

# The South Carolina Court of Appeals

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.;  
Flowserv Corporation, Individually and as successor-in-  
interest to Durco Pumps; 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.; 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 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, sued individually and 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 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.

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ORDER

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The parties have filed a supplemental consent motion pursuant to Rules 260(b) and 261(d) of the South Carolina Appellate Court Rules. The parties request that this court vacate the February 28, 2018 orders striking Appellant's Answers in the actions filed by Respondent Smith and Respondent Sizemore and the March 1, 2018 order striking Appellant's Answer in the action filed by Respondent Howe. The parties further request that this court dismiss this appeal and remand the case to the circuit court for trial as scheduled by the circuit court. After careful consideration of the parties' supplemental motion, the motion is granted. The remittitur will be sent as provided in Rule 221 of the South Carolina Appellate Court Rules.

*James E. Lockery* C.J.  
*Thomas C. [unclear]* J.  
*Paul [unclear]* J.

Columbia, South Carolina

cc:  
Theile Branham McVey, Esquire  
John D. Kassel, Esquire  
Jonathan Marshall Holder, Esquire  
Mark H. Wall, Esquire  
Morgan S. Templeton, Esquire  
Renee Melancon, Esquire  
Ashley K. Brathwaite, Esquire

**FILED**

July 29, 2019