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April 10, 2024

RECEIVED
Apr 10 2024
SC Court of Appeals

VIA Email

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

**RE: John A. Tibbs and Margaret B. Tibbs v. 3M Company, et al.
Appellate Case No. 2023-002006, 2023-002007, 2023-002007, 2023-
002008, 2023-002009, 2023002010, 2023-002011
Our File No. 0100-0303**

Dear Ms. Kitchings:

I represent Respondent Peter D. Protopapas, in his capacity as the court-appointed Receiver for Cape PLC, individually and as successor in interest to Cape Asbestos Company Limited, n/k/a Cape Intermediate Holdings Ltd. in the above-referenced appeals. The Receiver is in receipt of Appellants' recent requests for a 10-day extension of time to file their returns to the Receiver's April 1, 2024 Motion to Dismiss the interlocutory appeals from a discovery order. While the Receiver is aware the Court routinely grants extension requests in appellate matters, the Receiver respectfully objects to these requests for an extension as an attempt to further delay the case.

In light of the multiple requests for extension, Appellants' continued position that the receivership court and the Receiver are without authority to proceed during the pending appeals, and Appellants' refusal to recognize the Supreme Court's recent disposition of the appealability of orders denying motions to dismiss and dissolve receiverships, the Receiver is providing the enclosed information for the Court's consideration in connection with the extension requests.

Please let me know if anything further is needed.

Sincerely,

Jonathan M. Robinson

A handwritten signature in blue ink, consisting of a large, stylized loop followed by a long, sweeping horizontal stroke that extends to the right.

JMR/dlf
Enclosures

cc: All counsel of record

A. VICTOR RAWL, JR.
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April 1, 2024

VIA E-MAIL

Mr. Jonathan M. Robinson, Esquire
Smith Robinson
2530 Devine Street
Columbia, SC 29205
jon.robinson@smithrobinsonlaw.com

Re: *Tibbs/Cape* – Appeals – Charter Defendants Response to March 28, 2024 Letter

Dear Jon:

I hope you are doing well. I represent third-party defendants Charter Consolidated Ltd., ESAB Corporation, and Central Mining and Investment Corporation Ltd (together, the “Appellants”), concerning appeals pending in *Tibbs/Cape PLC*. I am in receipt of your letter dated March 28, 2024, which appears to demand that all parties challenging the propriety of the appointment of Mr. Protopapas as the receiver for several different active UK and Canadian corporations (“the Receiver”) immediately dismiss all appeals. Appellants respectfully decline to voluntarily dismiss their appeals.

The Receiver’s demand appears to be based on the Supreme Court order of March 27, 2024 (“Order”), which the Receiver suggests confirms that the appeals are somehow improper. However, the Order consists of a single sentence that provides no explanation of the ruling, no analysis of South Carolina Code § 14-3-330(4), and no explanation as to why that statute would be inapplicable to the appeals at issue. Moreover, the Receiver offers no analysis or argument of any kind as to how or why the Order would apply to appeals in other matters and/or why the Order would require dismissal of all pending appeals against the Receiver. Based on the plain language of South Carolina Code § 14-3-330(4) (as well as other reasons), the orders at issue in these other appeals are immediately appealable.

Further, the parties to the *Payne & Keller* appeal have a period of time under the Appellate Court Rules to seek clarification of the Order. Until the time to request rehearing has expired, there does not appear to be any reason for parties in other cases to voluntarily withdraw their respective appeals, especially as the consequences of doing so would be highly prejudicial. In addition, the *Payne & Keller* appeal contains issues that are materially different than the appeals at issue. After the time has run for rehearing, Appellants would be happy to consider any argument by the Receiver as to how the present appeals may be impacted by the final resolution of the *Payne & Keller* appeal.

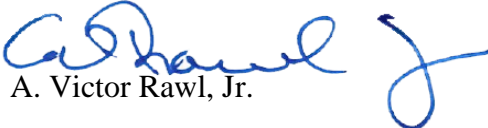
April 1, 2024
Page 2

Finally, in addition to the above, Appellants adopt and incorporate by reference all arguments presented in response to your letter by the other recipients, and Appellants do not waive any of their objections or positions by responding to your letter.

As always, I am happy to discuss the above.

