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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND AND YORK COUNTIES
Court of Common Pleas
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

Appellate Case No. 2019-001764

Ex Parte: Hartford Accident and Indemnity Company, Appellant

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, Plaintiff,

v.

Covil Corporation, et al., Defendants,
of whom Covil Corporation is Respondent.

and

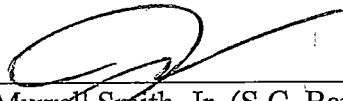
Denver D. Taylor and Janice Taylor, Plaintiff's

v.

Covil Corporation, et al., Defendants,
of whom Covil Corporation is Respondent.

MOTION TO DISMISS

Pursuant to Rule 240 of the South Carolina Rules of Appellate Procedure, the Receiver for Covil Corporation (Respondent), by and through the undersigned counsel, respectfully requests this Court dismiss the Notice of Appeal filed by Hartford Accident and Indemnity Company (Appellant) on October 18, 2019. The South Carolina Supreme Court has already ruled the Order Hartford attempts to appeal is interlocutory and not immediately appealable. Exhibit A, October 16, 2019 Supreme Court Orders, Appellate Case Nos. 2019-001651 and 2019-001654 (dismissing Notices of Appeal from the same order filed by Zurich American Insurance Company, Sentry Insurance a Mutual Company, and United States Fidelity and Guaranty Company). *See Grosshuesch v. Cramer*, 377 S.C. 12, 30, 659 S.E.2d 112, 122 (2008) (holding discovery orders are interlocutory and are not immediately appealable because they do not involve the merits of the action or affect a substantial right). As the Supreme Court has held this Order is not immediately appealable, Respondent respectfully requests this Court dismiss Appellant's Notice of Appeal.



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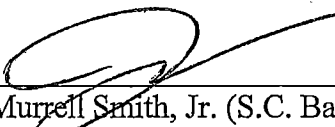
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ATTORNEYS FOR RESPONDENT

October 23, 2019.

The Supreme Court of South Carolina

Ex Parte: Zurich American Insurance Company, Sentry Insurance a Mutual Company and United States Fidelity and Guaranty Company, Appellants.

In Re:

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

v.

CBS Corporation, et al., Defendants,

In Re: Receivership of Covil Corporation by and through its Receiver Peter D. Protopas, Respondent.
and

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

v.

Air & Liquid Systems Corporation, et al., Defendants,

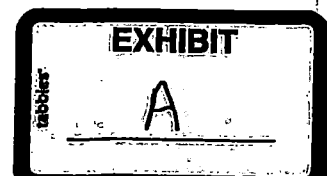
In Re: Receivership of Covil Corporation by and through its Receiver Peter D. Protopas, Respondent.

and

Charles T. Hopper and Rebecca Hopper, Plaintiffs,

v.

Air & Liquid Systems Corporation, et al., Defendants,



In Re: Receivership of Covil Corporation by and through
its Receiver Peter D. Protopas, Respondent.

and

James Michael Hill, Plaintiff,

v.

Advance Auto Parts, Inc., et al., Defendants.

In Re: Receivership of Covil Corporation by and through
its Receiver Peter D. Protopas, Respondent.

and

Denver D. Taylor and Janice Taylor, Plaintiffs,

v.

Air & Liquid Systems Corporation, et al., Defendants,

In Re: Receivership of Covil Corporation by and through
its Receiver Peter D. Protopas, Respondent.

Appellate Case No. 2019-001651

ORDER

Petitioners have filed Notices of Appeal from an order of the circuit court requiring Petitioners to locate and disclose a large number of documents to Respondent. Because discovery orders are not appealable, we dismiss the Notices of Appeal. *See Grosshuesch v. Cramer*, 377 S.C. 12, 30, 659 S.E.2d 112, 122, (2008) (holding discovery orders are interlocutory and are not immediately appealable because they do not involve the merits of the action or affect a substantial right); *Patterson v.*

The Supreme Court of South Carolina

Ex Parte: Zurich American Insurance Company, Sentry Insurance a Mutual Company, and United States Fidelity and Guaranty Company, Petitioners.

