RECEIVED
Sep 29 2022
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas
Jean H. Toal, Circuit Court Judge

Appellate Case No. 2019-000649
Case No. 2013-CP-46-00368

Stephen R. Edwards, Individually and as Personal Representative of the Estate of Steven Redfearn Stewart, Respondent,

v.

Scapa Waycross, Inc., Appellant.

REPLY IN SUPPORT OF PETITION FOR REHEARING

Introduction

Respondent, in the Return to the Petition for rehearing, complains that Petitioner made no motion to orally argue against precedent, that the rehearing should be denied because the opinion was "unanimous," and that Scapa "fails to support any point overlooked or misapprehended by the court."

Scapa need not make a motion to be allowed to argue against precedent *in briefing.* In any event, *Jolly v. Gen. Elec. Co.*, 435 S.C. 607 (Ct. App. 2021) is not yet final[1]. Scapa in its rehearing

[1] The certiorari petition regarding the decision in Jolly remains pending before the South Carolina Supreme Court as of this filing. The remittitur in that matter has not yet been released because it is not considered a final decision as yet.

petition noted many points and arguments it believes this Court overlooked and misapprehended. While it is true that the panel deciding this case was unanimous, such does not preclude rehearing. Rehearing should be granted.

Argument

I. The Court erred in affirming the trial court's finding that Plaintiff established specific causation.

"Junk science" cheapens all science. The South Carolina courts ought not to open their courthouse doors to the junk science "cumulative exposure" theory of causation for asbestos exposure cases. The Court should reconsider and follow the lead of courts around the nation that have rejected that theory.

In this state, a plaintiff seeking damages for injuries caused by asbestos exposure must prove he had "actionable exposure" to the specific defendant's product. *See Henderson v. Allied Signal,* 373 S.C. 179, 185, 644 S.E.2d 724, 727 (2007). To prove actionable exposure, a plaintiff must meet the "frequency, regularity, and proximity" standard (the "*Henderson/Lohrmann* standard") in *Lohrmann v. Pittsburgh Corning Corp.*, 782 F.2d 1156, 1162 (4th Cir. 1986). *Henderson,* 373 S.C. at 185, 644 S.E.2d at 727.

The plaintiff must prove both general and specific causation through expert testimony. *See Fisher v. Pelstring,* 817 F. Supp. 2d 791, 814 (D.S.C. 2011). The trial court must determine the reliability of that expert testimony under the factors in *State v. Council,* 335 S.C. 1, 19, 515 S.E.2d 508,517 (1999); *Graves v. CAS Med. Sys.*, 401 S.C. 63, 79, 735 S.E.2d 650, 658 (2012). The court must look to the following factors: (i) the publications and peer review of the technique; (ii) prior application of the method to the type of evidence involved in the case; (iii) the quality control procedures used to ensure reliability; and (iv) the consistency of the method with recognized scientific laws and procedures. *Id.*; *Council,* 335 S.C. at 19, 515 S.E.2d at 517.

Because "the main tenet of toxicology is the 'dose-response' relationship" and "most chemically induced adverse health effects clearly demonstrate 'thresholds,' there must be reasonable evidence that the exposure was of sufficient magnitude to exceed the threshold before a likelihood of 'causation' can be inferred." David L. Eaton, *Scientific Judgment and Toxic Torts-A Primer in Toxicology for Judges and Lawyers*, 12 J.L. & Pol'y 5, 39 (2003). Thus, in mesothelioma cases:

> To prove that a given injury was "caused by exposure to a specified substance," a plaintiff must demonstrate "the levels of exposure that are hazardous to human beings generally," and "the plaintiff's actual level of exposure." *Westberry*, 178 F.3d at 263 (quotations omitted). Moreover, there must be a showing that the plaintiff's level of exposure is comparable to the levels of exposure that are hazardous as a general matter. *See id.* ("[S]cientific knowledge of the harmful level of exposure to a chemical, plus knowledge that the plaintiff was exposed to *such quantities*, are minimal facts necessary to sustain the plaintiffs' burden in a toxic tort case.") (emphasis added) (quoting *Allen v. Pa. Eng'g Corp.*, 102 F.3d 194, 199 (5th Cir. 1996)); *see also Zellars v. NexTech Northeast, LLC*, 895 F. Supp. 2d 734, 742 (E.D. Va. 2012) ('"Ruling in' exposure to a particular substance as a possible cause of a patient's medical condition requires (1) a reliable determination of the level of exposure necessary to cause the condition and (2) a reliable determination that the patient was exposed to the substance at this level.").

