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34 WAP 2024

IN RE: DRAVO LLC-DERIVATIVE CLAIMS AGAINST CARMEUSE LIME, INC. AND CERTAIN AFFILIATED ENTITES

Appeal of: Carmeuse Lime, Inc. and Certain Affiliated Entities

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BRIEF OF THE PENNSYLVANIA ASSOCIATION FOR JUSTICE AND AMERICAN ASSOCIATION FOR JUSTICE AS *AMICI CURIAE* IN SUPPORT OF APPELLEES

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Table of Contents

Table of Authorities

Cases

Statement of Interest of *Amici Curiae*

The Pennsylvania Association for Justice ("PAJ") is a non-profit organization with a membership of over 2,000 men and women of the trial bar of the Commonwealth of Pennsylvania. Since 1968, the Association has promoted the rights of individual citizens by advocating for the unfettered right to trial by jury, full and just compensation for innocent victims, and maintenance of a free and independent judiciary. The organization opposes, in any format, special privileges for any individual group or entity.

The American Association for Justice ("AAJ") is a national, voluntary bar association established in 1946 to strengthen the civil justice system, preserve the right to trial by jury, and protect access to the courts for those who have been wrongfully injured. With members in the United States, Canada, and abroad, AAJ is the world's largest plaintiff trial bar. AAJ members primarily represent plaintiffs in personal injury actions, employment rights cases, consumer cases, and other civil actions across the nation, including in Pennsylvania. Throught its 78-year history, AAJ has served as a leading advocate for the right of all Americans to seek legal recourse for wrongful conduct.

Because this case involves the ability of corporations to strategically shield assets from valid tort claims, PAJ and AAJ have significant interests in ensuring that the plaintiffs their members represent continue to have access to their right to a remedy through the courts as guaranteed by the Constitution of Pennsylvania.

All parties have consented to the filing of this brief. No person or entity other than the *amici curiae*, their members, and their counsel authored this brief in whole or in part. No person or entity other than *amici curiae*, their members, and their counsel contributed money that was intended to fund the preparation or submission of this brief.

Introduction

Justice Oliver Wendell Homes, in *The Common Law*, observed that "[t]he life of the law has not been logic: it has been experience." In this asbestos litigation, the Superior Court found that the Appellees produced evidence that Appellant Carmeuse Lime, Inc. ("Carmeuse") and a subsidiary, Dravo Corporation ("Dravo"), acted as a single entity, and that Carmeuse "used its control of Dravo to leave Dravo subject to the asbestos liabilities, take significant assets for itself, and leave Dravo with inadequate assets to satisfy foreseeable liabilities." Carmeuse, of course, contends that Dravo abided by the letter of the corporate dissolution provisions under Subchapter G of Pennsylvania's Uniform Limited Liability Company Act. As a result, Carmeuse asks this Court to hold that a company may give people cancer without consequences, so long as its affiliate files the right paperwork at the right time.

The instant appeal brings this Court, and this Commonwealth, to a crossroads between formalities and fairness. Carmeuse abused Pennsylvania's corporate laws to create its own version of the Texas Two-Step—the Pennsylvania Polka. Carmeuse transferred valuable assets to itself from its wholly owned subsidiary, Dravo, then filed for dissolution of Dravo, endeavoring to leave asbestos claimants with nothing. Through legal maneuvering and corporate gamesmanship, Carmeuse intends to escape liability for the harms it has caused, and simultaneously provide a safe harbor for the profits it made at the expense of the health, and lives, of Appellees.

As corporate law evolves, corporate lawyers find new ways to maximize profits and minimize accountability. Business entities like Carmeuse are legal fictions designed to serve society, not to lord over it. As these entities find creative new ways to escape accountability for the harms they cause to the public, this Court must recognize courts' equitable powers to look past shell games like the Pennsylvania Polka and recognize the ability of the Commonwealth's judges to allow recovery against parent companies like Carmeuse when justice so requires.

