

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY AND HAMPTON COUNTY
Court of Common Pleas

Jean Hoefler Toal, Circuit Court Judge

Case Nos. 2015-CP-46-2155 and 2015-CP-46-3456 (York County)
Case No. 2016-CP-25-0440 (Hampton County)

Appellant Case No. 2018-000385

Timothy W. Howe, Individually and as Personal Representative of the Estate of Wayne Erwin Howe, Deceased and Jeanette Howe Respondents,

v.

Air & Liquid Systems Corp., Individually and as successor-in-interest to Buffalo Pumps, Inc.; Airco, Inc.; Airgas USA, LLC f/k/a National Welding Supply, Inc.; Albany International Corp; Asten-Johnson, Inc.; Aurora Pump Company; A.W. Chesterton Company; Beloit Corporation; Black Clawson Converting Machinery, LLC; Individually and as a subsidiary of Davis-Standard LLC; 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, Inc. f/k/a Carolina Gasket and Rubber Company; CNA Holdings, Inc. f/k/a Hoechst Celanese Corporation (sued individually and as successor in interest to Fiber industries, Inc.); Cleaver Brooks, Inc.; Covil Corporation; Crane Co.; Crown Cork & Seal Company, Inc.; Daniel International Corporation; Davis-Standard Corporation, LLC; Dezurik, Inc d/b/a Dezurik-APCO Williamette Eagle, Inc.; Fisher-Klosterman, Inc., as successor-in-interest to Buell Engineering Co.; Flowserve Corporation, Individually and as successor-in-interest to Durco Pumps; Fluor Enterprises, Inc. f/k/a Fluor Daniel, Inc.; Fluor Daniel Services Corporation; Foster Wheeler Energy Corporation; General Electric Company; The Gorman-Rupp Company; Goulds Pumps, Incorporated; Ingersoll-Rand Company; Linde, LLC f/k/a The Boc Group, Inc., f/k/a Airco, Inc.; Marsulex Environmental Technologies Corporation, individually and as successor-in-interest to Buell Engineering Co.; Marsulex Environmental Technologies, LLC, as successor-in-interest to Buell Engineering Co.; Metropolitan Life Insurance Company, A wholly-owned subsidiary of Metlife, Inc.; Peerless Pump Company; Presnell Insulation, Inc.; Riley Power, Inc., Individually and as successor-in-interest to Babcock Borsig Power, Inc. and Riley Stoker Corporation, Individually and as successor-in-interest to D.B. Riley; SCAPA Waycross, Inc.; Sepco Corporation; SPX Cooling Technologies, Inc., f/k/a Marley Cooling Technologies, Inc. f/k/a The

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Marley Cooling Tower Co.; Sterling Fluid Systems (USA) LLC; Trane U.S., Inc. f/k/a American Standard, Inc., f/k/a American Radiator & Standard Manufacturing Company; Union Carbide Corporation; Uniroyal, Inc. f/k/a United States Rubber Company, Inc.; United Conveyor Corporation; Velan Valve Corp; Viking Pump, Inc.; Warren Pumps LLC; Yuba Heat Transfer Corporation; Zurn Industries, Defendants,

Of which Covil Corporation is the Appellant.

AND

Roxanne Falls, Individually and as Personal Representative of the Estate of Charlotte Gaye Smith,
.Respondent,

v.

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; CNA Holdings, Inc. f/k/a Hoechst Celanese Corporation; Celanese Corporation f/k/a Hoescht Celanese Corporation, sued individually and as a successor-in-interest to Fiber Industries, Inc.; Cleaver-Brooks, Inc.; Covil Corporation; Daniel International Corporation; Fluor Daniel, Inc. f/k/a Daniel Construction Company, Inc.; Fluor Daniel Services Corporation; Foster Wheeler Energy Corporation; General Electric Company; MP Supply, Inc. f/k/a Mill-Power Supply Co. and Mill Power Supply Company; Resolute FP US, Inc.; Union Carbide Corporation; United States Fidelity Guaranty Company; Uniroyal, Inc., f/k/a United States Rubber Company, Inc.; and United Conveyor Corporation..
Defendants,

Of which Covil Corporation is the Appellant.

AND

James Coleman Sizemore, as Personal Representative of the Estate of James Calvin Sizemore, Decedent, Respondent,

v.

