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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

Jean Hoefer Toal, Chief Justice of the Supreme Court of South Carolina (Retired), Acting as Circuit Court Judge

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Appellate Case No. 2019-001600
Case No. 2015-CP-04-01607

Rita Joyce Glenn, individually and as personal representative of the Estate of Tommy Harold Glenn, deceased, Respondent,

vs.

3M Company, f/k/a Minnesota Mining and Manufacturing Co.; Air & Liquid Systems Corporation, Individually and as Successor-In-Interest to Buffalo Pumps; Airgas USA, LLC; Aurora Pump; BW/IP Inc., a Subsidiary of Flowserve Corporation; CBS Corporation, a Delaware Corporation f/k/a Viacom, Inc., Successor By Merger to CBS Corporation, a Pennsylvania Corporation, f/k/a Westinghouse Electric Corporation; CGR Products, lnc., f/k/a Carolina Gasket and Rubber Company, Inc.; Carboline Company; Crane Co. d/b/a Crane Chempharrna & Energy d/b/a Aloyco, n/k/a Crane Energy Flow Solutions; Crosby Valve, lnc.; Dana Companies, LLC; Daniel International Corporation; Fisher Controls International, LLC.; Flowserve Corporation, Individually and as Successor in Interest to Anchor/Darling Valve Company; Flowserve Corporation, Individually and as Successor to Byron Jackson Pump Company; Fluor Daniel, lnc., f/k/a Daniel Construction Company, Inc.; Fluor Daniel Services Corporation; Foster Wheeler Energy Corporation; General Electric Company; Goodyear Tire & Rubber; Goulds Pumps, Inc.; Grinnell LLC, f/k/a Grinnell Corp, f/k/a ITT Grinnell Corp., Individually and as Successor to Kennedy Valve Manufacturing Co., Inc.; 1-Iajoca Corporation; Imo Industries, Inc., Individually and as Successor-in-Interest to De Laval Turbine, Inc.; Ingersoll Rand Company; ITT

Corporation; John Crane, LLC; Linde LLC, a Delaware Limited Liability Company, formerly known as the BOC Group, Inc. and/or Airco, Inc.; MP Supply, Inc. f/k/a Mill Power Supply; Metropolitan Life Insurance Company, a wholly-owned subsidiary of MetLife, Inc.; Sepco Corporation; The J.R. Clarkson Company Solely as a Successor by Merger to Anderson Greenwood & Co., f/k/a Kunkle Valve Company, Inc.; The Sherwin-Williams Company; Trane U.S. Inc., f/k/a American Standard, Inc.; United Conveyor Corporation; United Seal & Rubber Company, Inc.; Uniroyal, Inc., f/k/a United States Rubber Company, Inc.; Velan Valve Corporation; Viking Pump, Inc.; and Weir Valves & Controls USA, Inc., Individually and as Successor in interest to Atwood & Morrill Co., Inc., Defendants,

Of which, Fisher Controls International LLC, is the Appellant.

RETURN TO PETITION FOR REHEARING

Appellant Fisher Controls International LLC ("Fisher") has requested rehearing on virtually every issue decided unanimously by the Court in its 50-page opinion. *Glenn v. 3M Co.*, ---- S.E.2d ----, No. 2019-001600, 2023 WL 2778309 (S.C. Ct. App. Apr. 5, 2023). Although Fisher contends that the Court overlooked or misapprehended almost every point raised on appeal, Fisher has only succeeded in identifying its many disagreements with the Court. Fisher has not shown that the Court was incorrect or offer any compelling reasons for the Court to reconsider its reasoning and conclusions. Fisher largely ignores that the abuse of discretion standard governs most of the issues on appeal. As Fisher has provided no sound reason for rehearing, the petition should be denied.

ARGUMENT

I. The Court properly determined that the verdict is not inconsistent.

Fisher ignores that the denial of a new trial is governed by the abuse-of-discretion standard of review. It does not argue that the circuit court abused its discretion in declining to grant a new trial on the basis of Fisher's inconsistent verdict argument. Analyzing this issue under the proper standard of review, the Court found that the circuit court acted within its discretion in denying Fisher's new trial motion. *Glenn*, 2023 WL 2778309, at *3. Fisher has failed to show how that holding is in error or warrants rehearing.

