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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
Jean Hoefer Toal, Acting Circuit Court Judge

Appellate Case No. 2024-000501
Circuit Court Case Nos. 2022-CP-40-05543, 2023-CP-40-03108

Michael David Link and Sandra Strickland Link.....Plaintiffs,

v.

4520 Corp., Inc., ABB Inc. Amentum Environment & Energy, Inc.,
Armstrong International, Inc., Asbestos Corporation Limited, AT&T Corp,
Atlas Turner Inc., Bahnson, Inc., BASF Catalysts LLC, BASF Corporation,
Beaty Investments, Inc., Bechtel Corporation, Bellsouth, LLC, Bellsouth
Telecommunications, LLC, The Bonitz Company, Brenntag North America,
Inc., Brenntag Specialties, LLC, Carboline Company, Carrier Corporation,
Celanese Corporation, CNA Holdings LLC, Cooper Crouse-Hinds, LLC,
Covil Corporation, Daniel International Corporation, Davis Mechanical
Contractors, Inc., Eaton Corporation, Ellington Insulation Company, Inc.,
Emerson Electric Co., Ericsson Inc., Fisher Controls International LLC,
Flowserve Corporation, Flowserve US Inc, Fluor Constructors International,
Fluor Constructors International, Inc., Fluor Daniel Services Corporation,
Fluor Enterprises, Inc., General Cable Corporation, General Cable
Industries, Inc. General Electric Company Gould Electronics Inc., Goulds
Pumps, Incorporated, Graybar Electric Company, In., Great Barrier
Insulation Co., Grinnell LLC, Heat & Frost Insulation Company, Inc., Henry
Pratt Company, LLC, Howden North America Inc., ITT LCC, J. & L.
Insulation, Inc., K-MAC Services, Inc., Kohler Co., Metropolitan Life
Insurance Company, Michelin Corporation, Michelin North America, Inc.,
Milliken Company, Nokia of America Corporation, Occidental Chemical
Corporation, The Okonite Company, Inc., Paramount Global, PECW Holding
Company, Plastics Engineering Company, Presnell Insulation Co., Inc.,
Prysmian Cables and Systems US, LLC, Raytheon Technologies Corporation,
Redco Corporation, Riley Power In., Rockwell Automation Inc., R.T.
Vanderbilt Holding Company, Inc., Rust Engineering & Construction, Inc.,
Rust International Inc., Saint-Gobain Abrasives, Inc., Schneider Electric
USA, Inc., Sequoia Ventures Inc., Siemens Industry, Inc., Spence Engineering
Company, Inc., Spirax Sarco, Inc., SPX Cooling Technologies, LLC, Standard
Insulation Company of N.C., Inc., Starr Davis Company, Inc., Starr Davis

Company of S.C., Inc., Thermo Electric Company, Inc., Union Carbide Corporation, Vanderbilt Minerals, LLC, Viking Pump, Inc., Vistra Intermediate Company LLC, Whittaker, Clark & Daniels, Inc., The William Powell Company, Wind Up, Ltd., York International Corporation, Zurn Industries, LLC.....Defendants,

and

Heather Donaghy, as Personal Representative of the Estate of Shirley Smiley Potter, deceased.....Plaintiffs,

v.

4520 Corp., Inc., ABB Inc. Amentum Environment & Energy, Inc., Armstrong International, Inc., Asbestos Corporation Limited, Atlas Turner Inc., Bahnson, Inc., Beaty Investments, Inc., Bechtel Corporation, The Bonitz Company, Brenntag North America, Inc., Brenntag Specialties, LLC, Canvas CT, LLC, Carboline Company, Carrier Corporation, Celanese Corporation, CNA Holdings LLC, Cooper Crouse-Hinds, LLC, Covil Corporation, Daniel International Corporation, Eaton Corporation, Emerson Electric Co., Ericsson Inc., Fisher Controls International LLC, Flowserve Corporation, Flowserve US Inc, Fluor Constructors International, Fluor Constructors International, Inc., Fluor Daniel Services Corporation, Fluor Enterprises, Inc., General Cable Corporation, General Cable Industries, Inc. General Electric Company Gould Electronics Inc., Goulds Pumps, Incorporated, Goulds Pumps LLC, Graybar Electric Company, In., Great Barrier Insulation Co., Grinnell LLC, Henry Pratt Company, LLC, Howden North America Inc., ITT LCC, K-MAC Services, Inc., Metropolitan Life Insurance Company, Occidental Chemical Corporation, Paramount Global, PECW Holding Company, Plastics Engineering Company, Presnell Insulation Co., Inc., Redco Corporation, Riley Power Inc., Rockwell Automation, Inc., R.T. Vanderbilt Holding Company, Inc., Rust Engineering & Construction, Inc., Rust International Inc., Saint-Gobain Abrasives, Inc., Schneider Electric USA, Inc., Sequoia Ventures Inc., Siemens Industry, Inc., Spence Engineering Company, Inc., Spirax Sarco, Inc., Standard Insulation Company of N.C., Inc., Starr Davis Company, Inc., Starr Davis Company of S.C., Inc., Thermo Electric Company, Inc., Union Carbide Corporation, Vanderbilt Minerals, LLC, Viking Pump, Inc., Vistra Intermediate Company LLC, Westrock Company, The William Powell Company, Zurn Industries, LLC.....Defendants,

