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Jun 11 2020

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 Hofer 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. 2020-000845

Ex Parte: United States Fidelity and Guaranty Company, Appellant,
v.
Peter D. Protopapas, in his capacity as Receiver of Covil Corporation, Respondent,

In Re:

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

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 Corporations; Celanese Corporation f/k/a Hoechst
Celanese Corporation (Sued Individually and as 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 and Guaranty Company; Uniroyal, Inc., f/k/a United States Rubber Company,
Inc.; and United Conveyor Corporation, Defendants,

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, 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 Productions, Inc., f/k/a Carolina Gasket and Rubber Company; CAN

Holdings, Inc., f/k/a Hoechst Celanese Corporation; Celanese Corporation 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 Babock 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.; Sterline 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; and Zurn Industries, Defendants.

AND

Charles T. Hopper and Rebecca Hopper, Plaintiffs,

v.

Air & Liquid Systems Corp.; 3M Company; Advance Auto Parts, Inc.; Armstrong International, Inc.; Blackmer Pump Company; BW/IP, Inc.; CBS Corporation; CNA Holdings, LLC; Carrier Corporation; Circor Instrumentation Technologies, Inc.; Continental Tire the Americas, LLC; Covil Corporation; Crane Co.; Crosby Valve, LLC; Daniel International Corporation; E.I. du Pont de Nemours and Company; Fisher Controls International, LLC; Flowserve Corporation; Flowserve US Inc.; Fluor Constructors International; Fluor Constructors International, Inc.; Fluor Daniel Services Corporation; Fluor Enterprises, Inc.; FMC Corporation; Ford Motor Company; Foster Wheeler Energy Corporation; Gardner Denver, Inc.; General Electric Company; Genuine Parts Company; Georgia Power Company; Goodrich Corporation; Gorman-Rupp Company; Goulds Pumps, Incorporated; Grinnell, LLC; Hobart Brothers LLC; Honeywell International, Inc.; IMO Industries, Inc.; Ingersoll-Rand Company; International Paper Company; ITT LLC; The Lincoln Electric Company; Metropolitan Life Insurance Company; Miller Electric Mfg., LLC; National Automotive Parts Association; Newco Valves, LLC; O'Reilly Auto Enterprises, LLC; O'Reilly Automotive Stores, Inc.; Resolute FP US Inc.; Shell Oil Company; South Carolina Electric & Gas Company; South Carolina Public Service Authority; Spirax Sarco, Inc.; SPX Cooling Technologies, Inc.; Southern Insulation, Inc.; Starr Davis Company, Inc.; Starr Davis Company of S.C., Inc.; Trane U.S.; Uniroyal Holding Inc.; Viking Pump, Inc.; Weir Valves & Controls USA, Inc.; The William Powell Company; Yeargin Potter Smith Construction, Inc.; Yuba Heat Transfer Corporation; and Zurn Industries, Defendants,

AND

James Michael Hill, Plaintiff,

v.