Fisher fails to acknowledge that the jury was properly instructed regarding Plaintiff/Respondent Rita Glenn's ("Rita") theories of liability. First, as the Court noted, the jury was informed that it did not have to find the same way on all three theories—negligence, strict liability, and breach of implied warranty. *Glenn*, 2023 WL 2778309, at *3. The instructions stated that "[*t]he plaintiffs are not required to prove all these theories in order to recover*" and that they "must meet their burden of proof as to at least one of these theories in order to recover." *Id.* (quoting jury instructions, emphasis added by the Court). These instructions have never been challenged by Fisher.

Nor has Fisher challenged the jury instructions regarding the legal standards

for finding negligence and strict product liability.[1] While Fisher's argument is premised on its insistence that there is complete overlap in the elements of negligence and strict products liability, the jury instructions differed as to those two causes of action. The jury was instructed "to place the focus on the product rather than the defendant's conduct when evaluating a strict liability claim but to focus on the defendant's conduct when evaluating a negligence claim." *Glenn*, 2023 WL 2778309, at *3. The negligence instructions also contained two other significant provisions—regarding liability for component parts and liability for parts recommended or supplied—that were not in the strict liability instructions. This Court agreed with the Glenns that "if the jurors understood 'the product' to be Fisher's valves rather than the asbestos gaskets themselves, they could perceive the [negligence] instruction to provide more flexibility than the strict liability instruction given because it would allow them to consider the gaskets as a component of Fisher's valves." *Id.* at *6. Further, "the presence of the words 'recommend' and 'specify' in the [negligence] instruction provides an additional basis for negligence liability that was not present (and should not have been present) in the circuit court's strict liability instruction . . . ." *Id.* The Court determined that "[t]hese differences in the jury instructions for strict liability and negligence provide a logical reason for reconciling the verdicts on these claims." *Id.* at *7.

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[1] Fisher has waived any challenge to these instructions. *Glenn*, 2023 WL 2778309, at *6 n.5.

Contrary to Fisher's denials, the evidence easily supports a jury finding that Fisher recommended and specified that asbestos gaskets be uses in its valves at Duke. Fisher had a material specification for asbestos gaskets. (R. p. 551, line 20-p. 552, line 9; R. pp. 3395-98). Mr. Glenn's co-worker, Dale Jolly, recalled that the manuals for Fisher valves specified the type of gaskets that must be used. (R. p. 1079, line 19-p. 1080, line 9). Fisher's handbook provided that flange gaskets made of asbestos were an option. (R. p. 729, line 4-p. 730, line 7). Combined with the voluminous evidence of Mr. Glenn's exposure to asbestos from Fisher valves, this evidence supports the jury's negligence finding against Fisher.

This Court followed established law that "'[i]t is the duty of the court to sustain verdicts when a logical reason for reconciling them can be found.'" *Glenn*, 2023 WL 2778309, at *4 (quoting *Austin v. Stokes-Craven Holding Corp.*, 387 S.C. 22, 50, 691 S.E.2d 135, 149 (2010)). The Court found that "the general verdict form, in its entirety, clearly shows the jury's intent to hold Fisher liable for the unreasonably dangerous products it sold to Duke (the asbestos gaskets and packing) regardless of the theories on which Rita sought recovery, especially when viewed in light of the circuit court's instructions to the jury regarding products liability in general and the elements for each theory of recovery . . . ." *Id.*

The Court did not adopt "an expansive reading of *Bragg v. Hi-Ranger, Inc.*, 319 S.C. 531, 462 S.E.2d 321 (Ct. App. 1995)," as Fisher contends. Rather, the Court followed *Bragg*'s guidance that a jury may reasonably render a verdict on either negligence or strict liability and "'failure to prove one theory does not preclude

proving the other.'" *Glenn*, 2023 WL 2778309, at *5 (quoting *Bragg*, 319 S.C. at 539, 462 S.E.2d at 326). Application of this principle must turn on the evidence offered to support each theory at trial. *Id.* Not only does the Glenns' evidence support their negligence theory, but the jurors' intent was not unclear. Rather, "the jurors' punitive damages award and finding for Rita on the breach of warranty claim (in addition to their finding for Rita on the negligence claim) clearly indicates their intent to hold Fisher accountable for Tommy's deadly exposure" to asbestos from Fisher valves. *Id.* at *7.