In Re:

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

v.

CBS Corporation, et al., Defendants,

In Re: Receivership of Covil Corporation by and through its Receiver Peter D. Protopas, Respondent.

and

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

v.

Air & Liquid Systems Corporation, et al., Defendants,

In Re: Receivership of Covil Corporation by and through its Receiver Peter D. Protopas, Respondent.

and

Charles T. Hopper and Rebecca Hopper, Plaintiffs,

v.

Air & Liquid Systems Corporation, et al., Defendants,

In Re: Receivership of Covil Corporation by and through
its Receiver Peter D. Protopas, Respondent.

and

James Michael Hill, Plaintiff,

v.

Advance Auto Parts, Inc., et al., Defendants.

In Re: Receivership of Covil Corporation by and through
its Receiver Peter D. Protopas, Respondent.

and

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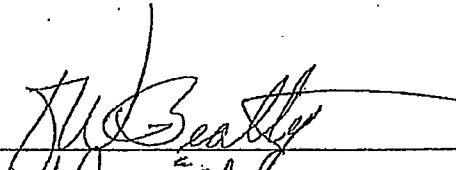
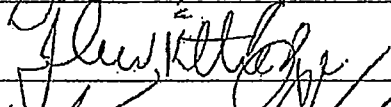
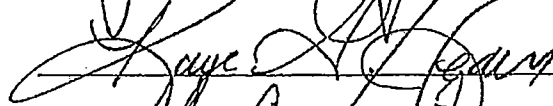


Air & Liquid Systems Corporation, et al., Defendants,

In Re: Receivership of Covil Corporation by and through
its Receiver Peter D. Protopas, Respondent.

Appellate Case No. 2019-001654

ORDER

United States Fidelity and Guaranty Company (USF&G) and Sentry Insurance a Mutual Company (Sentry) ask to join Zurich American Insurance Company in its request for a common law writ of certiorari to review an order of the circuit court requiring Petitioners to locate and disclose a large number of documents to Respondent. The motions to join are granted. We deny the petition for a writ of certiorari.


C.J.

J.

J.

J.

J.

Columbia, South Carolina

October 16, 2019

cc:

Peter H. Dworjanyn, Esquire
Laura Ruth Baer, Esquire
Robert G. Rikard, Esquire
Jescelyn Tillman Spitz, Esquire
Jonathan M. Robinson, Esquire
G. Murrell Smith, Jr., Esquire
Wesley Brian Sawyer, Esquire
The Honorable Jean Hoefler Toal
Lee H. Ogburn, Esquire
Ezra S. Gollogly, Esquire

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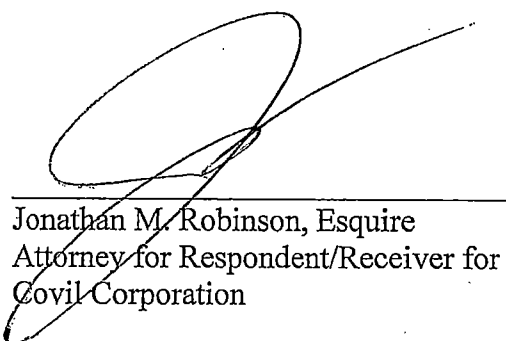
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CERTIFICATE OF SERVICE

I certify that a true copy of the Motion to Dismiss in this case has been served on the following, this 23rd day of October, 2019, by depositing a copy of it in the United States Mail, postage pre-paid:

Christy E. Mahon, Esquire
Sweeny, Wingate & Barrow, P.A.
PO Box 12129
Columbia, SC 29211
Attorney for Petitioner



Jonathan M. Robinson, Esquire
Attorney for Respondent/Receiver for
Covil Corporation

October 23, 2019