Sincerely,

GORDON REES SCULLY MANSUKHANI, LLP


A. Victor Rawl, Jr.

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,)	
)	
v.)	
)	
3M COMPANY, <i>et al.</i> ,)	
)	
Defendants.)	
)	
*****)	
	)	THIRD-PARTY DEFENDANTS
CAPE PLC, individually and as successor in	)	CHARTER CONSOLIDATED LTD.,
interest to CAPE ASBESTOS COMPANY	)	ESAB CORPORATION, AND
LIMITED, by and through its duly appointed	)	CENTRAL MINING AND
Receiver Peter D. Protopapas,	)	INVESTMENT CORPORATION
	)	LTD.’S RESPONSES AND
Third-Party Plaintiff,	)	OBJECTIONS TO RECEIVER’S
	)	FIRST SET OF REQUESTS FOR
v.	)	AUTHENTICITY OF RECORDS
	)	(S.C. CODE ANN. § 19-1-60)
)	
ANGLO AMERICAN PLCS, <i>et al.</i> ,)	
	)	[SERVED SUBJECT TO AND
Third-Party Defendants.	)	WITHOUT WAIVING PENDING
	)	APPEALS]

Third-Party Defendants Charter Consolidated Ltd., ESAB Corporation, and Central Mining and Investment Corporation Ltd (collectively, the “Charter Defendants” or “Third-Party Defendants”) hereby respond to Third-Party Plaintiff Cape PLC’s First Requests for Authenticity of Records served pursuant to S.C. Code Ann. § 19-1-60 (the “Authenticity Requests”).

By so responding, the Charter Defendants do not waive, but instead specifically preserve, all objections previously made regarding these proceedings through its written motions, oral arguments, memoranda and briefs, responsive pleadings, and appellate filings, including *inter alia*: that the Court lacks personal jurisdiction over each of the Charter Defendants; that the Court lacks subject matter jurisdiction; that the Receiver was improperly appointed; that the Cape PLC

receivership was improperly continued and modified and an entirely new receivership was granted over the separate entity named Cape Intermediate Holdings Limited (“CIHL”); that the Receiver lacks standing; that the Receiver’s claims fail under Rules 12(b) and 14, SCRCPC; and that these proceedings and the claims asserted and relief sought against the Charter Defendants violate their fundamental procedural and substantive constitutional rights and protections.

RESERVATION OF RIGHTS

The Charter Defendants further do not waive, but instead specifically preserve, their right to supplement these objections and serve further objections to any definition, instruction, interrogatory, request for production, or request to admit (including as to authenticity and genuineness of documents) at a later date, including, but not limited to, objections based on the attorney-client, attorney work-product, joint-defense, and common-interest privileges; any other privilege that may be implicated in any way; irrelevance; overbreadth; undue burden and disproportionality; being cumulative and duplicative; scope; vagueness; prematurity; seeking discovery not in the possession, custody, or control of the Charter Defendants; seeking discovery in the possession of other defendants, third-party defendants, and/or non-parties; seeking discovery obtainable with equal or greater facility from other sources; seeking discovery that may be derived or ascertained from documents already within the Receiver’s knowledge, possession, or control; seeking discovery of information that does not exist or no longer exists; seeking discovery regarding alleged events that occurred decades before the Charter Defendants came into existence and/or decades before any of the Charter Defendants had any alleged connection with Cape PLC and/or CIHL; seeking discovery that cannot be disclosed or produced under the laws of foreign jurisdictions; seeking discovery on issues which are not ripe for adjudication; seeking discovery on matters of opinion, legal contentions, or questions of law; and being oppressive and harassing.

REQUESTS FOR AUTHENTICITY
S.C. Code Ann. § 19-1-60

1. Admit the genuineness and authenticity of the document identified as Exhibit 1 to Third-Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 1 of the Third-Party Complaint filed on June 30, 2023.