With regard to *Branham v. Ford Motor Co.*, 390 S.C. 203, 210, 701 S.E.2d 5, 8 (2010), the Court found it to be "instructive." *Id.* at *5. The Court determined, however, that *Branham* does not support Fisher's argument because Fisher's contention that the jury did not find its product unreasonably dangerous is speculative. *Id.* at *5-6.

This Court properly found that the circuit court acted within its discretion in determining that the jury's verdicts could be reconciled and denying Fisher's motion for new trial on the ground of inconsistent verdicts. *Glenn*, 2023 WL 2778309, at *7. Fisher has not shown that the Court should reconsider its determination that no new trial is warranted.

II. The jury was instructed correctly.

Fisher raises three complaints about the jury instructions, none of which have merit. First, Fisher contends that it was entitled to an instruction on the sophisticated intermediary defense because this was an issue for the jury, not the

Court. Fisher insists that a jury could find that it acted reasonably in relying on Duke to warn its employees about asbestos hazards, but it has failed to offer any evidence of its *own conduct* that would support such a jury finding. Its evidence pertains only to Duke's conduct, not Fisher's conduct. In focusing entirely on Duke's conduct, Fisher ignores the applicable legal standards that govern the sophisticated intermediary defense, standards which no reasonable jury could find to be satisfied here.

This Court has explained that "'[t]he [sophisticated intermediary] doctrine originated in the Restatement Second of Torts, section 388, comment n, . . . which addresses when warnings to a party in the supply chain are sufficient to satisfy the supplier's duty to warn.'" *Glenn*, 2023 WL 2778309, at *15 (quoting *Webb*, 370 P.3d at 1033); *Jolly,* 435 S.C. at 643, 869 S.E.2d at 838 (same). The Restatement drafters' most recent articulation of the sophisticated intermediary doctrine appears in the Restatement Third of Torts, Products Liability, section 2, comment i, which states:

> There is *no general rule* as to whether one supplying a product for the use of others through an intermediary has a duty to warn the ultimate product user directly or may rely on the intermediary to relay warnings. *The standard is one of reasonableness in the circumstances*. Among the factors to be considered are the *gravity of the risks* posed by the product, the likelihood that the intermediary will convey the information to the ultimate user, and the feasibility and effectiveness of giving a warning directly to the user.

Id. at *16 (quoting Restatement (Third) of Torts: Prods. Liab. § 2, cmt. i (Am. Law Inst. 1998)) (emphases added by the Court).

Fisher chooses to ignore the Restatement factors, even in its request for

rehearing. This Court, however, applied these factors to determine that the circuit court did not err in declining an instruction on this defense. This Court found that the gravity of the risks of asbestos-related disease and death "could not have been greater" and that Fisher failed to show that its own warnings would have been infeasible or ineffective. *Id.* Under those circumstances, the Court was "not convinced" that it was "reasonable for a supplier of asbestos gaskets to rely on Duke to relay warnings to its employees." *Id.*

"Moreover, it is not enough to show that the supplier's reliance would have been reasonable—the supplier must also show that it actually relied on the intermediary to convey warnings to end users." *Id.* (following *Webb*, 370 P.3d at 1036); *Jolly,* 435 S.C. at 644-45, 869 S.E.2d at 839 (same). Fisher produced no evidence of actual reliance, even when this failure of proof was highlighted by Rita's brief. *Id.* Fisher contends for the first time in its Petition that such actual reliance could be inferred from Duke's conduct (not Fisher's conduct), but this dubious assertion is not sufficient to meet Fisher's burden of showing that the circuit court abused its discretion. Fisher would have the Court disregard Ronald Dumistra's testimony that no warning was necessary because asbestos gaskets do not cause disease, arguing that it was entitled to advance "alternative theories" at trial. This is not an alternative theory, this is direct evidence that Fisher did not rely on Duke to warn because it did not believe any warning was necessary. Fisher has offered nothing to contradict that evidence other than Duke's own conduct. That evidence is not sufficient to prove Fisher's reliance.

