

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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Jan 27 2025

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

S.C. SUPREME COURT

The Honorable Jean H. Toal
Acting Circuit Court Judge

Appellate Case No. 2024-002117

John A. Tibbs and Margaret B. Tibbs, Plaintiffs,

v.

3M Company; 4520 Corp., Inc.; A.O. Smith Corporation; A.W. Chesterton Company; ABB Inc.; Air & Liquid Systems Corporation; AIW-2010 Wind Down Corp.; Amentum Environment & Energy, Inc.; Anchor/Darling Valve Company; Armstrong International, Inc.; Asbestos Corporation Limited ASCO, L.P.; Atlas Asbestos Co.; Atlas Turner, Inc.; AWT Air Company, Inc.; Bahnson, Inc.; Banner Industries International, Inc.; Banner Industries, LLC; Banner Industries of N.E., Inc.; Barretts Minerals Inc.; Beaty Investments, Inc.; Bechtel Corporation; The Bonitz Company; Brand Insulations, Inc.; BW/IP Inc.; Canvas CT, LLC; Cape PLC; Carboline Company; CB&I Laurens, Inc.; Cleaver-Brooks, Inc.; Consolidated Electrical Distributors, Inc.; Copes-Vulcan, Inc.; Covil Corporation; Crane Instrumentation & Sampling, Inc.; Crosby Valve, LLC; Daniel International Corporation; Davis Mechanical Contractors, Inc.; Dezurik, Inc.; Duke Energy Carolinas, LLC; Duke Energy Corporation; Eaton Corporation; Ellington Insulation Company, Inc.; Emerson Electric Co.; Fisher Controls International LLC; Flame Refractories, Inc.; Flowserve Corporation; Flowserve US Inc.; Fluor Constructors International; Fluor Constructors International, Inc.; Fluor Daniel Services; Fluor Enterprises, Inc.; FMC Corporation; Foster Wheeler Energy Corporation; Gardner Denver Nash, LLC; General Boiler Casing Company, Inc.; General Cable Corporation; General Cable Industries, Inc.; General Electric Company; Gould Electronics Inc.; Goulds Pumps, Incorporated; Goulds Pumps LLC; Great Barrier Insulation Co.; Grinnell LLC; Hajoca Corporation; Howden North America Inc.; HPC Industrial Services, LLC; IMO Industries Inc.; ITT LLC; Joy Global Underground Mining LLC; K-Mac Services Incorporated; Metropolitan Life Insurance Company; Mine Safety Appliances Company, LLC; MP Supply, Inc.; The Nash Engineering

Company; Occidental Chemical Corporation; Paramount Global; Patterson Pump Company; PECW Holding Company; Pfizer Inc.; Piedmont Insulation, Inc.; Plastics Engineering Company; Presnell Insulation Co., Inc.; Redco Corporation; Riley Power Inc.; Rockwell Automation, Inc.; RSCC Wire & Cable LLC; Schneider Electric USA, Inc.; Sequoia Ventures Inc.; Spirax Sarco, Incl; SPX Corporation; Stafford Insulation Company; Standard Insulation Company of N.C., Inc.; Starr Davis Company, Inc.; Starr Davis Company of S.C., Inc.; Sterling Fluid Systems (USA) LLC; TE Wire & Cable, LLC; Thermo Electric Company, Inc.; Union Carbide Corporation; 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; and Zurn Industries, LLC, Defendants,

of which

Asbestos Corporation Limited is the..... Appellant,

and

Cape PLC, individually and as successor in interest to Cape Asbestos Company Limited, by and through its duly appointed Receiver Peter D. Protopapas,..... Third-Party Plaintiff/ Respondent,

v.

Anglo American PLC, individually and as successor in interest to Anglo American Corporation of South Africa Ltd.; DeBeers PLC; DeBeers Centenary AG; DeBeers Consolidated Mines Ltd.; DeBeers S.A.; DeBeers UK Ltd.; DeBeers Jewelers US, Inc.; Angle American US Holdings Inc.; Element Six US Corp.; Element Six Technologies US Corp.; Element Six Technologies (OR) Corp.; First Mode Holdings, Inc.; Platinum Guild International (USA) Jewelry Inc.; Forevermark US Inc.; Anglo American Crop Nutrients (USA), LLC; Charter Consolidated Ltd.; ESAB Corporation; Central Mining & Investment Corporation Ltd.; Cape Holdco Ltd.; The Law Debenture Corporation PLC; Cape Industrial Services Group Ltd.; Mohed Altrad; Altrad UK Ltd.; Cape UK Holdings Newco Ltd.; Altrad Services Ltd., f/k/a Cape Industrial Services Ltd.; Altrad Investment Authority SAS; Sparrows Offshore Group Ltd.; Hawk Bidco US Inc.; Arranco US, LLC; Sparrows Offshore, LLC; The Sparrows Group, LLC,..... Third-Party Defendants,

of which

Charter Consolidated Ltd., ESAB Corporation, and Central Mining
& Investment Corporation Ltd. are the Appellants.