Response: The Charter Defendants object to this Authenticity Request on the grounds that the Circuit Court lacks jurisdiction, and the Receiver is without authority, to proceed with this matter at the present time, as all issues regarding the purported Receiver's appointment and his purported authority to engage in litigation are presently pending before the South Carolina Court of Appeals. *See* Rule 205, SCACR (providing that "[u]pon the service of the notice of appeal, the appellate court *shall have exclusive jurisdiction* over the appeal" (emphasis added)); *Stokes-Craven Holding Corp. v. McKenzie*, 416 S.C. 517, 534, 787 S.E.2d 485, 494 (2016) (explaining that "Rule 205 divests the lower court or administrative tribunal of jurisdiction over '*matters affected by the appeal*'" (emphasis supplied by the Supreme Court) (quoting *Tillman v. Oakes*, 398 S.C. 245, 255, 728 S.E.2d 45, 51 (Ct. App. 2012))); *Morris v. Morris*, 295 S.C. 37, 40, 367 S.E.2d 24, 26 (1988) ("This Court has exclusive jurisdiction over an appeal upon the service of a Notice of Intent to Appeal."); *Tillman*, 398 S.C. at 255 & n.3, 728 S.E.2d at 51 & n.3 (reiterating that "[u]nder Rule 205, the lower court is deprived of the power to proceed with matters that are affected by the appeal," and explaining that this rule "deprives the lower court of the power to address a particular issue, or 'matter,' during the pendency of the appeal"); *Binkley v. Burry*, 352 S.C. 286, 294, 573 S.E.2d 838, 843 (Ct. App. 2002) ("Once an appeal is filed, the appellate court has exclusive jurisdiction over the matter."); Jean H. Toal, *et al.*, *Appellate Practice in South Carolina* 121 (3d ed. 2016) (confirming that "[t]he appellate court obtains exclusive jurisdiction over the appeal upon service of the notice of appeal"); *see also Tillman*, 398 S.C. at 255, 728

S.E.2d at 51 (“Thus, the existence or nonexistence of a stay under Rule 241 does not control the family 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).”).

On December 6, 2023, the Circuit Court entered its Order Denying Certain Third-Party Defendants’ Motions to Dissolve Receivership and Third-Party Defendants’ Motions to Dismiss for Lack of Personal Jurisdiction (the “December 6 Order”). Thereafter, on December 18 2023, the Charter Defendants perfected their appeal of that December 6 Order. The issues in that appeal include: the propriety of the Cape PLC receivership; the granting, continuation, and modification of the appointment of the Receiver; and whether this Court has personal jurisdiction over the Charter Defendants or other of the Third-Party Defendants.

Should the December 6 Order on Appeal be reversed as to any of these issues, the result would be the Receiver’s third-party action against the Charter Defendants would be dismissed and/or the Receiver would have no power or authority to take any action on behalf of Cape PLC, including pursuing the relief sought in the Receiver’s Third-Party Complaint or engaging in discovery, including through the Authenticity Requests. Accordingly, as a result of the Notice of Appeal filed with the Court of Appeals of South Carolina on December 19, 2023, the Receiver, who acts as an arm of the Court, is likewise unable to act in any matter affected by the currently pending appeal—again, which would include serving and engaging in discovery—until such appeal is decided and remittitur returned. Rule 205, SCACR, mandates this result and provides no exception.

The Charter Defendants further adopt and incorporate herein all other objections and arguments asserted by any of the other Third-Party Defendants in response to the same or similar Authenticity Requests served upon them in this case, as well as set forth in the Charter Defendants': protective Answer to the Third-Party Complaint; protective discovery responses to the Receiver's First Set of Interrogatories and Requests for Production; Memorandum in Opposition to Receiver's Motion to Compel and Cross-Motion for Injunction; Objections to Court Ruling on Motions for Protective Order or Receiver's Motion to Compel (along with the Proposed Order that was submitted jointly by the Charter Defendants and other Third-Party Defendants); and the appellate filings and briefing submitted in response or relation to the December 6 Order on appeal and/or in response or relation to the appeal of the Circuit Court's March 12, 2024 Order Granting Motions to Compel and, in effect, denying the Charter Defendants' Request for Injunction.

Based on the foregoing objections, the Charter Defendants cannot and will not admit or deny this Authenticity Request.