Yates v. Ford Motor Co., 113 F. Supp. 3d 841, 850 (E.D.N.C. 2015).

Here, Respondent and his experts indisputably relied on the "each and every exposure" or "cumulative dose" theory of causation—a theory rejected by most courts that have addressed it. As the court in *Yates* explained:

> The theory that "each and every exposure to asbestos products results in injury to the person so exposed" has made repeat appearances in the realm of asbestos litigation. Krik v. Crane Co., 76 F. Supp. 3d 747, 749-50 (N.D. Ill. 2014); see William L. Anderson, "The 'Any Exposure' Theory Round II-Court Review of Minimal Exposure Expert Testimony in Asbestos and Toxic Tort Litigation Since 2008," 22 KAN. J.L. & Pus. PoL'Y 1 (2012). Also referred to as "any exposure" theory, or "single fiber" theory, it represents the viewpoint that, because science has failed to establish that any specific dosage of asbestos causes injury, every exposure to asbestos should be considered a cause of injury. See Krik, 76 F. Supp. 3d at 749-50; Anderson v. Ford Motor Co., 950 F. Supp. 2d 1217, 1225 (D. Utah 2013). Numerous courts have excluded expert testimony or evidence grounded in

> this theory, reasoning that it lacks sufficient support in facts and data. E.g., Comardelle v. Pa. Gen. Ins. Co., 76 F. Supp. 3d 628, 632-33 (E.D. La. 2015); Krik, 76 F. Supp. 3d at 752-53, Anderson, 950 F. Supp. 2d at 1225; Sclafani v. Air & Liquid Sys. Corp., No. 2:12-CV-3013, 2013 WL 2477077, at *5 (C.D. Cal. May 9, 2013); Henricksen v. ConocoPhillips Co., 605 F. Supp. 2d 1142, 1166 (E.D. Wash. 2009).

113 F. Supp. 3d at 846.

Courts reject the "every exposure" or "cumulative dose" theory (by whatever name) because it is irreconcilable with the "substantial factor" causation rule long used in South Carolina and almost all other jurisdictions. *See Schwartz v. Honeywell Int'l Inc.,* No. 2016-1372, 2018 WL 793606, at *3 (Ohio Jan. 24, 2018) (finding it "impossible" to reconcile a requirement of "an individualized finding of substantial causation for each defendant with a theory that says every defendant that contributed to the overall exposure is a substantial cause."); *see also Martin v. Cincinnati Gas & Elec. Co.,* 561 F.3d 439, 443 (6th Cir. 2009); *Lindstrom v. A-C Prod. Liab. Trust,* 424 F.3d 488, 493 (6th Cir. 2005).

The theory would impose "precisely the sort of unbounded liability that the substantial factor test was developed to limit." *Mcindoe v. Huntington Ingalls, Inc.,* 817 F.3d 1170, 1177 (9th Cir. 2016). It is also irreconcilable with the requirement that a plaintiff prove the amount, duration, and frequency of exposure. *In re New York City Asbestos Litigation,* 48 N.Y.S.3d 365 (N.Y. App. Div. 2017). Thus, the "cumulative dose" theory is inconsistent with the *Henderson/Lohrmann* standard. Respondent's attempt to prove causation through the "cumulative dose" theory requires reversal for several reasons:

First, the *Henderson/Lohrmann* standard requires defendant-specific opinions. The substantial causation test is contradicted by "a theory that says every defendant that contributed to the overall exposure is a substantial cause." *Schwartz,* 2018 WL 793606, at *3. Liability should

not be imposed under *Henderson* unless the product or conduct of the particular defendant under consideration is itself a substantial contributing factor.