CHARTER DEFENDANTS' REPLY IN SUPPORT OF PETITION FOR A WRIT OF
CERTIORARI
(CONTEMPT APPEAL)

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INTRODUCTION¹

Charter Consolidated Ltd., ESAB Corporation, and Central Mining & Investment Corporation Ltd. (“Charter Defendants) file this Reply to the Return filed by the Receiver Peter D. Protopapas to the Petitions for Writ of Certiorari that Charter Defendants and others filed in this matter. Charter Defendants respectfully request that the Court grant this request for review, vacate the Court of Appeals' decision dismissing the appeals, and either remand the matter to the Court of Appeals to address the merits or retain the matters in this Court for a decision on the merits of the issues raised.²

This appeal highlights the unprecedented nature of what’s happening below. In response to the circuit court’s order purporting to appoint a receiver over Cape Intermediate Holdings Limited, the Charter Defendants (and several others) immediately appealed that appointment order, precisely as authorized by South Carolina Code § 14-3-330(4). Through that immediate appeal, the Charter Defendants (and several others) respectfully and rightfully requested that the Court of Appeals faithfully apply South Carolina law and end this unconstitutional receivership before it was able to create international chaos by unlawfully interfering with that English company’s business affairs, its legal relationships, and decades of English (and South Carolina)

¹ By continuing to prosecute this appeal, Charter Defendants do not waive, and expressly preserve, all defenses to the underlying action, including the defense of lack of personal jurisdiction and impropriety of the purported receiverships over CIHL and Cape PLC. As to the impropriety of the purported receiverships, Petitioners adopt and incorporate the factual background, authorities and appendix materials, and argument of Petitioners Mohed Altrad and Altrad Investment Authority, SAS regarding: CIHL and Cape PLC's disclaimer of any authority by the Receiver to bring suit on their behalf (as each are solvent, foreign entities and neither has given the Receiver authority to act on their behalf in pursuing claims with no connection to any assets in South Carolina or that were ever in South Carolina, as is required of any state-court-appointed receiver under the United States Constitution); and the pendency of proceedings before the High Court of Justice of England and Wales pertaining to such matters.

² Pursuant to Rules 208(b)(6) and 240, SCACR, the Charter Defendants incorporate herein, to the extent applicable, all additional arguments raised, and authorities cited by all similarly situated parties including Appellants Mohed Altrad in Appellate Case No. 2024-002116.

precedent that exposes the impropriety of the Receiver’s appointment and actions in this case. (Appellate Case Nos. 2024-001499.and 2024-001423.)

Because Appellate Court Rule 205 divests the circuit court of jurisdiction over every matter that is impacted by an appeal—including “inchoate” issues that could be affected by the order on appeal, *Stokes-Craven Holding Corp. v. McKenzie*, 416 S.C. 517, 539, 787 S.E.2d 485, 496 (2016) (Pleicones, C.J., concurring in result)—the Charter Defendants have diligently held firm to their law-based objection to anything happening below until this Court has a chance to quash this patently unlawful situation. (Appellate Case No. 2024-000916.) This isn’t some contrived argument—it is exactly what South Carolina law requires. *See* Rule 205, SCACR (providing that after service of a notice of appeal, “the appellate court shall have exclusive jurisdiction over the appeal”) (emphasis added).

In response to their diligent adherence to Rule 205’s unambiguous jurisdictional guardrails, the Charter Defendants have been wrongly punished by the circuit court for daring to follow the law, preserve their issues, and protect their rights.

