

# The South Carolina Court of Appeals

Ted Everette Mitchell, individually and as Executor of  
the Estate of Patsy Ann Mitchell, Plaintiff,

v.

3M Company, ABB Inc.; Advance Auto Parts, Inc.; Air  
& Liquid Systems Corporation; Alfa Laval, Inc.;  
Amentum Environment & Energy, Inc.; Ametek, Inc.;  
Anchor/Darling Valve Company; A.O. Smith  
Corporation; Armstrong International, Inc.; Asbestos  
Corporation Limited; Atlas Turner, Inc.; AWT Air  
Company, Inc.; Bahnson, Inc.; Beatty Investments, Inc.;  
Bechtel Investments, Inc.; The Bonitz Company; BW/IP  
Inc.; Cameron International Corporation; Cape PLC;  
Carrier Corporation; Carver Pump Company; Champlain  
Cable Corporation; Cleaver-Brooks, Inc.; Clyde Union  
Inc.; Covil Corporation; Crane Co.; Crane Instrument &  
Sampling, Inc.; Daniel International Corporation; Davis  
Mechanical Contractors, Inc.; Detroit Stoker Company,  
LLC; Ellington Insulation Company, Inc.; Erico  
International Corporation; Fisher Controls International,  
LLC; Flowserve US Inc.; Fluor Constructors  
International; Fluor Constructors International, Inc.;  
Flour Daniel Services Corporation; Fluor Enterprises,  
Inc.; FMC Corporation; Ford Motor Company; Foster  
Wheeler Energy Corporation; Gardner Denver, Inc.;  
General Electric Company; General Parts, Inc.; Genuine  
Parts Company; The Goodyear Tire & Rubber Company;  
The Gorman-Rupp Company; Goulds Pumps,  
Incorporated; Graphic Packaging International, LLC;  
Great Barrier Insulation Co.; Grinnell LLC; Hercules  
LLC; Honeywell International, Inc.; IMO Industries Inc.;  
Industrial Holdings Corporation; International Paper  
Company; ITT LLC; J.&L. Insulation, Inc.; Metropolitan  
Life Insurance Company; Morse Tec LLC; Moyno, Inc.;  
NIBCO Inc.; Paramount Global; Pennsylvania  
Transformer Technology, Inc.; Presnell Insulation Co.,

Inc.; Redco Corporation; Rust Engineering & Construction, Inc.; Rust International Inc.; Saint-Gobain Abrasives, Inc.; Schneider Electric Systems USA, Inc.; Sequoia Ventures Inc.; Service Products, Inc.; The Sherwin-Williams Company; Southern Insulation, Inc.; Spirax Sarco, Inc.; SPX Corporation; Standard Insulation Company of N.C., Inc.; Starr Davis Company, Inc.; Starr Davis Company of S.C., Inc.; Sterling Fluid Systems (USA) LLC; Valves and Controls US, Inc.; Velan Valve Corp.; Viking Pump, Inc.; Vistra Intermediate Company LLC; The William Powell Company; Wind Up, Ltd.; Yuba Heat Transfer LLC; Zurn Industries, LLC, Defendants,

Asbestos Corporation Limited, by and through its duly appointed Receiver, Peter D. Protopapas, Third Party Plaintiff/Respondent,

v.

Century Indemnity Company, as successor to CCI Insurance Company, as successor to Insurance Company of North America; The Continental Insurance Company; Federal Insurance Company; Travelers Casualty and Surety Company f/k/a Aetna Life & Casualty Co., Third Party Defendants,

of which Travelers Casualty and Surety Company f/k/a Aetna Life and Casualty Co., and The Continental Insurance Company are the Appellants.

Appellate Case No. 2024-000341

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ORDER

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This appeal arises out of an order of the circuit court denying Appellants' motions to dismiss and to dissolve the receivership, as well as an order denying Appellants'

motions for protection from discovery. These orders are not immediately appealable. See *Huntley v. Young*, 319 S.C. 559, 560, 462 S.E.2d 860, 861 (1995) (holding the denial of a motion to dismiss under Rule 12(b)(6), SCRCPP, is generally not immediately appealable); *Flavor-Inn, Inc. v. NCNB Nat. Bank of S.C.*, 309 S.C. 508, 513–14, 424 S.E.2d 534, 537 (Ct. App. 1992) ("Ordinarily, a trial court's denial of a motion to strike is not immediately appealable."); *Deskins v. Boltin*, 319 S.C. 356, 461 S.E.2d 395 (1995) (holding the denial of a motion to dismiss based on a lack of subject matter jurisdiction is not immediately appealable); *Mid-State Distrib., Inc. v. Century Imp., Inc.*, 310 S.C. 330, 426 S.E.2d 777 (1993) (holding the denial of a motion to dismiss based on a lack of personal jurisdiction is not immediately appealable); *Childers v. Davis Mech. Contractors, Inc.* (S.C. Sup. Ct. Order dated Mar. 27, 2024) (dismissing as not immediately appealable an order denying appellants' request to dissolve a receivership); *Grosshuesch v. Cramer*, 377 S.C. 12, 30, 659 S.E.2d 112, 122 (2008) ("[D]iscovery orders, in general, are interlocutory and are not immediately appealable because they do not, within the meaning of the appealability statute, involve the merits of the action or affect a substantial right."); *Davis v. Parkview Apartments*, 409 S.C. 266, 280, 762 S.E.2d 535, 543 (2014) ("[T]o challenge the specific rulings of the discovery orders, the normal course is to refuse to comply, suffer contempt, and appeal from the contempt finding."); *Hamm v. S.C. Pub. Serv. Comm'n*, 312 S.C. 238, 241, 439 S.E.2d 852, 853 (1994) (holding discovery orders are interlocutory and not immediately appealable).

Appellant Continental Insurance Company filed a motion to enforce this court's exclusive jurisdiction over this matter. Respondents did not file a return. The motion is denied.

For the foregoing reasons, this appeal is dismissed. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

 C.J.  
FOR THE COURT

Columbia, South Carolina

cc:

**FILED**  
**Apr 12 2024**

Matthew Todd Carroll, Esquire  
Mary Elizabeth O'Neill, Esquire  
Stephen Lynwood Brown, Esquire  
James D. Gandy, III, Esquire  
Brian Montgomery Barnwell, Esquire  
John Kenneth Chandler, Esquire  
Stephen Augustus Griffith, Jr., Esquire  
Austin Tyler Reed, Esquire  
Jonathan M. Robinson, Esquire  
Shanon N. Peake, Esquire  
G. Murrell Smith, Jr., Esquire  
Harry Lee, Esquire  
A. Victor Rawl, Jr., Esquire

**FILED**  
**Apr 12 2024**