Advance Auto Parts, Inc.; 4520 Corp., Inc., Successor-in-Interest to Benjamin F. Shaw Company; Air & Liquid Systems Corporation, individually and as Successor-in-Interest to Buffalo Pumps; Alcoa, Inc., successor to Reynolds Metals Company; Aurora Pump Company; BW/IP, Inc., individually and as Successor-in-Interest to Byron Jackson Pumps; CB&I Group Inc., individually and as Successor-in-Interest to The Shaw Group, successor to Benjamin F. Shaw Company; CB&I Laurens, Inc., f/k/a B.F. Shaw, Inc.; 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; Celanese Corporation; CAN Holdings, LLC, f/k/a Celanese Corporation f/k/a Hoechst Celanese Corporation, sued individually and as Successor-in-Interest to Fiber Industries, Inc.; Circor Instrumentation Technologies, Inc., individually and f/k/a Hoke Inc.; Cleaver Brooks, Inc., f/k/a Aqua-Chem, Inc., d/b/a Cleaver-Brooks Division; Covil Corporation; Crane Co.; Crosby Valve, LLC; Dana Companies LLC; Daniel International Corporation; The Dow Chemical Company; Federal-Mogul Asbestos Personal Injury Trust, sued as successor to Felt-Products Manufacturing Co.; Fisher-Controls International, LLC, wholly owned subsidiary of Emerson Electric Company; Fluor Constructors International, f/k/a Fluor Corporation; Fluor Enterprises, Inc.; Foster Wheeler Energy Corporation; General Electric Company; Genuine Parts Company, d/b/a Rayloc, a/k/a NAPA; The Goodyear Tire & Rubber Company; Goulds Pumps, Inc.; Gorman-Rupp Company; Hollingsworth & Vose Company; Honeywell International, Inc., f/k/a Allied-Products Liability Signal, Inc., sued as Successor-in-Interest to Bendix Corporation; Imerys Talc America, Inc., f/k/a Luzernac America, Inc., individually and as Successor-in-Interest to United Sierra Division of Cyprus Mines, Cyprus Industrial Minerals Company and Windsor Minerals, LLC; Ingersoll-Rand Company; International Paper Company; ITT LLC, f/k/a ITT Corporation, ITT Industries, Inc., individually and as successor to ITT Fluid Products Corp., ITT Hoffman ITT Bell & Gossett Company and ITT Marlow; Johnson & Johnson; Johnson & Johnson Consumer Companies LLC, a subsidiary of Johnson & Johnson; Mallinckrodt LLC; Maremont Corporation; McDermott International, Inc., individually and as Successor-in-Interest to The Shaw Group, successor to Benjamin F. Shaw Company; McNeil (Ohio) Corporation; McNeil & NRM, Inc.; Metropolitan Life Insurance Company, a Wholly-Owned Subsidiary of Metlife Inc.; Mine Safety Appliances Company, LLC; National Automotive Parts Association; OfficeMax, Incorporated, f/k/a Boise Cascade Corporation; Pneumo Abex, LLC, individually and as Successor-in-Interest to Abex Corporation; R.J. Reynolds Tobacco Company, individually and as Successor-by-Merger to Lorillard Tobacco Company LLC, f/k/a Lorillard Tobacco Company; Resolute FP US Inc., individually and as Successor-in-Interest to Bowater, Inc.; Reynolds American, Inc., individually and as Successor-by-Merger to The American Tobacco Company; Riley Power, Inc., f/k/a Riley Stoker Corporation and D.B. Riley, Inc.; Spence Engineering Company, Inc.; Spriax Sarco, Inc.; SPX Cooling Technologies, Inc., individually and as Successor-in-Interest to Marley Cooling Towers Co.; Union Carbide Corporation; United Conveyor Corporation; The William Powell Company; and Zurn Industries, LLC, individually and as Successor-in-Interest to Zurn Industries, Inc., Defendants,

AND

Denver D. Taylor and Janice Taylor, Plaintiff's

v.

Air & Liquid Systems Corporation; Aurora Pump Company; BASF Catalyst LLC; BASF Corporation; BorgWarner Morse Tec, LLC; CBS Corporation; CAN Holdings, LLC; Cameron International Corporation; Carrier Corporation; Carver Pump Company; Caterpillar, Inc.; Celanese Corporation; Cleaver-Brooks, Inc.; Continental Tire The Americas, LLC; Covil Corporation; Crane Co.; Daniel International Corporation; Fisher Controls International, LLC; Flowserve Corporation; Flowserve US Inc.; Fluor Constructors International; Fluor Constructors International, Inc.; Fluor Daniel Services Corporation; Fluor Enterprises, Inc.; FMC Corporation; Foster Wheeler Energy Corporation; Frito-Lay, Inc.; Gardner Denver, Inc.; General Electric Company; The Gorman-Rupp Company; Goulds Pumps, Incorporated; Grinnell, LLC; Hobart Brothers LLC; Ingersoll-Rand Company; International Paper Company; ITT LLC; John Crane, Inc.; The Lincoln Electric Company; Linde, LLC; McNeil (Ohio) Corporation; McNeil & NRM, Inc.; McWane, Inc.; Metropolitan Life Insurance Company; Resolute FP US Inc.; Riley Power, Inc.; Spriax Sarco, Inc.; SPX Cooling Technologies, Inc.; Springs Global US, Inc.; Trane US, Inc.; Viking Pump, Inc.; Warren Pumps, LLC; Weir Valves & Controls USA, Inc.; York International Corporation; and Zurn Industries, LLC, Defendants.

