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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jean H. Toal
Acting Circuit Court Judge

Appellate Case No. 2026-002092
Circuit Court Case No. 2025-CP-40-04961

Richard E. Robinson, ...Respondent,

v.

3M Company f/k/a Minnesota Mining and Manufacturing Company; 4520 Corp., Inc.; AO Smith Corporation; ABB Inc.; Abex Corporation; AECOM Energy & Construction, Inc.; Air & Liquid Systems Corporation; Alfa Laval Inc.; Amentum Environment & Energy Inc.; American Steel & Wire Company; Ameron International Corporation; Anchor Darling Valve Company; Aqua-Chem Inc.; Armstrong International Inc.; Atlas Asbestos Company Ltd.; Atlas Turner Inc.; Atwood & Morrill Co. Inc.; Babcock Borsig Power Inc.; Bahnson Inc.; Beaty Investments Inc.; Bell & Gossett Company; Bendix; Benjamin F. Shaw Company; Bonitz Company; Bonitz Insulation Company; Brand Insulation Inc.; Buffalo Forge Company; Buffalo Pumps Inc.; Burnham Commercial; Burnham Corporation; Burnham LLC; BWIP Inc.; CR Hipp Construction Inc.; Canvas CT LLC; Canvas MW LLC; Canvas SX LLC; Carboline Company; Carolina Industrial Insulating Co.; Carrier Corporation; Carver Pump Company; CBS Corporation a Delaware Corporation; CBS Corporation a Pennsylvania Corporation; Celanese Corporation; CIRCOR Instrumentation Technologies Inc.; Clean Harbors Industrial Services Inc.; Cleaver-Brooks Division; Cleaver-Brooks Inc.; Clyde Union Inc.; CNA Holdings LLC; Compudyne Corporation; Compudyne LLC; Cooper Industries LLC; Copeland Corporation LLC; Copes-Vulcan; Copes-Vulcan Inc.; Covil Corporation; Crane Co.; Crane Instrumentation & Sampling Inc.; Crane Instrumentation & Sampling PFT Corp.; Crosby Valve LLC; Crown Boiler Co.; Crown Boiler Co. LLC; CRSS Inc.; CSK Auto Inc.; Daniel International Corporation; Davis Mechanical

Contractors Inc.; DB Riley Inc.; DCO LLC; Dean Pump Division; Dezurik Inc.; Durez Corporation; EI Du Pont De Nemours and Company; Eaton Corporation; Ecodyne Corporation; Edward Valves Inc.; EIDP Inc.; Electrolux Home Products Inc.; Electrolux Home Products LLC; Erie City Iron Works; Fiber Insulation Inc.; Fisher Controls International LLC; Flowserve Corporation; Flowserve US Company; Flowserve US Inc.; Fluor Constructors International; Fluor Constructors International Inc.; Fluor Corporation; Fluor Daniel Services Corporation; Fluor Enterprises Inc.; FMC Corporation; Foster Wheeler Energy Corporation; G Denver and Co LLC; Gardner Denver Inc.; Gardner Denver Industrial Machinery; Gardner Denver Nash LLC; General Boiler Casing Company Inc.; General Dynamics Corporation; General Electric Company; Genuine Parts Company; Goodyear Tire & Rubber Company; Gorman-Rupp Company; Gould Electronics Inc.; Goulds Pumps Inc.; Goulds Pumps LLC; Great Barier Insulation Co.; Grinnell Corporation; Grinnell LLC; Griscom-Russel Company; Guy M Beaty & Co.; Heat & Frost Insulation Company Inc.; Henry Pratt Company LLC; Hoffman Specialty Mfg. Corp.; Hoke Inc.; Hollingsworth & Vose Company; Honeywell International Inc.; Howden Buffalo Inc.; HPC Industrial Services LLC; IMO Industries Inc.; Impac Inc.; International Paper Company; ITE Circuit Breaker Co.; ITT Corporation; ITT Fluid Products Corp.; ITT Industries Inc.; ITT LLC; ITT Marlow; J & L Insulation Inc.; K-Mac Services Inc.; Kennedy Valve Company; Kennedy Valve Division; Kirby-Cundiff Insulation and Firestop of Virginia; Kirby-Vass Insulation Inc.; Kragen Auto Supply Co.; Marley Cooling Tower Company; McCord Corporation; McWane Inc.; Met-Pro Technologies LLC; MetLife Inc.; Metropolitan Life Insurance Company; Michelin Corporation; Michelin North America Inc.; Micheline Tire Corporation Minnesota Mining and Manufacturing Company; Mueller Co. LLC; NAPA; National Automotive Parts Associates; Nibco Inc.; O'Reilly Auto Enterprises LLC; O'Rilley Automative Stores Inc.; Occidental Chemical Corporation; Paramount Global; Patterson Pump Company; PECW Holding Company; Peerless Pump; Pfizer Inc.; Piedmont Insulation Inc.; Pipe & Boiler Insulation Inc.; Plastics Engineering Company; Plenco; Pneumo Abex LLC; Presnell Insulation Co. Inc.; Pursuit Attractions and Hospitality Inc.; Redco Corporation; Rentavla LLC; Riley Power Inc.; Riley Stoker Corporation; Rust Engineering & Construction Inc.; Rust International Inc.; Schneider Electric USA Inc.; Sherwin-Williams Company; Siemens Energy & Automation Inc.; Siemens Industry Inc.; Sirrine Environmental Consultants Inc.; Spirax Sarco Inc.; SPX Cooling Technologies LLC; SPX LLC; Square D. Company; Standard Insulating Company Inc.; Standard Insulation Company of NC Inc.; Starr Davis Company Inc.; Star Davis Company of SC Inc.; Sterling Gludi Systems USA LLC; Sterling Wander LLP;

Taco Inc.; The Dial Corporation; The Duriron Company, Inc.; The Marley-Wylain Company LLC; TopBuild Corp.; Union Carbide Corporation; Union Pump Company; Uniroyal Holding Inc.;United Conveyor Corporation; United States Steel Corporation; United Subcontractors Inc.; US Rubber Company Inc.; Valves and Controls US Inc.; Velan Valve Corp.; Viacom Inc.; Viad Corp.; Victor Gasket Manufacturing Company; Viking Pump Inc.; Walworth Company; Warren Pumps LLC; Watts Regulators Co.; Watts Water Technologies Inc.; Weil-McLain; Weir Valves & Controls USA Inc.; Westinghouse Electric Corporation; William Powell Company; Wind Up Ltd.; Yeargin Construction Company Inc.; York International Corporation; York-Shipley Inc.; Zurn Industries Inc.; Zurn Industries LLC, ...Defendants,

Of which

TopBuild Corporation is the.....Appellant.

MEMORANDUM ON APPEALABILITY

Respondent Richard E. Robinson ("Mr. Robinson" or "Respondent"), by and through the undersigned counsel, hereby submits the following memorandum on the issue of appealability as requested by the Court in its September, 23, 2026 letter. Pursuant to Rule 240 of the South Carolina Appellate Court Rules, Mr. Robinson respectfully requests that this Court dismiss the Notice of Appeal filed by Appellant TopBuild Corporation ("TopBuild" or "Appellant"), individually and as successor to United Subcontractors, Inc., successor to Standard Insulating Company, Inc. ("Standard"). Appellant improperly seeks to appeal from the August 21, 2026 Order of Circuit Court Justice Jean H. Toal granting Respondent's Motion to Compel and Motion for Sanctions. Under the well-settled law of this state, Justice Toal's Order granting both Motions is interlocutory and not immediately appealable. As such, this appeal is premature, the Court lacks jurisdiction, and the appeal should be immediately dismissed.

BACKGROUND AND PROCEDURAL POSTURE

Richard Robinson was diagnosed with asbestos-related lung cancer on or about February 4, 2025, following years of occupational exposure to asbestos from his work as a textile worker and insulator at various industrial jobsites in North and South Carolina. He was exposed to asbestos-containing products supplied, distributed, installed, and/or removed by Appellant at various premises where he worked. As a result, Respondent brought negligence and products liability claims against Appellant for his asbestos-related injuries. The case was assigned to the Honorable Justice Jean H. Toal and the trial in this matter was originally scheduled to begin on July 27, 2026.

During discovery, Standard's corporate representatives initially testified under oath that Standard primarily focused on residential work and that it never performed any industrial work, asbestos removal, or any other work involving asbestos. *See* **Ex. 1**, Frederick Judson Dep., Sep. 24, 2021, *Murphy v. Covil Corp., et al.*, No. 2020-CP-40-01364 (S.C. Com. Pl.), at 88:4-17; *see also* **Ex. 2**, Jay Fleet Dep., Apr. 6, 2021, *Carpenter v. Armstrong Int., Inc., et al.*, No. 2020-CP-40-04475 (S.C. Com. Pl.), at 47:2-17. They also testified that Standard never performed work at any Duke power plants, never supplied any materials to any Duke power plant, and never performed asbestos abatement work anywhere. *See* **Ex. 1**, Judson Dep., 9/24/2021, *supra*, at 90:11-17, 80:21-25, 83:7-9; *see also* **Ex. 3**, Frederick Judson Dep., Dec. 8, 2021, *Wannamaker v.3M Co., et al.*, No. 2021-CP-3800240 (S.C. Com. Pl.), at 45:1-20.

After being shown documents produced by another defendant in a different case, which unequivocally showed that Standard had in fact performed insulation work at industrial plants, supplied materials to Duke Power, and undertook asbestos abatement work at the Celanese Fiber Celriver Plant, Standard acknowledged that its prior testimony was false. *See* **Ex. 4**, Frederick

Judson Dep., May 21, 2026, *Edwards v. 3M Co.*, et al., No. 2025-CP-40-04961 (S.C. Com. Pl.), at 101:14-102:4; 103:7-25, 105:15-107:15.

In addition to the above misconduct, Standard also failed to comply with its discovery obligations. Thus, Respondent moved to compel Appellant to comply with its discovery obligations and for discovery sanctions.

On August 21, 2026, Justice Toal granted Respondent's Motion to Compel and Motion for Sanctions, finding that Standard's "complete disregard for the [discovery] rules has significantly prejudiced [Respondent's] ability to prepare for trial." The court entered the following sanctions: 1) evidence of Standard's false testimony may be offered into evidence; 2) the Jury will be instructed that it may draw adverse inferences from that false testimony; 3) the Jury will be instructed to presume that Mr. Robinson was exposed to asbestos insulation supplied, installed, and/or removed by Standard at various locations during his time as an insulator from 1966 to 1983; and 4) Standard is precluded from introducing evidence suggesting that it did not sell, install, or remove asbestos-containing insulation at any worksite of Mr. Robinson. The Order also compels Standard to conduct proper discovery searches and to present a prepared corporate representative.

On September 21, 2026, TopBuild filed a Notice of Appeal from the August 21, 2026 Order, invoking South Carolina Code § 14-3-330(2)(c) and asserting that the Order "has the effect of striking 'an answer or any part thereof, or any pleading in any action.'" It does not. The Order left TopBuild's Answer intact and still requires Respondent to prove all elements of his case by a preponderance of the evidence. It does not strike any of Appellants' affirmative defenses. Therefore, the Order is interlocutory and not immediately appealable.

DISCUSSION

I. Justice Toal's Order is an interlocutory order that is not immediately appealable.

Appellant's attempt to appeal to this Court is improper because this Court lacks jurisdiction to decide an interlocutory discovery order. Appeals from the Circuit Court are governed by South Carolina Appellate Court Rule 201 which is clear that "[a]ppeal[s] may be taken . . . from any *final* judgment, appealable order or decision." SCACR 201(a) (emphasis added). A final judgment is one that ends the action and leaves the court with nothing to do but enforce the judgment by execution." *Tillman v. Tillman*, 420 S.C. 246, 249, 801 S.E.2d 757, 759 (Ct. App. 2017). "An order reserving an issue, or leaving open the possibility of further action by the trial court before the rights of the parties are resolved, is interlocutory." *Id.*

Only "final" judgments and a narrow set of enumerated interlocutory orders are appealable. *Brunson v. American Koyo Bearings*, 367 S.C. 161, 165, 623 S.E.2d 870, 872 (Ct. App. 2005) (holding that South Carolina adheres to the final judgment rule which provides that, "with certain exceptions, an appeal lies only from a final judgment") (*abrogated in part on other grounds by Hilton v. Flakeboard America Limited*, 418 S.C. 245, 791 S.E.2d 719 (2016)); *Mid-State Distribs., Inc. v. Century Imps., Inc.*, 310 S.C. 330, 335, 426 S.E.2d 777, 780 (1993) (explaining that an order is interlocutory if some further act must be done by the court prior to a determination of the rights of the parties). "An order which does not finally end a case or prevent a final judgment from which a party may seek appellate review usually is considered an interlocutory order from which no immediate appeal is allowed." *Hagood v. Sommerville*, 362 S.C. 191, 195, 607 S.E.2d 707, 709 (2005).