The irony of the Receiver’s opposition argument is that if he and the circuit court had simply abided by the clear jurisdictional restrictions of Rule 205, there would be no “piecemeal” appeals; this situation would have been stopped from the outset while this Court reviewed their unconstitutional attempt to reach beyond South Carolina’s borders and put a South Carolina receiver in charge of CIHL’s affairs. (Opp. at 2, 3.) The Receiver’s chiding of the Charter Defendants (and others) for adhering to the law, and his blaming of the Charter Defendants (and others) for procedural problems that the Receiver himself and the circuit court’s rulings have created, is misplaced.

The Receiver has taken extraordinary steps to avoid this Court’s necessary review and scrutiny of what’s been happening below. In furtherance of this appellate-avoidance strategy, the Receiver’s argument in opposition to certiorari review is based on nothing more than mischaracterizations of what the actual effect of the circuit court orders at issue.

The law doesn’t allow a lower court’s order to avoid appellate review based on a label; instead, substance is what matters. *See, e.g., Morrow v. Fundamental Long-Term Care Holdings, LLC*, 412 S.C. 534, 539, 773 S.E.2d 144, 147 (2015) (finding that an order was immediately appealable despite its “bifurcation” label and reiterating that “[o]ur review of trial court orders is not constrained by how the order is styled”). Despite the Receiver’s straining, and despite the circuit court’s labeling, the orders at issue in this appeal are unmistakable in their effect: they strike the Charter Defendants’ very first defense, they hold the Charter Defendants in contempt, and they refuse to issue an injunction that is required by law. These are three ***independent*** reasons why these orders are immediately appealable, and they give this Court yet another basis to take up this appeal (as well as all others filed by the Charter Defendants and their co-appellants) to end this illegal receivership.

ARGUMENT

I. These orders are immediately appealable, regardless of the Receiver’s linguistic gloss, because they strike a defense, they hold the Charter Defendants in contempt, and they refuse to enjoin litigation for which there is no jurisdiction.

This Court has been clear, and reiterated again ***just two weeks ago***, that a party opposing discovery must refuse to engage in the discovery process in order to maintain the appealability of discovery rulings. *See Innovative Waste Mgmt., Inc. v. Crest Energy Partners GP, LLC*, Op. No. 28251 (S.C. Sup. Ct. filed Jan. 15, 2025) (Howard Adv.Sh. No. 3 at 29) (holding that the appellants

“have waived appellate review of all discovery orders prior to the October 1, 2019 order granting sanctions” due to their partial participation in discovery).

Accordingly, the Charter Defendants had—and have—no choice but to hold fast to their objections below—anything else would constitute a waiver—but the circuit court struck their first defense (a general denial of all of the Receiver’s factual allegations) as result. While the Receiver shades that ruling as nothing more than creating “rebuttable presumptions that Petitioners can refute through evidentiary challenge” (Opp. at 15), the Receiver’s argument proves the Charter Defendants’ point.

The Charter Defendants’ very first defense is that the Receiver’s allegations against them are false. (Charter Defs.’ Ans. ¶¶ 116–19.) By denying those allegations, the Charter Defendants left the burden of proof on the Receiver—a burden that is impossible to carry, as the entirety of his “third-party complaint” was exposed as meritless 35 years ago. *See Adams v. Cape Industries plc* (1990) 1 Ch 433 (CA) (a seminal opinion—the product of an extensive trial and a subsequent extensive appeal in the English courts—finding that CIHL is not the alter ego of NAAC; there was no basis to pierce CIHL’s corporate veil or impose vicarious liability on it; and CIHL could not be held responsible in the United States for any alleged conduct of NAAC or the sale and distribution of asbestos as performed by others—all findings completely contrary to those now asserted by the Receiver in his “third-party” complaint that seeks a “reckoning” and recovery of “billions” of dollars in damages).

By creating “rebuttable presumptions that Petitioners can refute through evidentiary challenge,” the circuit court has relieved the Receiver of his burden of proof—and, accordingly, wiped out the Charter Defendants’ “general denial” defense. *See O’Neal v. Carolina Farm Supply, Inc.*, 279 S.C. 490, 493, 309 S.E.2d 776, 779 (Ct. App. 1983) (acknowledging that “the burden of

presenting evidence of a fact was on the party pleading it”). Now, instead of requiring the Receiver to prove his case—which, again, cannot happen as a matter of law—the circuit court has shifted the burden of proof and is forcing the Charter Defendants (and others) to waive their absolute personal jurisdiction defense and disprove the Receiver’s claims.