2. Admit the genuineness and authenticity of the document identified as Exhibit 2 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 45 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

3. Admit the genuineness and authenticity of the document identified as Exhibit 3 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraphs 48, 49, and 50 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

4. Admit the genuineness and authenticity of the document identified as Exhibit 4 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraphs 52, 56, and 57 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

5. Admit the genuineness and authenticity of the document identified as Exhibit 5 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraphs 53, 54 and 109 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

6. Admit the genuineness and authenticity of the document identified as Exhibit 6 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 54 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

7. Admit the genuineness and authenticity of the document identified as Exhibit 7 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraphs 55, 57, and 103 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

8. Admit the genuineness and authenticity of the document identified as Exhibit 8 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 55 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

9. Admit the genuineness and authenticity of the document identified as Exhibit 9 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 55 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

10. Admit the genuineness and authenticity of the document identified as Exhibit 10 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraphs 56, 63, and 93 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

11. Admit the genuineness and authenticity of the document identified as Exhibit 11 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 57 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

12. Admit the genuineness and authenticity of the document identified as Exhibit 12 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 57 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

13. Admit the genuineness and authenticity of the document identified as Exhibit 13 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 59 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

14. Admit the genuineness and authenticity of the document identified as Exhibit 14 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 59 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

15. Admit the genuineness and authenticity of the document identified as Exhibit 15 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023,

as referenced in paragraph 59 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

16. Admit the genuineness and authenticity of the document identified as Exhibit 16 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 59 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

17. Admit the genuineness and authenticity of the document identified as Exhibit 17 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 61 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

18. Admit the genuineness and authenticity of the document identified as Exhibit 18 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 61 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

19. Admit the genuineness and authenticity of the document identified as Exhibit 19 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraphs 61, 63, 68, 78, and 103 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

20. Admit the genuineness and authenticity of the document identified as Exhibit 20 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 62 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

21. Admit the genuineness and authenticity of the document identified as Exhibit 21 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraphs 63 and 77 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

22. Admit the genuineness and authenticity of the document identified as Exhibit 22 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 63 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

23. Admit the genuineness and authenticity of the document identified as Exhibit 23 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraphs 63, 95, and 107 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

24. Admit the genuineness and authenticity of the document identified as Exhibit 24 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 70 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

25. Admit the genuineness and authenticity of the document identified as Exhibit 25 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 72 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

26. Admit the genuineness and authenticity of the document identified as Exhibit 26 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 72 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

27. Admit the genuineness and authenticity of the document identified as Exhibit 27 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 72 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

28. Admit the genuineness and authenticity of the document identified as Exhibit 28 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 72 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

29. Admit the genuineness and authenticity of the document identified as Exhibit 29 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraphs 72, 77, and 89 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

30. Admit the genuineness and authenticity of the document identified as Exhibit 30 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 72 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

31. Admit the genuineness and authenticity of the document identified as Exhibit 31 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 72 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

32. Admit the genuineness and authenticity of the document identified as Exhibit 32 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023,

as referenced in paragraph 72 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

33. Admit the genuineness and authenticity of the document identified as Exhibit 33 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 73 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

34. Admit the genuineness and authenticity of the document identified as Exhibit 34 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 73 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

35. Admit the genuineness and authenticity of the document identified as Exhibit 35 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 73 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

36. Admit the genuineness and authenticity of the document identified as Exhibit 36 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 73 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

37. Admit the genuineness and authenticity of the document identified as Exhibit 37 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 73 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

38. Admit the genuineness and authenticity of the document identified as Exhibit 38

to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 75 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

39. Admit the genuineness and authenticity of the document identified as Exhibit 39 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 76 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

40. Admit the genuineness and authenticity of the document identified as Exhibit 40 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 77 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

41. Admit the genuineness and authenticity of the document identified as Exhibit 41 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 77 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

42. Admit the genuineness and authenticity of the document identified as Exhibit 42 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 78 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

43. Admit the genuineness and authenticity of the document identified as Exhibit 43 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 79 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

44. Admit the genuineness and authenticity of the document identified as Exhibit 44 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 79 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

45. Admit the genuineness and authenticity of the document identified as Exhibit 45 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 79 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

46. Admit the genuineness and authenticity of the document identified as Exhibit 46 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 80 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

47. Admit the genuineness and authenticity of the document identified as Exhibit 47 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 80 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

48. Admit the genuineness and authenticity of the document identified as Exhibit 48 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 83 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

49. Admit the genuineness and authenticity of the document identified as Exhibit 49 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 83 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

50. Admit the genuineness and authenticity of the document identified as Exhibit 50 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 83 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

51. Admit the genuineness and authenticity of the document identified as Exhibit 51 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 85 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

