dismiss the appeal. In this posture, the Receiver cannot assert that Appellants violated the rules and should be sanctioned because they filed a similar motion to clarify. In fact, this Court's November 21, 2023 Order advises <u>all</u> parties that it would not entertain any more motions to clarify: "Moreover, further 'motions to clarify' filed by <u>any party</u> may not be considered by this court." (Nov. 21, 2023 Order) (emphasis added). Appellants will follow the Court's direction and expect that the Receiver will do the same.

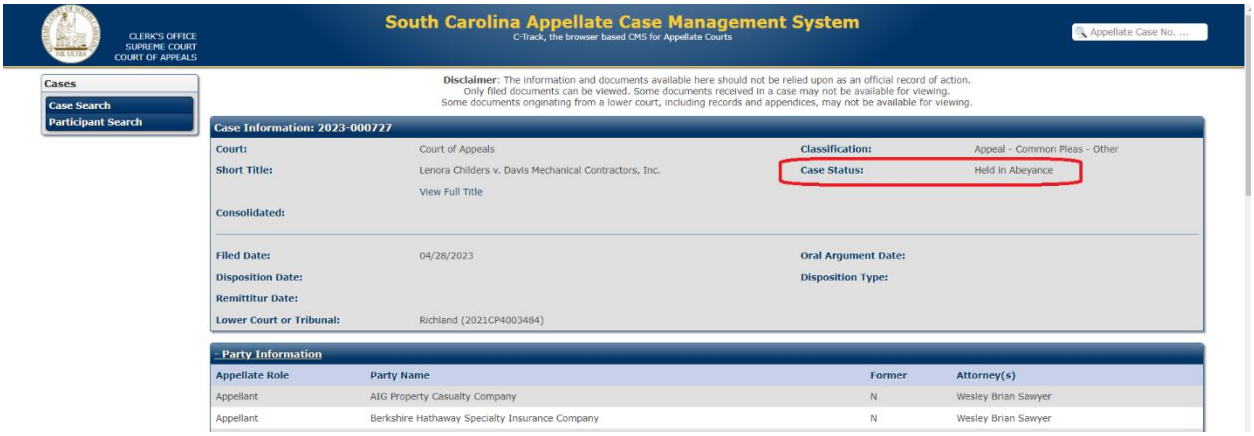
B. Appellants eagerly anticipate presenting their appeal on the merits, and they have no interest in delay.

The Receiver repeatedly accuses Appellants of "dilatory tactics" and seeking to "delay" the case. (Mot. pp. 2-3, 7-8, 12-13, 18). To the contrary, Appellants want the issues on appeal to be dealt with expeditiously. Appellants asked this Court to address the Rule 205 Motion on an expedited basis: "Appellants also respectfully request that the Court grant this motion on an expedited basis so that the parties, this Court, and the circuit court can proceed with certainty as

quickly and efficiently as possible." (Rule 205 Motion, p. 15). In the face of this express request for an expedited ruling, the Receiver's accusations of delay are unfounded.

Appellants are also taking additional steps to expedite the final resolution of this appeal. Appellants expect to move to certify this appeal in the Supreme Court under Rule 204, SCACR. If the Supreme Court grants certification, this appeal will be heard and resolved in the Supreme Court, greatly expediting the matter. Given the Receiver's expressed interest in a speedy resolution of this appeal, Appellants suggest that the Receiver should accede to this request.

The Receiver also appears to accuse Appellants of failing to timely file their initial briefs. (Mot. 7). But no briefs are due. A simple review of the Court's Appellate Case Management System ("C-Track") confirms this:



(https://ctrack.sccourts.org/public/caseView.do?csIID=78460). Appellants understand that the case is in abeyance while the Court continues to consider Zurich's Motion to Join the appeal. But Appellants stand ready to file their briefs once that issue has been resolved, or earlier if ordered by the Court.

The Receiver also appears to assert that requesting two extensions of time to file an initial brief is the sort of undue delay that justifies imposing sanctions. (Mot. 7). If that were the case,

then this Court would issue sanctions in a slew of cases. As this Court knows, it is not at all uncommon for parties to seek two extensions of time for initial briefs.

II. The Receiver's name-calling and accusations are ill-founded, inaccurate, and irrelevant to Appellants.

A. Appellants did not institute any action in Texas; they merely defended a Texas lawsuit tendered to Appellants and sought to vacate an order that the Receiver domesticated in Texas without notice to them.

The Receiver hyperbolically and falsely argues that Appellants have made a "spurious affront to the South Carolina judiciary" by "initiat[ing] legal action in Texas against the Receiver." (Mot. p. 11). The Receiver identifies two legal actions in Texas. Neither was initiated by Appellants.