MOTION TO DISMISS

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, Peter D. Protopapas, in his capacity as the Receiver for Covil Corporation (“Respondent”), by and through the undersigned counsel, respectfully requests this Court dismiss the Notice of Appeal filed by United States Fidelity and Guaranty Company (“USF&G”) on June 5, 2020.

While overtly rejecting any notion that it is a party to any of the actions which are the subject of this appeal, USF&G seeks to thwart and delay court-ordered settlements in those actions through its ongoing impermissible filings.¹ USF&G now attempts to appeal the following orders

¹ Due to the repeated baseless filings and attempts by non-party USF&G to delay and frustrate (1) the Receiver’s voluntary settlements with its insurance carriers and (2) the Receiver Court’s administration of the Receivership, Respondent has filed motions which are pending in the Receiver Court for Sanctions Pursuant to Rule 11 and the South Carolina Frivolous Proceedings Act. As the impact of the non-party’s past and continuing attempts to thwart the Receiver’s settlement with the settling insurers may involve significant monetary damages, Receiver may seek additional appropriate relief as permitted under South Carolina law.

of the Honorable Jean Hofer Toal: (1) April 10, 2020 Order approving settlements between Respondent and Sentry Insurance A Mutual Company (“Sentry”); Respondent and TIG Insurance Company, as successor to Ranger Insurance Company (“TIG”); and Respondent and Hartford Accident and Indemnity Company and First State Insurance Company (collectively, “Hartford”) and establishing a Qualified Settlement Fund; and (2) May 6, 2020 Order denying its motion to reconsider and motion to stay. However, USF&G is not a party to the cases it attempts to appeal and never moved to intervene as a party. USF&G has, at all times applicable hereto, asserted its non-party status and reiterated it was not subject to the jurisdiction of the circuit court.² In fact, USF&G admits and reasserts its non-party status to these cases in its Notice of Appeal. *See* June 5, 2018 Notice of Appeal (“Please take notice that non-party United States Fidelity and Guaranty Company” and “USF&G is not a party to these matters”).

As an admitted non-party to the April 10, 2020 Order and May 6, 2020 Order, USF&G does not have the ability to appeal, and Respondent respectfully requests this Court dismiss its Notice of Appeal. South Carolina law is clear that “[o]nly *a party* aggrieved by an order, judgment, sentence or decision may appeal.” Rule 201(b), SCACR (emphasis added). The South Carolina Rules of Civil Procedure and South Carolina Appellate Court Rules do not allow litigants to take advantage of South Carolina courts only when convenient or to choose which Rules of Appellate Procedure they believe should apply. A litigant must be a party to appeal, and, if that litigant is not a party originally, it can move before the circuit court to intervene as a party. The failure to formally intervene as a party is fatal to USF&G’s ability to appeal.

Respondent respectfully requests the Court dismiss this improper Notice of Appeal as

² For example, on April 20, 2020, USF&G filed “Non-Party USF&G’s Motion to Stay” and “Non-Party USF&G’s Motion to Reconsider, Alter, or Amend Approval Order of April 10, 2020.”

USF&G, like all other litigants in South Carolina, is required to stay within the bounds of South Carolina law and procedure in seeking relief from South Carolina appellate courts and must be a party in order to appeal an order.