of which

Michael David Scott, Sandra Strickland Link, Heather Donaghy, as Personal Representative of the Estate of Shirley Smiley Potter, deceased, and Asbestos Corporation Limited, by and through its court-appointed Receiver, Peter D. Protopapas, are the.....Respondents,

and

Certain Underwriters at Lloyd’s, London, Certain London Market Insurance Companies, and Resolute Management Inc. are the.....Appellants.

JOINT MOTION FOR SECOND EXTENSION OF TIME

Plaintiffs Michael David Link, Sandra Strickland Link, and Heather Donaghy (as personal representative of the Estate of Shirley Smith Potter); Peter D. Protopapas, as Receiver for Asbestos Corporation Limited (“ACL”); and nonparties Certain Underwriters at Lloyd’s, London and certain London market insurance companies subscribing severally (not jointly) to certain excess policies insuring ACL (“Certain London Market Insurers” or “CLMI”)* and Resolute Management Inc. (“Resolute”) jointly move, pursuant to Rule 240(a) of the South Carolina Appellate Court Rules, to further extend the time for filing initial response and reply briefs in this appeal. Specifically, the parties respectfully move for a thirty-day extension of time, through July 22, 2024, for Plaintiffs and the Receiver to file and serve their Initial Response Briefs and Designations of Matter. Additionally, the parties respectfully move for a twenty-one-day extension of time, through August 22, 2024, for CLMI and Resolute to file and serve their Initial Reply Brief and any Designation of Matter. This is the parties’ second such extension request.

In support of this motion, the parties state the following:

1. The time has not expired for Plaintiffs and the Receiver to file and serve their Initial Response Briefs and Designations of Matter, nor has time expired for CLMI and Resolute

* Certain London market insurance companies as to which certain claims are administered by third-party claims administrator, Resolute Management, Inc., consist of The Scottish Lion Insurance Company Ltd., Tenecom Ltd. (as successor to relevant liabilities of Winterthur Swiss Insurance Company), and Yasuda Fire and Marine Insurance Company (UK) Limited, now known as Tenecom Ltd.

to subsequently file and serve their Initial Reply Brief and any Designation of Matter. The parties do not request these extensions of time for impermissible delay.

2. At a hearing in the trial court on April 10, 2024, the Receiver, on behalf of ACL, announced a settlement in principle with Plaintiffs. The parties subsequently moved jointly before this Court for an extension of time in order to finalize the settlement and secure approval from the trial court.

3. On June 4, 2024, this Court granted the parties' motion. Specifically, the Court extended the time for Plaintiffs and the Receiver to file and serve their Initial Response Briefs and Designations of Matter to June 21, 2024, and the time for CLMI and Resolute to file and serve their Initial Reply Brief and any Designation of Matter to July 22, 2024.

3. A thirty-day extension of time—from June 21, 2024, to July 22, 2024—for Plaintiffs and the Receiver to file and serve their Initial Response Briefs and Designations of Matter will further the interests of justice by affording the parties the needed additional time to finalize the settlement and secure approval from the trial court. If the settlement is finalized and approved by the trial court, CLMI and Resolute intend to file a motion for limited remand of the appeal to allow the trial court to consider a joint motion from CLMI, Resolute, Plaintiffs, and the Receiver to vacate the order at issue in this appeal.

4. Should this appeal go forward, Plaintiffs and the Receiver will each file an Initial Response Brief. A twenty-one-day extension of time—from August 1, 2024, to August 22, 2024—for CLMI and Resolute to file and serve their Initial Reply Brief and any Designation of Matter will further the interests of justice by affording CLMI and Resolute time to prepare a reply that is responsive to the two separate Initial Response Brief submissions.

Respectfully submitted,

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June 14, 2024

Charleston, South Carolina