The Receiver does not address this obvious consequence of the circuit court’s ruling in his return. Nor did the Court of Appeals acknowledge it in its dismissal. But this unavoidable effect of the circuit court’s ruling renders it immediately appealable as a matter of right. *See* S.C. Code Ann. § 14-3-330(2)(c) (providing a right to appeal any order that “strikes out an answer or **any part thereof** or any pleading in any action”) (emphasis added).

Likewise, the Receiver opposes this Court’s scrutiny because the orders on appeal contain extreme “discovery sanctions” without also using the word “contempt.” But this superficial argument again ignores what the orders actually do.

Here, the circuit court determined that it was “authenticating” and “preadmitting” 2,538 exhibits that it did not even review (against only some, but not all, of the third-party defendants) and that had never been the subject of discovery “as a sanction for the persistent and baseless refusal of the Charter Third-Party Defendants and the Altrad Third-Party Defendants to participate in the discovery process.” (Order Granting the Receiver for Cape PLC’s Motion to Pre-Admit Exhibits at 6 (May 23, 2024).) It determined that it was going to effectively decide this case on its merits through a series of “adverse inferences” because most of the third-party defendants “continue to refuse any effort at compliance with the Court’s orders and the discovery rules of this State.” (Order Issuing Adverse Inferences at 15 (May 23, 2024).) It continued: “The Court finds that this continued discovery misconduct on the part of these Third-Party Defendants amounts to bad faith, willful disobedience, and gross indifference to the rights of the Receiver and this Court’s

management of its docket.” (*Id.*) It explained that the goal of these sanctions is to prompt these litigants into participating in discovery—activity that, of course, would result in a waiver of the Charter Defendants’ objections under *Innovative Waste Management* and others. (*Id.* at 16.)

These rulings match the “contempt” framework exactly. *See Poston v. Poston*, 331 S.C. 106, 111, 502 S.E.2d 86, 88 (1998) (explaining that the purpose of contempt is “to coerce the defendant to do the thing required by the order for the benefit of the complainant”); *Ex parte Cannon*, 385 S.C. 643, 660–61, 685 S.E.2d 814, 824 (Ct. App. 2009) (describing contempt as the natural result of “willful disobedience of a court order,” and explaining that “the record must clearly and specifically reflect the contemptuous conduct” (quoting *Widman v. Widman*, 348 S.C. 97, 119, 557 S.E.2d 693, 705 (Ct. App. 2001))).

The Receiver’s attempt to minimize these rulings as casual, afterthought “discovery sanctions” ignores what these orders explicitly identify as their purpose: to punish the Charter Defendants for standing on their jurisdictional objections, coerce them into waiving those objections, and compel them to disprove the Receiver’s claims (which, again, have already been rejected as a matter of fact and law after weeks of trials and appeals decades ago). There is simply no other way to understand these rulings other than as contempt. And that makes them immediately appealable for a second reason. *See Davis v. Parkview Apartments*, 409 S.C. 266, 280, 762 S.E.2d 535, 543 (2014) (“However, to challenge the specific rulings of the discovery orders, the normal course is to refuse to comply, suffer contempt, and appeal from the contempt finding.”); *Cannon*, 385 S.C. at 660, 685 S.E.2d at 824 (“Additionally, the finding of contempt is immediately appealable.”).

And third, the orders refuse to enter an injunction required as a matter of jurisdictional law. Appellate Court Rule 205 removed jurisdiction from the circuit court regarding this receivership

the moment the Charter Defendants (and others) appealed the order unconstitutionally appointing a receiver over CIHL—again, an English company with nothing at all to do with South Carolina. Despite the absence of jurisdiction, the Receiver attempted to press forward with litigation at the trial level. The Charter Defendants then, rightly, invoked Rule 205’s jurisdictional boundaries to avoid being put through void litigation activities while the unlawfulness of the receivership appointment was being addressed on appeal.

The Charter Defendants raised this jurisdictional objection in February 2024. Incredibly, the Receiver implies that the Charter Defendants’ objection is still being considered by the circuit court and encourages this Court to look the other way while a jurisdictional objection (based on the Appellate Court Rule that is designed to protect this Court’s “exclusive jurisdiction”) languishes interminably below. (Opp. 16–18.) The General Assembly has crafted the appellate statute with language designed to block precisely such a situation.