Argument

1. *For as long as there has been limited liability, there has been abuse of the corporate form, and veil piercing as a remedy to protect against that abuse.*

a. History of veil-piercing

For hundreds of years, the Pennsylvania Superior Court has recognized that corporations, like limited liability companies and other similar entities, "have no soul," and therefore "no moral compass." *Com. v. Pi Delta Psi, Inc.*, 211 A.3d 875, 892 (Pa. Super. 2019) (quoting *The Case of Sutton's Hospital*, 7 Eng. Rep. 960 (K.B. 1612)). Indeed, "[a] corporation cannot feel the guilt of the harm it caused, even when that harm resulted in the tragic loss of human life, because it feels nothing at all." *Id.*

Because limited liability companies are soulless, they have historically been used as tools for abuse by the improper motives of those who control them. One of the earliest cases of piercing the corporate veil was *Booth v. Bunce*, 33 N.Y. 139 (N.Y. 1865), where the Court of Appeals of New York held that the corporate veil would be lifted if incorporation was intended to defraud or confuse creditors. In *Booth*, a partnership created a corporation and transferred assets into it. *Id.* at 154-155. The case involved a dispute between a creditor of a partnership and a creditor of a corporation. *Id.* The action was brought, in part, to determine which entity held title to the transferred assets and, thus, which creditor could execute on that property. *Id.* at 155. The jury found that the corporation was "a fraudulent device" formed by the partnership to "delay and defraud their creditors." *Id.* On appeal, the defendant argued that the law cannot disregard the distinction between a prior partnership and a new, corporate entity. *Id.* at 156. The court, disregarding corporate formalities in favor of equity, wrote:

> It is a principle as old as the law of morals and which has been engrafted into the law of equity and justice, that good faith is the basis of all dealing and that every description of contract and every transfer of conveyance of property, by what means so ever it be done, is vitiated by fraud . . . Deeds, obligations, contracts, judgments and *even corporate bodies may be the instruments through which parties may obtain the most unrighteous advantages*. All such devices and instruments have been resorted to cover up fraud, but . . . the law looks upon them as if they had never been executed. They can never be justified or sanctified by any new shape or cover, by forms or recitals, by covenants or sanctions which the ingenuity or skill or genius of the rogue may devise.

Id. at 156-57.

The United States Supreme Court would later lay the foundation for modern veil-piercing doctrine in *J.J. McCaskill Co. v. U.S.*, 216 U.S. 504 (1910). In *J.J. McCaskill*, the United States filed an action to cancel a land patent, arguing that the defendant lied to the government as to the extent of improvements made to the land. *Id.*at 508. The defendant was an individual who purchased the land, but later conveyed it to a partnership, of which the defendant was the president. *Id.* at 514. The defendant argued that his knowledge of the exaggerated improvements cannot be imputed to the partnership because it is a distinct legal entity. *Id.* The United States Supreme Court rejected this argument, holding that respect for the corporate form should not be "carried so far as to enable the corporation to become a means of fraud or a means to evade its responsibilities." *Id.* at 515.

Just ten years later, the Supreme Court held that where a subsidiary of a railroad company acted as a "mere agent" or "instrumentality" of the railroad, the Court would "look through the forms to the realities of the relation between the companies as if the corporate agency did not exist" and "deal with them as the justice of the case may require." *United States v. Reading Co.*, 253 U.S. 26, 63 (1920).

The veil-piercing doctrine continued to develop as corporations found new ways of using limited liability for dishonest purposes. In a case cited favorably by this Honorable Court, the United States District Court for the Eastern District of Wisconsin wrote that "when the notion of legal entity is used to defeat public convenience, justify wrong, protect fraud or defend crime, the law will regard the corporation as an association of persons." *U.S. v. Milwaukee Refrigerator Transit Co.*, 142 F. 247, 253 (E.D. Wis. 1905). *See* *also Tucker v. Binenstock*, 310 Pa. 254, 165 A. 247, 263 (1933) (citing *Milwaukee Refrigerator*, 142 F. 247).[1]