First, on May 23, 2023, plaintiffs filed an asbestos lawsuit against Payne & Keller. The Receiver tendered that lawsuit to Appellants and requested a full defense of Payne & Keller. National Union, as an alleged primary carrier, agreed to defend that suit without reservation of rights, giving it the right to control the defense under Texas law, and hired Texas defense counsel. Payne & Keller's Texas defense counsel asserted the defense that it was dissolved in 1986 and thus under Texas law, all claims against it were barred as of 1989.[2] *And the dissolution defense worked*—the plaintiffs non-suited their case soon after, on September 1, 2023. National Union's appointment of defense lawyers to defend a case in Texas—successfully—cannot be ground for sanctions under Rule 269, especially where none of the conduct occurred in this Court.

Second, after the Circuit Court issued the October 5 Order in derogation of this Court's exclusive jurisdiction, the Receiver then raced to Texas to domesticate the October 5 Order even

[2] The Receiver asserted that it was improper for the Texas lawyers to interpose this defense—and sued them in South Carolina for doing so—even though Payne & Keller's South Carolina lawyers have asserted the same defense to Childers' claims against it, and even though the defense relied on Texas law and was asserted in a Texas case.

though this appeal was still pending in South Carolina and the time for a motion to reconsider had not yet passed. This action by the Receiver is remarkable, since Childers, the party seeking to impose liability on Payne & Keller below, is the one who obtained the Order, and yet the Receiver—whose charge is to protect Payne & Keller's interests—is the one who sought to domesticate the Order in Texas.[3] Moreover, even though Appellants are parties in the South Carolina action and actively opposed the motion that led to the October 5 Order, and the Receiver was aware of Appellants' interest in the outcome of that motion, he did not serve Appellants when he acted to domesticate the order. Instead, he filed the order and obtained a clerical domestication of it, took that to the Texas Secretary of State, and got the Texas Secretary of State to issue a certificate of revocation of Payne & Keller's dissolution based on it—all in one day and all without any notice to Appellants. When Appellants learned of these actions, they had to take timely action in Texas to seek to vacate the domestication of the October 5 Order in Texas. Appellants cannot be punished for responding to actions the Receiver took in Texas.[4]

B. The Receiver's catalog of past appeals filed by <u>other</u> insurers in <u>other</u> cases cannot justify sanctions against Appellants.

The rest of the Receiver's motion for sanctions is devoted to attacks on an undefined group of "legacy insurers" for objecting to and appealing various actions by the Circuit Court. He even includes a laundry list of 28 other appellate rulings in cases emerging from the Circuit Court. (Mot. 14-15). ***But Appellants were not parties to any of those appellate rulings.***

[3] The Receiver may contend that the Circuit Court directed him to do this, but the October 5 Order gives no instructions to the Receiver.

[4] The Receiver cites the *Barton* doctrine, but that federal court doctrine is not at issue in this appeal, and in any event, it has no bearing on Appellants' participation in an action that the *Receiver* filed in another state court.

The Receiver also cites an unpublished decision in a prior matter to which Appellants were not parties. (Mot. for Sanctions, pp. 13-14) (citing Appellate Case No. 2023-001096). This citation violates the Appellate Court Rules. *See* Rule 268(d)(2) ("Memorandum opinions and unpublished orders have no precedential value and should not be cited except in proceedings in which they are directly involved."). A warning from the Supreme Court in another case—in an unpublished order no-less—is not even citable, much less imputable to Appellants here. Simply put, Rule 269 does not permit sanctions against one party for another party's conduct.[5]

Aside from their Notice of Appeal—which this Court has ruled is proper—Appellants have filed only one motion in this Court seeking a legal ruling: their Rule 205 motion.[6] Appellants' noticing of a proper appeal, and their motion asking this Court to enforce its exclusive jurisdiction over the subject matter of that appeal, were not frivolous or undertaken for purposes of delay, and other actions by other parties do not support the Receiver's request for dismissal.

CONCLUSION

For the above-stated reasons, the Receiver's Motion for Sanctions should be denied. Sanctions under Rule 269 are incredibly rare—there is not a single published decision in which the court imposed sanctions, much less the draconian sanction of dismissal of an appeal. There is no basis for imposing them here.

[5] The Receiver's list is suspect for other reasons. He includes multiple examples where appeals appear to have been withdrawn as part of settlements. A settlement does not show that an appeal was frivolous. The Receiver also double-counts multiple appeals, listing rulings by this Court and subsequent rulings on the same issue by the Supreme Court.