"The determination of whether a party may immediately appeal an order issued before or during trial is governed primarily by S.C. Code Ann. Section 14-3-330." *Id.* at 195, 708. Section 14-3-330 states that the Supreme Court shall have appellate jurisdiction to review:

> (2) An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, (b) grants or refuses a new trial or (c) strikes out an answer or any part thereof or any pleading in any action[.]

S.C. Ann. §14-3-330. In *Woodward v. Westvaco Corp.*, 319 S.C. 240, 242-43, 460 S.E.2d 392, 394 (1995) (*overruled on other grounds by Sabb v. South Carolina State University*, 350 S.C. 416, 567 S.E.2d 231 (2002)), the Supreme Court of South Carolina held that "[a]bsent some specialized statute, determining if an interlocutory order is immediately appealable depends on whether the order falls within one of the several categories of appealable judgments, decrees, or orders listed in S.C. Code Ann. § 14-3-330." Section 14-3-330 is construed "narrowly" with the goal of avoiding "circuitous litigation and needless appeals." *Tillman*, 420 S.C. at 250, 801 S.E.2d at 760. "Piecemeal appeals should be avoided." *Hagood*, 362 S.C. at 196, 607 S.E.2d at 709.

The South Carolina Supreme Court has made it clear that discovery orders are not appealable. *Ex parte Zurich Am. Ins. Co.*, No. 2019-001651 (S.C. Oct. 16, 2019) (citing *Grosshuesch v. Cramer*, 377 S.C. 12, 30, 659 S.E.2d 112, 122 (2008) (unpublished) (holding discovery orders are interlocutory and are not immediately appealable because they do not involve the merits of the action or affect a substantial right); *Patterson v. Spector Broad. Corp.*, 287 S.C. 249, 249, 335 S.E.2d 803, 803 (1985) (holding an order compelling discovery is not directly appealable)). *See also Covil Corp. v. Pa. Nat'l Mut. Cas. Ins. Co.*, No. 2022-000761 (S.C. Ct. App. Aug. 9, 2022) (unpublished) (granting respondent's motion to dismiss because the orders were not immediately appealable) (citing *Waddell v. Kahdy*, 309 S.C. 1, 4, 419 S.E.2d 783, 785 (1992) (an order compelling a party to submit to discovery is interlocutory and not directly appealable); *Ex*

Parte Wilson, 367 S.C. 7, 13, 625 S.E.2d 205, 208 (2005) ("[A]n order denying or compelling pretrial discovery is not directly appealable since it is an intermediate or interlocutory decision") (internal citations omitted).

The proper course for a party aggrieved by a discovery ruling is not an immediate appeal; but is rather, "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." *Davis v. Parkview Apartments*, 409 S.C. 266, 280-81, 762 S.E.2d 535, 543 (2014) (citing *Ex parte Whetstone,* 289 S.C. 580, 347 S.E.2d 881–82 (1986) ("An order directing a party to participate in discovery is interlocutory and not directly appealable....").

These rules apply equally to orders imposing discovery sanctions. In *Richardson v. Halcyon Real Est. Servs., LLP*, 439 S.C. 419, 426, 887 S.E.2d 153, 157 (Ct. App. 2023), the Court of Appeals held that a discovery sanction directing parties to reconvene depositions and awarding attorney's fees imposed under Rule 37(b)(2) "neither involves the merits of the case nor affects a substantial right and is therefore not immediately appealable." The court reasoned that allowing immediate appeal of an interlocutory order imposing Rule 37(b) sanctions "would further delay the process and drive up costs." *Id.* at 427, 157.

Justice Toal's Order granting Respondent's Motion to Compel and Motion for Sanctions in this matter does not fall into either of the categories described in South Carolina Appellate Court Rule 201 or Section 14-3-330. It is neither a final judgment nor does it fall into an enumerated exception. The Order leaves "open the possibility of further action by the trial court before the rights of the parties are resolved," and still requires Respondent to prove all essential elements of his claims by a preponderance of the evidence. It does not strike any of Appellant's affirmative defenses or answers to the Complaint's allegations.

This appeal is a delay tactic employed by TopBuild to further delay participation in discovery. The August 21, 2026 Order grants Respondent's Motion to Compel and imposes sanctions for Standard's discovery misconduct. It is interlocutory and not immediately appealable.

A. The Circuit Court's Order does not involve the merits.

"An interlocutory order is not immediately appealable unless it involves the merits of the case or affects a substantial right." *Richardson v. Halcyon Real Est. Servs., LLP*, 439 S.C. 419, 425, 887 S.E.2d 153, 156 (Ct. App. 2023). The August 21, 2026 Order does neither. "An order 'involves the merits,' as that term is used in Section 14-3-330(1) and is immediately appealable when it finally determines some substantial matter forming the whole or part of some cause of action or defense." *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 7, 630 S.E.2d 464, 467 (2006) (internal citations omitted); *see also Tillman*, 420 S.C. at 249, 801 S.E.2d at 759. "The phrase 'involving the merits' is narrowly construed in modern precedent. An order usually will be deemed interlocutory and not immediately appealable when there is some further act that must be done by the trial court prior to a determination of the parties' rights." *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. at 7, 630 S.E.2d at 467 (internal citations omitted).

Here, the circuit court's orders do not involve the merits because the circuit court has not yet determined a substantial matter affecting the parties' rights. Rather, the Order merely allows this case to effectively proceed with the discovery phase of the litigation, and merely restricts TopBuild from presenting evidence it has already admitted is untrue. *See McLendon v. S.C. Dept. of Highways & Pub. Transp.*, 313 S.C. 525, 526 n.2, 443 S.E.2d 539, 540 n.2 (1994) (where an order "does not establish the law of the case and the issue[s] raised by the motion can be raised again at a later stage of the proceedings," the order is not directly appealable) (internal citations omitted).

The case has not yet gone to trial, and TopBuild could still potentially succeed at trial on the merits of its arguments. Justice Toal might modify her ruling based upon the additional discovery which she ordered, and has not ordered any fact essential to Respondent's case has been established as a matter of law. As such, the merits of a discovery order are reviewable only on appeal from the final judgment. TopBuild may appeal once a final order has been issued in the case, if necessary. *Hagood*, 362 S.C. at 196, 607 S.E.2d at 709 ("most errors can be corrected by the remedy of a new trial"); *Baldwin Constr. Co., Inc. v. Graham*, 357 S.C. 227, 230, 593 S.E.2d 146, 147 (2004) ("Petitioners have not 'arrived at the end of the road' and will be able to appeal the decision after the trial is finished.") (internal citations omitted).

B. The Circuit Court's Order does not affect a substantial right.

Subsection 14-3-330(2) allows for immediate appeal of an interlocutory order when it affects a "substantial right" that determines the action, grants or refuses a new trial, or strikes part of a pleading. S.C. Code § 14-3-330(2). To be immediately appealable under section 14-3-330(2)(a), "an order must not only involve a right, but it must also 'prevent[ ] a judgment from which an appeal might be taken.'" *Cobb v. Maccaro*, 310 S.C. 303, 305, 423 S.E.2d 156, 157 (Ct. App. 1992). *See also Du Pont v. Du Bos*, 33 S.C. 389, 394, 11 S.E. 1073, 1074-75 (1890) ("It is quite clear that the order here under review is not appealable . . . ; for even granting that it affects a substantial right, that is not sufficient, for it must also, in effect, determine the action and prevent a judgment from which an appeal might be taken; and this it certainly does not do."). Judicial economy is best served by waiting until after final judgment to consider all issues that may be raised on appeal by any party.

The August 21, 2026 Order does not involve a substantial right and prevents no appealable judgment. TopBuild's attempts to further delay this case and avoid trial on the merits of the

underlying claims do not constitute a substantial right. *See Shields v. Martin Marietta Corp.*, 303 S.C. 469, 470, 402 S.E.2d 482, 483 (1991) (holding that the avoidance of trial is not a substantial right); *Breland v. Love Chevrolet Olds, Inc*., 339 S.C. 89, 94, 529 S.E.2d 11, 14 (2000) (noting "the avoidance of a trial is not a sufficient reason to justify immediate appellate review"). Both Respondent and TopBuild have extensively argued these issues before the circuit court. Respondent's claims remain to be tried, Respondent still has the burden of proof, TopBuild still has the right to ask the trial court to change its ruling, and TopBuild remains free to litigate the action and to seek review of any claimed error in the Order on appeal from the final judgment.

C. Justice Toal's Order does not have the effect of "striking 'an answer or any part thereof, or any pleading'" in the action.

TopBuild's Notice of Appeal rests entirely on the assertion that the Order "has the effect of striking" an answer or pleading under Section 14-3-330(2)(c). That characterization misstates the nature of the Order. In determining whether an order is appealable under section 14-3-330(2)(c), "an appellate court should look to the effect of an interlocutory order," not the label attached to it. *Thornton v. S.C. Elec. & Gas Corp.*, 391 S.C. 297, 304, 705 S.E.2d 475, 479 (Ct. App. 2011). An order affects a substantial right by striking a pleading only "if the order removes a material issue from the case, thereby preventing the issue from being litigated on the merits, and preventing the party from seeking to correct any errors in the order during or after trial." *Id.* at 304, 479. Section 14-3-330(2) is "narrowly construed," and the use of the word "strike" does not make an order automatically immediately appealable. *Id.* at 302-03, 478.

The reason a true order striking a pleading is immediately appealable illustrates why this Order is not. When a court strikes "material allegations of a good cause of action or good defense, it is impossible to remedy it in the course of the trial, because the evidence and the issues submitted to the jury cannot be extended beyond the issues made by the pleading . . ." *Id.* at 303-04, 479

(internal citations omitted). The August 21, 2026 Order works no such removal. It does not strike TopBuild's answer; TopBuild remains a defendant, its answer stands, and it remains free to defend the action at trial subject to the sanctions imposed. Mr. Robinson still has the burden of proving each essential element of his case. Subsection (2)(c) is satisfied only by an order that actually strikes a pleading; where the court "does not strike the answer," the order "is not appealable under subsection (2)(c)." *Jefferson by Johnson v. Gene's Used Cars, Inc.*, 295 S.C. 317, 318, 368 S.E.2d 456, 456 (1988).

Justice Toal's Order imposes sanctions permitting evidence of Standard's false testimony, an adverse-inference instruction, a *presumption* that certain facts are true, and the preclusion of certain contrary evidence which TobBuild has already admitted is untrue. These are discovery sanctions, not the striking of a pleading. The courts treat these as distinct categories of relief. A trial court's sanctioning options include "specifying that designated facts be taken as established for purposes of the action," "precluding the introduction of certain evidence at trial," and, *as a distinct category*, "striking out pleadings or parts thereof." *Richardson*, 439 S.C. 419 at 424, 887 S.E.2d 153 at 156. The first two describe the August 21, 2026 Order ("the Order"); the third does not.

Permitting evidence of "Standard's false testimony" and a jury instruction "that [the jury] can draw adverse inferences from Standard's false testimony" are both plainly evidentiary sanctions. The court regulates what the jury hears and what it may, *not must*, infer. Such sanctions are not akin to striking a defense or deciding any element of a claim or defense. They do not establish any element of Mr. Robinson's claim as a matter of law, Mr. Robinson retains the burden of proof to establish those elements, and affects no affirmative defense raised by TopBuild.

The sanction calling for a jury instruction to presume that "Richard Robinson was exposed to asbestos insulation supplied, installed, and/or removed by Standard at various locations during his time as an insulator from 1966-1983" qualifies as the enumerated Rule 37(b)(2) sanction of specifying that "designated facts be taken to be established for the purposes of the action," a category that South Carolina lists *separately* from striking the pleadings or parts thereof. It establishes a *presumption* about one fact, exposure attributable to Standard, but does not finally determine any essential element of any cause of action. Mr. Robinson must still prove exposure, causation, and damages. The sanction precluding Standard from "introducing any opinions, testimony, or evidence suggesting that it did not sell, install, or remove asbestos-containing insulation at any worksite of Plaintiff" falls under the 37(b)(2) category of "prohibiting [the] introduc[tion of] designated matters in evidence," and is based upon TopBuild's admission that previous testimony on this issue was untrue. This category, which is functionally akin to granting a motion *in limine*, is likewise listed *separately* from striking the pleadings or parts thereof, and does not establish grounds for interlocutory jurisdiction.