As corporate veil-piercing law evolved, so did the strategies of corporate attorneys. Through skilled lawyers, business entities have utilized organizations and reorganizations to obfuscate, delay, and deny injured tort victims the ability to obtain justice for personal injuries. This is particularly true in the area of mass tort litigation, where defendants have employed myriad tools to evade liabilities, including corporate restructuring, reducing assets through specious transactions, and filing for bankruptcy in bad faith.

b. History of abuse of the corporate form

Recently, multiple corporations have attempted to skirt financial responsibility through corporate reorganization and the bankruptcy process. The Johnson & Johnson baby powder litigation provides a prime example. In those cases, consumers alleged that the mega-corporation knew for decades that its popular baby powder, made from talcum powder, contained traces of asbestos. This spawned lawsuits against Johnson & Johnson Consumer Inc. ("Old Consumer"), a wholly owned subsidiary of Johnson & Johnson ("J&J"). *See In re LTL Mgmt., LLC*, 64 F.4th 84 (3d Cir. 2023).

[1] *See also Fed. Trade Comm'n v. Thatcher Mfg. Co.*, 5 F.2d 615, 621 (3d Cir. 1925) (quoting *Milwaukee Refrigerator*, 142 F. 247); *Realco Servs., Inc. v. Holt*, 513 F. Supp. 435, 439 (E.D. Pa. 1980) (same).

Facing the threat of thousands of claimants, J&J engaged in a corporate reorganization that is commonly referred to as the "Texas Two-Step."[2] The "Texas Two-Step" is a type of divisional merger, where an entity could divide into two or more new entities under Texas law (other states have adopted similar laws in varying fashion). *Id.* at 95. Assets and liabilities are then divided between the new entities, including all liabilities for tort claims, and the original entity is terminated. *Id.* The new liable entity then files for Chapter 11 bankruptcy, allowing the parent company to shield itself from those liabilities.[3]

In the case of J&J, on October 12, 2021, Old Consumer underwent corporate restructuring in the form of this divisional merger to create two new entities ("LTL" and "New Consumer") and, upon completion, Old Consumer ceased to exist. *Id.* at 96. In so doing, and faced with tort claims seeking to hold J&J responsible, the merger allocated LTL with responsibility for "[a]ll liabilities of Old Consumer tied to talc-related claims . . . [meaning] it would take the place of Old Consumer in current *and* future talc lawsuits and be

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[2] *See, e.g.*, Amy West, *Johnson & Jonhson's Dance with Bad Faith: A Look at How Large Corporations Utilize the Bankruptcy Code to Avoid Liability from Mass Tort Claims*, 18 Brook. J. Corp. Fin. & Com. L. 831, 832 (2024); Ashlee E. Talbert, *Bankruptcy Law—The Texas Two-Step Corporate Dance: Whether Courts Will Continue to Enable Corporations to Place Mass Tort Liability into the Hands of the Bankruptcy Court?*, 46 Am. J. Trial Advoc. 449, 450 (2023).

[3] Talbert, *supra*, at 450.

responsible for their defense." *Id.* In creating the new company, New Consumer would receive all of Old Consumer's assets and liabilities not allocated to LTL, including some of the most significant and productive assets. Following the divisive merger, New Consumer was made the parent company of LTL, which filed for Chapter 11 bankruptcy two days later, causing an automatic stay to be placed for those talc claims. *Id.* at 97.

Although the United States Court of Appeals for the Third Circuit would later dismiss the LTL bankruptcy filing on other grounds,[4] other companies have used similar corporate reorganization methods to delay or avoid responsibility from tort victims.[5] Many tort victims brought claims against Purdue Pharma, L.P. ("Purdue") for its deceptive marketing of OxyContin, a highly addictive opioid painkiller that created a nationwide epidemic resulting

[4] Specifically, the Third Circuit dismissed the bankruptcy because it found that LTL did not file the petition in good faith because it was not in financial distress. *Id.* at 110.To the contrary, despite the $4.5 billion in then-current talc-related liabilities, the Court noted that LTL had the right to payment of up to $61.5 billion in cash by J&J to pay future tort liabilities. *Id.* at 106.

