

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

SUMTER 126 N. Main Street, Sumter, SC 29151
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CAMDEN 935 Broad Street, Camden, SC 29020
P: 803.432.1992 F: 803.432.0784

April 19, 2024

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 Nos. 2023-002006, 2023-002007, 2023-002008,
2023-002009, 2023-002010, 2023-002011
Our File No. 0100-0303**

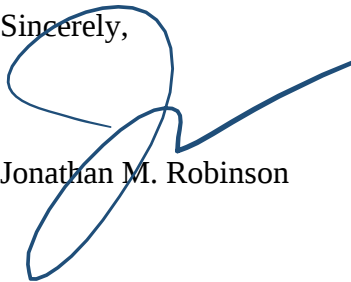
Dear Ms. Kitchings:

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 16, 2024 Motion to Dismiss the interlocutory appeals. 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.

To be sure, it was incumbent upon Appellants to immediately withdraw their interlocutory appeal of the trial court's Order denying a motion to dismiss or dissolve a receivership. The immediate appealability of this issue has been rejected by this court and the South Carolina Supreme Court in multiple orders in just the last week. Rather than adhere to the law and recently confirmed precedent, the Appellants seek to delay the process. 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 and this Court's recent disposition of the appealability of orders denying motions to dismiss and dissolve receiverships, the Receiver objects to the extension requests and is providing the enclosed information for the Court's consideration.

Please let me know if anything further is needed.

Sincerely,

A handwritten signature in blue ink, consisting of a large, stylized 'J' followed by a horizontal line and a small upward flick.

Jonathan M. Robinson

JMR/dlf
Enclosures

cc: Via Email Only:
A. Victor Rawl, Jr.
Matthew Todd Carroll
James H. Elliott, Jr.
Stephen L. Brown
Steven James Pugh

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

Marghretta Hagood Shisko, Esquire
Scott Shutte, Esquire
Christopher Rutledge Jones, Esquire
G. Murrell Smith, Jr., Esquire
Jonathan M. Robinson, Esquire
Shanon N. Peake, Esquire
Matthew Todd Carroll, Esquire
Mary Elizabeth O'Neill, Esquire
Harry Lee, Esquire

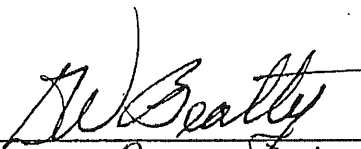
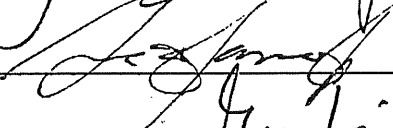
Casualty and Surety Company, are Appellants.

Appellate Case Nos. 2024-000005 and 2023-000727

ORDER

By order dated March 27, 2024, this Court granted Appellants AIG Property Casualty Company's and Travelers Casualty and Surety Company's motions for certification and joinder, dispensed with further briefing, vacated the court of appeals' denial of sanctions, and dismissed the appeal.

Appellants have now filed separate petitions for rehearing of the Court's March 27, 2024 order. Because Appellants have failed to show this Court overlooked or misapprehended any point in the order, the petition for rehearing is denied. *See* Rule 221(a), SCACR (providing a petition for rehearing must state with particularity the points supposed to have been overlooked or misapprehended by the Court).

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

Columbia, South Carolina
April 17, 2023

cc:

Wesley Brian Sawyer, Esquire
Brian Montgomery Barnwell, Esquire
John Belton White, Jr., Esquire

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

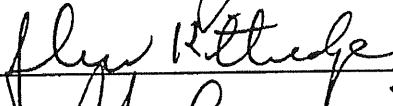
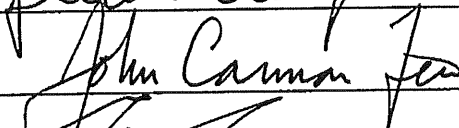
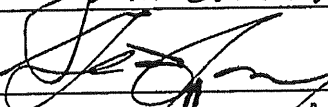
Casualty and Surety Company, are Appellants.

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

The South Carolina Court of Appeals

Michael David Link and Sandra Strickland Link,
Plaintiffs,

v.