The Charter Defendants’ right to appeal does not arise only from a “denial” of their motion for an injunction. Instead, it is triggered by an “interlocutory order or decree in a court of common pleas . . . refusing an injunction.” S.C. Code Ann. § 14-3-330(4) (emphasis added). This is the same language used in the federal appellate statute, and federal courts construe it exactly as argued by the Charter Defendants here. *See, e.g., In re Fort Worth Chamber of Com.*, 100 F.4th 528, 533 (5th Cir. 2024) (“[I]f a district court does not timely rule on a preliminary-injunction motion, it can effectively deny the motion. We have accordingly recognized that simply sitting on a preliminary-injunction motion for too long can effectively deny it.” (citing 16 Wright & Miller, Federal Practice & Procedure § 3924.1 (3d Ed.))).

The Receiver’s argument on this point is telling. He never bothers with the actual language of the appellate statute but instead argues that if the Court accepts certiorari review here, then “any

litigant could manufacture an immediately-appealable issue out of any garden-variety discovery order at any point by simply opposing the underlying motion with a ‘gotcha’ request to enjoin the moving party from taking any action.” (Opp. at 16 (emphasis supplied by the Receiver).) And then he argues that “context” should control the Court’s analysis. (*Id.* at 17.)

On this latter point, the parties agree: context matters, but this case doesn’t involve “any garden-variety discovery order” in any way. Instead, this case involves a state-court trial judge attempting to appoint a receiver over CIHL, an English company with no contacts whatsoever with South Carolina in violation of the Commerce and Due Process Clauses, as well as decades-old South Carolina law. This case further involves: a South Carolina Receiver trying to seize control of CIHL’s assets, which are not in South Carolina; a South Carolina Receiver trying to undercut CIHL’s interests by presenting claims at the trial level that were categorically rejected 35 years ago after both a full trial and a full appeal before the English courts; a South Carolina Receiver who has continued to claim to speak on behalf of CIHL despite being told by its management that he has no such authority; a South Carolina Receiver who has entered an appearance as counsel (not as a receiver) for Cape PLC, a Jersey company, despite being told by Cape PLC’s actual directors that he has no such authority. *Cape Intermediate Holdings Limited v. Protopapas* [2024] EWHC 2999.

And, for purposes of this appeal, this case involves a Receiver and a circuit court who have pressed forward with litigation activities while the order appointing the Receiver—the fountainhead from which all other errors in this case flow—has been on appeal – with no remittitur returned. The circuit court has no jurisdiction to do so, and every order it has issued (including the orders involved in this appeal) is void as a matter of law.

The law on this point is settled. *See, e.g., Stokes-Craven Holding Corp.*, 416 S.C. at 534, 787 S.E.2d at 494 (explaining that “Rule 205 divests the lower court or administrative tribunal of jurisdiction over ‘***matters affected by the appeal***’” (quoting *Tillman v. Oakes*, 398 S.C. 245, 255, 728 S.E.2d 45, 51 (Ct. App. 2012))) (emphasis supplied by this Court); *Arnal v. Fraser*, 371 S.C. 512, 518–19, 521–22, 641 S.E.2d 419, 422, 423–24 (2007) (holding various parts of a trial court order issued after an appeal was taken were “void *ab initio*” because the trial court “did not have jurisdiction to ***modify*** matters in the final divorce order that were on appeal,” as Rule 205 prohibits the trial court from “issu[ing] orders that affect an issue on appeal”) (emphasis supplied by this Court); *Wingate v. Wingate*, 289 S.C. 574, 575, 347 S.E.2d 878, 878 (1985) (holding that a family court’s order reducing alimony payments “is void” because “alimony was an issue on appeal from the divorce decree” and “this Court had exclusive jurisdiction over the alimony issue”); *Wilson v. Walker*, 340 S.C. 531, 540, 532 S.E.2d 19, 23 (Ct. App. 2000) (vacating a contempt order “for lack of jurisdiction” because the trial court issued that order while an earlier order on which the contempt order was based was on appeal).³

Obviously, this entire situation is one-of-a-kind. Nothing about it is “garden-variety,” but virtually everything about it violates the law—the United States Constitution, the South Carolina Code, and now even international law. The circuit court’s “refus[al]” to enter an injunction required by Appellate Court Rule 205 is immediately appealable under South Carolina Code § 14-3-330(4), which is a third independent basis for this appeal proceeding. The Court should grant the Charter Defendants’ petition and grant certiorari accordingly.

³ To ensure no doubt on the point, the existence or nonexistence of a stay at the trial level has nothing to do with this dispositive issue of jurisdiction. *See, e.g., 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).”) (cleaned up).

