

Reply To: Columbia

August 26, 2024

VIA Email

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
PO Box 11529
Columbia, SC 29211

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Aug 26 2024
SC Court of Appeals

Re: **John A. Tibbs and Margaret B. Tibbs v. 3M Company, et al.**
Appellate Case Nos. 2024-001063, 2024-001064, 2024-001065

Dear Ms. Kitchings:

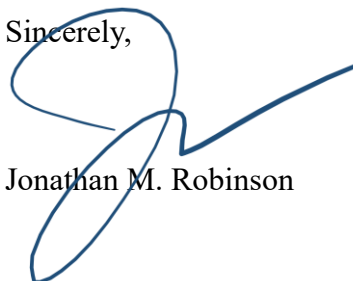
I represent Respondent Peter D. Protopapas, in his capacity as the court-appointed Receiver for Cape PLC, individually and as successor in interest to Cape Asbestos Company Limited, n/k/a Cape Intermediate Holdings Ltd. in the above-referenced appeals. The Receiver is in receipt of a 10-day extension request filed on behalf of John Nichols to respond to the Receiver's Motion to Dismiss the interlocutory appeals from a discovery order. The Receiver is also in receipt of the 10-day extension request of counsel representing the Altrad defendants in Appellate Case No. 2024-001063. While the Receiver is aware the Court routinely grants extension requests in appellate matters, the Receiver respectfully objects to these requests for an extension in the above-referenced appeals as an attempt to further delay the case.

There are eight appeals currently pending at the Court of Appeals and one appeal currently pending at the South Carolina Supreme Court filed by these appellants from interlocutory orders issued in this third-party action. Five of those appeals have already been dismissed as appeals from interlocutory orders that are not immediately appealable and rehearing has been denied. *See* Appellate Case Nos. 2023-002006, 2023-002007, 2023-002009, 2023-002010, 2023-002011. The timeframe for Appellants to file petitions for writ of certiorari with the South Carolina Supreme Court was delayed due to an improper removal of the case by a third-party defendant with Appellants' consent. That matter was remanded by the South Carolina District Court on August 13, 2024. Additionally, the interlocutory appeal pending at the South Carolina Supreme Court was previously dismissed by this Court as not immediately appealable. *See* Appellate Case Nos. 2024-000916, 2024-000524.

In light of the numerous appeals of interlocutory orders by these appellants, the multiple extension requests filed by these appellants in the various appeals, the delay of this matter due to

the improper removal of the action, and Appellants' positions that their interlocutory appeals stay the proceedings below despite orders from this Court that receivership actions may continue during appeals (Appellate Case No. 2023-000727), the Receiver respectfully objects to this further attempt to delay. The appealability of discovery orders has been briefed by these parties in previous appeals from interlocutory discovery orders.

Sincerely,



Jonathan M. Robinson

JMR/dlf

cc: all counsel of record via electronic filing