APPLICABLE LAW

In *Ex parte S.C. Dep't of Motor Vehicles*, the South Carolina Supreme Court dismissed an appeal brought by the South Carolina Department of Motor Vehicles (“SCDMV”) because it was not a party to the action. 390 S.C. 457, 458, 702 S.C.2d 568, 568 (2010). In the action, the plaintiff petitioned the circuit court for a driver’s license and served the complaint on the Solicitor’s Office pursuant to a statute. *Id.* at 457, 702 S.E.2d at 568. The State of South Carolina did not object to the plaintiff’s petition, and the circuit court granted the petition. *Id.* After the plaintiff served the order on SCDMV, SCDMV filed motions to reconsider pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure. *Id.* However, SCDMV never intervened as a party in the action pursuant to Rule 24 of the South Carolina Rules of Civil Procedure. *Id.* As such, the circuit court found SCDMV lacked the ability to challenge the order and denied the motions to reconsider. *Id.* SCDMV subsequently appealed and “attempted to portray itself as a party in the case” by improperly adding themselves in the caption of the action. *Id.* at 458, 702 S.E.2d at 568. The Supreme Court found SCMDV did not have the ability to appeal and it was not an aggrieved party because it never moved to formally intervene. *Id.* The Supreme Court found their “unilateral[.]” change of the caption without “court authorization” was improper and did not cure its failure to intervene as a party in the action. *Id.*

Similarly, in *Condon v. State*, the South Carolina Supreme Court dismissed an appeal brought by the South Carolina Attorney General because the Attorney General was not a party to the action and never moved to intervene as a party pursuant to Rule 24. 354 S.C. 634, 640–44,

583 S.E.2d 430, 433–35 (2003). In *Condon*, the respondents brought a class action suit against the State of South Carolina, the South Carolina Department of Revenue, and several retail establishments. *Id.* at 636, 583 S.E.2d at 431. The parties reached a settlement agreement, and the circuit court gave preliminary approval for the agreement, allowing thirty days for objections. *Id.* at 636–37, 583 S.E.2d at 431. Subsequently, the Attorney General filed objections to the award of attorney’s fees in the settlement agreement. *Id.* at 637, 583 S.E.2d at 431. “None of the parties objected to the settlement or to the award of attorney’s fees.” *Id.* The circuit court held a hearing and heard arguments from the Attorney General on the issue of attorney’s fees. *Id.* at 637, 583 S.E.2d at 431–32. The circuit court issued an order approving the settlement agreement and awarding attorney’s fees, and the Attorney General appealed. *Id.* at 638, 583 S.E.2d at 432.

In arguing he had standing to appeal, the Attorney General admitted he was a non-party, “but argue[d] that his duty to protect the public interest enable[d] him to bring th[e] appeal, even as a non[-]party.” *Id.* at 640, 583 S.E.2d at 433. The Supreme Court disagreed, noting that although the Attorney General’s power was broad, “this Court has never held that the Attorney General’s authority to do so is unlimited or somehow uniquely exempts him from acting in accordance with the Rules of Civil Procedure.” *Id.* at 641–42, 583 S.E.2d at 434. The Supreme Court explained:

[T]he Attorney General is *required*, like everyone else, to formally intervene and become a named party before he can file an appeal. Accordingly, we dismiss this appeal based on the Attorney General's failure to move for intervention as required by Rule 24, SCRPC. Such a ruling avoids the necessity of addressing the Attorney General's standing to become involved in this action, and makes clear that the Attorney General is required to follow the Rules of Civil Procedure when he wishes to become involved in a case.