[5] In addition to the aforementioned cases, 3M attempted, unsuccessfully, to shield itself from liability for injuries caused to U.S. servicemembers and civilians by its defective combat earplugs. *In re Aearo Technologies, LLC*, 642 B.R. 891 (Aug. 26, 2022). In April 2008, 3M acquired Aearo, the designer and manufacturer of Combat Arms earplugs. *Id.* at 896. Servicemembers began to file lawsuits against 3M and/or Aearo alleging defects for the use of the earplugs. *Id.* Over 700 lawsuits relating to the product were brought in multidistrict litigation – which had grown to over 308,000 claims. *Id.* at 897. Following a number of cases, 3M began exploring Chapter 11 bankruptcy for the Aearo entities. *Id.* at 898. After filing bankruptcy, Aearo sought a stay, asserting, *inter alia*, that the tort claims asserting joint and several liability against 3M and Aearo be treated as a claim against both entities, which the court refused. *Id.* at 907.

in hundreds of thousands of deaths and overdoses[6] —and generating $34 billion in revenue. *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204, 210 (2024). Purdue was owned and controlled by the Sackler family, who maintained several officer positions in the corporation, including president and chief executive officer and multiple board of director positions. *Id.*

After a Purdue affiliate pleaded guilty to a federal felony for misbranding OxyContin as "less addictive" and "less subject to abuse . . . than other pain medications," Purdue became the subject of thousands of civil lawsuits. *Id.* Anticipating that the litigation "[w]ould eventually impact them directly," Purdue began to make distributions to the Sacklers directly, taking as much as 70% of the company's revenue per year (as compared to less than 15% prior to the plea agreement). *Id.* at 211. The Sacklers then transferred much of that money to overseas trusts and family-owned companies. *Id.*

Purdue then filed for Chapter 11 bankruptcy which they used as an opportunity to "[g]et [their own] goals accomplished." *Id.* The Sacklers offered to return approximately $6 billion of what they had previously withdrawn from Purdue, but requested a release of any claims the estate may have against the Sackler family members—including for fraudulent transfers of funds from

[6] West, *supra*, at 843-44.

Purdue preceding the bankruptcy—and requested an end to the number of lawsuits brought by opioid victims. *Id.* This discharge sought not only the current opioid-related claims, but also future claims, as well as claims for negligence, fraud, and willful misconduct. It also proposed ending lawsuits without consent of the opioid victims who brought them (the Sackler discharge). *Id.* at 211-12.

The Sacklers sought an injunction that would stay, restrain, and enjoin claims against them and prevent suits not just against the company's officers and directors, but would in favor of hundreds, if not, thousands, of Sackler family members and entities under their control. *Id*. at 212. Purdue agreed to the terms and submitted a reorganization plan to the bankruptcy court for approval. This plan was objected to by multiple stakeholders including opioid victims, eight States, municipalities, and others. *Id.* After years of litigation and delay, the United States Supreme Court held in 2024 that the bankruptcy code did not authorize a release and injunction that, as part of the reorganization under Chapter 11, would have discharged claims against a non-debtor without consent of affected claimants. *Id.* at 226-27. This dispute remains ongoing and the Sacklers and Purdue are expected to submit a new bankruptcy plan in 2025.[7]

In one particular, egregiously-obvious example of the Texas Two-Step, the appellate court opinion, along with the dissenting opinion, highlighted the risks of valuing the corporate form over basic fairness.

