

12(b)(6) motion to dismiss, later modified to 12(b)(1), based on the South Carolina Supreme Court's holding in *Poch v. Bayshore* that workers-compensation tort immunity accorded to an employer extends to related entities if those entities were sufficiently economically integrated with the employer at the time of the plaintiff's injury, based on a non-exclusive eight-factor test. *See* 405 S.C. 359, 747 S.E.2d 757 (2012). The *Poch* test is a jurisdictional analysis that focuses exclusively on economic integration between the defendants and the plaintiff's employer. *See id.* A *Poch*-based defense does not address the merits of the plaintiff's underlying tort claims. During the pendency of this motion, the Court stayed merits discovery as to the KapStone Defendants.

On February 26, 2020, this Court granted the KapStone Defendants' motion to dismiss, having found that a preponderance of the evidence showed the KapStone Defendants were sufficiently economically integrated with KapStone Charleston to be considered "one economic entity" for workers' compensation purposes. On March 9, 2020, the Plaintiffs filed a motion to reconsider, which the Court denied on August 7, 2020. The KapStone Defendants have now filed a motion requesting the Court certify its dismissal as a final judgment.

II. Rule 54 (b) Certification

In a case involving multiple claims against multiple parties, Rule 54(b), SCRCPP, allows the Court to enter final judgment on certain claims against certain parties, to permit the timeline for appeal to commence as to those claims. *See Tommy L. Griffin Plumbing & Heating Co. v. Jordan, Jones & Goulding, Inc.*, 351 S.C. 459, 468, 570 S.E.2d 197, 201 (Ct. App. 2002). Where the case is not certified as a final judgment, the timeline for appeal is tolled until conclusion of the underlying case. *See id.*

There is no just cause for the Court to delay certifying its dismissal of the KapStone Defendants as a final judgment. The basis for the dismissal of the KapStone Defendants under

Poch is independent of Plaintiffs' underlying tort claims against the remaining Defendants.

Accordingly, this Court certifies that its February 26, 2020 dismissal of the KapStone Defendants, pursuant to Rule 12(b)(1), SCRPC, is a final judgment, so that an immediate appeal of its underlying order may be pursued.

AND SO IT IS ORDERED,

The Honorable Jennifer B. McCoy

Date



Charleston Common Pleas

Case Caption: Jacque Lucas , plaintiff, et al VS KapStone Paper and Packaging Corporation , defendant, et al

Case Number: 2017CP1000838

Type: Order/Other

So Ordered

s/Jennifer B. McCoy #2764