Id. at 642, 583 S.E.2d at 434 (emphasis original). The Court further noted its “holding serves the public interest in the finality of settlement agreements.” *Id.*

DISCUSSION

Both *Ex Parte S.C. Dep't of Motor Vehicles* and *Condon* are directly applicable to this case. USF&G is not a party to the settlement and, as such, did not have the ability to object to the settlements. The proper procedure for USF&G to object to the settlements or the circuit court's Orders would have been to formally intervene as a party pursuant to Rule 24 and submit itself to the jurisdiction of the court. *See Condon*, 354 S.C. at 640, 583 S.E.2d at 433 (explaining Rule 24 “provides for both intervention of right and permissive intervention, and requires that . . . “a person desiring to intervene shall serve a motion to intervene upon the parties” (quoting Rule 24, SCRPC)). As *Condon* clearly explains, “everyone” is “required . . . to formally intervene and become a named party before he can file an appeal.” *Id.* at 642, 583 S.E.2d at 434. There are no exceptions, not even for the Attorney General who has broad “statutory and common law authority in his capacity as the chief legal officer of the State to institute actions involving the welfare of the State and its citizens.” *Id.* at 641, 583 S.E.2d at 434.

Even after Respondent raised USF&G's lack of ability to object to the settlement agreements and the April 10, 2020 Order due to its status as a non-party, and the circuit court found it lacked an ability to object due to its status as a non-party, USF&G did not attempt to intervene as a party in the action. Instead, USF&G filed a motion to reconsider the April 10, 2020 Order reasserting its status as a non-party. USF&G has made a conscious effort not to intervene as a party in these actions, despite the circuit court repeatedly informing USF&G it would not have the ability to raise any objections until it formally intervened in the actions. *See, e.g.*, April 10, 2020 Order, C/A No. 2015-CP-46-02155, at 11 (“[T]he Objecting Insurers repeated assertion that they are non-parties to the case (and their decision not to intervene) is fatal to their objections because they do not have standing to challenge the Motions under their own theory.”) and May 6, 2020

Order, C/A No. 2015-CP-46-02155, at 16 (“The fact remains that they are not parties, despite having had months to intervene in these proceedings.”). Much like the Attorney General, USF&G is not somehow exempted from “acting in accordance with the Rules of Civil Procedure.” *See id.* at 641–42, 583 S.E.2d at 434. Like the settlement in *Condon*, USF&G was not a party to the settlements in the instant cases, and no party to the settlements objected to their approval. *See id.* at 637, 583 S.E.2d at 431 (“None of the parties objected to the settlement or to the award of attorney’s fees.”).

In an effort to distract the Court from their inability to appeal due to their status as a non-party, USF&G unilaterally changed the caption on its Notice of Appeal to read “*Ex Parte: United States Fidelity and Guaranty Company v. Peter D. Protopapas, in his capacity as Receiver of Covil Corporation.*” *See* June 5, 2020 Notice of Appeal. As the Supreme Court indicated in *Ex Parte S.C. Dep’t of Motor Vehicles*, this “attempt[] to portray itself as a party in the case” is improper. *See* 390 S.C. at 458, 702 S.E.2d at 568; *see also* Rule 267(a) (explaining all documents filed in the appellate courts must include the title of the case in the lower court). A litigant does not transform into an aggrieved party with the ability to appeal an order by “unilaterally and without court authorization” changing the case caption to style themselves as a party. *See id.* South Carolina law is clear—a person cannot appeal an order unless they are a party. If a person who is not a party believes its rights will be impaired by an order, South Carolina law provides a method for it to intervene to have those objections heard. USF&G chose not to do this and is therefore precluded from seeking relief in this Court.

CONCLUSION

South Carolina law clearly provides a method for interested persons to formally intervene in an action in order to have the ability to voice their concerns or protect their purported rights.

USF&G made a specific and conscious choice not to do so. As noted in *Condon*, South Carolina has a strong public interest in the finality of settlement agreements. *Id.* at 642, 583 S.E.2d at 434. USF&G is not a party to these settlement agreements or these actions, and none of the parties to these settlement agreements or actions objected to their approval. Because USF&G is not a party and never attempted to intervene as a party, it does not have the ability to appeal under South Carolina law, and this appeal should be dismissed.