This Court properly determined that Fisher has failed to demonstrate that the circuit court erred in declining an instruction on the sophisticated intermediary defense as unsupported by the evidence. *Glenn*, 2023 WL 2778309, at *17. Under established South Carolina law, the circuit court need only instruct the jury on issues "developed by the evidence" or "proved" at trial. *Id.* (quoting *Clark v. Cantrell*, 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000)).

Fisher's requested superseding/intervening cause instruction suffers from a similar evidentiary failure. A superseding cause must be unforeseeable. *Roddey v. Wal-Mart Stores E., LP*, 415 S.C. 580, 590, 784 S.E.2d 670, 676 (2016); *Dixon v. Besco Eng'g, Inc.*, 320 S.C. 174, 463 S.E.2d 636, 640 (Ct. App. 1995). "An intervening force may be a superseding cause that relieves an actor from liability, but for there to be relief from liability, the intervening cause must be one that could not have been reasonably foreseen or anticipated." *Roddey*, 415 S.C. at 590, 784 S.E.2d at 676. Fisher failed to offer any evidence that Tommy Glenn's other sources of asbestos exposure were unforeseeable. Fisher likewise failed to offer any evidence that Duke's decision not to warn about asbestos gaskets was unforeseeable. Although Fisher complains that foreseeability issues should not have been taken from the jury, it points to *no evidence* from which a reasonable juror could find that Fisher *did not know* that there was other asbestos in Tommy's workplace or that Duke would consider asbestos gaskets safe when Fisher was the source of that information. Fisher failed to show that the jury could reasonably find such lack of knowledge on this record. *Glenn*, 2023 WL 2778309, at *17-18.

Moreover, the Court found that Fisher did not suffer any prejudice given that other causes were adequately covered by the instructions. *Id.* at *18. Because the jury was adequately advised "that an unforeseeable intervening force relieves the defendant from liability," Fisher had failed to show any prejudicial error. *Id.*

Finally, Fisher has failed to show any error in the punitive damages instructions. There is no question that the jury was given the proper standard for awarding punitive damages and found affirmatively that Fisher's conduct was "willful, wanton, or reckless." *Glenn*, 2023 WL 2778309, at *19; R. p. 3234; R. p. 3236. There is also no dispute that the jury's negligence verdict provides the proper underlying predicate for the jury to consider punitive damages. And there is no challenge to the actual punitive damages award itself.

Fisher nevertheless insists that the jury should have been instructed punitive damages cannot be recovered for breach of warranty. There is no case law mandating such an instruction. *Glenn*, 2023 WL 2778309, at *19. Nor does *Rhodes v. McDonald*, 345 S.C. 500, 503-05, 548 S.E.2d 220, 221-23 (Ct. App. 2001) help Fisher, as it involved causes of action for which punitive damages were not available. Fisher has not explained how this instruction would possibly have changed the outcome given that the jury found that Fisher was negligent, which indisputably supports an award of punitive damages. Fisher has failed to show that it was entitled to its requested instruction or that there was any harm from the circuit court's decision. Fisher has not provided any reasonable basis for this Court to rehear this or any other issue related to the jury instructions in this case.

III. The Court properly applied South Carolina law on causation and the admission of expert testimony.

Fisher argues that the Court made "several legal errors" in affirming the circuit court's rulings on causation and expert witnesses. All of Fisher's arguments are premised on its false contention that Plaintiff's experts espouse the theory that every exposure to asbestos causes mesothelioma. Fisher Petition, at 13. This Court "disagree[d] with Fisher's characterization of the expert testimony." *Glenn*, 2023 WL 2778309, at *9. Rather than relying on the "each and every exposure" theory of causation, "Rita's experts relied on the cumulative dose theory, and their reliance on basic medical facts reaching their opinion is not the equivalent of testifying that 'each and every exposure' was a substantial factor in causing Tommy's mesothelioma." *Id.* at *11.