52. Admit the genuineness and authenticity of the document identified as Exhibit 52 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 85 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

53. Admit the genuineness and authenticity of the document identified as Exhibit 53 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 89 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

54. Admit the genuineness and authenticity of the document identified as Exhibit 54 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 89 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

55. Admit the genuineness and authenticity of the document identified as Exhibit 55 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023,

as referenced in paragraph 89 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

56. Admit the genuineness and authenticity of the document identified as Exhibit 56 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 89 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

57. Admit the genuineness and authenticity of the document identified as Exhibit 57 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 89 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

58. Admit the genuineness and authenticity of the document identified as Exhibit 58 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 89 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

59. Admit the genuineness and authenticity of the document identified as Exhibit 59 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 90 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

60. Admit the genuineness and authenticity of the document identified as Exhibit 60 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 91 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

61. Admit the genuineness and authenticity of the document identified as Exhibit 61 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraphs 91 and 96 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

62. Admit the genuineness and authenticity of the document identified as Exhibit 62 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraphs 41 and 92 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

63. Admit the genuineness and authenticity of the document identified as Exhibit 63 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 93 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

64. Admit the genuineness and authenticity of the document identified as Exhibit 64 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 94 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

65. Admit the genuineness and authenticity of the document identified as Exhibit 65 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 94 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

66. Admit the genuineness and authenticity of the document identified as Exhibit 66 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 94 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

67. Admit the genuineness and authenticity of the document identified as Exhibit 67 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 95 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

68. Admit the genuineness and authenticity of the document identified as Exhibit 68 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 96 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

69. Admit the genuineness and authenticity of the document identified as Exhibit 69 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 96 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

70. Admit the genuineness and authenticity of the document identified as Exhibit 70 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 97 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

71. Admit the genuineness and authenticity of the document identified as Exhibit 71 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 97 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

72. Admit the genuineness and authenticity of the document identified as Exhibit 72 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023,

as referenced in paragraph 97 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

73. Admit the genuineness and authenticity of the document identified as Exhibit 73 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 98 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

74. Admit the genuineness and authenticity of the document identified as Exhibit 74 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 99 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

75. Admit the genuineness and authenticity of the document identified as Exhibit 75 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 99 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

76. Admit the genuineness and authenticity of the document identified as Exhibit 76 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 100 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

77. Admit the genuineness and authenticity of the document identified as Exhibit 77 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 101 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

78. Admit the genuineness and authenticity of the document identified as Exhibit 78

to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 102 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

79. Admit the genuineness and authenticity of the document identified as Exhibit 79 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 102 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

80. Admit the genuineness and authenticity of the document identified as Exhibit 80 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 103 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

81. Admit the genuineness and authenticity of the document identified as Exhibit 81 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraphs 106 and 109 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

82. Admit the genuineness and authenticity of the document identified as Exhibit 82 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 107 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

83. Admit the genuineness and authenticity of the document identified as Exhibit 83 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 110 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

84. Admit the genuineness and authenticity of the document identified as Exhibit 84 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 110 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

85. Admit the genuineness and authenticity of the document identified as Exhibit 85 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 110 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

86. Admit the genuineness and authenticity of the document identified as Exhibit 86 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023, as referenced in paragraph 111 of the Third-Party Complaint filed on June 30, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

87. Admit the genuineness and authenticity of the document identified as Exhibit 87 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

88. Admit the genuineness and authenticity of the document identified as Exhibit 88 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

89. Admit the genuineness and authenticity of the document identified as Exhibit 89 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

90. Admit the genuineness and authenticity of the document identified as Exhibit 90 to Third- Party Plaintiff's Omnibus Opposition to Motions to Dissolve filed on October 18, 2023.

Response: Please see Response to Authenticity Request # 1 and Reservation of Rights.