In 2023, the United States Court of Appeals for the Fourth Circuit approved a bankruptcy plan after the divisional merger of a company sued for asbestos-related claims. *In re Bestwall*, 71 F.4th 168 (4th Cir. 2023). In 1965, Georgia-Pacific LLC ("Old GP") merged with Bestwall Gypsum Company, a manufacturer of asbestos-containing products. *Id.* at 173. When Georgia-Pacific became subject to thousands of asbestos-related personal injury lawsuits in 2017, it underwent a divisional merger under Texas Law, similar to that performed by Johnson & Johnson. *Id.* at 174. As a result, Old GP ceased to exist and its assets and liabilities were divided between two new entities as wholly owned subsidiaries of Georgia-Pacific Holdings, LLC: Bestwall LLC ("Bestwall") and Georgia-Pacific LLC ("New GP"). *Id.* The two new entities then entered into a funding agreement where New GP agreed to cover expenses that Bestwall incurred during its normal course of

[7] Dietrich Knauth, *Purdue Pharma Says Sackler Opioid Payment Could Grow to $7 Billion*, Reuters (Feb. 25, 2025, 6:07 PM), https://www.reuters.com/legal/government/purdue-pharma-says-sackler-opioid-payment-could-grow-7-billion-2025-02-25/.

business and to fund Bestwall's obligations to New GP. *Id.* As part of the restructuring, Bestwall received certain assets from Old GP and ultimately assumed responsibility for all asbestos-related liabilities. *Id.* at 174. Not long after the restructuring, Bestwall filed for Chapter 11 bankruptcy. It then sought, and was granted, a preliminary injunction enjoining any asbestos-related claims against New GP. It was a textbook Texas Two-Step.

The United States Court of Appeals for the Fourth Circuit affirmed. The decision of the Court was accompanied by a scathing dissent by Judge Robert Bruce King. Much like Carmeuse is doing in this case with the corporate dissolution statute, Judge King wrote that the debtor's Texas Two-Step was a "manipulation of the Bankruptcy Code." *Id.* at 186 (King., J., dissenting). He recognized that despite having "every ability to defend against continued asbestos litigation and to satisfy all resulting liabilities," the Georgia Pacific companies nevertheless "manufactured the jurisdiction of the bankruptcy court .... in an unmistakable effort to gain leverage over future asbestos claims." *Id.* Despite being a "multibillion-dollar business leader in the pulp and paper industry" today, Georgia Pacific, through corporate gamesmanship specifically geared toward dodging rightful asbestos claims, placed its "bountiful assets ... out of reach for any and all asbestos claimants seeking relief through our Nation's tort system, in either state or federal court." *Id.* at 187. Shockingly, Bestwall and New GP, which were new entities created as a condition precedent of the Texas Two-Step, existed as Texas business entities for *less than five hours*. *Id.* Bestwall, upon "reorganizing" in North Carolina after being formed in Texas, "did not hire any new employees, engage in any new business ventures, or do much of anything else" besides file for bankruptcy *three months* after its inception. *Id.* Judge King also noted that, while Georgia Pacific performs this corporate dance to evade the consequences of giving people cancer, "many [asbestos] claimants have and will continue to run out of time, their years cut short by asbestos-related disease while these bankruptcy proceedings grind on." *Id.* at 188. Judge King stated his strong dissent to the result of the case, as well as his disapproval of Georgia-Pacific's Texas Two-Step, which was "little more than a corporate shell game." *Id.* at 194.

Given the recent developments and efforts to avoid, curtail, or delay the ability of tort victims to obtain justice, the importance of permitting injured victims to pursue claims against parent companies cannot be understated. This is particularly true where injured tort victims do not have access to the same resources as the multi-billion-dollar defendants that hide behind the corporate veil. This Court must not permit Carmeuse's Pennsylvania Polka to take hold in this Commonwealth like the Texas Two-Step has in the federal bankruptcy courts. Based on the ever-evolving dangers posed by powerful corporate interests and their increasingly creative legal maneuvering,[8] the power of judges to step in and protect the public must be reinforced by this Honorable Court. As this Court has held, the "corporate veil will be pierced and the corporate form disregarded whenever justice or public policy

[8] The threat posed by such legal maneuvering is not merely theoretical. Far from a good faith use of the corporate form, the Pennsylvania Polka is being actively promoted by the corporate defense bar, including by counsel for Carmeuse *in this case*, as a method to "permanently resolve mass tort liabilities."

