

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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**RECEIVED**

OCT 08 2019

S.C. SUPREME COURT

PETITION FOR CERTIORARI

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APPEAL FROM RICHLAND AND YORK COUNTIES  
Jean Hoefer Toal, Chief Justice (Ret.)

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Case Nos. 2015-CP-46-02155, 2015-CP-46-0356, 2019-CP-40-00076,  
2018-CP-40-04680, and 2018-CP-40-04940

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**EX PARTE ZURICH AMERICAN INSURANCE COMPANY,**  
**PETITIONER,**

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

v.

**COVIL CORPORATION, Defendant/RESPONDENT.**

AND

Timothy W. Howe Individually and as Personal Representative of the  
Estate of if Wayne Ervin Howe, deceased, and Jeanette Howe, Plaintiffs

v.

**COVIL CORPORATION, Defendant/RESPONDENT.**

AND

Charles T. Hopper and Rebecca Hopper, Plaintiffs,

v.

Covil Corporation, et al., Defendants,  
**of Whom COVIL CORPORATION is RESPONDENT.**

**RECEIVED**

OCT 08 2019

S.C. SUPREME COURT

AND

James Michael Hill, Plaintiffs

v.

Covil Corporation, et al., Defendants,  
of Whom **COVIL CORPORATION** is **RESPONDENT**.

AND

Denver D. Taylor and Janice Taylor, Plaintiffs

v.

Covil Corporation, et al., Defendants,  
of Whom **COVIL CORPORATION** is **RESPONDENT**.

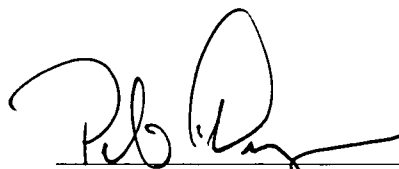
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CERTIFICATE OF SERVICE

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I certify that a true copy of the Notice of Appeal in this case has been served on the following, this 1<sup>st</sup> day of October, 2019, via Hand Delivery to:

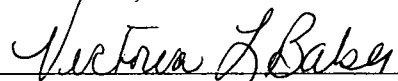
Richland County Court of Common Pleas  
Clerk of Court  
Columbia, South Carolina



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PETER DWORJANYN,  
ATTORNEY FOR PETITIONER

SWORN TO BEFORE ME this 1<sup>st</sup> day  
of October, 2019

 (L.S.)  
Notary Public for South Carolina  
My Commission Expires: 4/25/2029

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

PETITION FOR CERTIORARI

RECEIVED

SEP 30 2019

APPEAL FROM RICHLAND AND YORK COUNTIES

Jean Hofer Toal, Chief Justice (Ret.)

S.C. SUPREME COURT

Case Nos. 2015-CP-46-02155, 2015-CP-46-03456, 2019-CP-40-00076,  
2018-CP-40-04680, and 2018-CP-40-04940

EX PARTE ZURICH AMERICAN INSURANCE COMPANY,

PETITIONER,

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

v.

COVIL CORPORATION, Defendant/RESPONDENT.

AND

Timothy W. Howe Individually and as Personal Representative of the  
Estate of if Wayne Ervin Howe, deceased, and Jeanette Howe, Plaintiffs

v.

COVIL CORPORATION, Defendant/RESPONDENT.

AND

Charles T. Hopper and Rebecca Hopper, Plaintiffs;

v.

Covil Corporation, et al., Defendants,  
of Whom COVIL CORPORATION is RESPONDENT.

RICHLAND COUNTY  
FILED  
2019 OCT -1 AM 11:51  
JEANNETTE W. MCBRIDE  
C.C.P., G.S., & F.C.

AND

James Michael Hill, Plaintiffs

v.

Covil Corporation, et al., Defendants,  
of Whom **COVIL CORPORATION** is **RESPONDENT**.

AND

Denver D. Taylor and Janice Taylor, Plaintiffs

v.

Covil Corporation, et al., Defendants,  
of Whom **COVIL CORPORATION** is **RESPONDENT**.

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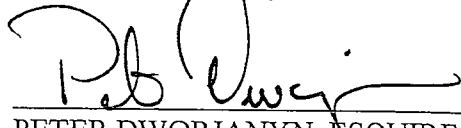
NOTICE OF APPEAL

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Non-party Zurich American Insurance Company appeal the Order of the Honorable Jean Hoefer Toal, entered September 19, 2019, titled "Order for Rule to Show Cause." Appellant received written notice of entry of this Order on September 19, 2019.

Respectfully submitted,

COLLINS & LACY, P.C.