Respectfully submitted,

s/ G. Murrell Smith, Jr. _____

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James Michael Hill, Plaintiff,

v.

Advance Auto Parts, Inc.; 4520 Corp., Inc., Successor-in-Interest to Benjamin F. Shaw Company; Air & Liquid Systems Corporation, individually and as Successor-in-Interest to Buffalo Pumps; Alcoa, Inc., successor to Reynolds Metals Company; Aurora Pump Company; BW/IP, Inc., individually and as Successor-in-Interest to Byron Jackson Pumps; CB&I Group Inc., individually and as Successor-in-Interest to The Shaw Group, successor to Benjamin F. Shaw Company; CB&I Laurens, Inc., f/k/a B.F. Shaw, Inc.; 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; Celanese Corporation; CAN Holdings, LLC, f/k/a Celanese Corporation f/k/a Hoechst Celanese Corporation, sued individually and as Successor-in-Interest to Fiber Industries, Inc.; Circor Instrumentation Technologies, Inc., individually and f/k/a Hoke Inc.; Cleaver Brooks, Inc., f/k/a Aqua-Chem, Inc., d/b/a Cleaver-Brooks Division; Covil Corporation; Crane Co.; Crosby Valve, LLC; Dana Companies LLC; Daniel International Corporation; The Dow Chemical Company; Federal-Mogul Asbestos Personal Injury Trust, sued as successor to Felt-Products Manufacturing Co.; Fisher-Controls International, LLC, wholly owned subsidiary of Emerson Electric Company; Fluor Constructors International, f/k/a Fluor Corporation; Fluor Enterprises, Inc.; Foster Wheeler Energy Corporation; General Electric Company; Genuine Parts Company, d/b/a Rayloc, a/k/a NAPA; The Goodyear Tire & Rubber Company; Goulds Pumps, Inc.; Gorman-Rupp Company; Hollingsworth & Vose Company; Honeywell International, Inc., f/k/a Allied-Products Liability Signal, Inc., sued as Successor-in-Interest to Bendix Corporation; Imerys Talc America, Inc., f/k/a Luzernac America, Inc., individually and as Successor-in-Interest to United Sierra Division of Cyprus Mines, Cyprus Industrial Minerals Company and Windsor Minerals, LLC; Ingersoll-Rand Company; International Paper Company; ITT LLC, f/k/a ITT Corporation, ITT Industries, Inc., individually and as successor to ITT Fluid Products Corp., ITT Hoffman ITT Bell & Gossett Company and ITT Marlow; Johnson & Johnson; Johnson & Johnson Consumer Companies LLC, a subsidiary of Johnson & Johnson; Mallinckrodt LLC; Maremont Corporation; McDermott International, Inc., individually and as Successor-in-Interest to The Shaw Group, successor to Benjamin F. Shaw Company; McNeil (Ohio) Corporation; McNeil & NRM, Inc.; Metropolitan Life Insurance Company, a Wholly-Owned Subsidiary of Metlife Inc.; Mine Safety Appliances Company, LLC; National Automotive Parts Association; OfficeMax, Incorporated, f/k/a Boise Cascade Corporation; Pneumo Abex, LLC, individually and as Successor-in-Interest to Abex Corporation; R.J. Reynolds Tobacco Company, individually and as Successor-by-Merger to Lorillard Tobacco Company LLC, f/k/a Lorillard Tobacco Company; Resolute FP US Inc., individually and as Successor-in-Interest to Bowater, Inc.; Reynolds American, Inc., individually and as Successor-by-Merger to The American Tobacco Company; Riley Power, Inc., f/k/a Riley Stoker Corporation and D.B. Riley, Inc.; Spence Engineering Company, Inc.; Spriax Sarco, Inc.; SPX Cooling Technologies, Inc., individually and as Successor-in-Interest to Marley Cooling Towers Co.; Union Carbide Corporation; United Conveyor Corporation; The William Powell Company; and Zurn Industries, LLC, individually and as Successor-in-Interest to Zurn Industries, Inc., Defendants,

AND

Denver D. Taylor and Janice Taylor, Plaintiff's

v.

