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Apr 12 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
Jean Hoefler Toal, Chief Justice (Ret.)

Case No. 2022-CP-40-06627

Appellate Case No. 2023-001629

Terry L. Green, Sr., as the Personal Representative of the Estate of Robert J. Green, Deceased
and Evelyn V. Green, Individually, Plaintiffs,

v.

3M Company; Advance Stores Company Incorporated; Amentum Environment & Energy, Inc.;
AutoZone, Inc.; Beatty Investments, Inc.; The Bonitz Company; CH2M Hill Engineers, Inc.;
Cleaver-Brooks, Inc.; Covil Corporation; Daniel International Corporation; Davis Mechanical
Contractors, Inc.; Eaton Corporation; Ellington Insulation Company, Inc.; Fluor Constructors
International; Fluor Enterprises, Inc.; Ford Motor Company; General Electric Company; General
Parts, Inc.; Genuine Parts Company; GG of Florida, Inc.; The Goodyear Tire & Rubber
Company; Great Barrier Insulation Co.; Heat & Frost Insulation Company; ITT LLC; J. & L.
Insulation, Inc.; K-Mac Services, Inc.; LGE (OLD Co.), Inc.; LGE&C (OLD Co.) LLC;
Metropolitan Life Insurance Company; Michelin Corporation; Michelin North America, Inc.;
O'Reilly Auto Enterprises, LLC; O'Reilly Automotive Stores, Inc.; Occidental Chemical
Corporation; Paramount Global; Plastics Engineering Company; Pneumo Abex LLC; Presnell
Insulation Co., Inc.; RedCo Corporation; Rockwell Automation, Inc.; Schneider Electric USA,
Inc.; Southern Insulation, Inc.; Spirax Sarco, Inc.; Springs Industries, Inc.; Springs Industries,
LLC; Standard Insulation Company of N.C., Inc.; Starr Davis Company, Inc.; Starr Davis
Company of S.C., Inc.; Thermo-Kinetics Industries, Inc.; Union Carbide Corporation; Wind Up,
Ltd., Defendants,

AND

Davis Mechanical Contractors, Inc., by and through its Receiver Peter D. Protopapas,
Respondent

v.

American Home Assurance Company; Columbia Casualty Company; Continental Casualty
Company; Continental Insurance Company; Federal Insurance Company; Fireman's Fund
Insurance Company; Republic Insurance Company, n/k/a Starr Indemnity & Liability Company;

United States Fire Insurance Company; Brandywine Holdings Corporation; and Riverstone Claims Management, LLC, Third-Party Defendants,

of which Republic Insurance Company n/k/a Starr Indemnity & Liability Company is the Appellant.

**APPELLANT'S STATUS REPORT REGARDING MOTION FOR LEAVE TO FILE
RULE 60(b) MOTION**

Pursuant to this Court's December 14, 2023 Order, Appellant Republic Insurance Company n/k/a Starr Indemnity & Liability Company submits this status update:

- On December 14, 2023, this Court granted a joint motion for leave to file a motion pursuant to Rule 60(b) of the South Carolina Rules of Civil Procedure.
- On February 14, 2024, the parties filed the Joint Rule 60(b) motion with the Circuit Court.
- The Circuit Court granted the Rule 60(b) motion on April 12, 2024. The Circuit Court's Order is attached as **Exhibit 1**.

Appellant will provide any further information as the Court prefers.

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April 12, 2024

<p>STATE OF SOUTH CAROLINA</p> <hr/> <p>COUNTY OF RICHLAND</p>	<p>IN THE COURT OF COMMON PLEAS</p> <p>FOR THE FIFTH JUDICIAL CIRCUIT</p>
<p>Terry L. Green, Sr., as the Personal Representative of the Estate of Robert J. Green, Deceased and Evelyn V. Green, Individually,</p> <p style="text-align: right;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>3M Company, et al.,</p> <hr/> <p style="text-align: right;">Defendants.</p>	<p>In Re: Coordinated Asbestos Docket</p> <p style="text-align: center;">Civil Action No: 2022-CP-40-06627</p> <p style="text-align: center;">ORDER GRANTING THIRD-PARTY DEFENDANT REPUBLIC INSURANCE COMPANY, NOW KNOWN AS STARR INDEMNITY & LIABILITY COMPANY AND THIRD-PARTY PLAINTIFF DAVIS MECHANICAL CONTRACTORS, INC.’S JOINT MOTION FOR RELIEF FROM ORDER AND SCHEDULING ORDER</p>
<p>Davis Mechanical Contractors, Inc., by and through its duly-appointed Receiver Peter D. Protopapas,</p> <p style="text-align: right;">Third Party Plaintiff,</p> <p style="text-align: center;">v.</p> <p>Allstate Insurance Company, et al.,</p> <hr/> <p style="text-align: right;">Third Party Defendants.</p>	

Before the Court is Third-Party Defendant Republic Insurance Company, now known as Starr Indemnity & Liability Company (“Republic”), and Third-Party Plaintiff Davis Mechanical Contractors, Inc., by and through its Receiver, Peter Protopapas (“Davis Mechanical”), Joint Motion for Relief from Order. The parties seek, pursuant to Rule 60(b) of the South Carolina Rules of Civil Procedure, for relief from this Court’s Order Granting Partial Summary Judgment for Davis Mechanical, entered and signed on October 12, 2023.