The sanctions entered in the Order merely regulate proof and remedy misconduct. They do not remove a defense or resolve the case. The pleadings are left in place and the substances of the claim, exposure, causation and damages, must still be proved by Plaintiff by a preponderance of the evidence. TopBuild can obtain full review on appeal from a final judgment. Consequently, Appellant's Notice of Appeal must be dismissed.

II. Asbestos defendants have repeatedly pursued improper appeals from nonfinal, non-appealable orders.

The posture at issue here is not new to asbestos cases, and the South Carolina Supreme Court has repeatedly warned asbestos Defendants that the continued filing of improper appeals can and will result in sanctions. *See, e.g.*, *Tibbs v. 3M Co. et al.*, 448 S.C. 182, 193, 933 S.E.2d 254,

260 (2026) ("The [Supreme Court's prior] order also warned the parties against filing future improper petitions or interlocutory appeals (Appellants have filed over a dozen related to this case) or engaging in other inappropriate behavior, and it held several motions for sanctions in abeyance.") (citing *Welch v. Advance Auto Parts, Inc.*, 445 S.C. 640, 916 S.E.2d 320 (2025). The referenced motions for sanctions are still under consideration by the Supreme Court. *See* **Ex. 5**, August 25, 2026 Order Denying Appellants' Motion to Stay or Recall the Remittitur, *Tibbs v. 3M Company*, South Carolina Appellate Case No. 2025-002104 (recognizing defendants' "troubling previous conduct," "[t]ime and time again, Appellants have wasted the scarce judicial resources of this Court, the Court of Appeals, and the trial court," "[i]t should be remembered that these Appellants have collectively filed over a dozen appeals from rulings of the trial court, at least seven of which we have dismissed as interlocutory and not immediately appealable. (There are eight more appeals the Court of Appeals has dismissed as interlocutory").

The South Carolina asbestos dockets "have seen a radical increase in appeals by asbestos defendants. Almost all of these appeals were properly dismissed as premature and obviously interlocutory." *Welch*, 445 S.C. at 668, 916 S.E.2d at 335. In *Tibbs v. 3M Co.*, 448 S.C. 182, 193, 933 S.E.2d 254, 260 (2026), arising from the Richland County asbestos coordinated docket before Justice Toal, the Supreme Court noted that the appellants' prior interlocutory appeals "were dismissed as interlocutory" and that the court's order "warned the parties against filing future improper petitions or interlocutory appeals."

TopBuild's appeal of the August 21, 2026 Order should be dismissed. In the present case, Justice Toal's Order granting Respondent's Motion to Compel and for Sanctions does not constitute a "final" ruling that is immediately appealable, and Appellant's Notice of Appeal fails to cite any authority that would suggest otherwise. TopBuild's Notice of Appeal is yet another

attempt to delay the case, neglect its legal obligations to participate in discovery, and avoid going to trial on the underlying issues. Therefore, this Court should dismiss Appellant's Notice of Appeal.

As a final matter, this Court should note that appealing counsel in this case Womble Bond Dickinson, also represented the appealing parties in the above-cited South Carolina Supreme Court cases. Signing attorneys M. Todd Carroll and Elizabeth O'Neill are both attorneys of record in those appeals, and are the counsel responsible for the conduct which the Supreme Court has repeatedly declared improper, and a "[waste of] the scarce judicial resources of this Court, the Court of Appeals, and the trial court." **Ex. 5**. As such, these same attorneys continue to flout South Carolina's appellate rules by filing improper interlocutory appeals, even in the face of a pending sanctions order from the South Carolina Supreme Court concerning exactly the same type of conduct and same type of appeals. The instant appeal is part of a pattern and practice of this particular firm and these particular attorneys deliberately violating the Appellate Rules in an effort to cause delay and increase the costs to dying plaintiffs seeking only to have their day in court. This appeal should be dismissed.

CONCLUSION

For the foregoing reasons, dismissal of TopBuild Corporation's Appeal is appropriate. The Circuit Court's August 21, 2026 Order granting Respondent's Motion to Compel and Motion for Sanctions is an interlocutory discovery and sanctions order that is not immediately appealable. Given that the appeal is premature, subject to dismissal, and lacks an arguable basis for appealability, an award to Respondent of the attorneys' fees and costs incurred in responding to it are also warranted.

October 1, 2026

Respectfully submitted,

s/ Theile B. McVey

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EXHIBIT 1

STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL DISTRICT

MARIAN MURPHY DUDLEY as Executor of the Estate Of NICHOLAS LEON MURPHY, Deceased and DORIS ANNE MURPHY, Individually,

Plaintiffs,

V.

C/A NO:
2020-CP-40-01364

COVIL CORPORATION, Et al,

Defendants.

ZOOM/VIDEOTAPED DEPOSITION OF
FREDERICK JUDSON
Friday, September 24, 2021
9:08 a.m. - 1:12 p.m.
JANE HARRISON, CSR

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Southern Insulation, via Zoom.

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Appearing on behalf of
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ALSO PRESENT:

DAVID TRAYLOR, Y. MCLEOD,
NATALIE ANDERSON, STEVE KOZICK,
JEAN FOLSOM

DAVID RANIERI, Videographer

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THE VIDEOGRAPHER: We are now on the record.

Participants should be aware that this proceeding -- excuse me.

Participants should be aware that this proceeding is being recorded, and as such, all conversations held will be recorded unless there is a request and agreement to go off the record.

Any private conversations and/or attorney/client interactions should be held outside of the presence of the remote interface.

This is the remote video recorded deposition of Fredrick D. Judson, the TopBuild corporate representative.

Today is Friday, September 24th, 2021 and time is now 9:08 central.

We are here in the matter of Marian Murphy Dudley v. Covil Corporation, et al.

My name is David Ranieri, the remote video technician on behalf of U.S. Legal Support.

At this time will the reporter please enter the statement for remote proceedings into the record.

THE REPORTER: The attorneys participating in this deposition acknowledge that I am not physically present in the deposition room and that, in lieu of an oath administered in person, I will administer the oath remotely. This arrangement is pursuant to the Texas Supreme Court First Emergency Order Regarding the Covid-19 State of Disaster.

The parties and their counsel consent to this arrangement and waive any objections to this manner of reporting. Please indicate your agreement by stating your name and your agreement on the record.

MR. HUMEN: And this is David Humen on behalf of plaintiffs -- is it -- are we all good with just the -- the stenographic record reflecting appearances and everyone can e-mail their appearances, that way we don't all have to state it on the record?

MR. ZEMIL: Yes.

MR. HUMEN: And this David Humen and we have a few stipulations to put on before we get going.

First, an objection by one will be good for all present. Also, all objections, except for form, are reserved for trial.

MR. LYNCH: And, David, this is Daniel Lynch. I represent Flame Refractors, Incorporated.

We've just been served and I've not answered yet, and as such, an appearance at this deposition is not a waiver of -- (indistinguishable).

THE REPORTER: I'm sorry, Mr. Lynch, I didn't understand you.

MR. TRAYLOR: Can you all hear me?

MR. HUMEN: Yes.

MR. TRAYLOR: This is David Traylor, I just -- David, usually we also put on there an appearance by the -- (indistinguishable) -- is not waiver of any jurisdiction or door closing.

MR. HUMEN: Agreed. And I think it was a little tough hearing you, David, but the stipulation is, an appearance today is not a waiver of any defenses, including personal jurisdiction or door closing.

And, Daniel, I think you got cut off a

little bit. I didn't -- at least I personally didn't hear the rest of what you said. You maybe want to say it again.

MR. LYNCH: Sure. Can you hear me?

MR. HUMEN: Yeah.

MR. LYNCH: I represent Flame Refractors, Incorporated. We have just been served and have not answered, and as such an appearance today at this deposition is not waiver of any our defenses.

MR. HUMEN: And that's agreed.

MR. LYNCH: Thank you.

- - -

FREDRICK JUDSON,

the witness herein, having been first duly sworn, was examined and testified as follows:

THE WITNESS: I do.

DIRECT EXAMINATION

BY MR. HUMEN:

Q Good morning, Mr. Judson. I introduced myself a little bit before we got going, but my name is David Humen. I represent the plaintiffs in this case and I'm going to be asking you most of the questions today.

Before we get going, can you just

introduce yourself and state your full name, please.

A My name is Fredrick D. Judson. I go by Rick primarily. I live in Charlotte, in a residence here in Charlotte.

Q And what is your date of birth, sir?

A 8/19/48.

Q And where are you currently located?

A My office address is 1005 North Church Street in Charlotte, North Carolina 28206.

Q Are you -- are you currently at your office?

A No. I'm in the offices of the attorneys.

Q And --

A Womble.

Q I apologize.

A The Womble group here in Charlotte.

Q And if I -- if i understand correctly, you're -- you're at the attorneys' offices, but you're in conference and you're there by yourself and then the attorneys in a different room, is that -- is that -- is my understanding --

A That is correct.

Q -- correct?

A That is correct.

Q Mr. Judson, have you ever given a deposition before?

A I have.

Q Okay. And how many times?

A Maybe a half dozen.

Q And in what context have you given depositions before?

A I've been in the general contracting business for almost 40 years, so they were primary contractual disputes and clarifications.

Q Have you ever given any -- have you ever testified at trial before?

A Yes.

Q How many times have you testified at trial?

A One.

Q Okay. And what was -- what was that involving?

A A contractual dispute.

Q Have you ever testified at deposition or trial or anything else with -- with regards to anything involving asbestos?

A No.

Q Do you understand that you've been designated as a corporate representative of

TopBuild today to discuss Standard Insulating Company and United Subcontractors?

A Yes.

Q Okay. And do you understand that your -- the testimony you give today will be binding on the company?

A Yes.

Q And going forward, if I refer to Standard Insulating Company, Inc., as either Standard Insulating or Standard, will you understand who I'm referring to?

A I will.

Q Okay. Good. Makes life a little bit easier that way.

A Sure.

MR. ZEMIL: Can I have that similar stipulation, if --

MR. HUMEN: Absolutely.

MR. ZEMIL: Thank you.

MR. HUMEN: Absolutely. And if in your responses you refer to Standard or Standard Insulating, I'll -- I'll understand who you're referring to, also, unless you say otherwise. I'll assume you're referring to Standard Insulating Company, Inc.

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Q Understood. And then prior to 1970, did Standard ever sell any insulating material, obviously outside of the job? And by that I mean outside of the jobs it was actually doing. Did it ever act as a distributor or seller?
A Prior to 1970 -- the office building was in a suburban -- I wouldn't say a retail district, but it was a suburban area, so I am sure there were occasional do-it-yourselfers that would want to come by and buy a roll of insulation. There was no marketing scheme for wholesaling or distributing of insulation products.
Q Okay. Now, next I'm going to shift and kind of talk -- and talk about when -- after the time you started there full time. And as I go through these, if your answer is the same, you can tell me that nothing changed. I just wanted to kind of break it down into different time periods.
A Okay.
Q So first -- so after you were working at Standard full time, what types of insulation were being used?
A Fiberglass and Rockwool.
Q And who decided what -- what insulation was used on the jobs?

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A Availability of product. The decision to -- what products to use was made by the company at Standard Insulating. It would be based on product availability, quality, pricing, if there were any marketing differentiations that could be incorporated. Those were -- those were the primary factors.
Q Okay. And -- and then once you were -- you were at Standard full time, are you aware of whether there was any asbestos-containing insulation that was used in residential jobs after that time?
A By Standard Insulating?
Q Just -- no, as -- as far as an industry level, were there --
A No, I'm not.
Q -- any asbestos-containing --
A Asbestos was more of a -- an industrial product and I don't know of any exposures that I -- that Standard Insulating or my competitors in that residential arena had to -- of any products that had asbestos. It just wasn't a -- asbestos was not used in the products that we inventoried, marketed and installed.
Q Once you were at Standard full time, did

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they continue to get the materials primarily directly from the suppliers?
A From the manufacturers.
Q From the manufacturers, sorry. Yes.
A Yes.
Q Okay. And what brand was Standard using once you were there full time?
A Owens Corning, Certainteed, Manville, Knauf, K-n-a-u-f, various Rockwool product. Rockwool was a -- it's an insulation product, but it's more of in a nodule, like a cotton ball or something, whereas fiberglass is more of a elongated strand.
So those would have been the products and the manufacturers that we use.
Q Was there ever a point in time when Standard was -- performed work at locations where -- that had asbestos-containing materials already in place, that you're aware of?
A Not -- not to my direct knowledge, no.
Q Are you aware of whether Standard ever had to perform repair work or maintenance on any asbestos-containing materials or insulation?
A I'd be aware of that one and the answer is no.