Bowater Paper Mill; E.I. Du Pont De Nemours and Company; Foster Wheeler Energy Corporation; Daniel International Corporation f/k/a Daniel Construction Company, Inc.; Resolute FP US Inc. f/k/a Bowater Incorporated; 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; Cleaver-Brooks, Inc. f/k/a Aqua-Chem, Inc. d/b/a Cleaver-Brooks Division; Covil Corporation; Fluor Constructors International f/k/a Fluor Corporation; Fluor Constructors International, Inc.; Fluor Daniel Services Corporation; Fluor Enterprises, Inc.; General Electric Company; Genuine Parts Company, d/b/a Rayloc a/k/a NAPA; Georgia-Pacific Consumer Products LP; Honeywell International, Inc. f/k/a Allied-Products Liability Signal,

Inc., sued as successor-in-interest to Bendix Corporation; SCANA Corporation d/b/a South Carolina Electric & Gas; Riley Power, Inc. f/k/a Riley Stoker Corporation and D.B. Riley, Inc.; and Waste Management of South Carolina, Inc., successor by merger to USA Waste of South Carolina, Inc., successor by merger to Chambers Medical Technologies, Inc.,
.Defendants,

Of which Covil Corporation is the Appellant.

**APPELLANT’S DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL AND CERTIFICATION**

Pursuant to Rule 209 of the South Carolina Appellate Court Rules, Covil Corporation (“Appellant”) designates the following materials to be included in the Record on Appeal in this matter. Unless otherwise expressly stated, each item designated is to include all attachments or exhibits to the original of the referenced item, as well as any proofs of service. Appellant expressly reserves the right to seek supplementation to the record pursuant to Rules 209 and 212, SCACR. In addition to the matters which might be designated by the Respondents, which designations are incorporated herein by reference, Appellant designates the following matters for inclusion in the Record on Appeal.

ORDERS

1. Master Discovery/Scheduling Order and Exhibits signed September 30, 2010;
2. Scheduling Order for Falls matter filed January 19, 2018;
3. Scheduling Order for Howe matter filed January 19, 2018;
4. Scheduling Order for Sizemore matter filed January 17, 2018;
5. Order Regarding Covil Corporation Discovery Motions for Falls matter filed February 28, 2018;
6. Order Regarding Covil Corporation Discovery Motions for Howe matter filed March 1, 2018;

7. Order Regarding Covil Corporation Discovery Motions for Sizemore matter filed February 28, 2018;

PLEADINGS

1. Summons and Complaint filed by Charlotte Gaye Smith and Gary Dean Smith on July 20, 2015;
2. Answer of Covil Corporation to the Complaint filed on September 10, 2015 for Falls matter;
3. First Amended Complaint filed by Gary Dean Smith, individually and as personal representative of the Estate of Charlotte Gaye Smith, filed on March 10, 2016;
4. Second Amended Complaint filed by Roxanne Falls, individually and as personal representative of the Estate of Charlotte Gaye Smith, filed on November 15, 2017;
5. Answer of Covil Corporation to the Second Amended Complaint filed on December 8, 2017 for Falls matter;
6. Summons and Complaint filed by Wayne Ervin Howe and Jeanette Howe on November 9, 2015;
7. Answer of Covil Corporation to the Complaint filed on February 8, 2016 for Howe matter;
8. First Amended Complaint filed by Timothy W. Howe, individually and as personal representative of the Estate of Wayne Ervin Howe, deceased, filed on September 23, 2016;
9. Answer of Covil Corporation to the First Amended Complaint filed on February 8, 2016 for Howe matter;
10. Summons and Complaint filed by James Calvin Sizemore on December 9, 2016;
11. Answer of Covil Corporation to the Complaint filed on February 17, 2017 for Sizemore matter;
12. First Amended Complaint filed by James Coleman Sizemore, individually and as personal representative of the Estate of James Calvin Sizemore, filed on February 1, 2018;
13. Answer of Covil Corporation to the First Amended Complaint filed on February 15, 2018 for Sizemore matter;

14. Covil Corporation's Motion for Protective Order and to Quash Plaintiff's 30(B)(6) Deposition Notice signed January 19, 2018 in the Falls matter;
15. Covil Corporation's Motion for Protective Order and to Quash Plaintiff's 30(B)(6) Deposition Notice signed January 19, 2018 in the Howe matter;
16. Covil Corporation's Motion for Protective Order and to Quash Plaintiff's 30(B)(6) Deposition Notice signed January 19, 2018 in the Sizemore matter;
17. Plaintiffs' Motion to Compel filed January 23, 2018 in the Falls matter;
18. Plaintiffs' Motion to Compel filed January 23, 2018 in the Howe matter;
19. Plaintiffs' Motion to Compel filed January 23, 2018 in the Sizemore matter;
20. Covil Corporation's Notice of Appeal filed on March 2, 2018; in the Falls matter;
21. Covil Corporation's Notice of Appeal filed on March 2, 2018; in the Howe matter;
22. Covil Corporation's Notice of Appeal filed on March 1, 2018; in the Sizemore matter;

