

Jun 26 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 Hoefler 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.

PROOF OF SERVICE

I certify that a true copy of the Respondent's Reply to USF&G's Return to Motion to Dismiss in this case has been served on the following, this 26th 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 May 29, 2020 Amended Order. Pursuant to subsection (g)(3) of the South Carolina Supreme Court's May 29, 2020 Amended Order, service on the attorneys admitted pro hac vice is accomplished by service on the associated South Carolina lawyer.

Pleading: Respondent's Reply to USF&G's Return to Motion to Dismiss

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Attorney for Respondent Peter D. Protopapas, in his
capacity as the Receiver for Covil Corporation

June 26, 2020.

From: [Jon Robinson](#)
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Subject: RE: Appellate Case No. 2020-000845 -Respondent's Reply to USF&G's Return in Opposition to Motion to Dismiss Appeal
Date: Friday, June 26, 2020 3:51:35 PM
Attachments: [image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[Reply to USFGs Return in Opposition to Motion to Dismiss SNP Edits to BS....pdf](#)
[Proof of Service -Reply to USFG Return to Mtn to Dismiss.pdf](#)

Good Afternoon,

Please find attached a copy of Respondent's Reply to USF&G's Return in Opposition to Motion to Dismiss Appeal that is being filed in the Court of Appeals today, served on you pursuant to subsection (g)(3) of the South Carolina Supreme Court's amended order discussing the operation of the appellate courts during the coronavirus emergency.

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Do to others as you would have them do to you. Luke 6:31

From: Carroll, Todd [mailto:Todd.Carroll@wbd-us.com]

Sent: Monday, June 22, 2020 10:55 PM

To: Shanon Peake <shanonp@smithrobinsonlaw.com>; Jon Robinson <jon@smithrobinsonlaw.com>; Murrell Smith <murrell@smithrobinsonlaw.com>; Edwards, Brady <brady.edwards@morganlewis.com>; Zevnik, Paul A. <paul.zevnik@morganlewis.com>; Rodriguez, Suzanne <SRodriguez@brblegal.com>; 'WBulfer@teaguecampbell.com' <WBulfer@teaguecampbell.com>; 'blove@teaguecampbell.com'; 'wsawyer@murphygrantland.com' <wsawyer@murphygrantland.com>; 'jrmurphy@murphygrantland.com'; 'jruggeri@goodwin.com'; 'eparks@goodwin.com'; 'mmorrison@goodwin.com'; 'AWilliams@goodwin.com'; 'CEM@swblaw.com'; 'dobrien@brookspierce.com'; 'greg.may@nelsonmullins.com' <greg.may@nelsonmullins.com>; 'matt.abee@nelsonmullins.com' <matt.abee@nelsonmullins.com>; 'Bob.calamari@nelsonmullins.com' <Bob.calamari@nelsonmullins.com>; 'lindsay@rplegalgroup.com'; 'lauren.mcculloch@morganlewis.com'; 'catherine.hounfodji@morganlewis.com'; 'nancy.patterson@morganlewis.com' <nancy.patterson@morganlewis.com>; 'Tommy.Boger@WallTempleton.com'; 'Mark.Wall@WallTempleton.com'; 'Ashley.brathwaite@elliswinters.com'; 'rgr@rplegalgroup.com'; 'rtate@gwblawfirm.com'; 'dwhite@gwblawfirm.com'; 'atwilley@gwblawfirm.com'; 'ageddes@nexsenpruet.com'; 'jdean@dobllp.com' <jdean@dobllp.com>; 'jholder@dobllp.com' <jholder@dobllp.com>; 'yancey@bouchmcleod.com' <yancey@bouchmcleod.com>; 'tim@bouchmcleod.com' <tim@bouchmcleod.com>; 'bgraham@wallacegraham.com' <bgraham@wallacegraham.com>; 'mwallace@wallacegraham.com'; 'pdworjanyn@collinsandlacy.com' <pdworjanyn@collinsandlacy.com>; 'wpowell@brunerpowell.com' <wpowell@brunerpowell.com>; 'cclark@brunerpowell.com'; 'wcollins@dougallfirm.com'; 'jdavis@ycrlaw.com'; 'eric@greenvillesclaw.com'; 'dharris@goldbergsegalla.com'; Hall, Kevin <Kevin.Hall@wbd-us.com>; 'jkassel@kassellaw.com' <jkassel@kassellaw.com>; 'tmcvey@kassellaw.com'; 'jrutkoski@kassellaw.com'; 'spugh@richardsonplowden.com'; 'jthoensen@richardsonplowden.com'; 'greg.horton@wbd-us.com'; 'chuck.baker@wbd-us.com'; O'Neill, Elizabeth <Elizabeth.ONeill@wbd-us.com>; 'terry.brown@wbd-us.com' <terry.brown@wbd-us.com>; 'jelliott@richardsonplowden.com'; 'mwhite@richardsonplowden.com'

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Subject: RE: Appellate Case No. 2020-000845 - Respondent's Memorandum on Appealability

Counsel,

Please find attached USF&G's return in opposition to the Respondent's motion to dismiss Appellate Case No. 2020-000845, along with a proof of service. These materials, along with an accompanying appendix, are being e-filed today and are served on you pursuant to subsection (g)(3) of the South Carolina Supreme Court's amended order discussing the operation of the appellate courts during the coronavirus emergency. The appendix can be downloaded through the link below, which has no sign-in requirements and does not require any credentialing in order to access the materials:

<https://download.wbd-us.com/bds/Login.do?id=A0555821112&p1=o2j007wsbgggjdcccdlccffijj20>

Best,

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Subject: Appellate Case No. 2020-000845 - Respondent's Memorandum on Appealability

Good Afternoon,

Please find attached a copy of Respondent's Memorandum on Appealability that is being filed in the Court of Appeals today, served on you pursuant to subsection (g)(3) of the South Carolina Supreme Court's amended order discussing the operation of the appellate courts during the coronavirus emergency.

Thank you,
Shanon

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