GORDON REES SCULLY MANSUKHANI, LLP

BY: /s/ A. Victor Rawl, Jr.
A. Victor Rawl, Jr. (SC 09261)
Email: vrawl@grsm.com
677 King Street, Suite 450
Charleston, SC 29403
Telephone: 843-714-2501

*Attorneys for Third-Party Defendants Charter
Consolidated Ltd., ESAB Corporation, and Central
Mining and Investment Corporation Ltd*

March 29, 2024

CERTIFICATE OF SERVICE

I, the undersigned of GORDON REES SCULLY MANSUKHANI, LLP, attorneys for *Third-Party Defendants Defendants Charter Consolidated Ltd., ESAB Corporation, and Central Mining and Investment Corporation Ltd.*, do hereby certify that I have served the below-listed parties, through their counsel, with a copy of Third-Party Defendants A Defendants Charter Consolidated Ltd., ESAB Corporation, and Central Mining and Investment Corporation Ltd.'s Responses and Objections to Receiver's First Set of Requests for Authenticity of Records (S.C. Code Ann. § 19-1-60) by emailing them at the addresses below:

Parties Served:

John T. Lay, Jr. (jlay@gwblawfirm.com)
Gray T. Culbreath (gculbreath@gwblawfirm.com)
Lindsay A. Joyner (ljoyner@gwblawfirm.com)
Laura W. Jordan (ljordan@gwblawfirm.com)
Eleanor L. Jones (ejones@gwblawfirm.com)
Jonathan M. Robinson (jon@smithrobinsonlaw.com)
Shanon N. Peake (shanonp@smithrobinsonlaw.com)
G. Murrell Smith, Jr. (murrell@smithrobinsonlaw.com)
Troy S. Brown (troy.brown@morganlawis.com)
Dana E. Becker (dana.becker@morganlewis.com)
Brady Edwards (brady.edwards@morganlewis.com)
Robert W. Jacques (robert.jacques@morganlewis.com)
Paul A. Scudato (paul.scudato@morganlewis.com)\

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Kevin A. Hall (kevin.hall@wbd-us.com)
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Benjamin C. Rubinstein (benjamin.rubinstein@hsf.com)
Maxwell D. Herman (maxwell.herman@hsf.com)

Counsel for the AA/DB Non-US Third-Party Defendants

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Benjamin P. Carlton (bcarlton@richardsonplowden.com)

Counsel for Third-Party Defendants ArranCo US, LLC; Hawk Bidco (US) Inc.; and Sparrows Offshore, LLC

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Kevin W. Paul (kpaul@dobslegal.com)
David Christopher Humen (dhumen@dobslegal.com)

Attorneys for Plaintiffs

By: /s/ A. Victor Rawl, Jr.

March 29, 2024

M. Todd Carroll
Direct Dial: 803.454.7730
Direct Fax: 803.381.9130
E-mail: todd.carroll@wbd-us.com

April 1, 2024

Via Electronic Mail Only

Mr. Jon Robinson
jon.robinson@smithrobinsonlaw.com

Re: Your Letter of March 28, 2024

Dear Jon:

We write on behalf of Mohed Altrad and Altrad Investment Authority in response to your letter of March 28, 2024, in which the Receiver again threatens to seek sanctions if numerous parties do not voluntarily withdraw legitimate appeals. Respectfully, our clients disagree with several aspects of the Receiver's position as set forth in your correspondence. In addition to the below, our clients adopt and incorporate by reference all arguments presented by the other recipients in response to your letter, and our clients do not waive any of their objections or positions by responding to your letter.

Primarily, the Supreme Court order of March 27th contains no information, discussion, or analysis as to why the order on appeal in that case is not immediately appealable. Based on the plain language of South Carolina Code § 14-3-330(4), the order at issue in this case is immediately appealable. Notably, the Receiver has never contended otherwise, and the Supreme Court's March 27th order did not explain how that statute is inapplicable here. The parties to the Payne & Keller appeal have a period of time under the Appellate Court Rules to seek clarification of the Supreme Court's March 27th order, and until that time has expired, there does not appear to be any reason for other parties in other cases to voluntarily withdraw their respective appeals, as the consequences of doing so would be highly prejudicial.

Likewise, the issues raised in our clients' appeals are materially different from those presented in the Payne & Keller matter. Without further explanation from the Receiver as to how the order in the Payne & Keller case can extend to other appeals that involve appealable issues different than those presented in Payne & Keller, our clients cannot agree to the voluntary withdrawal of any appeals.