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Q Did Standard ever have any type of policy in place for -- if its employees did encounter any asbestos-containing materials?
A We did.
Q And when did -- when was -- when did it first put a policy in place?
A As I began to learn more about the industry and the -- the concerns with asbestos, it was not involved in the new construction process, the scope of work that we did, but in the re-insulation of houses, the retrofit -- if a house was built in 1920, it's likely that it had a boiler or some sort of furnace system in the basement, especially in the higher end, more majestic homes.
I would have our salespersons who were doing re-insulation work be specifically cognizant of -- of that. We would not do insulation work in the basement or crawl areas of houses that had asbestos in them or pipe wrap that may resemble asbestos. It was just a safety issue.
If we were asked to -- as part of our package of re-insulation to repair any such work, we would refer that to an industrial company. We had a particular company that we referred business to, and that's what they did. And when that work

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was completed, if there was still a need for floor insulation, then we would go in and do that work.

So our policy was to not do any work that had noticeable duct damage or damage to pipes or boilers that maybe -- it may be asbestos.

Q And when did that policy first go into place?

A Early mid '70s.

Q Was that something that was a written policy or was that just a, kind of, company policy?

MR. ZEMIL: Objection; form.

A We tried to put everything in writing, but we also had safety meetings and training meetings and it was relayed more verbally -- you give someone a piece of paper and they look at the pictures on it and then throw it in garbage, so we wanted to make sure that they not only had a chance to read it, our policy, but also hear it.

BY MR. HUMEN:

Q Was there ever a point in time that Standard did any pipe insulation or boiler insulation, like you were just referring to, work?

A No.

Q And you mentioned that Standard referred the work to an industrial company, what company?

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A Guy M. Batty. B-a-t-t-y. That's what they did. They were a reputable company. They were a half dozen reputable companies in and around the area, but I knew the principal of -- I knew a person that was employed with Batty, so we just referred business to them.

Q Has Standard ever performed any asbestos abatement work?

A No.

Q Did Standard ever perform any spray back work?

A Yes.

Q And so you're familiar with the term, spray back?

A Yes I am.

Q And what is that?

A When asbestos -- let's use an auditorium of a school as an example. If the asbestos product was installed in that auditorium and it was determined that it was asbestos, they would take it out, they'd do their clean air checks, they'd do their negative air, pressurization cleaning, then they'd do the clean swipe as it's called, and then it would be turned over as, quote, clean, and they would spray back a product for -- serving several

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purposes; insulation, sound control and aesthetics.

And we would go in after we got the clean read and authorization from the architect, slash, owner to go in and spray back an inch or two of this cellulous product. It could be colored -- a white, gray, beige. It looks like the texture of carpet, and that's what the ceiling would then look like, and that's called a spray back.

Q When did Standard first start doing spray back work?

A I would say mid, late '70s, maybe later than mid.

Q Was there any specific companies Standard worked with that would go in and remove the asbestos first before Standard performed the spray back work?

A No. That was a specialty trade and that -- that was very different and required different licensing and certifications and processes and procedures, and there wasn't anybody particularly that I would recall as following. They were usually put out for bids in the -- in various plan rooms. Are you familiar with the plan room?

Q Vaguely. If you could give --

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A Okay. It's a --

Q -- us a rough overview.

A Yeah. It's a clearing house where, in a larger city you'll have projects that are being bid in the next 30 days, and you can go in and review those plans and see if there's anything in there for you. So people would bid that work, whether it be a general contractor or a specialty contractor, and the spray back insulation would be identified in there in a certain specification section of the plan book.

Q And you mentioned like -- you mentioned school auditoriums as one; as any other types of facilities that Standard performed spray back work at?

A None come to mind. Schools, auditoriums, theaters, places that were -- a lot public use and notoriety seemed to be the ones that were most quickly interested in removing asbestos or any asbestos-containing materials, and then going back with something that had the characteristics I previously mentioned.

Q Do you know if Standard ever performed any spray back work in any industrial settings?

A Not to my knowledge, no.

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Q Did Standard have any special procedures in place for people that were doing spray back work?

MR. ZEMIL: Objection; form.

BY MR. HUMEN:

Q Special protective procedures in place?

A We --

MR. ZEMIL: Objection; form.

A We requested via policy that anyone spraying anything or even blowing loose-filled product wear face masks, just simply because of the dust. The product being sprayed back is -- they call it cellulose. Especially -- it's a ground-up newspaper, so it and most any product that's blown through a machine has a certain dust creation.

So our policy was a requirement for spray work and a recommendation for attic work, or even installing insulation in walls or floors. That was left up -- more up to the discretion of the installer, but we provided masks for all those conditions.

Q And what types of masks were provided?

A What we would now call a traditional 3M paper masks.

Q Okay. Did Standard ever do any

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subcontracting work?

MR. ZEMIL: Objection; form.

BY MR. HUMEN:

Q And maybe I -- so did you --

A Yes, I'm just -- yeah, and to answer clearly, yes, for that.

Q Okay.

A The spray back we've been talking about was usually subcontractor work. It would occasionally, say maybe half the time, been direct contract work with the owner, whether it be the school or whoever the owner may have been.

The larger portion of subcontract work was on commercial applications, office buildings, whether they'd be low rise, mid rise or even high rise, we would be a third tier subcontractor for a -- an interior upfit person or interior upfit contractor, where they would do -- go in the shell of a building, put up the metal studs and we'd put the insulation in between there, they'd put the grid ceiling in, or the acoustical ceiling and we would lay the insulation up there.

It's just something they didn't want to do. It was a commodity product. It was viewed as being demeaning and that just didn't matter to us.

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We had the people to do it, the material to do it and the scheduling expertise to pull it off, so we did it. And it was a good niche market, frankly.

Q Did Standard have relationships with any specific general contractors and kind of what -- for clarification I mean, were there specific general contractors that Standard would typically work with or was it kind of whoever -- whatever the job was?

MR. ZEMIL: Objection; form.

A That is repeat business, as we called it, and that was very important to us. So we -- we developed a relationship with general contractors and builders starting with my first day on the job trying to develop those relationships, and whether they were residential or commercial -- the primary focus was residential, because that's all we did.

Then as we evolved more in trying to cultivate the commercial market, we tried to establish a relationship with those builders, those general contractors, but because insulation was such a small component of a building, we were generally directed to an interior upfit contractor. So we became a sub-tier contractor.

But the fact the general contractor would

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give us the recommendation or nod of approval went a long way with the contractor for whom we were actually working, if that makes sense.

Q It does. Are there -- on the commercial side, are there any specific general contractors that Standard, I guess, had ongoing relationships with or any -- that Standard did a majority of its commercial work with?

A I mentioned J.O. Jones. I mean -- sorry.

UNIDENTIFIED SPEAKER: J.A. Jones.

A J.A. Jones. I think I said J.O. Jones previously.

Q You did. When you said J.O. Jones earlier, is that supposed to be J.A. Jones?

A It's supposed to be J.A. Jones.

Q Okay.

A J.O. Jones is a clothing manufacturer. J.A. Jones is an international general contractor. They did all types of work, including the military housing, and they did commercial buildings. They favored us. We did a good job. We were prompt, we were competitive, but, again, it became -- insulation is such a miniscule portion of a large job. So the larger the job, the more minuscule the insulation portion became.

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J.A. Jones, McDevitt & Street. I'm sure there are a myriad of other companies, but, again, it's been 25 years, I don't recall who those were, but they were companies -- we had more of a relationship with the -- with their interior upfit contractor than we did the general contractor.

The general knew who we were, they were glad to see us on the job. The interior contractor was equally glad to see us on the job, and even more glad that the general contractor liked us.

Q Understood. To your knowledge, has Standard ever done any work at all at any of the Duke Power plants?

A No. And I'll underscore the word there, power plants, that just wasn't our scope of work.

Q Okay.

A So to answer pretty clearly, no.

Q To your knowledge, has Standard ever done any work at any Duke facilities?

MR. ZEMIL: Objection; form.

A Duke Power has a lot of small offices around -- particularly this area of North Carolina, and we were a favored contractor with them. So if they're building a 1200 square foot office in Hickory, North Carolina, we would probably get an

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opportunity to do that. They also had a real focus during that period of time on the efficiencies and value of electricity, as opposed to coal and oil, which had been the predominant heating sources to that time.

So they established a residential marketing program and we were intricately valuable to them in that program. It eliminated the highs and lows of kilowatt demand and electricity usage if the house is properly insulated.

So we had an exceptionally good relationship with Duke and they would reciprocate by giving us anything that we asked for. They'd refer us regularly on residential re-insulation procedures.

When they built a multi-story office tower here in Charlotte, they did not dictate that we do work on it, but they highly recommended to the general contractor that we be included, and so we wound up working for the interior upfit contractor. So we were, at that point, a third tier sub on a building.

That's a long answer to your question, but it hit both ends of the spectrum, from the tiny little satellite office they would have, to the --

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to the large office tower they built in the Charlotte metro area, which we did commercial work in. It, by definition, would be commercial work, in both those types of facilities.

BY MR. HUMEN:

Q Okay. Thank you.

MR. HUMEN: We've been going a little over another hour, I think it's probably a good time to take another break, if we want to go -- go and get off the record for a second.

THE VIDEOGRAPHER: We're off the record at 11:28.

(Thereupon, a break from 11:28 to 11:47 was taken.)

THE VIDEOGRAPHER: We're on the record at 11:47.

BY MR. HUMEN:

Q All right, Mr. Judson, kind of picking where we left off. So I want to show you a couple of different documents and kind of get -- and get your thoughts on them. So what I'm going to do is first I'm going to upload it into the chat window and then I'm also going to show you it on my screen.

And the first one I'm -- and you may have

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seen these already. Those are actually some advertisements that were used in Mr. Fleet's deposition that you mentioned you read.

MR. HUMEN: And, actually, before -- before I start showing you this, just a little housekeeping matter. I want to go ahead and mark the Notice of Deposition as Exhibit 1. I uploaded that one before we got started as a little test run and I never did mark it as an exhibit. So we'll make the notice Exhibit 1, and this is going to be Exhibit 2.

(Thereupon, Deposition Exhibit No. 1 and No. 2 were marked.)

Q And you should be looking at my screen, and it should be a November 9th, 1952 Charlotte Observer advertisement. Are you looking at it?

A I am.

Q Okay. And is this an advertisement you've ever seen before?

A I did not see it 1952, but I've seen it since then, yes.

Q It actually mentions McDowell Street, and I believe you said at one point the company was located out on McDowell Street.

A Well -- and I'm not sure of that.

E R R A T A S H E E T

STATE OF SOUTH CAROLINA)
RICHLAND COUNTY)

I, FREDRICK JUDSON, have read the foregoing deposition and find same to be a true and correct transcription of the proceedings taken at the time and place indicated therein, except as follows:

PAGE	LINE	SHOULD BE
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FREDRICK JUDSON DATE

STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL DISTRICT

MARIAN MURPHY DUDLEY as Executor of the Estate Of NICHOLAS LEON MURPHY, Deceased and DORIS ANNE MURPHY, Individually,

Plaintiffs,

V. C/A NO: 2020-CP-40-01364

COVIL CORPORATION, Et al,

Defendants.

REPORTER'S CERTIFICATION
DEPOSITION OF
FREDRICK JUDSON
September 24, 2021

I, Jane Harrison, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, FREDRICK JUDSON, identification verified via driver's license, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the deposition transcript was submitted on October 10, 2021 to the witness or to the attorney for the witness for examination, signature and return to me by October 30, 2021.

That the amount of time used by each party at the deposition is as follows:

MR. HUMEN: 2.55
MR. ZEMIL: 0.30

That pursuant to information given to the deposition officer at the time said testimony was taken, the following includes counsel for all parties of record, including the appearance page:

MR. HUMEN, attorney for plaintiffs
MR. ZEMIL, attorney for TopBuild

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Further certification requirements pursuant to Rule 203 of TRCP will be certified to after they have occurred.

Certified by me this 5th day of October, 2021.

/s/ Jane M. Harrison, CSR
JANE HARRISON, CSR 6382
Expiration Date: 7/31/2023
Firm Registration No. 343
8144 Walnut Hill Lane
Suite 350
Dallas, Texas 75231

EXHIBIT 2

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF RICHLAND)	FOR THE FIFTH JUDICIAL CIRCUIT
RICHARD F. CARPENTER and)	C/A NO. 2020-CP-40-04475
and JEANA E. CARPENTER,)	
)	
Plaintiffs,)	
)	
v.)	
)	
ARMSTRONG INTERNATIONAL,)	
INC., et al.,)	
)	
Defendants.)	

