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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

PETITION FOR CERTIORARI

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

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 AND SENTRY
INSURANCE A MUTUAL COMPANY,
PETITIONERS,**

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 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.

AND

James Michael Hill, Plaintiffs

v.

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

AND

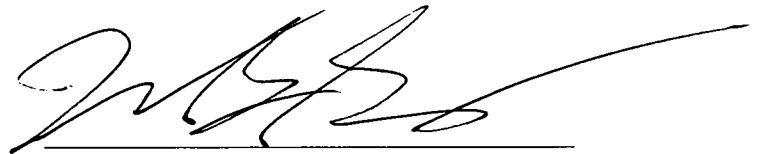
Denver D. Taylor and Janice Taylor, Plaintiffs
v.
Covil Corporation, et al. Defendants,
of Whom COVIL CORPORATION is RESPONDENT.

NOTICE OF APPEAL

Non-party Sentry Insurance a Mutual Company (“Sentry”) hereby joins with Zurich American Insurance Company in the appeal of the Order of the Honorable Jean Hoefer Toal, entered September 19, 2019, titled “Order for Rule to Show Cause,” and files this Notice of Appeal. Zurich American Insurance Company filed a Notice of Appeal of the Order on or about September 30, 2019. Appellant/Petitioner Sentry was served with a copy of the Order through the South Carolina Department of Insurance on October 1, 2019.

Respectfully submitted,

MURPHY & GRANTLAND, P.A.



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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA)

COUNTY OF YORK)

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

Plaintiffs,)

vs.)

CBS Corporation, et al.,)

Defendants.)

In Re:)

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

STATE OF SOUTH CAROLINA)

COUNTY OF YORK)

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

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 SIXTH JUDICIAL CIRCUIT
C/A NO.: 2015-CP-46-02155

ORDER FOR RULE TO SHOW CAUSE

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

ORDER FOR RULE TO SHOW CAUSE

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 DENVER D. TAYLOR and JANICE)
 TAYLOR,)
)
 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.: 2018-CP-40-04940

ORDER FOR RULE TO SHOW CAUSE

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

THE STATE OF SOUTH CAROLINA
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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.

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AND

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Estate of if Wayne Ervin Howe, deceased, and Jeanette Howe, Plaintiffs

v.

COVIL CORPORATION, Defendant/RESPONDENT.

AND

CHARLES T. HOPPER AND REBECCA HOPPER, Plaintiffs/RESPONDENTS,

v.

Air & Liquid Systems Corporation, Covil Corporation, et al., Defendants,
of Whom COVIL CORPORATION is RESPONDENT.

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James Michael Hill, Plaintiffs

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CERTIFICATE OF SERVICE

I certify that a true copy of Sentry Insurance A Mutual Company's Joinder to Zurich American Insurance Company's Notice of Appeal in this case has been served on the following, this 10th day of October, 2019:

Robert G. Rikard
Jescelyn T. Spitz
Rikard & Protopapas
1329 Blanding Street
Columbia, SC 29201

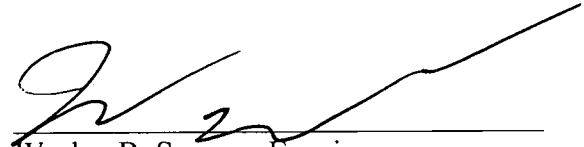
Jonathon Robinson
G. Murrell Smith, Jr.
Smith|Robinson
2530 Devine Street
Columbia, SC 29205

Attorneys for Receiver of Covil Corporation, Respondent

Peter H. Dworjanyn
Collins & Lacy, P.C.
P. O. Box 12487
Columbia, SC 29211

Attorney for Zurich American Insurance Company, Petitioner

MURPHY & GRANTLAND, P.A.

A handwritten signature in black ink, appearing to read 'Wesley B. Sawyer', is written over a horizontal line.

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