

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas

Jean H. Toal, Circuit Court Judge

Appellate Case No. 2016-002611  
Case No. 2016-CP-42-1592

**RECEIVED**

APR 13 2018

SC Court of Appeals

Beverly Dale Jolly and Brenda Rice Jolly, ..... Respondent,  
v.  
General Electric Company, et al., ..... Defendants,  
Of whom Fisher Controls International LLC and Crosby  
Valve, LLC are the ..... Appellants.

APPELLANTS' DESIGNATION OF MATTER TO BE  
INCLUDED IN THE RECORD ON APPEAL

Pursuant to Rule 209 of the South Carolina Appellate Court Rules, appellants Fisher Controls International LLC ("Fisher") and Crosby Valve, LLC ("Crosby") designate the following material for inclusion in the record on appeal.

**ORDERS**

1. Judge Toal's Form 4 Order denying Fisher and Crosby's motion to quash Plaintiffs' trial subpoenas filed September 25, 2017;
2. Judge Toal's Order Denying Defendants' Post-Trial Motions and Granting Plaintiffs' Motion for New Trial *Nisi Additur* filed December 15, 2017;

3. Judge Toal's Form 4 Order denying Fisher and Crosby's Joint Motion to Reconsider filed December 21, 2017;

### **PLEADINGS**

4. Plaintiffs' Complaint filed April 25, 2016;
5. Fisher's Answer filed June 6, 2016;
6. Crosby's Answer filed June 16, 2016;

### **TRANSCRIPTS**

7. Transcript of July 18, 2017 motions hearing before Judge Toal, pp. 1-162, 234-74;
8. Transcript of July 21, 2017 telephonic hearing before Judge Toal, pp. 1-19;
9. Transcript of Trial dated July 24, 2017, through August 3, 2017, pp. 1-2, 120-2224;
10. Transcript of September 20, 2017 hearing on post-trial motions;

### **MOTIONS**

11. Fisher and Crosby's Joint Motion *in Limine* 1(P) to Exclude Plaintiffs' Experts from Testifying That Every Exposure Contributes to Disease filed July 7, 2017, and the following attached exhibit:
  - a. Exhibit A—Dr. Maddox Report;
12. Fisher and Crosby's Joint Motion *in Limine* 1(J) to Exclude Expert Testimony of Dr. John Maddox and Dr. Arthur Frank filed July 13, 2017;
13. Fisher's Motion to Quash Plaintiffs' Trial Subpoena filed July 20, 2017;
14. Fisher's Memorandum in Support of Its Motion to Quash Plaintiffs' Trial Subpoena filed July 20, 2017, with the following attached exhibits:
  - a. Exhibit A—Trial Subpoena;
  - b. Exhibit B—Affidavit of Philip C. Reid;

15. Crosby's Motion to Quash Plaintiffs' Trial Subpoena filed July 20, 2017;
16. Crosby's Memorandum in Support of Its Motion to Quash Plaintiffs' Trial Subpoena filed July 20, 2017, with the following attached exhibits:
  - a. Exhibit A—Trial Subpoena;
  - b. Exhibit B—Affidavit of Robert J. Martin;
17. Plaintiffs' Response in Opposition to Fisher and Crosby's Motions to Quash Plaintiffs' Trial Subpoenas filed July 20, 2017;
18. Fisher and Crosby's Joint Motion to Reconsider the Oral Denial of Their Motion to Quash Plaintiffs' Trial Subpoena filed July 26, 2017;
19. Fisher and Crosby's Joint Motion for Directed Verdict filed July 31, 2017;
20. Plaintiffs' Motion for New Trial *Nisi Additur* filed August 11, 2017;
21. Fisher and Crosby's Joint Motion for Set-Off filed August 14, 2017;
22. Fisher and Crosby's Joint Motion for Production of Plaintiffs' Settlements and Payments With All Third Party Tortfeasors filed August 14, 2017;
23. Fisher and Crosby's Joint Motion for JNOV filed August 14, 2017;
24. Fisher and Crosby's Joint Memorandum in Support of Their Joint Motion for JNOV filed August 23, 2017;
25. Fisher and Crosby's Brief in Opposition to Plaintiffs' Motion for New Trial *Nisi Additur* filed September 6, 2017, with the following attached exhibit:
  - a. Exhibit C—Case Summary;
26. Plaintiffs' Response in Opposition to Fisher and Crosby's Joint Motion for JNOV filed September 6, 2017;

27. Plaintiffs' Response in Opposition to Fisher and Crosby's Joint Motion for Production of Plaintiffs' Settlements and Payments With All Third-Party Tortfeasors filed September 6, 2017;
28. Plaintiffs' Response in Opposition to Fisher and Crosby's Joint Motion for Set-Off filed September 6, 2017;
29. Plaintiffs' Reply in Support of Their Motion for New Trial *Nisi Additur* filed September 11, 2017;
30. Fisher and Crosby's Joint Rule 59(e) Motion to Alter or Amend the trial court's order denying their motions to quash Plaintiffs' trial subpoenas;
31. Fisher and Crosby's Objections to Proposed Order Drafted by Plaintiffs and Supplemental Memorandum in Support of Their Motions and in Opposition to New Trial *Nisi* Motion filed October 20, 2017;