REMOTE DEPOSITION OF

TOPBUILD CORP.'S DESIGNATED

30(B)(6) REPRESENTATIVE, JAY FLEET,

called by the Plaintiffs for examination, via Zoom Videoconference, taken by and before Ann Medis, Registered Professional Reporter and Notary Public in and for the Commonwealth of Pennsylvania, on Tuesday, April 6, 2021, commencing at 12:33 p.m.

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Also present

Austin Parker

* I N D E X *

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- - - -

P R O C E E D I N G S

- - - -

MR. HORN: Ethan Horn have the witness sworn remotely. I will stipulate an objection by one defense counsel is deemed to be an objection by all defense counsel. Sounds everybody agrees.

MR. MCLEOD: Yeah. Ethan the other thing I'm sure other defendants would also want our typical stipulation by appearing we don't waive any defenses including personal knowledge subject matter jurisdiction.

MR. HORN: Whatever Jonathan agrees to, I'll agree to that.

MR. MCLEOD: Okay. Very good. I assume that means you agree to it. That's typically what we do.

MR. HORN: I will doublecheck with him that that's copacetic and then maybe at a break I'll get ahold of him.

MR. MCLEOD: Once we go on the record I'll put that stipulation on. Regardless, I think you'll find Jonathan will agree.

MR. HORN: Sounds like a plan. By the way, we don't need the appearances on the video record, just on stenographic record is fine.

MR. MCLEOD: Ethan, I don't see you. Are you on phone only.

MR. HORN: No. My computer has to work a little too hard if I start the video. You will hear the voice, but not see the face.

MR. MCLEOD: Okay. All right.

- - - -

THE VIDEOGRAPHER: We're on the record at 12:33. Today's date is April 6, 2021. This is the deposition of Jay Fleet, the corporate rep for TopBuild Corp. in the matter of Richard F. Carpenter v. Armstrong International Inc.

Will the reporter please swear in the witness.

JAY FLEET,

having been first duly sworn, was examined and testified as follows:

THE WITNESS: Ethan, before we begin, this is Yancey McLeod representing TopBuild. I think we would like to put a stipulation on the record. An objection for one is good for all. Appearances on the stenographic record. This deposition is being taken pursuant to the Rules of South Carolina Procedure and that no defendant by appearing at this deposition is waiving any

defenses including personal jurisdiction.

With that, please proceed.

MR. HORN: Very well.

EXAMINATION

BY MR. HORN:

Q. Good morning, sir.

A. Good morning or afternoon.

Q. Afternoon where you were, morning where I am. I just caught myself on that one. My name is Ethan Horn. I am here to take your deposition today. Are you prepared to go forward?

A. Yes, I am, sir.

Q. Would you please tell us your name.

A. My name is Jay Fleet.

Q. Mr. Fleet, have you been deposed before?

A. No, I have not.

Q. Before we go any further, then let me just give you some rules of the road to help make this deposition go smoothly. First of all, at the conclusion of the deposition, you're going to have the opportunity to read this transcript and make any changes that you want to make to it, write them down, and send them back.

I do want to caution you though if you make any changes that are significant, such as

changing a "yes" to a "no" or something similar to that, those changes can be commented upon at the time of trial. Do you understand that?

A. Yes, sir.

Q. That kind of ties in where I'm going with my next point, which is I'm going to be asking you several questions. Maybe some of the other folks will, too. I don't know because I can't speak for them. However, sometimes I ask some questions that may be aren't as clear as I thought they would be.

In other words, they're poor questions and you don't understand them. If I ask you a question that you don't understand for any reason, go ahead and let me know. I'll go ahead and ask you a question that you can understand. Okay?

A. Okay.

Q. Conversely, if you respond to one of my questions, I'm going to assume that you understood the question. Is that fair?

A. That's fair.

Q. This is not an endurance contest, by any chance. I try to take a break every hour, hour and a half or so. But before that, if you ever need to go off the record for any reason to take a

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injury, you'd be made aware of it?
MR. MCLEOD: Object to the form.
BY MR. HORN:
Q. You can answer.
A. Sorry. I would be made aware of it if something like that happened, but we're all -- you know, we never did insulation -- we never did asbestos insulation. We never did that type of work. So we were just a residential insulation company.
Q. Correct. You're talking about Carroll Insulation. What I'm saying is in the broader context. All the other companies that merged into United Subcontractors, if any of them had been sued for an asbestos-related injury, you would have no knowledge of that; correct?
MR. MCLEOD: Object to the form.
THE WITNESS: The only thing I can tell you is what Rick Judson told me, and he was the CEO. He said that they vetted -- because of all the asbestos stuff and they were -- you know, with the insulation companies, every insulation company they bought, they vetted to make sure there was no connection to asbestos, and that was in my interview with him.

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BY MR. HORN:
Q. Do you know whether or not Standard Insulating specifically, but any of the companies that merged in to become part of United Subcontractors, ever did asbestos remediation type work?
MR. MCLEOD: Object to the form. That exceeds the scope.
You can answer if you know.
THE WITNESS: It wasn't our scope of work to do that type of work. We were all residential insulators. We belong to the ICA, Insulator Contractors of America, all of them, and that's the kind of work that we did.
We did no industrial work, no asbestos removal. We had nothing -- you know, no companies had anything to do with asbestos.
BY MR. HORN:
Q. Let's talk a little bit about TopBuild. TopBuild is a Delaware corporation, and its principal place of business is Florida; correct?
A. Yeah, Daytona Beach.
Q. It was incorporated in 2015. I think you told us that earlier, true?
A. I thought it was '14, but it could be

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'15.
Q. Was it a byproduct of another business, or was it a brand new corporation it was formed?
A. It was a branch off of Masco. Moon Faucets used to own it, and then they branched it off into TopBuild.
Q. There's a part of the company called Builder Services Group, Inc.; correct?
A. Correct.
Q. That's a Florida corporation and a Florida principal place of business; right?
A. Correct.
Q. It is a wholly-owned subsidiary of TopBuild, true?
A. True.
Q. It is a successor-by-merger to United Subcontractors, Inc., which is a successor-by-merger to Standard Insulating; is that true?
A. Yes.
Q. Do you know whether or not Standard Insulating ever retailed insulation or insulation-type products or related equipment?
A. No. They were an installer of insulation. They never distribute any. Just my

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knowledge of what insulation contractors do, some you might have contractors come in to buy a bag of insulation or something like that, but that's about the only retail that we did. It was all we'd go out and install insulation in new homes.
Q. Is United Subcontractors, Inc. still an ongoing concern?
MR. MCLEOD: Object to the form.
THE WITNESS: You have to repeat that please, again.
BY MR. HORN:
Q. Sure. Is United Subcontractors, Inc. still an ongoing concern?
MR. MCLEOD: Objection. What do you mean by --
BY MR. HORN:
Q. Or has it been subsumed by Builder Services Group, Inc.?
A. I don't know what the concern is.
Q. Ongoing operation, how is that? Ongoing operation.
A. We're still insulating. USI -- like our name is still USI Carroll Insulation. Is that what you mean?
Q. Yes. So in other words, USI is still a

only seen them an hour ago for the first time.
BY MR. HORN:
Q. Is that true, sir?
A. True.
Q. Just so we're clear, when you said earlier that Mr. Davis looked at every possible location for documents, when I was asking you questions, you said, well, he would have looked electronically. That's the only place you can figure he would have looked; right?
MR. MCLEOD: Object to the form.
BY MR. HORN:
Q. You can answer.
A. Yeah. That would be correct. I mean, he's a computer guy. If there's anything on the computer, he would be able to find it.
Q. All right. With that, I am done. I thank you for your time.
A. Okay. Thank you.
MR. HORN: Anything else?
MR. MCLEOD: I don't have any follow-up.
MR. HORN: All right. So with the caveats we discussed before, then we're concluding for the day?
MR. MCLEOD: Well, we're concluding the

deposition, yeah, right.
THE VIDEOGRAPHER: So are we good to go off the record?
MR. HORN: We're good to go off the record.
THE VIDEOGRAPHER: Off the record at 4:57.
(Whereupon, at 4:57 p.m., the taking of the instant deposition ceased.)

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF ALLEGHENY) SS:

C E R T I F I C A T E

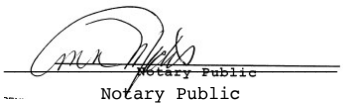
I, Ann Medis, Registered Professional Reporter, Certified Livenote Reporter and Notary Public within and for the Commonwealth of Pennsylvania, do hereby certify:

That JAY FLEET, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify the inspection, reading and signing of said deposition were not waived by counsel for the respective parties and by the witness.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of April, 2021.



Notary Public

COMMONWEALTH OF PENNSYLVANIA) E R R A T A
COUNTY OF ALLEGHENY) S H E E T

I, JAY FLEET, have read the foregoing pages of my deposition given on April 6, 2021, and wish to make the following, if any, amendments, additions, deletions or corrections:

Page	Line	Change and reason for change:
____	____	_____
____	____	_____
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____	____	_____
____	____	_____

In all other respects, the transcript is true and correct.

_____
JAY FLEET

_____ day of _____, 2021.

_____
Notary Public

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April 8, 2021

Yancey A. McLeod III, Esquire
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Re: Deposition of JAY FLEET
Notice of Non-Waiver of Signature

Dear Mr. McLeod:

Please have the deponent read his deposition transcript. All corrections are to be noted on the Errata Sheet.

Upon completion of the above, the Deponent must affix his signature on the Errata Sheet, and it is to then be notarized.

Please forward the signed original of the Errata Sheet to Ethan Horn, Esquire for attachment to the original transcript, which is in his possession.

Please return the completed Errata Sheet within 30 days of receipt hereof.

Sincerely,

Ann Medis, RPR

cc:

Ethan Horn, Esquire

EXHIBIT 3

STATE OF SOUTH CAROLINA : IN THE COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG : FOR THE FIRST JUDICIAL CIRCUIT

TOMMY D. WANNAMAKER, :

and DALE J. WANNAMAKER, :

Plaintiffs, :

v. : C/A NO. 2021-CP-3800240

3M COMPANY et al. :

Defendants. :

- - - - -

Video-recorded Deposition of TOPBUILD, INC., through its corporate designee FREDERICK D. JUDSON

Via Zoom Videoconferencing

Wednesday, December 8, 2021

10:03 a.m.

Reported stenographically by:

Adam D. Miller, Registered Professional Reporter

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ALSO PRESENT: PETER METTERS, ESQUIRE
BRENT GOUCHER, THE VIDEOGRAPHER

- - - - -

INDEX

DEPONENT: TOPBUILD, INC., through its corporate designee FREDERICK D. JUDSON

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ATTORNEY ZEMIL	23
ATTORNEY BRALY	44

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EXHIBITS

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Exhibit 1	12/8/88 Memo, with attachment	44

THE VIDEOGRAPHER: We are on the record. The date is December 8th, 2021. The time the 10:03 a.m. This is the video-recorded deposition of Frederick D. Judson. He is a 30(b)(6) representing Topbuild Corp.

This is being taken in matter of Tommy D. Wannamaker, et al. versus 3M Company, et al.

Appearances and applicable stipulations will be reflected on the stenographic record.

Will the court reporter please swear in the witness, and we can proceed.