Air & Liquid Systems Corporation; Aurora Pump Company; BASF Catalyst LLC; BASF Corporation; BorgWarner Morse Tec, LLC; CBS Corporation; CAN Holdings, LLC; Cameron International Corporation; Carrier Corporation; Carver Pump Company; Caterpillar, Inc.; Celanese Corporation; Cleaver-Brooks, Inc.; Continental Tire The Americas, LLC; Covil Corporation; Crane Co.; Daniel International Corporation; Fisher Controls International, LLC; Flowserve Corporation; Flowserve US Inc.; Fluor Constructors International; Fluor Constructors International, Inc.; Fluor Daniel Services Corporation; Fluor Enterprises, Inc.; FMC Corporation; Foster Wheeler Energy Corporation; Frito-Lay, Inc.; Gardner Denver, Inc.; General Electric Company; The Gorman-Rupp Company; Goulds Pumps, Incorporated; Grinnell, LLC; Hobart Brothers LLC; Ingersoll-Rand Company; International Paper Company; ITT LLC; John Crane, Inc.; The Lincoln Electric Company; Linde, LLC; McNeil (Ohio) Corporation; McNeil & NRM, Inc.; McWane, Inc.; Metropolitan Life Insurance Company; Resolute FP US Inc.; Riley Power, Inc.; Spriax Sarco, Inc.; SPX Cooling Technologies, Inc.; Springs Global US, Inc.; Trane US, Inc.; Viking Pump, Inc.; Warren Pumps, LLC; Weir Valves & Controls USA, Inc.; York International Corporation; and Zurn Industries, LLC, Defendants.

PROOF OF SERVICE

I certify that a true copy of the Motion to Dismiss in this case has been served on the following, this 11th day of June, 2020, by emailing a copy to each attorney listed below using their primary email address listed in the Attorney Information System pursuant to subsection (g)(3) of the South Carolina Supreme Court's March 20, 2020 Order. Pursuant to subsection (g)(3) of the South Carolina Supreme Court's March 20, 2020 Order, service on the attorneys admitted pro hac vice is accomplished by service on the associated South Carolina lawyer.

Pleading: Motion to Dismiss USF&G's Petition for a Writ of Supersedeas

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June 11, 2020.

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Subject: Appellate Case No.: 2020-000845; Ex parte: USF&G, Appellant vs. Peter D. Protopapas,
in his Capacity as Receiver of Covil Corporation, Respondent
Attachments: Motion to Dismiss Appeal.pdf; Certificate of Service for Motion to Dismiss.pdf

Good Evening,

Please find attached Respondent's Motion to Dismiss the Notice of Appeal filed on June 5, 2020, that we are filing in the Court of Appeals today, served on you pursuant to the Supreme Court's pursuant to subsection (g)(3) of the Supreme

Court's May 29, 2020 Amended Order discussing the operation of the appellate courts during the coronavirus emergency.

Thank you,
Shanon

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June 11, 2020

The Honorable Jenny Abbott Kitchings
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RECEIVED
Jun 11 2020
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RE: Ex Parte: United States Fidelity and Guaranty Company
Appellate Case No. 2020-000845
Our File No. 19.075

Dear Ms. Kitchings:

Please find attached for filing, the Motion to Dismiss USF&G's Notice of Appeal filed on behalf of Respondent Peter D. Protopapas, in his capacity as the Receiver for Covil Corporation, in the above-referenced case, via the Court of Appeals OneDrive. Please let me know if anything further is needed.

Sincerely,

SMITH, ROBINSON, HOLLER,
DuBOSE AND MORGAN, LLC

s/G. Murrell Smith, Jr.

G. Murrell Smith, Jr.

GMS/dlf

Enclosures