[6] Appellants have also filed two routine motions for extension of time to file their Initial Brief, but such motions are neither "serial" nor improper.

Respectfully submitted,

MURPHY & GRANTLAND, P.A.

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December 18, 2023

HEARING

LENORA CHILDERS

v. 2021-CP-40-03484

DAVIS MECHANICAL CONTRACTORS, INC., ET AL.

*** UNOFFICIAL DAILY COPY TRANSCRIPT ***

BEFORE THE HONORABLE
CHIEF JUSTICE (RET.) JEAN TOAL

DATE TAKEN: Wednesday, October 25, 2023

TIME START: 10:49 a.m.

TIME END: 11:49 a.m.

LOCATION: Richland County Judicial Center
1701 Main Street
Columbia, South Carolina

REPORTED BY: Cindy A. Hayden, RMR-CRR
EveryWord, Inc.

EXHIBIT 1

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(Appearances continued on next page.)

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P R O C E E D I N G S

* * *

THE COURT: We're going to do a status on Childers. All right. So let's do that before we take a break and then go to Tibbs. All right?

This is the Payne & Keller situation. And basically, what I understand that I have in Payne & Keller is two filings, one by Mr. Wes Sawyer and one by Mr. Todd Carroll, in which -- the case of which they say: You were too restrictive about signing your order. We want you to reopen this matter. And we also think since we've appealed certain things, that you don't have any status to do anything.

So that's kind of where we stand now. And I received Mr. Sawyer's filing first. So the order of things is this: I will first turn to Mr. Sawyer and ask him to present, and then I will turn to Mr. Carroll. And, Mr. Robinson, I will then turn to you to answer both of them rather than to take them up separately. Is that okay?

And they're going to continue putting these things in front of you and perhaps in front of other judges, because there are other judges hearing receiverships now. And we -- and we're seeing some of those things. We've had federal courts and state courts hearing receiverships.

They're going to continue pressing. Despite the fact the Court of Appeals says it is not stayed, they're going to file it in every single case. They've done it. They've started this week, that it's stayed because of 205; it's stayed because there's an appeal.

The Court of Appeals says, no, it's not. The carrier says, yes, it is. And you're placed in the position of deciding who to follow.

THE COURT: Well, here's what I'm going to do: What I've got in front of me is a motion for reconsideration of my October 5th order and a complimentary copy, I guess you could say, of the motion -- the emergency motion to the Court of Appeals.

I am going to do something I rarely do

in these cases, which is I am going to hold in abeyance any ruling on the motion for reconsideration.

Normally, I rule on these things promptly. But I am going to hold in abeyance any ruling on the motion that I reconsider my October order. So it will simply stay there with a pending motion for reconsideration.

And I, frankly, do that for two reasons. Number one, it gives me the ability to see what else might need to be done after we see what the Court of Appeals does on the merits of this matter.

But the other thing, quite frankly, it does, is to keep this thing in stasis and I have yet one more appeal go up on this, unless the parties plan to appeal my announcement that I am going to stay any further consideration of this matter for the present time. So I don't know what they'll do about that.

But I am going to defer ruling on the matter until we get further briefing and further activity from the Court of Appeals

MS. O'NEILL: A different -- one of the other agendas had a different order. I just wanted to know --

THE COURT: It did, and we revised it later on --

MS. O'NEILL: Understood.

THE COURT: -- after we got everybody's stuff in. I mean, does that suit?

MR. CARROLL: Yes, Your Honor.

MR. PUSH: Yes, ma'am.

MS. O'NEILL: Yes. Yes, ma'am. I just wanted to know which order.

THE COURT: Okay. That's the order.

MS. O'NEILL: Thank you.

THE COURT: All right. The court will be in recess.

* * *

(Whereupon, there was a luncheon recess in the proceedings from 11:49 a.m. to 1:30 p.m.)

CERTIFICATE OF REPORTER

I, Cindy A. Hayden, Registered Merit Reporter and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing proceedings were taken before me on the date and at the time and location stated on Page 1 of this transcript; that the foregoing proceedings as typed is a true, accurate and complete record of the proceedings to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof. Witness my hand, this 26th of October, 2023.

Cindy A. Hayden,
Registered Merit Reporter
Notary Public
State of South Carolina at Large
My Commission expires:
July 27, 2030

PROOF OF SERVICE

I, the undersigned of the law offices of Murphy & Grantland PA, attorneys for Appellants, do hereby certify that I have served all parties to this appeal with a copy of the pleading(s) specified below by emailing them to the addresses below:

Pleading(s): Appellants' Return to Respondents' Motion for Sanctions

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December 18, 2023