Finally, we do not appreciate your client's continued threats of sanctions. They are baseless. Your client knows fully that our clients are pursuing legitimate legal positions; each and every argument our clients have presented in every case adverse to your client—regarding the merits, the procedure, the unconstitutionality of the proceedings, or otherwise—has been

supported by on-point statutes, cases, rules, or some combination thereof. The continuous threat of sanctions against our clients if they do not simply submit to the Receiver's demands borders on the frivolous and is not a legitimate litigation tactic.

Respectfully,

/s/ M. Todd Carroll

cc: Counsel of Record

SMITH ROBINSON

Forward thinking. Results driven.

Smith Robinson Holler DuBose and Morgan, LLC

COLUMBIA 2530 Devine Street, Columbia, SC 29205
P: 803.254.5445 F: 803.254.5007

SUMTER 126 N. Main Street, Sumter, SC 29151
P: 803.778.2471 F: 803.778.1643

CAMDEN 935 Broad Street, Camden, SC 29020
P: 803.432.1992 F: 803.432.0784

March 28, 2024

VIA Email Only:

Mr. A. Victor Rawl, Jr.
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vrawl@grsm.com

Mr. James H. Elliott, Jr.
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Mr. Stephen L. Brown
Clement Rivers, LLC
PO Box 993
Charleston, SC 29402
sbrown@ycrlaw.com

Dear Vic, Todd, James, Steven, and Stephen:

I am writing to advise that the Supreme Court confirmed yesterday, in an Order signed by all 5 justices (attached), that issues raised in your appeal are not immediately appealable. Additionally, the Court vacated a Court of Appeals decision denying sanctions against the parties and attorneys who have, after multiple warnings from the appellate courts, pursued these interlocutory and/or improper appeals. These issues are now back before the circuit court.

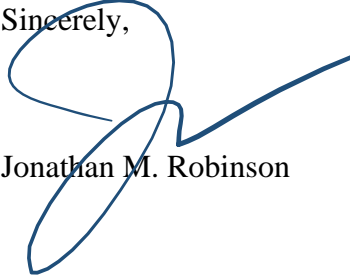
As you are aware, in the last 4 months you have collectively filed 16 appeals in the following cases:

1. Appellate Case No. 2023-002006
2. Appellate Case No. 2023-002007

3. Appellate Case No. 2023-002008
4. Appellate Case No. 2023-002009
5. Appellate Case No. 2023-002010
6. Appellate Case No. 2023-002011
7. Appellate Case No. 2024-000342
8. Appellate Case No. 2024-000348
9. Appellate Case No. 2024-000337
10. Appellate Case No. 2024-000341
11. Appellate Case No. 2024-002006 (second notice of appeal filed 3/19/2024)
12. Appellate Case No. 2024-002007 (second notice of appeal filed 3/19/2024)
13. Appellate Case Nos. 2024-002009, -002010, -002011 (second notice of appeal filed 3/19/2024)
14. Appellate Case No. 2024-_____ (notice of appeal filed 3/28/2024 in *Mitchell*)
15. Appellate Case No. 2024-_____ (notice of appeal filed 3/28/2024 in *Welch*)
16. Appellate Case No. 2024-_____ (notice of appeal filed 3/28/2024 in *Welch*)

As a courtesy, we are requesting you withdraw the improper appeals on or before close of business Monday, April 1, 2024. Please consider this notice a Rule 11 communication to the extent any such notice is required.

Sincerely,



Jonathan M. Robinson

JMR/dlf
Enclosure

The Supreme Court of South Carolina

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. Deans 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.; and Payne &
Keller Company, 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 All American General Insurance
Company, and Maryland Casualty Company); Allstate
Insurance Company; John Tighe; Sean Antony 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; 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, LLC; Rexel USA, Inc.; and Compass Risk Services, LLC, 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 f/k/a 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

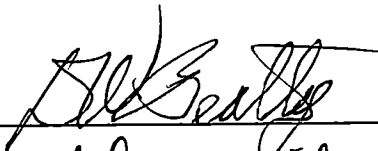
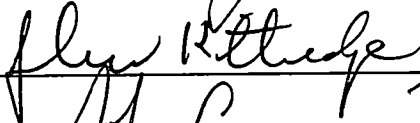
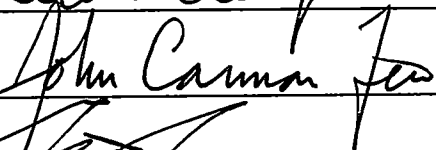


Casualty and Surety Company, are Appellants.

