

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals  
Appellate Case No. 2016-001140

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas  
C.A. No. 11-CP-10-387  
G. Thomas Cooper, Jr., Circuit Court Judge

**RECEIVED**

AUG 29 2016

SC Court of Appeals

PCS Nitrogen, Inc. ....Appellant,

v.

Continental Casualty Company, Admiral Insurance  
Company, United States Fire Insurance Company, ACE  
Property & Casualty Insurance Company, Certain  
Underwriters at Lloyd's London, the Aviva Companies, the  
Winterthur Companies, Certain London Market Insurance  
Companies, Providence Washington Insurance Company  
(as Successor in Interest by way of Merger to Seaton  
Insurance Company, f/k/a Unigard Security Insurance, f/k/a  
Unigard Mutual Insurance Company), Berkshire Hathaway  
Specialty Insurance Company (f/k/a Stonewall Insurance  
Company), Lexington Insurance Company, Starr Indemnity  
& Liability Company (f/k/a Republic Insurance Company),  
First State Insurance Company, Century Indemnity  
Company (f/k/a California Union Insurance Company and  
Insurance Company of North America) .....Respondents.

**RESPONDENTS' JOINT DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL**

Pursuant to Rule 209, SCACR, Respondents hereby designate matter to be included in  
the record on appeal.

**Order**

**Dated/Filed**

Order Declaring Defendants' Motion for  
Summary Judgment with Regard to Pollution  
Exclusion Moot

March 23, 2016

**Pleadings**

**Dated/Filed**

Defendant Continental Casualty Company's Motion and Memorandum of Law in Support of its Motion for Summary Judgment on Corporate Succession, Exhibits 3 (Third Amended Complaint); 4 (Continental's Answer and Counterclaim); 5 (PCS Nitrogen's Reply to Counterclaim); 6 (PCS Nitrogen's Amended Answer and Counterclaim in *Ashley II of Charleston LLC v PCS Nitrogen, Inc.*, No. 2:05-2782-CWH (D.S.C.)); 7 (Findings of Fact and Conclusions of Law in *Ashley II of Charleston LLC v PCS Nitrogen, Inc.*, No. 2:05-2782-CWH (D.S.C. Sept. 28, 2007)); 8 Complaint in *Ashley II of Charleston LLC v PCS Nitrogen, Inc.*, No. 2:05-2782-PMD (D.S.C. Sept. 26, 2005)); 9 (Brief of Appellant PCS Nitrogen, Inc. in *Ashley II of Charleston LLC v PCS Nitrogen, Inc.*, No. 11-1662 (L) (4th Cir. Apr. 2, 2014)); 10 (Second Amended Order and Opinion in *Ashley II of Charleston LLC v PCS Nitrogen, Inc.*, No. 2:05-2782-MBS (D.S.C. May 27, 2011)); and 11 (*PCS Nitrogen, Inc. v Ashley II of Charleston LLC*, 714 F.3d 161 (4th Cir. Apr. 4, 2013)).

July 24, 2015

Notice of Joinder By United States Fire Insurance Company In Continental Casualty Company's Motion for Summary Judgment Based On Corporate Succession and Exhibit A

July 24, 2015

United States Fire Insurance Company and Continental Casualty Company's Notice of Motion and Motion for Summary Judgment on Pollution Exclusion, Memorandum of Law in Support and Exhibits D, E, F & G.

July 24, 2015

Motion for Summary Judgment on behalf of Defendants Stonewall Insurance Company and Republic Insurance Company, and all Exhibits

July 28, 2015

Motion for Summary Judgment on behalf of Defendants Certain Underwriters at Lloyd's, London, Certain Aviva Companies; Certain Winterthur Companies, New London Reinsurance Company Limited, and The

July 30, 2015

Scottish Lion Insurance Company Limited, and  
all Exhibits

Defendant First State Insurance Company's  
Joinder in Motions Seeking Summary  
Judgment against Plaintiff, Affidavit in  
Support of Joinder and Attachments thereto,  
Motion Information and Cover Sheet, and  
Certificate of Service

August 7, 2015

The ACE Defendants' Notice of Motion and  
Motion for Summary Judgment, Memorandum  
of Law in Support and Exhibits

August 13, 2015

Defendant Continental Casualty Company's  
Reply Brief in Further Support of its Motion  
for Summary Judgment Based on Corporate  
Succession, Exhibits 1 and 2

November 13, 2015

Reply Memorandum in Support of Motion for  
Summary Judgment on the Pollution Exclusion