3M Company, 4520 Corp., Inc., ABB Inc., Amentum
Environment & Energy, Inc., Armstrong International,
Inc., Bahnson, Inc., Beaty Investments, Inc., Bechtel
Corporation, The Bonitz Company, Brenntag North
America, Inc., Brenntag Specialties, LLC, Carboline
Company, Carrier Corporation, Celanese Corporation,
CNA Holdings, LLC, Cooper Crouse-Hinds, LLC, Covil
Corporation, Daniel International Corporation, Davis
Mechanical Contractors, Inc., Eaton Corporation,
Ellington Insulation Company, Inc., Emerson Electric
Co., Ericsson Inc., Fisher Controls International, LLC,
Flowserve Corporation, Flowserve US, Inc., Fluor
Constructors International, Fluor Constructors
International, Inc., Fluor Daniel Services Corporation,
Fluor Enterprises, Inc., General Cable Corporation,
General Cable Industries, Inc., General Electric
Company, Gould Electronics, Inc., Goulds Pumps,
Incorporated, Graybar Electric Company, Inc., Great
Barrier Insulation Co., Grinnell, LLC, Heat & Frost
Insulation Company, Inc., Henry Pratt Company, LLC,
Howden North America, Inc., ITT, LLC, J & L
Insulation, Inc., K-Mac Services, Inc., Kohler Co.,
Metropolitan Life Insurance Company, Michelin
Corporation, Michelin North America, Inc., Milliken &
Company, Occidental Chemical Corporation, The
Okonite Company, Inc., Paramount Global, PECW
Holding Company, Plastics Engineering Company,
Presnell Insulation Co., Inc., Prysmian Cables and
Systems USA, LLC, Raytheon Technologies
Corporation, Redco Corporation, Riley Power Inc.,
Rockwell Automation, Inc., R.T. Vanderbilt Holding
Company, Inc., Rust Engineering & Construction, Inc.,

Rust International, Inc., Saint-Gobain Abrasives, Inc.,
Schneider Electric USA, Inc., Sequoia Ventures, Inc.,
Siemens Industry, Inc., Southern Insulation, Inc., Spence
Engineering Company, Inc., Spirax Sarco, Inc., SPX
Cooling Technologies, LLC, Standard Insulation
Company of N.C., Inc., Starr Davis Company, Inc., Starr
Davis Company of S.C., Inc., Thermo Electric Company,
Inc., Union Carbide Corporation, Vanderbilt Minerals,
LLC, Viking Pump, Inc., Vistra Intermediate Company,
LLC, Whittaker, Clark & Daniels, Inc., The William
Powell Company, Wind Up, Ltd., York International
Corporation, Zurn Industries, LLC, Defendants,

AND

Heather Donaghy, as Personal Representative of the
Estate of Shirley Smiley Potter, Deceased, Plaintiffs,

v.

3M Company, 4520 Corp., Inc., ABB Inc., Amentum
Environment & Energy, Inc., Armstrong International,
Inc., Bahnson, Inc., Beaty Investments, Inc., Bechtel
Corporation, The Bonitz Company, Brenntag North
America, Inc., Brenntag Specialties, LLC, Carboline
Company, Carrier Corporation, Celanese Corporation,
CNA Holdings, LLC, Cooper Crouse-Hinds, LLC, Covil
Corporation, Daniel International Corporation, Davis
Mechanical Contractors, Inc., Eaton Corporation,
Ellington Insulation Company, Inc., Emerson Electric
Co., Ericsson Inc., Fisher Controls International, LLC,
Flowserve Corporation, Flowserve US, Inc., Fluor
Constructors International, Fluor Constructors
International, Inc., Fluor Daniel Services Corporation,
Fluor Enterprises, Inc., General Cable Corporation,
General Cable Industries, Inc., General Electric
Company, Gould Electronics, Inc., Goulds Pumps,
Incorporated, Graybar Electric Company, Inc., Great
Barrier Insulation Co., Grinnell, LLC, Heat & Frost
Insulation Company, Inc., Henry Pratt Company, LLC,