Courts presented with the same approach Respondent used here have forcefully rejected it. *See Krik v. Owens-Illinois, Inc.*, 2015 WL 5050143, at* 1 (N.D. Ill. 2015) (barring Dr. Frank's testimony because "To find a defendant liable, plaintiff must prove causation attributable to that defendant. It would be misleading and confusing for an expert to opine—particularly using the legal terminology of 'substantial contributing factor'—that (plaintiff's) cancer was caused by defendants and the foundation for the opinion was that every exposure (without regard to dosage) contributes to cause cancer."); *Moeller v. Garlock Sealing Techs., LLC*, 660 F.3d 950, 955 (6th Cir. 2011) (if Dr. Frank's opinion that every exposure is substantial was "sufficient for plaintiff to meet his burden, the Sixth Circuit's 'substantial factor' test would be meaningless" (citing *Lindstrom*, 424 F.3d at 493). The "cumulative dose" theory makes a mockery of the word "substantial." Plaintiff seeks, in effect, to create a new standard of causation: that *any contribution whatsoever* to a dose of asbestos exposure subjects one to liability. This is simply not the law in South Carolina.

Second, this theory of causation has not only been rejected by other courts, each of Plaintiff's experts' opinions have been excluded in other cases as either unreliable or contrary to the plaintiffs' burden of proof. The court in *Yates, supra,* cited numerous authorities for the proposition the theory "lacks sufficient support in facts and data" and rejected Dr. Brody's opinion that exposure at levels "above background" contribute to the development of mesothelioma. 113 F. Supp. 3d at 846-47. The court further found the "no safe level/every exposure/cumulative exposure" opinion of Dr. Frank did not satisfy the types of factors required by *Council;* there are no quality control procedures or other methods used to ensure its reliability; it is wholly

inconsistent with recognized scientific laws and procedures; and it "cannot be tested, has not been published in peer-reviewed works, and has no known error rate." 113 F. Supp. 3d at 846.

Similarly, the court in *Rockman v. Union Carbide Corp.,* 266 F. Supp. 3d 839, 849, 850 (D. Md. 2017), noting that "Dr. Frank's ultimate opinion is not tied to any specific quantum of exposure that is attributable to defendant," concluded it was not based on reliable principles and methods. *See also Haskins v. 3M Company,* 2017 WL 3118017 (D.S.C. 2017) (excluding the "each and every exposure" opinion under Rule 403 because it was directly at odds with substantial causation requirements); *Butler v. Union Carbide Corp.*, 712 S.E.2d 537, 544 (Ga. Ct. App. 2011) (excluding "cumulative dose" opinion for its lack of scientific validity and other factors); *Suoja v. Owens-Illinois, Inc.,* 211 F. Supp. 3d 1196, 1207 (W.D. Wis. 2016) (refusing to rely on Frank's testimony, citing its numerous methodological shortcomings).

Third, the "cumulative dose" theory rests on the unfounded notion that there is "no safe level" of exposure. This contradicts the fundamental principle of science, often expressed as "the dose makes the poison," that there is a "dose-response" relationship between exposures and disease, and thresholds needed to produce disease. *Eaton, supra.* The concept that there is "no safe level" of asbestos exposure is based on the purported absence of evidence of a "threshold" level of exposure necessary to cause disease, rather than affirmative evidence of a particular hazardous level of exposure. *Yates,* 113 F. Supp. 3d at 857 (rejecting expert's "no safe level" opinions).

Fourth, the cumulative dose approach is also at odds with the requirement that a claimant account for other potential exposures. *Martin,* 56 F.3d at 443 (explaining that defendant's liability for mesothelioma must be evaluated in the context of other exposures); *Schwartz,* 2018 WL 793606, at *4 (citing 2 Restatement (Second) of the Law of Torts § 433, at 432 (1965)). Because

of their adherence to the belief that *any* exposure constituted a "substantial" one, Respondent's experts made no effort to address the role played by Mr. Stewart's exposures to other products.

