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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Richland County
Court of Common Pleas
The Honorable Jean H. Toal, Circuit Court Judge

Civil Action No. 2023-CP-40-01759
Appellate Case Nos.: 2025-002104

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 Corandp.; 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 Corporation; 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, Inc.; 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; Zurn Industries, LLC

.....DEFENDANTS,

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., De Beers PLC, individually and as successor in interest to De Beers S.A., De Beers Centenary AG, De Beers Consolidated Mines Ltd., n/k/a De Beers Consolidated Mines Proprietary Ltd., De Beers UK Ltd., De Beers Jewelers LTD., De Beers Jewelers US, Inc., Anglo 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 (U.S.A.) Jewelry Inc., Lightbox Jewelry Inc., Forevermark US Inc., Anglo American Crop Nutrients (U.S.A.) 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 S.A.S., Sparrows Offshore Group Ltd., Hawk Bidco US Inc., Arran Co US, LLC, Sparrows Offshore, LLC, and The Sparrows Group, LLC

.....THIRD-PARTY DEFENDANTS,

Of which Charter Consolidated Ltd., ESAB Corporation, and Central Mining & Investment Corporation Ltd.; Mohed Altrad; and Altrad Investment Authority SAS are the

.....APPELLANTS

**NEW-INDY CONTAINERBOARD LLC
MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF**

Pursuant to Rule 213, South Carolina Appellate Court Rules ("SCACR"), New-Indy Containerboard LLC ("New-Indy") respectfully moves for leave to file an *amicus curiae* brief in

the above-captioned appeal. New-Indy conditionally files its proposed *amicus curiae* brief contemporaneously with this motion, as permitted by Rule 213, SCACR.

I. INTEREST OF *AMICUS CURIAE*

New-Indy is a major South Carolina manufacturer in the forest products industry, employing hundreds of South Carolinians and contributing substantial payroll, property, and income taxes throughout the State. New-Indy also supports South Carolina's economy through substantial in-state procurement: in 2025 alone, it spent approximately \$65 million to purchase more than 2 million tons of forestry products from South Carolina producers, and it anticipates increased consumption in 2026, with plans to invest an additional \$4 million to procure another 120,000 tons of South Carolina-produced materials.¹ Although New-Indy never manufactured, distributed, or supplied asbestos-containing products, it has been named as a defendant in South Carolina's legacy asbestos litigation primarily because of its ownership of property acquired long after historical asbestos activity at the property allegedly occurred.

In those cases, New-Indy has participated fully in South Carolina proceedings—responding to discovery, providing deposition testimony, litigating dispositive motions, and complying with court orders—while bearing significant and unanticipated litigation costs. New-Indy's experience illustrates how the absence or nonparticipation of upstream entities most closely associated with the historical asbestos supply chain can distort equitable allocation, increase defense and settlement costs for participating defendants, and undermine the orderly resolution of claims.

¹ Although Plaintiffs' counsel in the underlying litigation has submitted an amicus brief, New-Indy offers a distinct perspective. As a major manufacturer with substantial investments and tax obligations in South Carolina—procuring approximately 90% of the forestry products used at its in-state facilities from South Carolinians—and as a recurring defendant in asbestos litigation, New-Indy presents practical and economic interests not addressed in that *amicus*.

As an employer and investor that submits to South Carolina’s jurisdiction and process, New-Indy has a concrete and practical interest in the availability of narrowly tailored receiverships that preserve litigation-relevant property interests and ensure meaningful participation by responsible entities. The circuit court’s appointment of a limited receivership and Appellants’ challenges to that appointment directly implicate those interests.

II. DESIRABILITY OF AN *AMICUS CURIAE* BRIEF

An *amicus curiae* brief from New-Indy is desirable because it offers a distinct, non-duplicative perspective on the practical consequences of the Court’s decision for South Carolina courts, litigants, employers, suppliers, insurers, and taxpayers. New-Indy does not seek to repeat the parties’ arguments, but to provide context—based on its experience—regarding how the Court’s receivership jurisprudence operates in complex, multiparty asbestos litigation and how narrowly confined, property-specific receiverships promote fairness, docket administration, and economic stability when applied within the limits this Court has established.

Drawing on its experience as a South Carolina employer and investor involved in legacy asbestos litigation, New-Indy addresses how the availability of carefully constrained receiverships helps prevent the shifting of litigation burdens onto compliant defendants and ensures the enforceability of judgments in extraordinary circumstances. New-Indy’s perspective is particularly relevant to the issues on appeal concerning comity, preclusion doctrines, and the scope of South Carolina courts’ equitable authority.

New-Indy’s proposed *amicus curiae* brief is limited to the issues presented by the parties, does not seek to expand the record or raise new issues, and complies with Rules 208(b) and 211, SCACR, as required by Rule 213. The brief is submitted solely to assist the Court in its consideration of the important legal and practical questions presented.

WHEREFORE, New-Indy respectfully requests that the Court grant this motion and permit the filing of New-Indy's *amicus curiae* brief as conditionally filed herewith.

Respectfully submitted,

/s/ Jenna K. McGee

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