II. This case has fundamental distinctions from the ACL and Atlas Turner appeals pending before the Court.

As the Court is aware, there are numerous certiorari petitions pending before the Court that involve the CIHL (and Cape PLC) receiverships—the Charter Defendants have filed five themselves, and the Altrad Defendants have filed several as well. The Court recently indicated that receivership issues set forth in the Charter Defendants’ pending certiorari petitions will be decided in February – “The dispute giving rise to the English Court's attempt to intervene in these matters involves the appropriate reach of the Receiver appointed by the South Carolina Circuit Court—an issue this Court will hear during its February term of court and resolve after oral argument.” (Order (Jan. 16, 2025)). The receivership issues raised in the matter that the Court is scheduled to hear in February involves the appeals brought by ACL and Atlas Turner and are fundamentally different from the receivership issues raised in the present case. (*Cf.* Appellate Case Nos. 2023-001461 and Appellate Case Nos. 2024-000916, 2024-001423, and 2024-001499.) Accordingly, if the Court intends to resolve the appropriate reach of the Receiver in this case, the ACL/Atlas appeal set for the February term is not the appropriate vehicle to do so and it is imperative that the Court grant the outstanding certiorari petition in this case.

While the ACL and Atlas consolidated appeal and this matter both involve the improper appointment of a receiver over foreign active corporations with no assets in South Carolina, the similarities between ACL/Atlas and Cape end there. Unlike this case, ACL and Atlas were parties to the case in which the motion to appoint a receiver was filed, were served with the motion to appoint a receiver, and had the opportunity to respond the motion to appoint receiver.

Further there are numerous issues and questions that have been asserted regarding the appointment of receiver(s) in this matter, that have not been raised and/or are not present in ACL/Atlas, including but not limited to:⁴

1. May a pre-judgment receiver appointed in one case pursuant to S.C. Code Ann. § 15-65-10, et seq, act in and assert causes of action in another case in which he was not appointed?
2. May a pre-judgment receiver appointed pursuant to S.C. Code Ann. § 15-65-10, et seq, over one foreign company act as receiver for another foreign company for which there is no appointment motion or order?
3. To act as a pre-judgment receiver in a case, must some party in the case first make a motion to appoint a receiver in that case and/or must the trial court first issue an order appointing a pre-judgement receiver in that case?
4. May a pre-judgment receiver be appointed over a foreign company that is not a party to the case?
5. May a pre-judgment receiver be appointed over a foreign company that has never been served with a motion to appoint a receiver?
6. Must the pre-judgment receiver appointment order be dissolved after the party moving to appoint the receiver has resolved his case?
7. Is a pre-judgment receiver appointment order void *ab initio* pursuant to S.C. Code Ann. § 15-65-60 when the appointment order does not contain the mandatory clause “fixing the value of the property for which the bond may be given.”? *Truesdell v. Johnson*, 144 S.C. 188, 142 S.E. 343, 348 (1928) (interpreting the provision under the previous receivership statute containing substantively identical language to Section 15-65-60 and holding that “[t]he provision for inserting a clause fixing the value of the property in the order appointing a receiver is mandatory, and without such clause the order is void.”
8. May the Circuit Court ignore the prejudgment right to tender a bond to dissolve a receivership pursuant to S.C. Code Ann. § 15-65-60?

As there are numerous issues regarding the propriety of receivership appointments and the scope of a receiver’s authority raised in this matter that are not present in ACL/Atlas appeal, this

⁴ The following issues are more fully explained in Charter Defendant’s Petition for Certiorari and Charter Defendants’ Reply in Support of Certiorari filed in Appellate Case No. 2024-001423. Pursuant to Rule 208(b)(6), SCACR, Charter Defendants adopt and incorporate these filings by reference.

appeal is not governed by the ACL/Atlas appeal and this Court should grant Charter Defendants outstanding certiorari petitions.

CONCLUSION

The Court should grant this petition, as well as all others presented by the Charter Defendants and the Altrad Defendants; void the contempt orders below; and vacate this unconstitutional receivership and dismiss this matter, as explained in the Charter Defendants' and Altrad Defendants' filings in Appellate Case Nos. 2024-000916, 2024-001423, and 2024-001499. Further, nothing in the ACL or Atlas Turner appeals scheduled for February oral argument changes the required result here: Charter Petitions for Certiorari should be granted.

Respectfully submitted,

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