Howden North America, Inc., ITT, LLC, J & L Insulation, Inc., K-Mac Services, Inc., Kohler Co., Metropolitan Life Insurance Company, Michelin Corporation, Michelin North America, Inc., Milliken & Company, Occidental Chemical Corporation, The Okonite Company, Inc., Paramount Global, PECW Holding Company, Plastics Engineering Company, Presnell Insulation Co., Inc., Prysmian Cables and Systems USA, LLC, Raytheon Technologies Corporation, Redco Corporation, Riley Power Inc., Rockwell Automation, Inc., R.T. Vanderbilt Holding Company, Inc., Rust Engineering & Construction, Inc., Rust International, Inc., Saint-Gobain Abrasives, Inc., Schneider Electric USA, Inc., Sequoia Ventures, Inc., Siemens Industry, Inc., Southern Insulation, Inc., Spence Engineering Company, Inc., Spirax Sarco, Inc., SPX Cooling Technologies, LLC, Standard Insulation Company of N.C., Inc., Starr Davis Company, Inc., Starr Davis Company of S.C., Inc., Thermo Electric Company, Inc., Union Carbide Corporation, Vanderbilt Minerals, LLC, Viking Pump, Inc., Vistra Intermediate Company, LLC, Whittaker, Clark & Daniels, Inc., The William Powell Company, Wind Up, Ltd., York International Corporation, Zurn Industries, LLC, Defendants, AND Heather Donaghy v. 4520 Corp., Inc.

Appellate Case No. 2024-000342

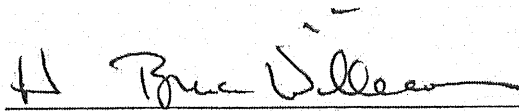
ORDER

This consolidated appeal arises out of a circuit court order dated February 23, 2024, denying the receiver's motion to terminate representation of Appellants' counsel of choice and directing Appellants' counsel to cooperate with the receiver. Appellants engaged the legal services of Clement Rivers, LLP. Appellants assert they were deprived of utilizing their choice of counsel, although the order on appeal denied the receiver's motion to terminate Appellants' representation by Clement Rivers. The denial of a motion to terminate representation is not

immediately appealable. *See EnerSys Delaware, Inc. v. Hopkins*, 401 S.C. 615, 619, 738 S.E.2d 478, 480 (2013) ("[A]n order denying a motion to disqualify an attorney is not immediately appealable."). Contrary to Appellants' assertions, the order on appeal is distinguishable from that in *Hagood v. Sommerville*, 362 S.C. 191, 607 S.E.2d, 707 (2005). In *Hagood*, the supreme court found "an order granting a motion to disqualify a party's preferred attorney *must* be immediately appealed or any later objection in a subsequent appeal [would] be waived." *Id.* at 198, 607 S.E.2d at 710. The action taken by the circuit court in this appeal is more akin to the order appealed in *Hopkins*, wherein the circuit court denied the motion to disqualify counsel. *See Hopkins*, 401 S.C. at 616, 619, 738 S.E.2d at 479, 480. Thus, this order is not immediately appealable.

Appellants also argue the order on appeal is immediately appealable pursuant to section 14-3-330(4) of the South Carolina Code (2017). Specifically, Appellants contend the circuit court's order impermissibly permits the receiver to continue his duties during the pendency of the appeal. This order is also not immediately appealable. *See 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).

Based on the foregoing, 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:

Stephen Lynwood Brown, Esquire
Russell Grainger Hines, Esquire
James D. Gandy, III, Esquire
Graydon V. Olive, IV, Esquire
Theile Branham McVey, Esquire
Jamie Rae Rutkoski, Esquire
Aaron Daniel Chapman, Esquire

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Apr 12 2024

David Christopher Humen, Esquire
Richard Brandon Larrabee, Esquire
Robert Turner Bonds, Esquire
John Kenneth Chandler, Esquire
Stephen Augustus Griffith, Jr., Esquire
Charles William Branham, III, Esquire
Jonathan Marshall Holder, Esquire
John D. Kassel, Esquire
Brian Montgomery Barnwell, Esquire
Peter Demos Protopapas, Esquire
Shanon N. Peake, Esquire
Jonathan M. Robinson, Esquire

The South Carolina Court of Appeals

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

v.

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

Westvaco, ZF Active Safety US Inc. f/k/a Kelsey-Hayes Company, Defendants,

of which Atlas Turner, Inc., The Continental Insurance Company, Certain Underwriters at Lloyd's London, and Certain London Market Companies are the Appellants,

and

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

and

Peter D. Protopapas, Duly Appointed Receiver for Atlas Turner, Inc., are Respondents.

Appellate Case No. 2024-000337

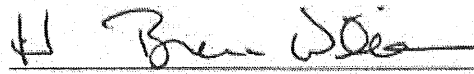
ORDER

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), SCRPC, 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:

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

FILED
Apr 12 2024

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.; Beaty 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

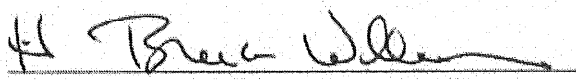
ORDER

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), SCRCP, 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

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