Not only does the expert testimony of Dr. Brody and Dr. Frank meet the legal standard for admissibility, their opinions are "not an attempt to supplant the *Henderson/Lohrmann* test"[2] for causation in an asbestos case. *Glenn*, 2023 WL 2778309, at *12. Dr. Frank's specific causation opinion was based on Tommy's medical records, his exposure history, studies establishing asbestos exposures of 2.1 to 31 fibers per cubic centimeter from the type of gasket work Tommy performed on Fisher valves, and the peer-reviewed, published scientific literature indicating that Tommy's asbestos exposure levels increase the risk of mesothelioma. *Id.* at *11-12.

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[2] *Henderson v. Allied Signal, Inc.*, 373 S.C. 179, 644 S.E.2d 724 (2007); *Lohrmann v. Pittsburgh Corning Corp.*, 782 F.2d 1156 (4th Cir. 1986).

The Court determined that "[b]oth of Rita's experts were guided by the facts specific to Tommy's occupational exposure to Fisher's products in forming their opinions concerning causation." *Id.* at *12. The Court concluded that "only when the science of cumulative exposure is distorted through the lens of the inapt 'but for' analysis can it be viewed as unreliable." *Id.* at *13.

The Court found it significant that the jury was instructed on the *Henderson/Lohrmann* causation standard, under which it was required to find that "'the plaintiff's exposure to the defendants' asbestos product was *of such a frequency, regularity, and duration that it was a substantial factor in bringing about the disease or injury* . . . .'" *Glenn*, 2023 WL 2778309, at *13 (quoting the jury instructions, emphasis added by the Court). Under these instructions, "the jury was capable of distinguishing between the science-based testimony concerning asbestos exposure and the legal standard for establishing causation in the fact of multiple possible sources of the plaintiff's exposure." *Id.*

The Court also rejected Fisher's Rule 403 argument, finding that Plaintiff's expert testimony "does not tend to mislead the jury or suggest a decision on an improper basis and, therefore, there was no danger of unfair prejudice to Fisher." *Glenn*, 2023 WL 2778309, at *14. The Court found that the circuit court acted within its discretion in denying Fisher's motion on Rule 403 grounds. *Id.*

Notably, this Court came to the same conclusion regarding the reliability and sufficiency of Dr. Brody's and Dr. Frank's expert opinions in *Jolly v. General Electric Company*, 435 S.C. 607, 635-639, 869 S.E.2d 819, 834-36 (Ct. App. 2021),

reh'g denied (Feb. 25, 2022). In *Jolly*, this Court considered the same arguments made by Fisher here and concluded that "they have failed to show any significant part of the [expert] testimony that could be reasonably characterized as espousing the 'each and every exposure' theory." 435 S.C. at 639, 869 S.E.2d at 836. In fact, the Court concluded that "the cumulative dose theory on which Respondents' experts relied *easily meets* the standard for reliability set forth in *State v. Council*, 335 S.C. 1, 515 S.E.2d 508 (1999)." *Id.* at 639, 869 S.E.2d at 836 (emphasis added). The Court also rejected Fisher's contention that "the cumulative dose theory conflicts with the *Henderson/Lohrmann* substantial factor standard." *Id.* at 635, 869 S.E.2d at 834. The Supreme Court found no reason to review these conclusions, denying certiorari on causation and expert issues (but granting certiorari on other grounds).

Jolly bolsters the Court's affirmance in this case. This Court has now given lengthy consideration on two occasions to Fisher's contentions about Dr. Brody's and Dr. Frank's causation opinions in mesothelioma cases, repeatedly finding them to meet the *Council* standards for admissibility and to be appropriate under the *Henderson/Lohrmann* substantial factor causation standard. Fisher has not demonstrated any reason for the Court to consider this issue again.