Fifth, even if Respondent had offered sufficient expert testimony addressing causation, there was an insufficient factual predicate for expert causation testimony. Mr. Stewart did not testify to having worked with a Scapa asbestos-containing dryer felt. Nor did his co-workers:

Co-worker Hegler

> Q. Okay. Do you recall ever seeing a Scapa dryer felt taken out of the box?
>
> A. No.
>
> Q. And if you didn't see a Scapa dryer felt taken out of a box, would you know whether or not you've ever seen anyone replacing a Scapa dryer felt?
>
> A. I would not know.
>
> Q. Okay. So you can't offer any testimony today that you saw Mr. Stewart work with or around a Scapa dryer felt?
>
> A. I cannot.
>
> Q. And you can't offer any testimony that you saw Mr. Stewart cut a Scapa dryer felt?
>
> A. I cannot.
>
> Q. Do you have any knowledge regarding any section of Paper Machine 1 where a Scapa dryer felt would have been used?
>
> A. I don't know where they were used or which section.
>
> Q. Okay. So would it be fair to say that you have a general recollection of seeing boxes of Scapa dryer felts, but you don't recall ever seeing them being used in the plant?
>
> A. That's correct.

(*See* 1 Tr. 158) (noting that Mr. Hegler's deposition testimony was read into the record).

Co-worker Steele

Q. So when a felt was installed on a paper machine unless you saw the box that it came out of you wouldn't know who made the felt just by looking at it would you?

A. That's correct.

Q. When a felt is removed from the paper machine you wouldn't be able to tell who manufactured that particular felt that was being removed could you?

A. That's correct.

Q. And you wouldn't be able to tell whether a felt contained asbestos just by looking at it would you?

A. I wouldn't have, no.

* * *

Q. Sir you can't testify that a Scapa felt ever tore off of the paper machine can you?

A. I cannot tell you specifically, no.

(1 Tr. 337-38).

Similarly, co-worker Ward testified Mr. Stewart was not present in December 1972 when a Scapa dryer felt allegedly came loose from the paper machine. He explained Stewart was assigned to a different shift. (1 Tr. 511-512).

Additionally, Respondent's experts did not provide testimony supporting a finding that Stewart had exposure to an asbestos-containing product of Scapa's on a regular basis over some extended period in proximity to where he worked. The evidence showed that by the time Scapa first supplied an asbestos-containing dryer felt to Bowater, Mr. Stewart was no longer serving as a utility man, fifth hand, or fourth hand—the jobs that involved cutting felts. And Respondent's expert DePasquale conceded he could not testify that asbestos fibers were released during papermaking operations not involving any cutting of felts:

> Q. I talked to Dr. Millette a little bit about this yesterday, but we can agree -- you can agree as an industrial hygienist that it is actually there has to be some interaction of force on the dryer felt for there to be a potential for fiber release, correct?
>
> A. Yes, I would generally agree with that statement.
>
> Q. You don't have any information that when they're just going through and making paper, nothing else is going on, that there's any fiber release; is that correct?
>
> A. There's a potential for fiber release, but whether it occurs or not, I'm not sure.

(1 Tr. 470-71).

Likewise, Dr. Millette admitted his glove-box test did not simulate actual mill conditions. During his test, no paper was being made (1 Tr. 399-400), no water was involved, there was no movement of the felt, there was no ventilation, and the test did not replicate the humidity of a paper mill. (1 Tr. 397-98). He also admitted his post-it note and finger test did not cause respirable asbestos to be released into the air. (1 Tr. 409). Furthermore, each worker testified that during a blow down, he would blow air across the felt, not at the 90 degree angle used in Dr. Millette's test.

In short, there was no direct evidence that Mr. Stewart had a regular, frequent, and proximate exposure to asbestos from Scapa dryer felts. No witness could testify that Mr. Stewart had exposure to an asbestos-containing product of Scapa's on a regular basis over some extended period in proximity to where Mr. Stewart worked.

Nor was there any circumstantial evidence of regular, frequent, and proximate exposure. Causation must be based on probabilities not mere possibilities. *Harris v. Rose's Stores, Inc.,* 315 S.C. 344 (Ct. App. 1993). Causation based on a possibility rather than a probability is not sufficient in a products liability case. Here, the evidence established nothing more than a speculative possibility that Mr. Stewart had the requisite degree of exposure to asbestos from a Scapa dryer felt.