#### **TRIAL EXHIBITS**


32. Plaintiffs' Exhibit 936.2—Affidavit of Arthur L. Frank, M.D., Ph.D.;
33. Crosby Exhibit 134—Duke Power Company, "Safe Working Practices When Working with Asbestos" (1977);
34. Crosby Exhibit 135—Duke Power Company, "Safe Working Practices for Asbestos Exposure" (1982);
35. Crosby Exhibit 136—Duke Power Company, "Asbestos: How to Protect Yourself" (1984);
36. Crosby Exhibit 152—OSHA – Federal Register Title 29;

#### **OTHER MATERIALS**

37. Verdict Form dated August 3, 2017.

The undersigned counsel certifies, pursuant to Rule 209(c) of the South Carolina Appellate Court rules, that this designation contains no matter which is irrelevant to the appeal.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By:  \_\_\_\_\_

C. Mitchell Brown

SC Bar No. 012872

E-Mail: mitch.brown@nelsonmullins.com

A. Mattison Bogan

SC Bar No. 72629

E-Mail: matt.bogan@nelsonmullins.com

James B. Glenn

SC Bar No. 77731

E-Mail: jase.glenn@nelsonmullins.com

Nicholas A. Charles

SC Bar No. 101693

E-Mail: nick.charles@nelsonmullins.com

1320 Main Street / 17th Floor

Post Office Box 11070 (29211-1070)

Columbia, SC 29201

(803) 799-2000

Attorneys for Fisher Controls International LLC and Crosby Valve, LLC

Columbia, South Carolina

April 13, 2018

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas

Jean H. Toal, Circuit Court Judge

---

Case No. 2016-CP-42-1592

---

**RECEIVED**

APR 13 2018

SC Court of Appeals

Beverly Dale Jolly and Brenda Rice Jolly,..... Respondents,

v.

General Electric Company, et al.,

Of whom Fisher Controls International LLC and Crosby  
Valve, LLC are the..... Appellants.

---

PROOF OF SERVICE

---

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellants, 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):

Pleadings: Appellants' Designation of Matter to be Included in the Record on Appeal

Counsel Served: Theile B. McVey  
John D. Kassel  
KASSEL McVEY ATTORNEYS AT LAW  
Post Office Box 1476  
1330 Laurel Street (29201)  
Columbia, SC 29201

Jonathan M. Holder  
Simona Farrise (*Pro Hac Vice*)  
DEAN OMAR BRANHAM, LLP  
302 North Market Street, Suite 300  
Dallas, TX 75202  
[jholder@dobllp.com](mailto:jholder@dobllp.com)



---

Eileen Hindman  
Administrative Assistant

4/13

---

, 2018



**NELSON MULLINS**

Nicholas A. Charles  
T 803.255.9663  
nick.charles@nelsonmullins.com

NELSON MULLINS RILEY & SCARBOROUGH LLP  
ATTORNEYS AND COUNSELORS AT LAW

1320 Main Street | 17th Floor  
Columbia, SC 29201  
T 803.799.2000 F 803.256.7500  
nelsonmullins.com

April 13, 2018

**RECEIVED**

APR 13 2018

SC Court of Appeals

**Via: Hand Delivery**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 29211

RE: Beverly Dale Jolly and Brenda Rice Jolly v. General Electric Company, et al.  
Appellate Case No. 2017-002611  
Our File No. 44985/01501

Dear Ms. Kitchings:

Enclosed for filing please find an original and one copy each of Appellants' Initial Brief and Designation of Matter to be Included in the Record on Appeal in the above-referenced matter. Please file the originals and return clocked-in copies to us via our courier.

By copy of this letter, we are hereby serving a copy of the same on counsel of record.

Thank you.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Nick Charles".

Nicholas A. Charles

NAC:eh

cc: John D. Kassel, Esquire  
Thiele B. McVey, Esquire  
Jonathan M. Holder, Esquire

LAW OFFICES

NELSON MULLINS RILEY & SCARBOROUGH, L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP

POST OFFICE BOX 11070

COLUMBIA, SOUTH CAROLINA 29211-1070

**FIRST CLASS**

**RECEIVED**

APR 13 2018

SC Court of Appeals



**NELSON MULLINS**

Post Office Box 11070

Columbia, SC 29211-1070

**Via: Hand Delivery**

The Honorable Jenny Abbott Kitchings  
Clerk of Court

South Carolina Court of Appeals

P.O. Box 11629

Columbia, South Carolina 29211

(044985/01501)