IV. Fisher's apportionment arguments were properly rejected by this Court.

Fisher has failed to demonstrate that rehearing is warranted on the Court's holding that damages may be apportioned only among trial defendants. The Court

followed longstanding South Carolina law in affirming this apportionment rule under both the South Carolina Contribution Among Joint Tortfeasors Act and the South Carolina Constitution. *Glenn*, 2023 WL 2778309, at *20-21. Nothing in S.C. Code § 15-38-15 gives Fisher the right to apportion fault to non-parties or settled parties, as the term "defendant" is used in the statute and must be given its plain meaning. *Id.* Moreover, according to Section 15-38-15(D), "[a] defendant shall retain the right to assert that another potential tortfeasor, whether or not a party, contributed to the alleged injury or damages." This provision "codif[ies] a defendant's right to argue the 'empty chair' defense." *Id.* at *21.

In affirming, the Court relied on Rule 220(b), SCACR, which provides in relevant part that "[t]he Court of Appeals need not address a point which is manifestly without merit." *Glenn*, 2023 WL 2778309, at *20-21. The Court also noted that any changes to the Contribution Among Joint Tortfeasors Act must come from the legislature. *Id.* at *21. Fisher's request that this Court change codified law on apportionment is not something that this Court was required to address in any greater detail than it did.

Finally, an additional ground supporting the Court's opinion is that Section 15-38-15 "does not apply to a defendant whose conduct is determined to be wilful, wanton, reckless . . . ." S.C. Code § 15-38-15(F). This provision is dispositive of this issue, as the jury found that Fisher's conduct was willful, wanton, or reckless. (R. p. 3236).

As Fisher has failed to show anything the Court overlooked or

misapprehended in its holding on apportionment, no rehearing should be granted on this issue.

V. The Court properly found that the circuit court did not abuse its discretion in sanctioning Fisher.

Fisher asks this Court to rehear the issue of the circuit court's sanctions order, an order that did not involve monetary sanctions or the exclusion of any evidence or witnesses but that merely noted Fisher's pattern of disobeying the Court's discovery and trial process orders and engaging in sanctionable conduct. *Glenn*, 2023 WL 2778309, at *28-30. This order was based on: (1) Fisher's decision to divide Tommy Glenn's lung tissue in violation of the circuit court's standing order requiring an agreement among the parties or a court order for any tissue digestion study; (2) the unequal division of the tissue that left Plaintiff without sufficient tissue for her own digestion study, again in violation of the circuit court's standing order; (3) Fisher's deposition of its expert Dr. Oury in contravention of the circuit court's order, which it tried to evade by calling the deposition a "sworn statement" that consisted of answering questions in front of a court reporter about the tissue digestion and the substance of his opinions; and (4) Fisher's conduct in blindsiding the circuit court and Plaintiff with Dr. Oury's sworn statement at the end of the trial (which Fisher mischaracterized as a "proffer") that Plaintiff had no opportunity to respond to. *Id.* at *29.

After a lengthy recitation of the events at trial leading to the sanctions order, this Court determined that Fisher acted in bad faith in dividing Tommy's lung

tissue in the absence of an agreement and ignoring Plaintiff's counsel's request to facilitate another tissue division by an independent lab. *Id.* at *30. The Court was "concerned that reversing the sanctions order would send a message to Fisher's counsel that they are not required to be forthright with opposing counsel or the circuit court when rushing to pursue evidence advantageous to their case on the eve of trial." *Id.*

The Court also found it necessary to "uphold the [circuit] court's authority to enforce its own orders—here, the order of protection [regarding Dr. Oury]—when a lawful means of challenging a particular order is available." *Id.* Fisher could have easily asked the circuit court for permission to preserve Dr. Oury's testimony, but instead acted in contravention of the circuit court's order that he was not to be deposed. *Id.*

This Court properly concluded that sanctions were warranted by Fisher's bad-faith conduct and "blindsid[ing]" of Rita and the circuit court. *Id.* Fisher's insistence that the circuit court found it had not acted in bad faith is selectively drawn from the circuit court's statements on the record at the hearing on motions in limine, on January 9, 2019, (R. 102, 172), before Fisher's full pattern of deceptive conduct had come to light by the end of trial. (R. 54-60 (Sanctions Order dated Aug. 22, 2019 discussing Fisher's conduct up until the verdict on January 24, 2019)). This Court was right to reject Fisher's misleading characterization of the facts.