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ATTORNEYS FOR PETITIONER

September 30, 2019

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
FOR THE SIXTH JUDICIAL CIRCUIT  
C/A NO.: 2015-CP-46-02155

ROXANNE FALLS, Individually and as )  
Personal Representative of the Estate of )  
CHARLOTTE GAYE SMITH, )

Plaintiffs, )

**ORDER FOR RULE TO SHOW CAUSE**

vs. )

CBS Corporation, et al., )

Defendants. )

In Re: )

Receivership of Covil Corporation by and )  
through its Receiver Peter D. Protopapas )

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS  
FOR THE SIXTH JUDICIAL CIRCUIT  
C/A NO.: 2015-CP-46-03456

COUNTY OF YORK )

TIMOTHY W. HOWE, Individually and as )  
Personal Representative of the Estate of )  
Wayne Ervin Howe, deceased, and Jeanette )  
Howe, )

Plaintiffs, )

**ORDER FOR RULE TO SHOW CAUSE**

vs. )

Air & Liquid Systems Corporation, et al., )

Defendants. )

In Re: )

Receivership of Covil Corporation by and )  
through its Receiver Peter D. Protopapas )

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )  
 )  
CHARLES T. HOPPER and REBECCA )  
HOPPER, )  
 )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
Air & Liquid Systems Corporation, et al., )  
 )  
 )  
Defendants. )  
In Re: )  
 )  
Receivership of Covil Corporation by and )  
through its Receiver Peter D. Protopapas )  
 )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT  
C/A NO.: 2019-CP-40-00076

**ORDER FOR RULE TO SHOW CAUSE**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )  
 )  
JAMES MICHAEL HILL, )  
 )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
Advance Auto Parts, Inc., et al., )  
 )  
 )  
Defendants. )  
In Re: )  
 )  
Receivership of Covil Corporation by and )  
through its Receiver Peter D. Protopapas )  
 )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT  
C/A NO.: 2018-CP-40-04680

**ORDER FOR RULE TO SHOW CAUSE**

|   |   |                                     |
|---|---|-------------------------------------|
| STATE OF SOUTH CAROLINA                   | ) | IN THE COURT OF COMMON PLEAS        |
|   | ) | FOR THE FIFTH JUDICIAL CIRCUIT      |
| COUNTY OF RICHLAND                        | ) | C/A NO.: 2018-CP-40-04940           |
|   | ) |                                     |
| DENVER D. TAYLOR and JANICE               | ) |                                     |
| TAYLOR,                                   | ) |                                     |
|   | ) |                                     |
| Plaintiffs,                               | ) | <b>ORDER FOR RULE TO SHOW CAUSE</b> |
|   | ) |                                     |
| vs.                                       | ) |                                     |
|   | ) |                                     |
| Air & Liquid Systems Corporation, et al., | ) |                                     |
|   | ) |                                     |
| Defendants.                               | ) |                                     |
| In Re:                                    | ) |                                     |
|   | ) |                                     |
| Receivership of Covil Corporation by and  | ) |                                     |
| through its Receiver Peter D. Protopapas  | ) |                                     |

This matter comes before the Court by way of a Rule to Show Cause motion and hearing on September 13, 2019, initiated by Peter Protopapas, as the duly appointed Receiver of Covil Corporation (“Receiver”).

On May 28, 2019, the South Carolina Supreme Court appointed the undersigned to serve as the Chief Judge of Administrative Purposes over all asbestosis and asbestos litigation filed within the state court system. The Supreme Court’s charge includes facilitating meaningful mediations consistent with the South Carolina Rules of Alternative Dispute Resolution. The Rules mandate attendance at mediation “a representative of the insurance carrier who is not the carrier’s outside counsel and who has full authority to settle the claim” on behalf of any insured party against whom a claim is made. SCRADR 6(b)(4).

Further, the Court has jurisdiction in connection with the Court’s authority over the Receiver in the administration of the receivership of Covil.

Proceedings before this Court on the issue of Covil’s participation in mediation exercises

have demonstrated a lack of clarity regarding what constitutes “full authority” for claims filed against Covil Corporation. This lack of clarity continually delays settlement, stalls negotiations, and slows the ability of this Court to manage the South Carolina asbestos docket. An inquiry into the insurance coverage of Covil Corporation is warranted to fully determine the amount of authority available for settlement of asbestos personal injury actions filed against Covil Corporation.