> Strategies to permanently resolve mass tort liabilities generally center around a few central steps. The first step is confining the liability to a specific entity, to the extent that's possible. The second step is identifying and marshaling assets designated to pay claims, such as proceeds from a sale of company assets, proceeds from settlements with parent or affiliate entities, insurance proceeds, and even future distributions and dividends. And the third step is effectuating a hard stop on the claims themselves. Now, there are a number of potential options for achieving that third step, the hard stop on claims. They include several options under the bankruptcy code, ranging from a Chapter 11 reorganization to a Chapter 7 liquidation [the Texas Two-Step], as well as dissolution under state law [the Pennsylvania Polka].
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> [A] debtor facing mass tort liabilities could dissolve under applicable state law. Dissolution statutes vary from state to state, and within each state for different types of business entities. But many of these statutes do include a bar of repose of any claims not filed within a certain time after the entity dissolves. And so[,] the aim of this strategy is to dissolve the entity with the liability, and then take advantage of the statute of repose to cut off all remaining claims.

See Reed Smith LLP, *Strategies for permanently resolving mass tort claims,* Insured Success (Jul. 16, 2024), https://www.reedsmith.com/en/perspectives/2024/07/strategies-for-permanently-resolving-mass-tort-claims.

demand…." *Mortimer v. McCool* 667 Pa. 134, 160 (Pa. 2021) (citations omitted).

2. *This Court should broadly recognize the justice system's equitable obligation to protect injured people from the strict adherence to corporate formalities.*

Justice Wecht, quoting the late Justice Musmanno, recently described the broad equitable powers inherently possessed by the courts of this Commonwealth:

> [E]quity is to law what the helicopter is to aviation. Equity can travel in any direction to achieve its objective of truth, and when it has found truth it can land on terrain which often would be utterly futile and unapproachable to formalistic law. And on that terrain of ascertained fact, equity surveys the whole situation and grants the relief which justice and good conscience dictate.

Mortimer, 667 Pa. 134, 255 A.3d 261, 286 (2021) (quoting *Weissman v. Weissman*, 384 Pa. 480, 121 A.2d 100, 103 (1956)).

Business entities like Carmeuse are soulless creations that lack the capacity for guilt. *See Pi Delta Psi, Inc.*, 211 A.3d at 892. Unlike the countless Pennsylvanians lost to its negligence, Carmeuse was born not of flesh, but of ink and ambition. It exists solely to create profit. And in this case, Carmeuse, by and through Dravo, did so at the expense of the public. Thus, the question before this Court is not just whether the corporate form should be respected, but whether it should be revered as an untouchable idol—even when it becomes a shield for greed and malfeasance. The doctrine of limited liability is a *privilege*, not a right. It exists to foster enterprise, not to sanction fraud. When a subsidiary's assets are siphoned off to a parent company not for some grand business purpose but to dodge a rightful claim, it is an affront to equity and a spit in the face of justice. Parent companies like Carmeuse pull the strings, reap the profits, and then retreat behind a paper wall, daring us to do nothing when the reckoning comes.

Quite simply, business entities evolve and adapt to escape accountability far more quickly than statutes and regulations can catch up. The helicopter of equity is necessary to go where formalistic law creates a roadblock, even if the equitable outcome may conflict with the strict application of statute. *See Vanvoorhis v. Shrewsbury Township*, 176 A.3d 429, 437 n.8 (Pa. Cmwlth. 2017) (discussing the maxim "*aequitas prima est* – where equity applies, equity is supreme.").

The Pennsylvania Polka orchestrated here by Carmeuse threatens to leave widows and widowers, sons and daughters, with nothing in exchange for killing their loved ones. Carmeuse justifies its duplicity through compliance with corporate dissolution statutes, but that is not enough. Equity exists for moments like this. It is the law's promise to step in when technicalities threaten to strangle fairness. The doctrine of piercing of the corporate veil is not a radical invention. *See, e.g., Booth*, 33 N.Y. 139; *J.J.*

McCaskill Co., 216 U.S. 504. It is a tool forged in the fires of necessity, wielded by courts for hundreds of years to make clear that corporate defendants cannot hide from the consequences of their actions. When the transfer of assets is a sham timed with surgical precision to evade liability; it is not a legitimate exercise of corporate form, but a desperate scramble to bury the truth. As stewards of the law, the courts of this Commonwealth have the power—indeed, the duty—to call it what it is and put a stop to it.