- - - - -

TOPBUILD, INC., through its corporate designee FREDERICK D. JUDSON, having first been duly sworn according to law, was examined and testified as follows:

- - - - -

BY ATTORNEY BRALY:

Q. Good morning, Mr. Judson.

A. Good morning.

Q. Hey, my name is Ben Braly. I understand you were deposed by one of my

foundation, form.
BY ATTORNEY ZEMIL:
Q. Mr. Judson, before your father started Standard Insulation, where did he work?
A. He worked in a shipbuilding facility for the government during World War II.
Q. Did you ever --
A. And --
Q. Go ahead.
A. Named -- and to your point, asbestos, in retrospect, was involved in that shipbuilding component.
Q. Did your dad ever discuss the topic of asbestos with you?
ATTORNEY BRALY: Objection; form.
BY ATTORNEY ZEMIL:
Q. You can answer. He's --
A. Okay.
Q. -- objecting to the form of my question.
A. Yes. He reflected back as asbestos became, you know, 20 years later, more of a known carcinogen. We had discussion about that.
Q. Did you remember when that was?
A. It had to be in the early to mid

'70s, when I was coming to work there.
Q. Did he ever tell you that he knew asbestos could cause mesothelioma?
ATTORNEY BRALY: Objection; form.
BY ATTORNEY ZEMIL:
Q. You can answer.
A. I don't know -- I don't know that, that he knew or when he knew. But it became a, a generally known issue somewhere in the '70s that asbestos could be a carcinogen.
Q. Do you have any reason to believe your dad caused you to be exposed to asbestos through your employment when you worked there at Standard Insulation and he was the owner?
ATTORNEY BRALY: Objection; form.
THE WITNESS: No. No, I have no reason to believe that.
ATTORNEY ZEMIL: Mr. Braly, thank you for your patience. I do appreciate it.
ATTORNEY BRALY: Sure.
ATTORNEY ZEMIL: Mr. Judson, those are all the questions I have. We have other counsel on today, so I would, just like Mr. Braly, pass the witness. It's not clear to me whether or not any of the

folks with us today will have questions. But we'll give it a minute.
And if we don't hear from anyone, Mr. Braly, do you have any follow-up questions?
ATTORNEY BRALY: Yeah, I do. So -- first of all, the document that you showed, you're going to mark that as exhibit; right?
ATTORNEY ZEMIL: Please. Exhibit -- what is it going to be, 1 --
ATTORNEY BRALY: 1.
ATTORNEY ZEMIL: -- or 2?
Okay. Thank you.
ATTORNEY BRALY: Sure.
(Exhibit 1 was marked for identification.)
BY ATTORNEY BRALY:
Q. Just real quick, Mr. Judson. Relative to that document, the 1988 document from Duke that said that you sold them insulating materials, the address on the second page of that document, that was the address for Standard Insulating; correct?
A. That's correct.

Q. All right. Now, I think I understand the contention that you're making about the sale of asbestos-containing materials. But did you sell any materials to Duke Power at any point in time? Is it your contention -- is it the contention of the company that you never did?
ATTORNEY ZEMIL: Object to form. I may be -- object to form.
THE WITNESS: I don't recall selling --
(Crosstalk.)
I'm sorry.
ATTORNEY ZEMIL: Go ahead. Please answer.
THE WITNESS: I don't recall selling any materials to Duke Power per se. We did a great deal of work for Duke Power properties, their office building here in Charlotte. We insulated every floor of it, for a drywall contractor.
BY ATTORNEY BRALY:
Q. All right. Fair enough.
You're -- I understand that you're probably the last person that you're aware of who's alive who worked for -- I know I'm --

ERRATA

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C E R T I F I C A T I O N

I hereby certify that I have read the foregoing transcript of my deposition testimony, and that my answers to the questions propounded, with the attached corrections or changes, if any, are true and correct.

TOPBUILD, INC., through its corporate designee FREDERICK D. JUDSON

C E R T I F I C A T I O N

I, ADAM D. MILLER, Registered Professional Reporter, certify that the foregoing is a true and accurate transcript of the foregoing deposition, that the witness was first sworn by me at the time, place and on the date herein before set forth.

I further certify that I am neither attorney nor counsel for, not related to nor employed by any of the parties to the action in which this deposition was taken; further, that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

/s/ Adam D. Miller
Registered Professional Reporter
and Notary Public

EXHIBIT 4

STATE OF SOUTH CAROLINA	:	IN THE COURT OF COMMON PLEAS
	:	
COUNTY OF RICHLAND	:	FOR THE FIFTH JUDICIAL CIRCUIT
PATSY JEAN EDWARDS, individually and as Administrator of the Estate of LEWIS F. EDWARDS, deceased,	:	
Plaintiffs,	:	C/A No. 2026-CP-40-00256
v.	:	
3M COMPANY, et al.,	:	
Defendants.	:	
	- - - - -	
RICHARD E. ROBINSON,	:	
Plaintiff,	:	C/A No. 2025-CP-40-04961
v.	:	
3M COMPANY f/k/a MINNESOTA MINING AND MANUFACTURING COMPANY, et al.,	:	
Defendants.	:	
	- - - - -	

CERTIFIED COPY

Deposition of TOPBUILD CORP., individually and as successor to UNITED SUBCONTRACTORS, INC., successor to STANDARD INSULATING COMPANY, INC., through its designated representative FREDERICK D. JUDSON

Via Zoom Videoconferencing

Thursday, May 21, 2026
9:43 a.m.

Job No. J14595036
Adam D. Miller, RPR

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DEPONENT: TOPBUILD CORP. individually and as successor to UNITED SUBCONTRACTORS, INC., successor to STANDARD INSULATING COMPANY, INC., through its designated representative
FREDERICK D. JUDSON

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EXHIBITS

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- - - - -

TOPBUILD CORP., individually and as successor to UNITED SUBCONTRACTORS, INC., successor to STANDARD INSULATING COMPANY, INC., through its designated representative FREDERICK D. JUDSON, having first been duly sworn according to law, was examined and testified as follows:

- - - - -

EXAMINATION

- - - - -

BY ATTORNEY POWELL:

Q. All right, sir. Can you hear me?

A. Yes, sir.

Q. Okay. Hi, Mr. Judson. My name is Cory Powell.

A. Rick Judson. Rick's fine.

Q. I'm sorry. Okay, Rick. My name is Cory Powell, and I'm with Dean Omar Branham Shirley. I represent the plaintiffs -- and in this case we have two plaintiffs; we're working on two cases together. And so I represent -- bear with me; I want to get the notice out -- the Robinsons and the Edwards.

I really represent Patsy Jean Edwards, individually and as administrator of

the estate of Lewis F. Edwards, and also for today's purposes, Richard Robinson, in the matter of Richard Robertson v. 3M Company, et al.

ATTORNEY POWELL: Before I begin into my outline, Cliff, are we -- I just want to confirm that we have a stipulation that it is okay that I take this deposition even though I'm not pro hac'd into the Robinson case, just the Edwards case, as of yesterday.

ATTORNEY HOWIE: Absolutely. That's fine with me.

ATTORNEY POWELL: Okay. And I also -- I don't know if there are any other attorneys that are going to be participating today. It's hard to see how many are here. It looks like 30 participants. Are we able to stipulate an objection to one is an objection to all?

ATTORNEY HOWIE: Yeah, absolutely.

ATTORNEY POWELL: Okay.

ATTORNEY HOWIE: No problem there.

ATTORNEY POWELL: And finally -- this is because I'm used to practicing in so

many states. I'm new to your docket, the South Carolina docket. We're under the understanding that this deposition is being taken subject to the South Carolina Rules of Civil Procedure; is that correct?

ATTORNEY HOWIE: Yeah.

ATTORNEY POWELL: All right. There are some states that are drastically different, and I've run into that before.

BY ATTORNEY POWELL:

Q. All right. Sir, can you please state your full name and who you currently work for.

A. My name's Frederick D. Judson. As far as my employment, are you talking about for this particular event or -- my company's Evergreen Group. But I'm semi-retired.

Q. Okay. Well, who do you get paid by now? Who issues your paycheck, I should say?

A. TopBuild.

Q. Okay.

A. No, I mean, I'll be paid by TopBuild for this work.

Q. Okay. So your employer is TopBuild?

A. Technically, yes.

Q. Okay. What's your title?

A. At TopBuild, I'm a consultant.

Q. Okay. And you are here as the corporate representative of TopBuild Corporation; correct?

A. Yes.

Q. And you understand your testimony binds TopBuild; correct?

A. Yes, sir.

Q. Okay. You understand your obligation is to testify about information known or reasonably available to TopBuild, not just your personal knowledge; is that correct?

A. Yes, sir.

Q. Okay. Do you agree that reasonably available includes information that are in possession of Top Build's subsidiaries, parents, agents, and predecessors?

ATTORNEY HOWIE: Objection to form.

THE WITNESS: To the best of my knowledge, yes.

BY ATTORNEY POWELL:

Q. Okay. A couple of ground rules that I'd like to follow that you've heard probably a million times. I know you've been through these. But I'm kind of an old man, believe it

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era, as I mentioned.
Q. Okay.
A. I can speak to the things that were within my era and the products, based on material safety data sheets, that the manufacturers had to provide that we had to distribute with the product itself.
Q. Okay.
A. So I'm not trying to be confusing. I'm just trying to be clarifying.
Q. You're not being confusing at all. So -- you're not being confusing at all, and I'm not trying to trick you. So --
A. I respect that.
Q. Standard Insulating Company -- Standard Insulating Company and/or USI furnished and/or delivered products, materials. Whatever they contained would be looked at -- we could look at later. But they furnished materials or products to the sites, at least -- any of them at all; correct? If so, which ones?
A. The only ones I recognize are the ones you have provided a work order for --
Q. Okay.
A. -- which is one, Mill-Power Supply.

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Q. Okay. So let's look at the Mill-Power Supply real quick, just to be sure. You're -- I'm looking here. And it says in a first addendum. And the task is to furnish and deliver insulation for the Belews Creek 1 and 2 power house precipitator, et cetera, et cetera.
It describes what the material is to be and who makes it. It confirms a phone order with Mr. David Judson, your father, back a hundred years ago. And it talks about some other communications.
Is -- do you have any reason to dispute whether or not this document is authentic?
A. I do -- I have no reason to dispute this document at all.
Q. Okay. I'm looking down at the bottom. And I don't expect you to know off the top of your head, but that Bates number in the lower right indicates he came from Standard Insulating Company.
Now, is this a document that Standard Insulating Company has in his possession --
ATTORNEY HOWIE: Objection.
///

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BY ATTORNEY POWELL:
Q. -- or in its records?
A. No. This is a material sale. It would have been kept for a certain length of time, whether it be a year or two years.
We found none of those documents when we did our search ten years, fifteen years later.
Q. Okay. Using the terms that you told me you used to search for documents over, you know, the last few years, would this document have come up if it was in the file, using the search terms?
A. Probably, probably not, Cory, because of the time limitations. We would keep records for warranty purposes or sales tax purposes. But we would not have kept something like this, which is just a material supply product, for 15, 20, 25 years, according to the age of this document.
Q. I apologize if I don't know whether your father has passed or not. I -- but are any of the other individuals, the names on here, are you familiar with any of those people?
A. Uh...

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Q. You got David, FM Kennerly, JL Langford, TJ Garrett...
A. I'm not sure. Those look like they're Duke Power or Mill-Power Supply representatives. The only name on this familiar to me is my father's.
Q. Does TopBuild -- and this is as to these two entities we're talking about -- does TopBuild have any records in its possession, custody, or control related to Mill-Power Supply, Standard Insulating Company, Incorporated?
A. No.
Q. Okay. Was -- did -- just focusing on this location because that's what we have in front of us, is this -- was Duke Power at this location, Belews Creek, was this like a customer that, you know, Standard Insulating was an account or a customer for a while or just a one-off sale?
A. Mill-Power Supply was the purchasing arm for Duke Power. And our warehouse was close to where Duke Power is. We had a good working relationship with Duke Power and Mill-Power. Oftentimes they would pick up products from the

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warehouse.
This looks to be a delivery to the particular respective plant of those 46 packages of insulation.
Q. Do you know of anybody from -- who worked at Mill-Power Supply during the relevant years that -- do you know if anyone's still around that you know of, any names?
A. No, sir, I do not.
Q. Okay. Let's go to the letter from Celanese Fiber. This would, what, 28895, which is like the fifth page that I sent here.
A. Okay.
Q. Okay. So this is -- I'll represent to you this -- I don't expect you to authenticate a document from Celanese. I'll just represent to you that this was produced in discovery by Celanese. If you look down at the bottom, you'll see the -- it actually looks like it actually might have been produced by Standard Insulating as well, in Cox.
If you go through this letter, this letter talks about asbestos; correct?
A. Yes.
Q. Okay. If you go to the second page

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of the letter -- now, this is interesting, the blind copy -- it says Standard Insulating Company, Bill Marks.
Is that the same Standard Insulating Company we were just talking about?
A. Yes, sir.
Q. Okay. If you go to the next page, it talks about notification of asbestos demolition.
This is a notice about -- this is the notice related to asbestos demolition or abatement. It says the removal company is Standard Insulating Company. And that's the company that you -- that we're talking about. And the work was done at the Celriver plant in Rock Hill.
Now, you said that Standard Insulating Company performed no work at that location. So if you don't mind walking me through what this is saying, I'd appreciate it.
A. Sure. This is a removal confirmation. It's an insulation which was an asbestos-containing product. It's an authorization to remove 10 lineal feet of asbestos-containing product using a -- what's called a glove-bag test, glove-bag procedure.