November 13, 2015

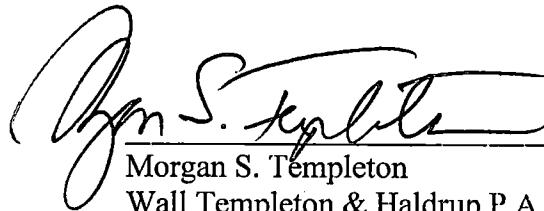
Letter from Morgan Templeton, Esq., to The  
Hon. G. Thomas Cooper, Jr., Regarding  
Objections to PCS Nitrogen, Inc.'s Proposed  
Orders

February 18, 2016

Pursuant to Rule 209(c), SCACR, we hereby certify that this designation contains no  
matter that is irrelevant to the appeal.

August 26, 2016

Respectfully submitted,

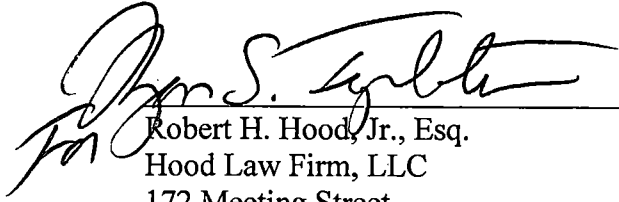


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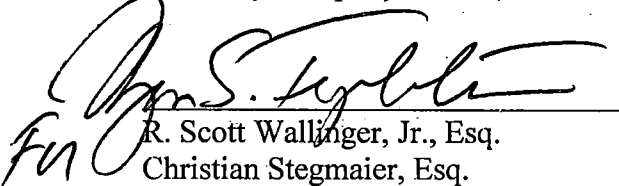


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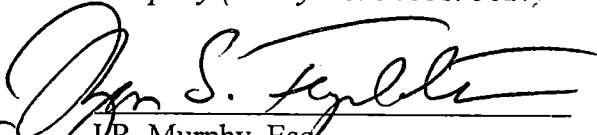


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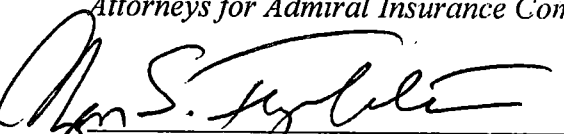
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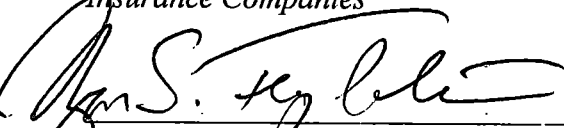
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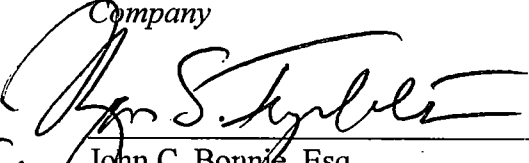
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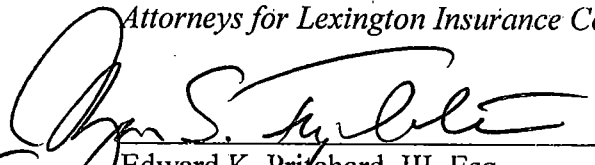
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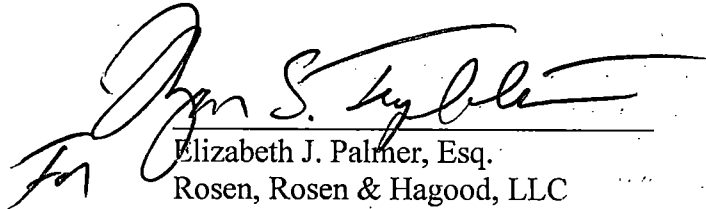
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Certain Underwriters at Lloyd's, London,  
Certain Aviva Companies, Certain  
Winterthur Companies, New London  
Reinsurance Company Limited, and the  
Scottish Lion Insurance Company Limited*

A handwritten signature in black ink, appearing to read "Elizabeth J. Palmer". The signature is written in a cursive style and is positioned above a horizontal line.

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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
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G. Thomas Cooper, Jr., Circuit Court Judge

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Appellate Case No.: 2016-001140

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PCS Nitrogen, Inc.,

Appellant,

v.