The law is not a cold machine; it is a beating heart, pulsing with the blood of equity. To blindly honor the corporate form at the expense of the public is to sever that heart from its purpose. The corporate veil must be pierced when the cost of corporate impunity is measured in lives lost. Considering the alternative, upholding the corporate form here sends a dangerous message to companies that operate in Pennsylvania: they can cause harm, shuffle their riches behind a curtain of subsidiaries and affiliates, and leave the everyday person with nothing but a hollow shell to sue. It tells limited liability companies that a parent company can dominate its offspring, drain its lifeblood, and then wash its hands of the carnage, turning justice into dust. This Court in *Mortimer* reminded us that the corporate veil is not ironclad; it bends when the parent's control becomes abuse, when separation becomes a sanctuary for injustice like it has here.

“All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law.” Pa. Const. art. 1, § 11. As recognized by this Court, the judiciary has a “solemn obligation to protect, safeguard, and uphold” the constitutional rights of Pennsylvanians. *Commonwealth v. Koehler*, 658 Pa. 658, 229 A.3d 915, 936 (2020). But *who* are the courts here to protect? The soulless, unfeeling corporation, or the human being crushed by a machine, poisoned by a spill, or struggling to breathe after exposure to a product known to be dangerous by its manufacturer? The law’s purpose—its moral core—is to shield the vulnerable, not to armor the cunning. Carmeuse orchestrated the transfer of assets and stripped the subsidiary bare to dodge a debt it knew was owed. Carmeuse has no claim to corporate deference. If we cling to formalities over fairness, we do not just deny a remedy—we erode the trust that holds this system together.

In situations like the wrongs perpetuated on the corporate laws of Pennsylvania, as well as its citizens, by Carmeuse, this Court must look beyond the ledger. Equity demands it. Justice commands it. And the law, in its truest form, permits it. The corporate form must not become a fortress for the mighty; it should be a framework that bends to the will of what is right. For in the end, the measure of our law is not how well it protects the powerful, but how fiercely it defends the powerless. When the corporate form becomes a fortress for the mighty, the helicopter of equity must breach its walls. For in its flight, we find not just law, but law's soul—a promise to the tradesman and the shipbuilder struggling to breathe after exposure to asbestos, that their pain will not be buried beneath a balance sheet. This Court should empower the courts of this Commonwealth to pierce the corporate veil and let justice land where formalities fear to tread.

Conclusion

For as long as limited liability entities have existed, there has been the abuse of those entities for lucre at the expense of the public. However, for just as long, veil-piercing law has existed to keep corporate greed in check, especially when the corporate form is abused at the public's expense. But as this body of law develops, savvy corporate lawyers devise new strategies to continue reaping profits no matter the cost to the public, while evading consequences along the way. The Courts exists as a check against this evil.

Here, Carmeuse and its affiliates have put a Pennsylvania spin on the Texas Two-Step. This Pennsylvania Polka risks justice for the injured in favor of strict adherence to corporate formalities. In order to combat the ever-evolving threat of corporate gamesmanship, this Honorable Court should recognize the judiciary's equitable power to look past strict construction of corporate statutes into the injustice that would result from the abuse of those statutes on the innocent and the injured.

Dated: April 2, 2025

By: __/s/ Gerard W. Gaughan_
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Combined Certificates of Compliance

This Brief contains 4,866 words (exclusive of supplementary matter). In preparing this certification, I relied on the word count of the word processing system used to prepare the brief.

I certify that this Brief complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information differently than non-confidential information.

Dated: April 2, 2025

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