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It's done under the certification guidelines for the Health and Environmental Department for South Carolina, in this case.
Just for clarification, you tape both ends. You have it certified by the inspector. Then you take it off. Then you put it in a steel bag. And then it's hauled away. And you have to identify the location it goes.
It's not an installation. It was a removal. And who put back in the new insulation is another story, because that's not something we did. This is a removal application.
Q. Would -- so removal applications, is that not something a reasonable person would conclude is work?
A. That -- yeah, I would consider that work.
Q. So I, I see at least one instance where Standard Insulating Company did perform work at the Rock Hill Celriver plant. Is there a chance that maybe there were more instances where this -- where Standard Insulating Company did this, you know, abatement or some other form of services or work at these locations?
ATTORNEY HOWIE: Objection.

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THE WITNESS: There's always, there's always a possibility. It's not much of a likelihood. The removal was something we found out pretty quickly was not something we needed to delve into, regardless of how safe it's perceived to be. It developed into a cottage industry about that point in time. And other people gravitated to doing that. And we were not one of them.
This was removal. And you're right. We worked there -- by any definition we worked there during the, during the removal of that 10 lineal feet.
BY ATTORNEY POWELL:
Q. Were -- did Standard Insulating Company, how -- what year time frame-wise did it perform, you know, did it perform abatement before it gave up, you said no thanks?
A. About a two-year period. I'd say in the mid, mid to late '80s, that '83, '4, '5; '5, '6, '7; somewhere in there.
Q. So '85 to '87, approximately?
A. Yeah, that's reasonable.
Q. Okay. Are you aware of any of the other sites that it did this at beyond Celriver

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in Rock Hill?
A. Commercial or industrial sites? Is that what you're asking me, doing work?
Q. I'll rephrase it a little more clearly.
A. Okay.
Q. Where -- what other sites did Standard Insulating Company perform asbestos abatement at during the period of approximately '85 to '87?
A. I am not aware of that. Those files were not available when we did the search a few years back. We just didn't keep -- we kept them long enough for the requirement of fulfillment for the health and environmental certification. And when you dispose of a product, you have to hold it for a certain length of time. Maybe it was three years or five years. I don't recall what that was.
But as you can see, this was done in the, what, '85. So it would have been long gone by 2000 when the company was sold and product moved to -- records moved to Salt Lake City.
But to answer your question in a sentence: I do not know of any work, additional

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work that may have been done. There may have been some, this type product. But it was just not a market where we felt was where we needed to go.
Q. Oh, I understand that entirely. I can imagine.
So I just want to make sure. So we know that -- I have here that Standard Insulating Company did perform asbestos abatement services work at at least Celriver in Rock Hill, South Carolina and at least at other places, because it did it for a couple years. You just don't have in your memory or in front of you the list?
A. That would be correct.
Q. I think -- I don't know if you have the list that we went through. If -- I'd hate to have to go through it all again.
A. Is that the list on the front?
Q. Yeah -- no, no, no. Well, no. The list that I went through from the notice.
A. Okay. I didn't, I didn't put that in memory. I have to confess, I did not put that to my memory. But I did not recognize any of those facilities that would be within the scope

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of work that Standard Insulating normally would perform.
Now, again, we get back to the definition of what is work. Did we deliver material there? I don't think so because of the location. But I can't swear to it. I can give you my best answer for it. I don't recall --
Q. No, that's fair.
A. -- either of those locations.
Q. So if you go to the first of that chart there that I gave you, Exhibit 5, just so I'm clear, any of these on these two pages -- beyond the Celriver one that we obviously have the record for -- are any of these -- are you aware of whether any of these involved asbestos abatement?
A. I am 100 percent sure they did not. If you look at the date they were involved, Mr. Marks was an engineer, fraternity brother of mine. And he didn't come to work at Standard until the mid '80s.
Q. Okay.
A. He was coming there to create this glove-bag concept, and it just didn't work out. So these jobs are before, before any

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asbestos-removal work began.
Now, let me clarify that as well. That's not to say that they didn't order 15 bags of blanket insulation to be shipped or picked up from our warehouse to taken there.
What I can quantifiably and accurately say is there was no asbestos-containing product that we used for installation or for distribution of any shape, form, or fashion.
Q. I don't know if -- I am fairly certain that we, plaintiffs, will disagree with that statement.
A. Okay.
Q. But that is not for you and me to argue over because neither of us are experts and I don't expect you to know the details of the ingredients.
(Crosstalk.)
You talked about, you talked about MSDSs and other documentation that Standard Insulating Company would have produced -- you know, would have delivered along with the products that it distributed, like as we see to Mill River [sic]. Do you know if any of

C E R T I F I C A T I O N

I, ADAM D. MILLER, Registered Professional Reporter, certify that the foregoing is a true and accurate transcript of the foregoing deposition, that the witness was first sworn by me at the time, place and on the date herein before set forth.

I further certify that I am neither attorney nor counsel for, not related to nor employed by any of the parties to the action in which this deposition was taken; further, that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

/s/ Adam D. Miller
Registered Professional Reporter

DEPOSITION ERRATA SHEET

Assignment No. J14595036

Case Caption: Edwards v 3M // Robinson v 3M

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my deposition taken in the above-captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed on the _____day of _____, 2026.

_____
TOPBUILD CORP. individually and as successor to UNITED SUBCONTRACTORS, INC., successor to STANDARD INSULATING COMPANY, INC., through its designated representative
FREDERICK D. JUDSON

DEPOSITION ERRATA SHEET

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SIGNATURE:_____DATE:_____
TOPBUILD CORP. individually and as successor to UNITED SUBCONTRACTORS, INC., successor to STANDARD INSULATING COMPANY, INC., through its designated representative
FREDERICK D. JUDSON

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SIGNATURE:_____DATE:_____
TOPBUILD CORP. individually and as successor to UNITED SUBCONTRACTORS, INC., successor to STANDARD INSULATING COMPANY, INC., through its designated representative
FREDERICK D. JUDSON

EXHIBIT 5

The Supreme Court of South Carolina

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

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, 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; and 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, Respondent,

v.

Anglo American PLC, individually and as successor in interest to Anglo American Corporation of South Africa, Ltd.; DeBeers, PLC, individually and as successor in interest to DeBeers S.A.; DeBeers Centenary AG; DeBeers Consolidated Mines, Ltd., n/k/a DeBeers Consolidated Mines Proprietary, Ltd.; DeBeers UK, Ltd.; DeBeers Jewelers, Ltd.; DeBeers 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 (USA) Jewelry, Inc.;

Lightbox 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 S.A.S.; 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; Central Mining & Investment Corporation, Ltd.; Mohed Altrad; and Altrad Investment Authority S.A.S., are the Appellants.

Appellate Case No. 2025-002104

ORDER DENYING APPELLANTS' MOTION TO STAY OR RECALL THE REMITTITUR

Appellants' motion to stay or recall the remittitur is denied. We are troubled by Appellants' motion, and we will explain why we are concerned. But first, we want to make clear what this case—and related cases—are about. These asbestos-related claims seek damages arising from workers suffering from mesothelioma as a result of working decades ago in a South Carolina facility or plant containing asbestos materials. The worker or the worker's estate attempts to identify those responsible for the manufacture and placement of the asbestos materials in the specific South Carolina facility or plant. Given the latent nature of the carcinogen, the manifestation of the disease and resulting injuries are often delayed many years. The claims present a host of factual and legal challenges, including the proximate cause element of linking the exposure to asbestos years ago to the manifestation of the disease. It is an unchallenged principle of law that an injured party may seek to recover damages in tort from the party responsible for causing the injury. With that

brief description of the typical asbestos-related claim, we now turn to the regrettable saga of this case, which has been mired in obfuscation and delay tactics.

For over 130 years, it has been settled law—law that Appellants fail to cite or mention—that the remittitur may only be recalled upon a very strong showing that the remittitur was sent down through some mistake or inadvertence by the appellate court. *State v. Keels*, 39 S.C. 553, 17 S.E. 802, 802–03 (1893); *see also State v. Barnes*, 413 S.C. 1, 4, 774 S.E.2d 454, 456 (2015).

Because Appellants cannot meet this legal standard governing remittitur recall, they have ignored it outright. Still, they proclaim that "[a]ll of the requirements for a stay or recall are met here." Either Appellants do not grasp the elementary procedural effect of our issuance of the remittitur, or this is yet another of their seemingly endless attempts at delay.

Once this Court issues the remittitur to the trial court, we no longer have jurisdiction. *Pringle v. Sizer*, 3 S.C. 335, 337 (1872) ("Strictly speaking, after a cause has been once remitted, this Court loses all jurisdiction over it . . . ."). That includes jurisdiction to grant a motion to stay. Our reservation of any sanctions issues does not change this status.

This Court respects Appellants' right to seek United States Supreme Court certiorari review. We will not sit idly by, however, and allow Appellants to manipulate court rules and governing laws and recharacterize our decisions in a brazen attempt to manufacture a split of decisional authority or some far-fetched international crisis. We therefore take this opportunity to note several things about Appellants' motion and their troubling previous conduct in this case.

We can start with Appellants' revisionist history of the Third Circuit decision in *In re Whittaker, Clark & Daniels, Inc.*, 176 F.4th 241 (3d Cir. 2026). We have already had to address Appellants' attempted distortion of *Whittaker*. *Tibbs v. 3M Co.*, Op. No. 28337 (S.C. Sup. Ct. filed May 27, 2026) (Howard Adv. Sh. No. 20 at 19, 37–38). By any rational and objective reading, the *Whittaker* decision rests largely on the undisputed fact that the South Carolina Receiver appointed in that case over a New Jersey corporation had failed to seek an ancillary appointment by a New Jersey court. *Whittaker*, 176 F.4th at 257. Therefore, the Third Circuit, in a thoughtful opinion by Judge Ambro, reached the unremarkable conclusion that the South Carolina Receivership Order could not prevent the corporation from filing bankruptcy because an out-of-state receiver that had not been appointed as an ancillary receiver by the state court of the corporation's domicile could not control

the internal affairs of a foreign corporation. *Id.* No one would quarrel with this general principle (although a related general principle recognizes that a receivership order can authorize a receiver to control the decision to file bankruptcy on behalf of a domestic corporation. McNeill & Ehrmann, *What* Whittaker Clark & Daniels *Says About Receivership Proceedings and Authority to File*, 45 Am. Bankr. Inst. J. 20, 20 (2026) ("A receivership order can divest corporate management of its authority to file for bankruptcy in two primary ways: explicitly or implicitly.")).

Appellants, however, proceed to misrepresent this principle and stretch it beyond recognition. In Appellants' view, the Third Circuit held in *Whittaker* that the Constitution forbids state or federal court receivers from making or interfering with any litigation decisions of a foreign corporation, even if an ancillary appointment order has been obtained in the corporation's "home" state. Appellants may believe this argument, but no one else would.

Lost amidst Appellants' arguments is the immutable fact that this Court has narrowed the scope of the Receivership. The initial grant of authority to the Receiver in other asbestos litigation was challenged as overly broad, and we agreed. *Welch v. Advance Auto Parts, Inc.*, 445 S.C. 640, 666–67, 916 S.E.2d 320, 334–35 (2025). When that same challenge was made in this case, we adhered to our precedent limiting the scope of the Receivership. We limited the scope of the Receivership to cover just two matters: the pursuit of any insurance coverage and the pursuit of alter ego/amalgamation and other equitable claims that may benefit the corporation. Specifically:

> [W]e modif[ied] the Confirmation Order and h[e]ld the pre-judgment receiver may only operate to collect insurance assets and pursue such legal and equitable claims the corporation may have that can result in the receipt of assets responsive to the Tibbs' pending claims.
>
> Allowing the pre-judgment receiver to operate in this limited scope does not impair Cape's right as a foreign corporation to conduct its internal affairs free from interference by a foreign court. The internal affairs of Cape–its relations between its officers, directors, shareholders, and agents–are not affected by the Confirmation Order as we have modified it. *See Pertuis* [*v. Front Roe Rests., Inc.*], 423 S.C. [640,] 649–50, 817 S.E.2d [273,] 278 [(2018)] (defining internal affairs).

> We have held that an action to pierce the corporate veil or determine if a single business enterprise/amalgamation exists does not implicate the internal affairs doctrine. *See id.* at 650, 817 S.E.2d at 278 (the "threshold amalgamation issue is not as much a question of the inner-workings of foreign corporations as it is an assessment of whether these entities actually operate as a single business enterprise, and thus should be treated as a single entity"). Other jurisdictions agree. *See, e.g., Kaiser-Francis Oil Co. v. Deutsche Oel & Gas, S.A.*, 566 P.3d 252, 264–66 (Alaska 2025) (citing *Pertuis* and collecting cases). We leave it to the trial court to consider *Pertuis* and determine whether the receiver's third-party claims should be controlled by South Carolina law or the law of the jurisdiction of Cape's incorporation or some other jurisdiction.