Continental Casualty Company, Admiral Insurance Company, United States Fire Insurance Company, ACE Property & Casualty Insurance Company, Certain Underwriters at Lloyd's London, the Aviva Companies, the Winterthur Companies, Certain London Market Insurance Companies, Providence Washington Insurance Company (as Successor in Interest by way of Merger to Seaton Insurance Company, f/k/a Unigard Security Insurance, f/k/a Unigard Mutual Insurance Company), Berkshire Hathaway Specialty Insurance Company (f/k/a Stonewall Insurance Company), Lexington Insurance Company, Starr Indemnity & Liability Company (f/k/a Republic Insurance Company), First State Insurance Company, Century Indemnity Company (f/k/a California Union Insurance Company and Insurance Company of North America),

Respondents.

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**PROOF OF SERVICE**

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SC Court of Appeals

I certify that I have served the Respondents, Continental Casualty Company, Admiral Insurance Company, United States Fire Insurance Company, ACE Property & Casualty Insurance Company, Certain Underwriters at Lloyd's London, the Aviva Companies, the Winterthur Companies, Certain London Market Insurance Companies, Providence Washington Insurance Company (as Successor in Interest by way of Merger to Seaton Insurance Company, f/k/a Unigard Security Insurance, f/k/a Unigard Mutual Insurance Company), Berkshire Hathaway Specialty Insurance Company (f/k/a Stonewall Insurance Company), Lexington Insurance Company, Starr Indemnity & Liability Company (f/k/a Republic Insurance Company), First State Insurance Company, Century Indemnity Company (f/k/a California Union Insurance Company and Insurance Company of North America) Joint Designation of Matter to be Included in the Record on Appeal Brief of Respondents on counsel of record by depositing a copy of it in the United States Mail, postage prepaid, on **August 26, 2016**, as follows:

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SECURITY INSURANCE, F/K/A UNIGARD  
MUTUAL INSURANCE COMPANY**

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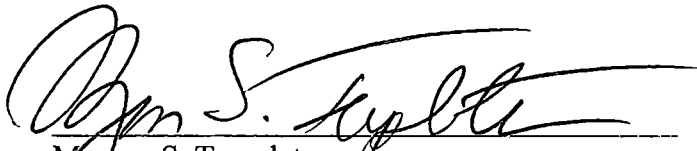
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(FORMERLY KNOWN AS STONEWALL  
INSURANCE COMPANY), STARR INDEMNITY &  
LIABILITY COMPANY (FORMERLY KNOWN AS  
REPUBLIC INSURANCE COMPANY), CERTAIN  
UNDERWRITERS AT LLOYD'S, LONDON,  
CERTAIN AVIVA COMPANIES, CERTAIN  
WINTERTHUR COMPANIES, NEW LONDON  
REINSURANCE COMPANY LIMITED, AND THE  
SCOTTISH LION INSURANCE COMPANY  
LIMITED**



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August 26, 2016

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

**RECEIVED**  
AUG 29 2016  
SC Court of Appeals

RE: *PCS Nitrogen, Inc. vs. Continental Casualty Company, et al*  
Civil Action No.: 2011-CP-10-387  
Appellate Case No.: 2065-001140

Dear Ms. Kitchings:

Please find enclosed an original and one copy of Respondents' Continental Casualty Company, Admiral Insurance Company, United States Fire Insurance Company, ACE Property & Casualty Insurance Company, Certain Underwriters at Lloyd's London, the Aviva Companies, the Winterthur Companies, Certain London Market Insurance Companies, Providence Washington Insurance Company (as Successor in Interest by way of Merger to Seaton Insurance Company, f/k/a Unigard Security Insurance, f/k/a Unigard Mutual Insurance Company), Berkshire Hathaway Specialty Insurance Company (f/k/a Stonewall Insurance Company), Lexington Insurance Company, Starr Indemnity & Liability Company (f/k/a Republic Insurance Company), First State Insurance Company, Century Indemnity Company (f/k/a California Union Insurance Company and Insurance Company of North America) Initial Brief and Designation of Matters on Appeal relative to the above-referenced matter. I would ask that you file the original with the Court and return a filed-stamped copy to me in the envelope provided for your convenience.

By copy to all counsel, I am serving them with the enclosed Brief and Designation.

If you have any questions, please feel free to give me a call.

Sincerely,

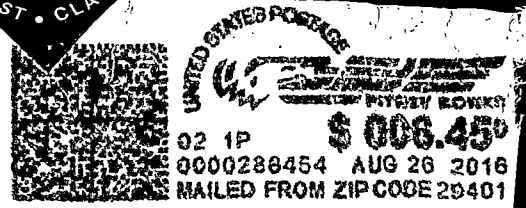
WALL TEMPLETON & HALDRUP, P.A.

Morgan S. Templeton

MST/sjs  
enclosures

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