TRANSCRIPTS

1. Transcript of Hearing of January 24, 2018;

OTHER MATERIALS OR DOCUMENTS

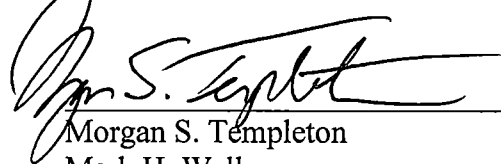
1. January 29, 2018 Emails and Attachments;
2. February 1, 2018 Email and Attachments;
3. February 2, 2018 Emails and Attachments;
4. February 21, 2018 Email and Attachments;
5. February 14, 2018 Email from Justice Toal's Clerk to All Defendants;
6. February 16, 2018 Emails and Attachments;
7. February 23, 2018 Email from Justice Toal's Clerk to All Parties;
8. January 19, 2018 Affidavit of James P. Covil (Ex. 2 to Covil Corporation's Memo in Support of Motion for Protective Order and Motion to Quash Plaintiff's 30(B)(6) Deposition Notice in the Falls matter);

9. January 19, 2018 Affidavit of James P. Covil (Ex. 2 to Covil Corporation's Memo in Support of Motion for Protective Order and Motion to Quash Plaintiff's 30(B)(6) Deposition Notice in the Howe matter); and
10. January 19, 2018 Affidavit of James P. Covil (Ex. 2 to Covil Corporation's Memo in Support of Motion for Protective Order and Motion to Quash Plaintiff's 30(B)(6) Deposition Notice in the Sizemore matter).

Undersigned counsel certifies, pursuant to Rule 209(c), SCACR, that this designation contains no matter which is irrelevant to the appeal.

July 11, 2018.

WALL TEMPLETON & HALDRUP, PA



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Howe, Deceased and Jeanette Howe
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Company; Union Carbide Corporation; Uniroyal, Inc. f/k/a United States Rubber Company, Inc.; United Conveyor Corporation; Velan Valve Corp; Viking Pump, Inc.; Warren Pumps LLC; Yuba Heat Transfer Corporation; Zurn Industries, Defendants

Of Which Covil Corporation is the Appellant.

AND

Roxanne Falls, Individually and as Personal Representative of the Estate of Charlotte Gaye Smith, Respondents

v.

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; CAN Holdings, Inc. f/k/a Hoechst Celanese Corporation, sued individually and as a successor-in-interest to Fiber Industries, Inc.; Cleaver-Brooks, Inc.; Covil Corporation; Daniel International Corporation; Fluor Daniel, Inc. f/k/a Daniel Construction Company, Inc.; Fluor Daniel Services Corporation; Foster Wheeler Energy Corporation; General Electric Company; MP Supply, Inc. f/k/a Mill-Power Supply Co. and Mill power Supply Company; Resolute FP US, Inc., Union Carbide Corporation; United States Fidelity Guaranty Company; Uniroyal, Inc. f/k/a United States Rubber Company, Inc. and United Conveyor Corporation.. . . . Defendants

Of which Covil Corporation is the Appellant.

AND

James Coleman Sizemore, as Personal Representative of the Estate of James Calvin Sizemore, Descendant, Respondent.

v.

Bowater Paper Mill; E.I. Du Pont De Nemours and Company; Foster Wheeler Energy Corporation; Daniel International Corporation f/k/a Daniel Construction Company, Inc.; Resolute FP US Inc f/k/a Bowater Incorporated; 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; Cleaver-Brooks, Inc. f/k/a Aqua-Chem, Inc. d/b/a Cleaver-Brooks Division; Covil Corporation; Fluor Constructors International f/k/a Fluor Corporation; Fluor Constructors International, Inc.; Fluor Daniel Services Corporation; Fluor Enterprises, Inc.; General Electric Company d/b/a Rayloc a/k/a NAPA; Georgia-Pacific Consumer Products LP; Honeywell International, Inc. f/k/a Allied-Products Liability Signal, Inc., sued as successor-in-interest to Bendix Corporation; SCANA Corporation d/b/a South Carolina Electric & Gas; Riley power, Inc. f/k/a Riley Stoker Corporation and D.B. Riley, Inc.

AND

Waste Management of South Carolina, Inc., as successor by merger to USA Waste of South Carolina, Inc., successor by merger to Chambers Medical Technologies, Inc.,. . . Defendants

Of which Covil Corporation is the Appellant.

PROOF OF SERVICE

I certify this 11th day of July, 2018 that I have served a copy of Appellant's DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL AND CERTIFICATION upon other counsel of record, by depositing a copy of it in the United States Mail, postage prepaid, and addressed to the following:

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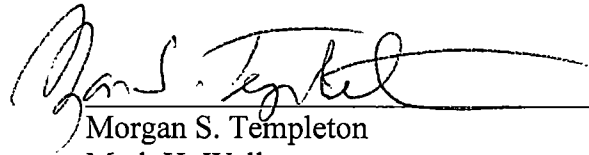
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July 11, 2018

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A handwritten signature in cursive script, appearing to read "Morgan S. Templeton", is written over a horizontal line.

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