Again, *Henderson* requires the plaintiff to show "evidence of exposure to a specific product on a regular basis over some extended period of time in proximity to where the plaintiff actually worked." 373 S.C. at 185. A mere showing that an asbestos-containing product was at the jobsite is insufficient. There must be evidence of regular exposure to a particular product in proximity to the plaintiff. That evidence is entirely absent in this case. There is no testimony, either by Stewart or any of his coworkers, establishing his work around an asbestos-containing Scapa product on a regular basis over some extended period.

Finally, Respondent's experts' opinions were also inadmissible under Rule 403 of the South Carolina Rules of Evidence, which mandates that testimony be excluded if its probative value is substantially outweighed by the danger of unfair prejudice and confusion of the issues. The opinions were rooted in the idea that any miniscule exposure to asbestos in association with Scapa's products contributed to the cumulative result of Mr. Stewart contracting mesothelioma and, therefore, the exposure was a cause of his injury. These opinions are inconsistent with the *Henderson/Lohrmann* legal standard because they effectively shifted the burden to Scapa to prove that it did not expose Mr. Stewart to any asbestos. Thus, the opinions served merely to confuse or mislead the jury as to the standard it should apply to Mr. Stewart's claims by implying that any exposure was sufficient to render Scapa liable to Mr. Stewart for causing his mesothelioma and should have been excluded.

In sum, Respondent failed to introduce legally sufficient evidence of specific causation. The trial court therefore erred in denying Scapa's motion for JNOV and this Court should reverse the judgment below.

II. The Court's additur ruling improperly afforded the trial court unfettered discretion.

After almost five hours of deliberation, the jury returned its verdict, awarding $600,000 in damages for Stewart's survival claim. Throughout trial, the court noted that the jury was highly-educated, diverse, and attentive. After the verdict, the court stated: "I've seen a lot of juries. I don't believe I've seen a jury in my time that was any more attentive or committed to their job than this jury has been." (Tr. 488). Nevertheless, the trial court invaded the jury's province and adjusted its damage award, increasing the survival damages from $600,000 to $1,000,000.00. The court abused its discretion in so ruling.

"Compelling reasons must be given to justify invading the jury's province by granting a new trial to adjust damages." *Wright v. Craft*, 372 S.C. 1, 35 (Ct. App. 2006). When considering a motion for a new trial based on the inadequacy of the jury's verdict, the trial court must distinguish between awards that are merely unduly conservative and awards that are actuated by passion, caprice, or prejudice. *Id*. Courts must give substantial deference to a jury's determination of damages. *Harrison v. Bevilacqua*, 354 S.C. 129, 140 (2003).

Trial judges may not substitute their judgment for that of the jury. *Graham v. Whitaker*, 218 S.C. 393, 402 (1984). Noneconomic damage awards are within the jury's province to determine because such damages are indeterminate in character. *Kalchthaler v. Workman*, 316 S.C. 499, 503 (Ct. App. 1994). Here, the damage awards were not "so grossly . . . inadequate that the amount awarded is so shockingly disproportionate to the injuries as to indicate the jury was moved or actuated by passion, caprice, prejudice, or other considerations not found in the evidence." *Riley v. Ford Motor Co*., 414 S.C. 185, 192 (2015).

Actual damages in a survival action are those for medical bills, conscious pain, suffering, and mental distress of the deceased. *Welch v. Epstein*, 342 S.C. 279, 303 (Ct. App. 2000). Here,

the jury's $600,000.00 award for the survival claim is not unduly conservative. Mr. Stewart's physician testified that in addition to mesothelioma, Mr. Stewart had a number of co-morbidities. (1 Tr. 612). He suffered from a prior heart attack, hypertension, bypass surgery, chronic obstructive pulmonary disease, bladder cancer, prostate cancer, and skin cancer. (1 Tr. 611-12). He had a lengthy smoking history. As such, his physician could not give the jury a life-expectancy estimate for Mr. Stewart had he not contracted mesothelioma. (1 Tr. 613).