On September 7, 2023, Davis Mechanical submitted a Motion for Partial Summary Judgment. Republic did not file a responsive brief to Davis Mechanical’s Motion for Partial Summary Judgment. This Court entered an Order Granting Partial Summary Judgment on October 12, 2023.

“Rule 60(b)(1), SCRCRCP, allows a party to seek relief from a final judgment or order on the grounds of ‘mistake, inadvertence, surprise, or excusable neglect.’” *Paul Davis Sys., Inc. v. Deepwater of Hilton Head, LLC*, 362 S.C. 220, 225, 607 S.E.2d 358, 360 (Ct. App. 2004) (citations omitted). Further, this Court as the trial judge has discretion in granting such relief requested. *Id.*

The Court GRANTS Republic and Davis Mechanical’s Joint Motion. The Court withdraws its October 12, 2023 Order pursuant to Rule 60(b). The Court further orders the following briefing schedule:

1. Republic shall file its Response in Opposition to Davis Mechanical’s Motion for Partial Summary Judgment thirty days from the entry of this Order.
2. Davis Mechanical shall file its Reply ten days from Republic’s Response in Opposition to its Motion for Partial Summary Judgment.
3. The Court will schedule a hearing on this matter at a later time.

IT IS SO ORDERED.

[JUDGE’S SIGNATURE PAGE FOLLOWS]



Richland Common Pleas

Case Caption: Terry L Green Sr , plaintiff, et al vs Advance Auto Parts Incorporated
, defendant, et al
Case Number: 2022CP4006627
Type: Order/Other

So Ordered

Jean H. Toal

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THE STATE OF SOUTH CAROLINA
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APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jean H. Toal
Acting Circuit Court Judge

Case No. 2022-CP-40-06627

Appellate Case No. 2023-001629

Terry L. Green, Sr., as the Personal Representative
of the Estate of Robert J. Green, Deceased and
Evelyn V. Green, Individually.....Plaintiffs,

v.

3M Company; Advance Stores Company Incorporated;
Amentum Environment & Energy, Inc.; AutoZone, Inc.; Beaty
Investments, Inc.; The Bonitz Company; CH2M Hill Engineers,
Inc.; Cleaver-Brooks, Inc.; Covil Corporation; Daniel International
Corporation; Davis Mechanical Contractors, Inc.; Eaton Corporation;
Ellington Insulation Company, Inc.; Fluor Constructors International;
Fluor Enterprises, Inc.; Ford Motor Company; General Electric
Company; General Parts, Inc.; Genuine Parts Company;
GG of Florida, Inc.; The Goodyear Tire & Rubber Company;
Great Barrier Insulation Co.; Heat & Frost Insulation Company;
ITT LLC; J. & L. Insulation, Inc.; K-Mac Services, Inc.; LGE
(OLD Co.), Inc.; LGE&C (OLD Co.) LLC; Metropolitan Life
Insurance Company; Michelin Corporation; Michelin North America,
Inc.; O'Reilly Auto Enterprises, LLC; O'Reilly Automotive Stores, Inc.;
Occidental Chemical Corporation; Paramount Global; Plastics
Engineering Company; Pneumo Abex LLC; Presnell Insulation Co.,
Inc.; RedCo Corporation; Rockwell Automation, Inc.; Schneider
Electric USA, Inc.; Southern Insulation, Inc.; Spirax Sarco, Inc.;
Springs Industries, Inc.; Springs Industries, LLC; Standard Insulation
Company of N.C., Inc.; Starr Davis Company, Inc.; Starr Davis
Company of S.C., Inc.; Thermo-Kinetics Industries, Inc.;
Union Carbide Corporation; Wind Up, Ltd.,.....Defendants,

Davis Mechanical Contractors, Inc.,
by and through its Receiver Peter D. Protopapas.....Third-Party Plaintiff,

v.

American Home Assurance Company; Columbia
Casualty Company; Continental Casualty Company;
Continental Insurance Company; Federal Insurance
Company; Fireman’s Fund Insurance Company;
Republic Insurance Company, now known as
Starr Indemnity & Liability Company; United States
Fire Insurance Company; Brandywine Holdings Corporation;
and Riverstone Claims Management, LLC,Third-Party Defendants,

of which

Davis Mechanical Contractors, Inc.,
through its Receiver Peter D. Protopapas, is theRespondent,

and

Republic Insurance Company n/k/a
Starr Indemnity & Liability Company is theAppellant.

PROOF OF SERVICE

I, the undersigned of the law offices of Sweeny, Wingate & Barrow, PA, attorneys for Appellant, do hereby certify that I have served all parties to this appeal with a copy of **Appellant’s Status Report Regarding Motion for Leave to File Rule 60(B) Motion** by emailing a copy to them to the addresses below:

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April 12, 2024