The Court was also correct in describing the sanctions as a "written slap on the wrist" and "mild" given that Fisher suffered no adverse consequences from its

sanctionable conduct. *Id.* Because Fisher has failed to show that the circuit court abused its discretion in imposing the lightest possible sanction—a mere admonishment, with no prejudice to Fisher—this Court properly affirmed the sanctions and no rehearing is warranted.

CONCLUSION

Fisher has provided no reason for the Court to reconsider any issue in this case. Fisher has failed to demonstrate that the Court overlooked or misapprehended anything in its opinion affirming the circuit court. Accordingly, Fisher's petition for rehearing should be denied.

Respectfully submitted,

Date: June 9, 2023

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APPEAL FROM ANDERSON COUNTY
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Jean Hoefer Toal, Chief Justice of the Supreme Court of South Carolina (Retired),
Acting as Circuit Court Judge

Appellate Case No. 2016-001600
Case No. 2015-CP-04-01607

Rita Joyce Glenn, individually and as personal
representative of the Estate of
Tommy Harold Glenn, deceased, Respondents,

vs.

3M Company, f/k/a Minnesota Mining and Manufacturing Co.; Air & Liquid Systems Corporation, Individually and as Successor-In-Interest to Buffalo Pumps; Airgas USA, LLC; Aurora Pump; BW/IP Inc., a Subsidiary of Flowserve Corporation; CBS Corporation, a Delaware Corporation f/k/a Viacom, Inc., Successor By Merger to CBS Corporation, a Pennsylvania Corporation, f/k/a Westinghouse Electric Corporation; CGR Products, lnc., f/k/a Carolina Gasket and Rubber Company, Inc.; Carboline Company; Crane Co. d/b/a Crane Chempharrna & Energy d/b/a Aloyco, n/k/a Crane Energy Flow Solutions; Crosby Valve, lnc.; Dana Companies, LLC; Daniel International Corporation; Fisher Controls International, LLC.; Flowserve Corporation, Individually and as Successor in Interest to Anchor/Darling Valve Company; Flowserve Corporation, Individually and as Successor to Byron Jackson Pump Company; Fluor Daniel, lnc., f/k/a Daniel Construction Company, Inc.; Fluor Daniel Services Corporation; Foster Wheeler Energy Corporation; General Electric Company; Goodyear Tire & Rubber; Goulds Pumps, Inc.; Grinnell LLC, f/k/a Grinnell Corp, f/k/a ITT Grinnell Corp., Individually and as Successor to Kennedy Valve Manufacturing Co., Inc.; 1-Iajoca Corporation; Imo Industries, Inc., Individually and as Successor-in-Interest to De Laval Turbine, Inc.; Ingersoll Rand Company; ITT Corporation; John Crane, LLC; Linde LLC, a Delaware Limited Liability Company, formerly known as the BOC Group, Inc. and/or Airco, Inc.; MP Supply, Inc. f/k/a Mill Power Supply; Metropolitan Life Insurance Company, a wholly-owned subsidiary of MetLife, Inc.; Sepco Corporation; The J.R. Clarkson Company Solely as a Successor by Merger to Anderson Greenwood & Co., f/k/a Kunkle Valve Company, Inc.; The Sherwin-Williams Company; Trane U.S. Inc., f/k/a

American Standard, Inc.; United Conveyor Corporation; United Seal & Rubber Company, Inc.; Uniroyal, Inc., f/k/a United States Rubber Company, Inc.; Velan Valve Corporation; Viking Pump, Inc.; and Weir Valves & Controls USA, Inc., Individually and as Successor in interest to Atwood & Morrill Co., Inc., Defendants,

Of which Fisher Controls International LLC is the Appellant.

PROOF OF SERVICE

I, the undersigned Senior Paralegal of the law offices of Kassel McVey, attorneys for Respondents, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleading: Return to Petition for Rehearing

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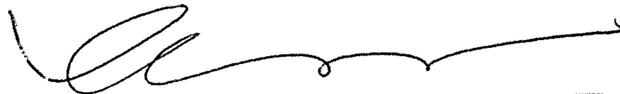

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June 9, 2023