The jury was entitled to take this evidence into account in determining the amount of conscious pain, suffering, and mental distress attributable to Mr. Stewart's mesothelioma, and substantial deference must be paid to its calculation of the appropriate damage amount. *Harrison*, 354 S.C. at 140. Given this evidence, $600,000 is not so shockingly disproportionate to the injuries as to indicate the jury was moved or actuated by passion, caprice, prejudice, or other considerations not found in the evidence.

The trial court's citations to damage awards in other cases do not support additur here. "The vast variety of and disparity between awards in other cases demonstrate that injuries can seldom be measured on the same scale. The measure of damages suffered is a factual question and as such is a subject particularly within the province of the trier of fact. For a reviewing court to upset a jury's factual determination on the basis of what other juries awarded to other plaintiffs for other injuries in other cases based upon different evidence would constitute a serious invasion into the realm of factfinding." *Bertero v. Nat'l Gen. Corp.*, 13 Cal.3d 43, 65 (Cal. 1974).

In sum, the trial court's discretion to grant additur was not so broad as to permit a 67% increase in the jury's award for unliquidated survival damages. The jury's award for survival damages was nearly three times the amount of Mr. Stewart's medical expenses. Furthermore, pain and suffering damages are indeterminate in character, are not capable of exact measurement, and

there is no fixed standard whereby such damages can be determined. Thus, the trial court should have left the damages to be awarded for pain and suffering to the jury's judgment. *Harper v. Bolton*, 239 S.C. 541, 548 (1962).

III. The Court should grant rehearing and reverse the trial court's settlement-proceeds allocation ruling.

An allocation of settlement proceeds between survival and wrongful death claims "must yield to fairness and justice." *Welch v. Epstein*, 342 S.C. 279, 313 (Ct. App. 2000). True, a plaintiff's agreement with a settling party to allocate settlement proceeds in a certain manner may not be disturbed "solely because the apportionment may have been advantageous to the Estate." *Riley v. Ford Motor Co.*, 414 S.C. 185, 196 (2015). But Scapa is not complaining that Respondent's allocation was unreasonable for that reason. Rather, the 80% wrongful-death-claim/20% survival-claim allocation was not reasonable under the facts.

The trial court's additur findings support this conclusion. The court found no reason to increase the jury's award of $100,000 for the wrongful death damages, given Stewart's limited relationship with his wrongful death beneficiaries. On the other hand, the court believed the evidence concerning the Stewart's survival damages warranted a 67% increase—from $600,000 to $1,000,000. In short, the court was of the view that the evidence supported a finding that it was reasonable and appropriate for 10% of the total damages to be awarded for the wrongful death claim and reasonable and appropriate for 90% of the total damages to be awarded for the survival claim.

Given the *trial court's findings on additur* concerning the damages evidence, Respondent's allocating just 20% of the settlement proceeds to the survival claim is not reasonable. On the contrary, the allocation should have been 10% for the wrongful death claim and 90% for the survival claim. This would be entirely consistent with Respondent's own arguments concerning

the extent and nature of Stewart's survival damages, as contrasted with the nature of the wrongful death beneficiaries' losses as a result of his death. Respondent's counsel urged the Court to multiply the survival damages by a factor of ten, while asking for an increase in the wrongful death damages only by a factor of four.

Respondent's counsel had very little to say about the wrongful death beneficiaries' losses, and a great deal to say about Mr. Stewart's suffering before his death. In fact, the trial court commented: "I understand, and let me just say this: I certainly understand the argument taking one position about the additur and then taking another position about how they want this thing allocated. The allocations, if you look at it from the standpoint of what I have just done with the additur is 90/10; is it not?" (7/11/2018 Tr. at 34).

In sum, the allocation of settlement proceeds between survival and wrongful death claims approved by the trial court does not reflect "fairness and justice." *Welch*, 342 S.C. at 313. The court therefore abused its discretion by refusing to reallocate the settlement funds in a manner reasonable under the facts.

Conclusion

Scapa requests the Court grant rehearing and reverse the trial court's judgment.