Appellate Case No. 2024-000005

ORDER

Appellant AIG Property Casualty Company (AIG) has filed a motion for certification of Appellate Case No. 2023-000727 pursuant to Rule 204(b), SCACR. Appellant Travelers Casualty and Surety Company has filed a motion joining AIG's motion for certification.

We grant the motion for certification and motion for joinder, dispense with further briefing, vacate the court of appeals denial of sanctions, and dismiss the appeal because the underlying circuit court order at issue is not immediately appealable.

	C.J.
	J.
	J.
	J.
	J.

Columbia, South Carolina
March 27, 2024

cc:

Wesley Brian Sawyer
Brian Montgomery Barnwell
John Belton White, Jr.
Marghretta Hagood Shisko
Scott Shutte
Christopher Rutledge Jones

G. Murrell Smith, Jr.
Jonathan M. Robinson
Shanon N. Peake
Matthew Todd Carroll
Mary Elizabeth O'Neill
Harry Lee
The Honorable Jenny Abbott Kitchings

A. VICTOR RAWL, JR.
PARTNER
VRAWL@GRSM.COM
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YOUR 50 STATE PARTNER™

ATTORNEYS AT LAW
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CHARLESTON, SC 29401
WWW.GRSM.COM

March 29, 2024

VIA E-MAIL

John T. Lay, Jr., Esq.
Gallivan, White & Boyd, P.A.
1201 Main Street, Suite 1200
PO Box 7368
Columbia, SC 29202
jlay@gwblawfirm.com

Re: *Tibbs/Cape* - First Request for Authenticity of Records to the Charter Defendants
Pursuant to S.C. Code Ann. § 19-1-60

Dear John T:

I hope you are doing well. As you know, I represent third-party defendants Charter Consolidated Ltd., ESAB Corporation, and Central Mining and Investment Corporation Ltd (“Charter Defendants”). I received the Receiver’s First Request for Authenticity of Records to the Charter Defendants Pursuant to S.C. Code Ann. § 19-1-60 on March 25, 2024.

As set forth in prior correspondence, discovery responses, and filings with the Court, the Charter Defendants have made clear and maintained that Rule 205 of the South Carolina Appellate Court Rules prohibits all action by the Circuit Court on any matters affected by a pending appeal. On December 6, 2023, the Circuit Court entered its Order Denying Certain Third-Party Defendants’ Motions to Dissolve Receivership and Third-Party Defendants’ Motions to Dismiss for Lack of Personal Jurisdiction. Thereafter, on December 19 2023, the Charter Defendants perfected their appeal of that December 6 Order. As a result of the Notice of Appeal filed with the Court of Appeals of South Carolina on December 18, 2023, the Receiver, who acts as an arm of the Court, is likewise unable to act in any matter affected by the currently pending appeal until such appeal is decided and remittitur returned. Rule 205, SCACR, mandates this result and provides no exception.

The Charter Defendants have great respect for Chief Justice Toal and understand that she takes a different view of Rule 205. Accordingly, Charter Defendants are attempting to obtain clarity regarding the applicability of Rule 205 through their recently filed a Notice of Appeal with the Court of Appeals and their Initial Brief filed the next day.

Accordingly, for the foregoing reasons asserted in good faith, please be advised that the Charter Defendants are unable to admit the genuineness and authenticity of any of the documents

March 29, 2024

Page 2

referenced or otherwise identified in the First Request for Authenticity of Records to the Charter Defendants Pursuant to S.C. Code Ann. § 19-1-60. Attached are formal Objections and Reservations of Rights as to the Authenticity Requests.

Moreover, the Charter Defendants do not waive and expressly preserve their arguments raised in their previously filed motions to dismiss and motions to dissolve receivership, including, but not limited to, that the Court lacks personal jurisdiction over the Charter Defendants and that all claims against the Charter Defendants should be dismissed with prejudice.

I am happy to discuss any of the above issues. I hope you have a great Easter.

Sincerely,

GORDON REES SCULLY MANSUKHANI, LLP

A handwritten signature in blue ink, appearing to read "A. Victor Rawl, Jr.", is positioned above the printed name.

A. Victor Rawl, Jr.

cc: All Counsel of Record