**IT IS THEREFORE ORDERED** that United States Fidelity and Guaranty Company (“USF&G”), Zurich American Insurance Company (“Zurich”), Sentry Insurance, a Mutual Company (“Sentry”), and Hartford Accident and Indemnity Company (“Hartford”) respond to the following areas of inquiry under penalty of perjury by September 30, 2019, prior to the *Hopper* mediation. For purposes of clarification of the terms provided in the following areas of inquiry, the terms “You” and “Your” shall mean the responding insurer, in its own capacity and in its capacity as successor to any other insurer entity.

1. Provide all general liability and product liability insurance policies issued by You to Covil Corporation, during the period 1954 through 1991, including, but not limited to, all policy numbers previously identified to this Court as covering Covil Corporation.
2. Provide all workers compensation insurance policies issued by You to Covil Corporation during the period 1954 through 1991.
3. Provide all project policies issued by You to Covil Corporation, or naming Covil Corporation as an additional insured, during the period 1954 through 1991.
4. Provide all excess and umbrella liability insurance policies issued by You to Covil Corporation during the period 1954 through 1991.
5. Provide all underwriting files related to general liability and product liability insurance

- policies issued by You to Covil Corporation during the period 1954 through 1991.
6. Provide all underwriting files related to workers compensation insurance policies issued by You to Covil Corporation during the period 1954 through 1991.
  7. Provide all documents that reflect communications between You and Covil Corporation regarding the acquisition, placement, and termination of insurance coverage.
  8. Provide all documents that reflect communications between You and any other Covil Corporation insurer that refer or relate in any way to the defense and/or indemnification of Covil.
  9. Provide all claims files that refer or relate to general liability or product liability claims against Covil Corporation, handled by You during the period 1954 through 1991.
  10. Provide all claims files that refer or relate to workers compensation claims against Covil Corporation, handled by You during the period 1954 through 1991.
  11. Provide all documents that refer or relate to general liability or product liability claims against Covil Corporation, handled by YOU during the period 1954 through 1991.
  12. Provide all documents that refer or relate to workers compensation claims against Covil Corporation, handled by YOU during the period 1954 through 1991.
  13. Provide all Liability Cumulative Analysis reports prepared by You or on Your behalf in connection with general liability or product liability insurance policies issued by You to Covil Corporation during the time period 1954 through 1991.
  14. Provide all documents that refer or relate to Liability Cumulative Analysis reports prepared by You or on Your behalf in connection with general liability or product liability insurance policies issued by You to Covil Corporation, during the time period 1954 through 1991.
  15. Provide all documents that refer or relate to Your procedures for designating policy

- numbers, including policy prefixes, for general liability and product liability insurance policies issued by You during the time period 1954 through 1991.
16. Provide exemplars of general liability and product liability primary insurance policies issued by You during the period 1954 through 1991.
  17. Provide exemplars of excess and umbrella liability insurance policies issued by You during the period 1954 through 1991.
  18. Provide all underwriting manuals and guidelines related to general liability and product liability primary insurance policies issued by You during the period 1954 through 1991.
  19. Provide all underwriting manuals and guidelines related to excess and umbrella liability insurance policies issued by YOU during the period 1954 through 1991.
  20. Describe in detail Your efforts to locate general liability and product liability insurance policies, workers compensation policies, excess and umbrella liability insurance policies, all project policies issued by You to Covil Corporation, or naming Covil Corporation as an additional insured, during the period 1954 through 1991.
  21. State the names of the persons most knowledgeable regarding Your search efforts to locate the requested general liability and product liability insurance policies, workers compensation policies, excess and umbrella liability insurance policies, all project policies issued by You to Covil Corporation, or naming Covil Corporation as an additional insured, during the period 1954 through 1991.
  22. Identify all documents that refer to or relate to Your search efforts to locate the requested general liability and product liability insurance policies, workers compensation policies, excess and umbrella liability insurance policies, all project policies issued by You to Covil Corporation, or naming Covil Corporation as an additional insured, during the period 1954 through 1991.
  23. Identify the persons involved in preparing Your responses to this inquiry.
  24. State that these are all of the policies issued by You to Covil.

**IT IS FURTHER ORDERED** that service of this Rule to Show Cause shall be served upon the South Carolina Department of Insurance for Zurich, Sentry, USF&G, and Hartford, which shall constitute proper service pursuant to Rule 4(e) of the South Carolina Rules of Civil Procedure.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
JEAN H. TOAL, CHIEF JUSTICE (Ret.)



Richland Common Pleas

**Case Caption:** Charles T Hopper , plaintiff, et al vs Air & Liquid Systems Corporation , defendant, et al  
**Case Number:** 2019CP4000076  
**Type:** Order/Rule To Show Cause

IT IS SO ORDERED.

s/ Jean H. Toal #2758