Tibbs, Op. No. 28337, at 36–37. Notwithstanding our clear limitation on the Receiver's authority, Appellants persist in advancing the patently false narrative that this Court has sanctioned a rogue Receivership with unlimited authority.

The "internal affairs" doctrine is a choice of law principle. Our decision does not address much less conflict with the Third Circuit's ruling that a corporation's decision to file bankruptcy involves the internal affairs doctrine. We acknowledged in *Tibbs* the general principle that certain corporate litigation decisions belong exclusively to the corporation's board, subject to certain exceptions, such as when the board is operating under a conflict of interest. *Whittaker* acknowledged another implicit exception: a state court receiver may divest a domestic corporation of its management authority and even dissolve the corporation. *Whittaker*, 176 F.4th at 256 ("Thus, on our reading, New Jersey law permits its courts to recognize foreign receivership orders and appoint an ancillary receiver to aid in the execution of foreign judgments, including by enjoining the corporation and its board from taking specific actions and exercising specific powers.").

It appears Appellants are relying on *Whittaker* to claim the receivership order here violates the Dormant Commerce Clause and Due Process. Even if these arguments were preserved, we do not understand how the Dormant Commerce Clause applies to a state court order regarding a company incorporated and existing under the laws of another country. As to Appellants' Due Process arguments, we are puzzled how they can press them at this late stage and on behalf of a third party.

We note further that Appellants' argument that the receivership order violates what they contend is the federal government's exclusive jurisdiction over foreign relations has never been presented to us before and cannot be raised now. Nevertheless, we take a moment to recognize how surreal Appellants' position is. Appellants maintain that only the federal government can conduct foreign affairs and regulate foreign commerce. Therefore, no state court has jurisdiction to affect the internal affairs of a corporation located outside the United States. Likewise, according to Appellants' logic, the decisions of the English courts regarding the scope of a corporation's liability, the legal effect of corporate transactions, and a corporation's presence for jurisdictional purposes are final and must be followed by all courts of this country. The United States Supreme Court has made clear that corporations organized under the law of another country cannot always use the internal affairs doctrine as a shield:

> As a general matter, the law of the state of incorporation normally determines issues relating to the *internal* affairs of a corporation. . . . Different conflicts principles apply, however, where the rights of third parties *external* to the corporation are at issue. . . . To give conclusive effect to the law of the chartering state in determining whether the separate juridical status of its instrumentality should be respected would permit the state to violate with impunity the rights of third parties under international law while effectively insulating itself from liability in foreign courts. We decline to permit such a result.

First Nat'l City Bank v. Banco Para El Comercio Exterior de Cuba, 462 U.S. 611, 621–22 (1983) (footnotes omitted); *see also VantagePoint Venture Partners 1996 v. Examen, Inc.*, 871 A.2d 1108, 1113 n. 14 (Del. 2005) ("The internal affairs doctrine does not apply where the rights of third parties external to the corporation are at issue, *e.g.*, contracts and torts."); 19 C.J.S. *Corporations* § 965 (2026).

It should be remembered that Appellants make these unmoored arguments not for themselves, but for Cape Intermediate Holdings Limited (CIHL)—an active English corporation that has never bothered to appear in our courts and whose tactics to avoid legal accountability have risen to the level of moral fraud. It should be remembered that these Appellants—who claim they have no legally relevant relationship with CIHL or any Cape entity—have refused to participate in even the most rudimentary jurisdictional discovery to explore their insistence that they have no minimum contacts with South Carolina. It should be remembered that despite maintaining that

the South Carolina trial court has no personal jurisdiction over them, these Appellants routinely file objections and motions to dismiss and appear at hearings to make extended arguments against the court's rulings. It should be remembered that these Appellants have collectively filed over a dozen appeals from rulings of the trial court, at least seven of which we have dismissed as interlocutory and not immediately appealable. (There are eight more appeals the Court of Appeals has dismissed as interlocutory). Among the rulings Appellants have prematurely appealed include a scheduling order and an order regarding the pre-marking of trial exhibits, rulings that lawyers of even the briefest experience would know are not immediately appealable.

Appellants do not stop with misrepresenting and misapplying our decision and the decision of the Third Circuit. They make the stunning claim that they have been victims of an "illegitimate proceeding" that has caused them constitutional injury and irreparable harm just like that in *Axon Enterprise, Inc. v. FTC*, 598 U.S. 175, 182 (2023). *Axon* involved claims that certain federal agency enforcement action proceedings violated the constitutional separation of powers doctrine. *Id.* at 180. The Court held only that the federal district court had jurisdiction to hear these claims. *Id.* In deciding that Congress did not intend for the agencies' statutory review scheme to oust federal district courts of jurisdiction to hear the claimant's constitutional claims, the Court reasoned that the separation of powers argument could not be meaningfully reviewed by the agency even though the claimant could seek review of the agency ruling in the federal court of appeals. *Id.* at 190–92. The Court explained this was because the claimants were alleging a core constitutional injury—being subjected to "an illegitimate proceeding" conducted by "an illegitimate decisionmaker." *Id.* at 191.

There is no separation of powers claim here, nor any notion that South Carolina courts are "illegitimate." Yet, that does not keep Appellants from ginning up another reckless distortion of a court decision. Time and time again, Appellants have wasted the scarce judicial resources of this Court, the Court of Appeals, and the trial court.

C.J.

J.

J.

A. J.

Columbia, South Carolina
August 25, 2026

cc:
Matthew Todd Carroll
Kevin A. Hall
Mary Elizabeth O'Neill
A. Victor Rawl, Jr.
William James Blount
Jonathan M. Robinson
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The Honorable Jean Hoefer Toal
The Honorable Jeanette W. McBride

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jean H. Toal
Acting Circuit Court Judge

Appellate Case No. 2026-002092
Circuit Court Case No. 2025-CP-40-04961

Richard E. Robinson, ...Respondent,

v.

3M Company f/k/a Minnesota Mining and Manufacturing Company; 4520 Corp., Inc.; AO Smith Corporation; ABB Inc.; Abex Corporation; AECOM Energy & Construction, Inc.; Air & Liquid Systems Corporation; Alfa Laval Inc.; Amentum Environment & Energy Inc.; American Steel & Wire Company; Ameron International Corporation; Anchor Darling Valve Company; Aqua-Chem Inc.; Armstrong International Inc.; Atlas Asbestos Company Ltd.; Atlas Turner Inc.; Atwood & Morrill Co. Inc.; Babcock Borsig Power Inc.; Bahnson Inc.; Beaty Investments Inc.; Bell & Gossett Company; Bendix; Benjamin F. Shaw Company; Bonitz Company; Bonitz Insulation Company; Brand Insulation Inc.; Buffalo Forge Company; Buffalo Pumps Inc.; Burnham Commercial; Burnham Corporation; Burnham LLC; BWIP Inc.; CR Hipp Construction Inc.; Canvas CT LLC; Canvas MW LLC; Canvas SX LLC; Carboline Company; Carolina Industrial Insulating Co.; Carrier Corporation; Carver Pump Company; CBS Corporation a Delaware Corporation; CBS Corporation a Pennsylvania Corporation; Celanese Corporation; CIRCOR Instrumentation Technologies Inc.; Clean Harbors Industrial Services Inc.; Cleaver-Brooks Division; Cleaver-Brooks Inc.; Clyde Union Inc.; CNA Holdings LLC; Compudyne Corporation; Compudyne LLC; Cooper Industries LLC; Copeland Corporation LLC; Copes-Vulcan; Copes-Vulcan Inc.; Covil Corporation; Crane Co.; Crane Instrumentation & Sampling Inc.; Crane Instrumentation & Sampling PFT Corp.; Crosby Valve LLC; Crown Boiler Co.; Crown Boiler Co. LLC; CRSS Inc.; CSK Auto Inc.; Daniel International Corporation; Davis Mechanical

Contractors Inc.; DB Riley Inc.; DCO LLC; Dean Pump Division; Dezurik Inc.; Durez Corporation; EI Du Pont De Nemours and Company; Eaton Corporation; Ecodyne Corporation; Edward Valves Inc.; EIDP Inc.; Electrolux Home Products Inc.; Electrolux Home Products LLC; Erie City Iron Works; Fiber Insulation Inc.; Fisher Controls International LLC; Flowserve Corporation; Flowserve US Company; Flowserve US Inc.; Fluor Constructors International; Fluor Constructors International Inc.; Fluor Corporation; Fluor Daniel Services Corporation; Fluor Enterprises Inc.; FMC Corporation; Foster Wheeler Energy Corporation; G Denver and Co LLC; Gardner Denver Inc.; Gardner Denver Industrial Machinery; Gardner Denver Nash LLC; General Boiler Casing Company Inc.; General Dynamics Corporation; General Electric Company; Genuine Parts Company; Goodyear Tire & Rubber Company; Gorman-Rupp Company; Gould Electronics Inc.; Goulds Pumps Inc.; Goulds Pumps LLC; Great Barier Insulation Co.; Grinnell Corporation; Grinnell LLC; Griscom-Russel Company; Guy M Beaty & Co.; Heat & Frost Insulation Company Inc.; Henry Pratt Company LLC; Hoffman Specialty Mfg. Corp.; Hoke Inc.; Hollingsworth & Vose Company; Honeywell International Inc.; Howden Buffalo Inc.; HPC Industrial Services LLC; IMO Industries Inc.; Impac Inc.; International Paper Company; ITE Circuit Breaker Co.; ITT Corporation; ITT Fluid Products Corp.; ITT Industries Inc.; ITT LLC; ITT Marlow; J & L Insulation Inc.; K-Mac Services Inc.; Kennedy Valve Company; Kennedy Valve Division; Kirby-Cundiff Insulation and Firestop of Virginia; Kirby-Vass Insulation Inc.; Kragen Auto Supply Co.; Marley Cooling Tower Company; McCord Corporation; McWane Inc.; Met-Pro Technologies LLC; MetLife Inc.; Metropolitan Life Insurance Company; Michelin Corporation; Michelin North America Inc.; Micheline Tire Corporation Minnesota Mining and Manufacturing Company; Mueller Co. LLC; NAPA; National Automotive Parts Associates; Nibco Inc.; O'Reilly Auto Enterprises LLC; O'Rilley Automative Stores Inc.; Occidental Chemical Corporation; Paramount Global; Patterson Pump Company; PECW Holding Company; Peerless Pump; Pfizer Inc.; Piedmont Insulation Inc.; Pipe & Boiler Insulation Inc.; Plastics Engineering Company; Plenco; Pneumo Abex LLC; Presnell Insulation Co. Inc.; Pursuit Attractions and Hospitality Inc.; Redco Corporation; Rentavla LLC; Riley Power Inc.; Riley Stoker Corporation; Rust Engineering & Construction Inc.; Rust International Inc.; Schneider Electric USA Inc.; Sherwin-Williams Company; Siemens Energy & Automation Inc.; Siemens Industry Inc.; Sirrine Environmental Consultants Inc.; Spirax Sarco Inc.; SPX Cooling Technologies LLC; SPX LLC; Square D. Company; Standard Insulating Company Inc.; Standard Insulation Company of NC Inc.; Starr Davis Company Inc.; Star Davis Company of SC Inc.; Sterling Gludi Systems USA LLC; Sterling Wander LLP; Taco Inc.; The Dial Corporation; The

Duriron Company, Inc.; The Marley-Wylain Company LLC; TopBuild Corp.; Union Carbide Corporation; Union Pump Company; Uniroyal Holding Inc.;United Conveyor Corporation; United States Steel Corporation; United Subcontractors Inc.; US Rubber Company Inc.; Valves and Controls US Inc.; Velan Valve Corp.; Viacom Inc.; Viad Corp.; Victor Gasket Manufacturing Company; Viking Pump Inc.; Walworth Company; Warren Pumps LLC; Watts Regulators Co.; Watts Water Technologies Inc.; Weil-McLain; Weir Valves & Controls USA Inc.; Westinghouse Electric Corporation; William Powell Company; Wind Up Ltd.; Yeargin Construction Company Inc.; York International Corporation; York-Shipley Inc.; Zurn Industries Inc.; Zurn Industries LLC,..... Defendants,

Of which

TopBuild Corporation is the .....Appellant.

PROOF OF SERVICE

I, Elizabeth Moultrie, of Kassel McVey, hereby certify that the **MEMORANDUM ON APPEALABILITY**, were served on all parties to this appeal on October 1, 2026, via email to their counsel of record:

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