(Signature Page Follows)

Respectfully submitted,

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: *s/ C. Mitchell Brown*

C. Mitchell Brown
South Carolina Bar 012872
1320 Main Street, 17th Floor
Columbia, SC 29201
803-799-2000
mitch.brown@nelsonmullins.com

William P. Early (15657)
PIERCE SLOAN KENNEDY & EARLY LLC
The Blake-Grimké House
321 East Bay Street
Post Office Box 22437
Charleston, SC 29413
843-722-7733
willearly@piercesloan.com

Attorneys for Appellant Scapa Waycross, Inc.

Columbia, South Carolina

September 29, 2022

RECEIVED
Sep 29 2022
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas
Jean H. Toal, Circuit Court Judge

Appellate Case No. 2019-000649
Case No. 2013-CP-46-00368

Stephen R. Edwards, Individually and as Personal Representative of the Estate of Steven Redfearn Stewart, — Respondent,

v.

Scapa Waycross, Inc., — Appellant.

PROOF OF SERVICE

I, the undersigned Administrative Assistant, of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Scapa Waycross, Inc, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified, pursuant to the Supreme Court Order 2022-05-06-04, and a copy of that electronic mail is attached to this certificate.

Pleading(s): **Reply in Support of Petition for Rehearing**

Served:

Thomas H. Hart, III, Esquire
Hart Law LLC
210 S. Gum Street
Summerville, SC 29483
tom@thhpc.com

Gregory Lynn Hyland, Esquire
Gregory L. Hyland, Attorney at Law, LLC
PO Box 130
Summerville, SC 29484-0130
greg@hyland-law.com

Frederick John Jekel, Esquire
Leventis & Ransom
PO Box 11067
Columbia, SC 29211
fritz@j-dlaw.com

Mona Lisa Wallace, Esquire
Wallace & Graham, P.A.
525 N. Main Street
Salisbury, NC 28144
mwallace@wallacegraham.com

William M. Graham, Esquire
525 North Main Street
Salisbury, NC 28144
bgraham@wallacegraham.com
amartinez@wallacegraham.com

Kathleen Chewning Barnes, Esquire
Barnes Law Firm, LLC
PO Box 897
Hampton, SC 29924
kbarnes@barneslawfirmsc.com

Attorneys for the Respondent

Joseph C. Wilson IV, Esquire
Joseph C Wilson Law Firm LLC
PO Box 178
Folly Beach, SC 29439
joe@follybeachlaw.com

S. Christopher Collier, Esquire
Lewis Brisbois Bisgaard & Smith LLP
600 Peachtree Street, NE, Suite 4700
Atlanta, GA 30308
Chris.Collier@lewisbrisbois.com

Robert B. Gilbreath, Esquire
4000 SunTrust Plaza
303 Peachtree Street, N.E.
Atlanta, GA 30308-3243
rgilbreath@hpylaw.com

Eileen Hindman
Administrative Assistant

September 29, 2022

Eileen Hindman

From: Eileen Hindman
Sent: Thursday, September 29, 2022 12:51 PM
To: 'tom@thhpc.com'; 'greg@hyland-law.com'; 'fritz@j-dlaw.com'; 'mwallace@wallacegraham.com'; 'bgraham@wallacegraham.com'; 'amartinez@wallacegraham.com'; 'kbarnes@barneslawfirmsc.com'
Cc: 'joe@follybeachlaw.com'; 'rgilbreath@hpylaw.com'; 'willearly@piercesloan.com'; 'Chris.Collier@lewisbrisbois.com'; Mitch Brown
Subject: Stephen R. Edwards v. Scapa Waycross, Inc. - Appellate Case No. 2019-000649
Attachments: 2022.09.29 FINAL Scapa Reply in support of petition for rehearing (Stewart).pdf; 2022.09.29 Proof of Service - Scapa Reply in Support of Petition for Rehearing.pdf

Good afternoon,

Attached please find a Reply in Support of Petition for Rehearing in the above matter. Service is made via email pursuant to the Supreme Court Order 2022-05-06-04.

Thank you.

NELSON MULLINS

EILEEN HINDMAN SENIOR ADMINISTRATIVE ASSISTANT
eileen.hindman@nelsonmullins.com
MERIDIAN | 17TH FLOOR
1320 MAIN STREET | COLUMBIA, SC 29201
T 803.255.9204 F 803.256.7500
NELSONMULLINS.COM