
UNITED STATES DISTRICT COURT
for the
District of South Carolina

Ashley II of Charleston, LLC,

Plaintiff

v. Civil Action No. 2:05-2782-MBS

PCS Nitrogen, Inc.,

Defendant, Third Party Plaintiff

v.

Ross Development Corporation; Koninklijke
DSM N.V.; DSM Chemicals of North America
Inc.; J. Holcombe Enterprises, L.P.; James H,
Holcombe; J. Henry Fair, Jr.; Allwaste Tank
Cleaning, Inc. n/k/a PSC Container Services,
LLC; Robin Hood Container Express, Inc.; City
of Charleston, South Carolina

Third Party Defendants

SECOND AMENDED JUDGMENT IN A CIVIL ACTION

The court has ordered that (*check one*):

■ other: PCS Nitrogen, Inc., is successor-in-interest to former Site owner, Columbia Nitrogen Corporation.

This action was (*check one*):

■ tried by the Honorable Weston C. Houck, United States District Judge presiding, without a jury and the above decision was reached. The court having made is Finding of Fact and Conclusions of Law.

It is further ordered that (*check one*):

■ the plaintiff, Ashley II of Charleston, LLC., recover from the defendant, PCS Nitrogen Inc., the amount of One Hundred Forty-Seven Thousand, Six Hundred Seventeen and 02/100 (147,617.02) Dollars plus interest against PCS Nitrogen Inc which represents the sum of One Hundred Ninety-Four Thousand, Two Hundred Thirty-Two and 94/100 (\$194,232.94) Dollars that Ashley spent in past response costs for which PCS is jointly and severally liable minus applicable set-offs. The defendant, PCS Nitrogen Inc., shall recover from the Third-Party defendant, Ross Development Corporation the amount of Eighty-Seven Thousand, Four Hundred Four and 82/100 (\$87,404.82) Dollars plus interest, the defendant PCS Nitrogen Inc., shall recover from Third-Party defendant, Robin Hood Container Express Inc., the amount of One Thousand, Nine Hundred Forty-Two and 32/100 (\$1,942.32) Dollars, plus interest which represents those parties' respective shares of Ashley II of Charleston's past response costs. Post Judgment interest shall run at a rate of .25. %

■ declaratory judgment is entered for plaintiff, Ashley II of Charleston, LLC against defendant, PCS Nitrogen Inc., for 76% of future response costs at the Site, which represents the percentage of future response costs for which PCS is jointly and severally liable minus applicable set-offs.

■ declaratory judgment is entered for Third-Party plaintiff, PCS Nitrogen Inc., against Third-Party defendant, Ross Development Corporation, and Third-Party defendant, Robin Hood Container Express Inc., in the respective percentages of 45% and 1% for future response costs at the Site. PCS Nitrogen Inc., is entitled to reimbursement from Ross Development Corporation for PCS's costs and expenses in this litigation resulting from any acts or omissions of Planters that occurred prior to the closing date of the sale of the Planters business to Columbia Nitrogen Corporation..

■ judgment on partial findings is entered for Third-Party defendant, Allwaste Tank Cleaning, Inc. n/k/a PSC Container Services, LLC; against Third-Party plaintiff, PCS Nitrogen, Inc.; Third-Party defendant Ross Development Corporation; Third-Party defendant, Robin Hood Container Express, Inc.; and Third-Party defendants James H. Holcombe, J. Holcombe Enterprises, L.P., and J. Henry Fair, Jr., and this case is dismissed with prejudice as to Third-Party defendant, Allwaste Tank Cleaning, Inc. n/k/a PSC Container Services, LLC.

■ judgment is entered as a matter of law as to Third-Party defendants, James H. Holcombe, Jr., Holcombe Enterprises LP and Henry Fair, Jr., against Third-Party plaintiff, PCS Nitrogen Inc., and Third-Party defendants, Ross Development Corporation and Robin Hood Container Express Inc., and these claims are dismissed with prejudice.

■ summary judgment is entered for Third-Party defendants, Koninklijke DSM NV and DSM Chemicals of North America Inc against Third-Party plaintiff, PCS Nitrogen, Inc.; Third-Party defendant Ross Development Corporation; Third-Party defendant, Robin Hood Container Express, Inc.; and Third-Party defendants James H. Holcombe, J. Holcombe Enterprises, L.P., and J. Henry Fair, Jr., and this case is dismissed with prejudice as to defendants Koninklijke DSM NV and DSM Chemicals of North America Inc.

■ tried by the Honorable Margaret B. Seymour, United States District Judge presiding, without a jury and the above decision was reached. The court having made is Finding of fact and Conclusions of Law and further granting defendants' Koninklijke DSM NV and DSM Chemicals of North America Inc., motion for summary judgment.

Date: May 27, 2011

CLERK OF COURT

s/Angie Snipes

Signature of Clerk or Deputy Clerk