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OCT 21 2026

SC SUPREME COURT

The Supreme Court of South Carolina

JEAN HOEFER TOAL
CHIEF JUSTICE, RETIRED
SENIOR ACTIVE JUDGE

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October 21, 2026

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Re: *Debra McAndrew Barnett v. Johnson & Johnson, et al.*, (2026-CP-40-01257); *Andrew T. Gerken v. Avon Products, Inc., et al.*, (2023-CP-40-06111); Defendant's Petition for Certiorari to the Supreme Court of South Carolina pending

Dear Mr. Brown, Mr. Bogan, and Mr. Williams,

As you know, the cases above referenced are scheduled for trial in the Asbestos Court's November Block. A pre-trial hearing is scheduled before this Court on November 4, 2026, and the trial weeks are the weeks of November 9 and 16. Although you have not copied this Court on your filings with the Supreme Court, this Court is now aware of your Petition for a Writ of Certiorari to the Supreme Court of South Carolina regarding this Court's disposition of a discovery dispute in which this Court granted in part, and denied in part, your client J&J's Motion to Quash Certain Plaintiff's Deposition Notices and Subpoenas Duces Tecum.

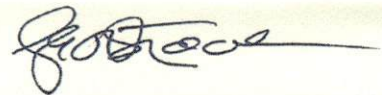
These pre-trial rulings have been regarded by the South Carolina's appellate courts as interlocutory rulings, and thus these matters are not immediately appealable. Although you argue in your Petition for a Writ of Certiorari that this Court's rulings on the *Noerr-Pennington* doctrine [*Eastern R. Conference v. Noerr Motors*, 365 U.S. 127 (1961); *United Mine Workers v. Pennington*, 381 U.S. 657 (1965)], and previous rulings by our Supreme Court in *Oncology &*

Hematology Assocs of S.C., LLC v. S.C. Dep't of Health and Envir't Control, 387 S.C. 380, 692 S.E.2d 920 (2010) and *Laffitte v. Bridgestone Corp.*, 381 S.C. 460, 674 S.E.2d 154 (2009) allow you to bypass the normal rules of appealability, this Court does not regard the above cited cases as authority for avoiding the normal application of South Carolina's Appellate Rules of Procedure.

This Court carefully considered your contentions regarding discovery and basically found: (1) that the *Noerr-Pennington* doctrine does not prevent Plaintiff's discovery of lobbying material and (2) that the Supreme Court rulings above cited do not allow appeals of normal Circuit Court rulings in these discovery matters. You have argued that the discovery requested in this case is burdensome because it involves 25,000 pages of material. This Court is well aware of the fact that all this material is digitized and easily provided with the stroke of a computer keyboard. This Court has received a multitude of material about the parties lobbying activities with federal governmental authorities in other J&J cases which this Court has tried. The new material requested is not materially different.

With regard to your arguments as to relevance, these are normal arguments that can be addressed pre-trial, but relevance is not a proper standard for evaluating a discovery request. The standard in discovery is whether the material can lead to the discovery of relevant material. These arguments about Johnson & Johnson's motivations over many years of lobbying engagement with the FDA and other federal regulatory authorities on the standards for evaluating the presence of asbestos material in J&J's products, as well as J&J's alleged conduct in regard to notification to the public have been repeatedly the subject of trial presentations by your clients as well as by Plaintiffs. There is nothing unique or unusual about the current material sought that would justify appellate intervention at this time in my view. Therefore, I will expect counsel to be present at the pre-trial and at the scheduled trial of these matters, unless the Supreme Court rules otherwise. Of course, if the Supreme Court issues a stay of these trials, I will immediately abide by the same.

With kindest personal regards, I am sincerely yours,



Chief Justice (Ret.) Jean Hoefer Toal

CC: via email to

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