

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2011

ANTHONY R. WITKIEWICZ and KATHY L. WITKIEWICZ,
Appellants,

v.

**ACANDS, INC., FLOWSERVE CORPORATION, f/k/a DURAMETALLIC,
INC., and CERTAINTEED CORPORATION,**
Appellees.

No. 4D08-1170

[October 19, 2011]

PER CURIAM.

The Appellants with and on behalf of thirty-five other plaintiffs filed thirty-six appeals of trial court orders dismissing their cases based on their failure to satisfy the requirements of the Asbestos and Silica Compensation Fairness Act ("ASCFA"), section 774.201, Florida Statutes (2005). These appeals had been stayed pending the Supreme Court's review of *Williams v. American Optical Corp.*, 985 So. 2d 23 (Fla. 4th DCA 2008).

On July 8, 2011, the Florida Supreme Court issued its opinion, affirming our decision in *Williams. American Optical Corp. v. Spiewak*, 2011 WL 2652189 (Fla. July 8, 2011). We lifted the stay. On August 29, 2011, the Appellants filed a motion to quash the trial court orders and to remand this case to the trial court. The Appellees filed a response, agreeing to the motion with the exception of six of the cases, which had been voluntarily dismissed.

We therefore grant the motion except as to cases 08-1175, 08-1177, 08-1178, 08-1190, 08-1239, and 08-1244, which can be dismissed for lack of jurisdiction because of the previously filed voluntary dismissals in the trial court. The orders of dismissal are quashed and the trial court is directed to apply *American Optical Corp. v. Spiewak*, 2011 WL 2652189 (Fla. July 8, 2011).

Reversed and Remanded.

MAY, C.J., HAZOURI and LEVINE, JJ., concur.

* * *

Consolidated appeals from the Circuit Court for the Fifteenth Judicial Circuit, Diana Lewis, Judge; L.T. Case No. 99-10633 AF.

Melissa Damian Visconti, David A. Jagolinzer, and Case A. Dam of The Ferraro Law Firm, Miami, for appellant.

Evelyn F. Davis of Hawkins Parnell Thackston & Young LLP, Atlanta, Georgia, for appellee Bayer CropScience, Inc., f/k/a Amchem Products, Inc., CertainTeed Corporation, and Flowserve Corporation, f/k/a Durametallic, Inc.

Gary L. Sasso, Matthew J. Conigliaro, and Christine R. Davis of Carlton Fields, P.A., Tampa, for appellees.

Michael R. Holt of Rumberger, Kirk & Caldwell, Miami, for appellees John Crane, Inc. and Weil-McLain Company.

APPENDIX

Case Style: ANTHONY R. WITKIEWICZ and KATHY L. WITKIEWICZ v. ACANDS, INC., FLOWSERVE CORPORATION, f/k/a DURAMETALLIC, INC., CERTAINTEED CORPORATION, Case No. 4D08-1170.

Additional Case Nos.: 4D08-1175, 4D08-1176, 4D08-1177, 4D08-1178, 4D08-1179, 4D08-1181, 4D08-1183, 4D08-1184, 4D08-1187, 4D08-1189, 4D08-1190, 4D08-1195, 4D08-1198, 4D08-1200, 4D08-1202, 4D08-1203, 4D08-1204, 4D08-1205, 4D08-1210, 4D08-1215, 4D08-1221, 4D08-1232, 4D08-1234, 4D08-1235, 4D08-1236, 4D08-1237, 4D08-1238, 4D08-1239, 4D08-1240, 4D08-1241, 4D08-1242, 4D08-1243, 4D08-1244, 4D08-1245, 4D08-1246, and 4D08-1248.

Additional Appellants: RONALD STORDAHL and ELIZABETH STORDAHL, L.T. Case No. 99-10655 AF; ORVILLE R. RAFFIELD and ELEANA RAFFIELD, his wife, L.T. Case No. 00-1634 AF; WILLIAM McCARLEY, Case No. 99-7839 AF; CLAXTON REESE, L.T. Case No. 99-1016 AF; ARCHIE YOUNG and ALICE YOUNG, his wife, L.T. Case No. 04-1885 AF; EARL WITT and VIVIAN WITT, his wife, L.T. Case No. 04-1855 AF; RUBY SMITH, as Personal Representative of the Estate of Lester Smith, L.T. Case No. 99-865 AF; RICHARD ROWELL, L.T. Case No. 03-8802 AF; ARTHUR JONES and ISABELLE JONES, his wife, L.T. Case No.

99-826 AF; CHARLES X. MARIANI and ANN MARIANI, his wife, L.T. Case No. 00-4898 AF; FREDDIE PREYER and FRANCES PREYER, Case No. 99-1081 AF; ALBERT WILLIAMS and DOROTHY WILLIAMS, his wife, Case No. 04-1842 AF; JOSEPH W. STEPHENS and DEREMA A. STEPHENS, L.T. Case No. 04-4238 AF; HARRISON SIMMONS and PATRICIA A. SIMMONS, L.T. Case No. 04-2040 AF; DOUGLAS McKENZIE and MARGARET McKENZIE, his wife, L.T. Case No. 03-9406 AF; MORRIS D. MARBUT, Case No. 04-3946 AF; GREGORY LEWITZKE and BONNIE LEWITZKE, his wife, L.T. Case No. 03-9284 AF; WILLIAM E. KELBY and LINDA L. KELBY, his wife, L.T. Case No. 03-8934 AF; JOHN M. HURLEY and JACQUELINA HURLEY, his wife, L.T. Case No. 502003CA009419XXASAF; PAUL JORISSEN and DIANA JORISSEN, his wife, L.T. Case No. 04-4015 AF; GEORGE JACKSON and CORNELIA JACKSON, his wife, L.T. Case No. 04-2066 AF; GERALD GURKA, L.T. Case No. 502004CA002029XXXXMB; GUY D. HENTON and NANNETTE HENTON, his wife, L.T. Case No. 502003CA009304XXASAF; CHARLES H. HOLCOMB and ELSIE M. HOLCOMB, Case No. 502003CA009320XXASAF; WILLIAM J. GRAHAM and JOAN GRAHAM, his wife, L.T. Case No. 99-8389 AF; ERNEST GRANT and IRENE GRANT, his wife, L.T. Case No. 03-11275 AF; CALVIN GARNER and SHIRLEY GARNER, his wife, L.T. Case No. 03-9471 AF; ALBERT FECTEAU and JUNE FECTEAU, his wife, L.T. Case No. 99-957 AF; THOMAS COLLINS, L. T. Case No. 04-1867 AF; CHARLES A. CONRAD, L.T. Case No. 502003CA009358XXASAF; WALLACE CHANEY, L.T. Case No. 04-2051 AF; WESLEY CARLTON BROWN and MARGARET J. BROWN, his wife, L.T. Case No. 03-9268 AF; EARL BRANDT, L.T. Case No. 99-973 AF; FREDERICK BEELEY and BEATRICE BEELEY, Case No. 00-5621 AF; ROBERT M. ANDERSON and MARY ANN ANDERSON, his wife, Case No. 04-3934 AF.

Additional appellees: BAYER CROPSCIENCE, INC., f/k/a Amchem Products, Inc., AMERICAN OPTICAL CORPORATION, JOHN CRANE, INC., and WEIL-McLAIN COMPANY.

Not final until disposition of timely filed motion for rehearing.