

SUPREME COURT OF WISCONSIN

CASE No.: 00-3344 & 01-0580

COMPLETE TITLE:

State of Wisconsin,
Plaintiff,

v.

Hydrite Chemical Company a/k/a Avganic
Industries, Inc.,
Defendant-Third-

Party Plaintiff-Appellant,

v.

Travelers Casualty & Surety Company f/k/a Aetna
Casualty & Surety Company, American Casualty
Company of Reading, PA, Chicago Insurance
Company, Continental Casualty Company, First
State Insurance Company and First State
Underwriters Agency of New England Reinsurance
Corp. a/k/a New England Reinsurance Corp.,
Granite State Insurance Company, Great American
Surplus Lines Ins. Co. a/k/a American Empire
Surplus Lines Ins. Co., International Surplus
Alliance Insurance Co. a/k/a International
Insurance Co., Certain Underwriters at Lloyds
of London a/k/a Certain London Insurers, and
Affiliated FM Insurance Company,

Third-Party Defendants,

American Motorists Insurance Company, Home
Indemnity Company and Home Insurance Company,
Northbrook Excess & Surplus Insurance Company,
as predecessor to Allstate Insurance Company,
and United States Fire Insurance Co.,

Third-Party Defendants-Respondents,

Interstate Fire and Casualty Company,
Fourth-Party Plaintiff,

v.

Maryland Casualty Company,
Fourth-Party Defendant.

State of Wisconsin,
Plaintiff,

v.

Hydrite Chemical Company a/k/a Avganic
Industries, Inc.,
Defendant-Third-Party Plaintiff-Appellant,

v.

Travelers Casualty & Surety Company f/k/a Aetna
Casualty & Surety Company, American Casualty
Company of Reading, PA, Chicago Insurance
Company, Continental Casualty Company, First
State Insurance Company and First State
Underwriters Agency of New England Reinsurance
Corp. a/k/a New England Reinsurance Corp.,
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Surplus Lines Ins. Co., International Surplus
Alliance Insurance Co. a/k/a International
Insurance Co., Certain Underwriters at Lloyds
of London a/k/a Certain London Insurers, and
Affiliated FM Insurance Company,
Third-Party Defendants,

American Motorists Insurance Company, Home
Indemnity Company and Home Insurance Company,
Northbrook Excess & Surplus Insurance Company,
as predecessor to Allstate Insurance Company,
and United States Fire Insurance Co.,
Third-Party Defendants-
Respondents,

Interstate Fire and Casualty Company,
Fourth-Party Plaintiff,

v.

Maryland Casualty Company,
Fourth-Party Defendant.

REVIEW OF A DECISION OF THE COURT OF APPEALS
2002 WI App 222
Reported at: 257 Wis. 2d 554, 652 N.W.2d 828
(Ct. App.2002-Published)

OPINION FILED: November 17, 2003
SUBMITTED ON BRIEFS:
ORAL ARGUMENT:

SOURCE OF APPEAL:
COURT:
COUNTY:
JUDGE:

JUSTICES:
CONCURRED:
DISSENTED:
NOT
PARTICIPATING: Wilcox, J., did not participate

ATTORNEYS :

SUPREME COURT OF WISCONSIN

NOTICE

This order is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 00-3344 & 01-0580

State of Wisconsin,

Plaintiff,

v.

Hydrite Chemical Company a/k/a Avganic
Industries, Inc.,

Defendant-Third-
Party Plaintiff-Appellant-Cross-
Respondent,

v.

Travelers Casualty & Surety Company f/k/a Aetna
Casualty & Surety Company, American Casualty
Company of Reading, PA, Chicago Insurance
Company, Continental Casualty Company, First
State Insurance Company and First State
Underwriters Agency of New England Reinsurance
Corp. a/k/a New England Reinsurance Corp.,
Granite State Insurance Company, Great American
Surplus Lines Ins. Co. a/k/a American Empire
Surplus Lines Ins. Co., International Surplus
Alliance Insurance Co. a/k/a International
Insurance Co., Certain Underwriters at Lloyds
of London a/k/a Certain London Insurers, and
Affiliated FM Insurance Company,

Third-Party Defendants,

American Motorists Insurance Company, Home
Indemnity Company and Home Insurance Company,
Northbrook Excess & Surplus Insurance Company,
as predecessor to Allstate Insurance Company,
and United States Fire Insurance Co.,

Third-Party Defendants-

FILED

NOV 17, 2003

Cornelia G. Clark
Clerk of Supreme Court
Madison, WI

Respondents-Cross-Appellants,
Interstate Fire and Casualty Company,
Fourth-Party Plaintiff,

v.

Maryland Casualty Company,
Fourth-Party Defendant.

State of Wisconsin,
Plaintiff,

v.

Hydrite Chemical Company a/k/a Avganic
Industries, Inc.,

Defendant-Third-
Party Plaintiff-Appellant,

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Travelers Casualty & Surety Company f/k/a Aetna
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of London a/k/a Certain London Insurers, and
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Third-Party Defendants,

American Motorists Insurance Company, Home
Indemnity Company and Home Insurance Company,
Northbrook Excess & Surplus Insurance Company,
as predecessor to Allstate Insurance Company,
and United States Fire Insurance Co.,

Third-Party Defendants-Respondents,
Interstate Fire and Casualty Company,
Fourth-Party Plaintiff,
v.
Maryland Casualty Company,
Fourth-Party Defendant.

The Court entered the following order on this date:

A petition for review pursuant to Wis. Stat. § 808.10 having been filed on behalf of defendant-third-party plaintiff-appellant-petitioner, Hydrite Chemical Company, and a motion to abate and/or enjoin appeal having been filed by third-party defendants-respondents-cross-appellants, Home Insurance Company and Home Indemnity Company, due to the fact that the New Hampshire insurance department issued an order of liquidation for Home on June 13, 2003, and considered by this court;

IT IS ORDERED that the petition for review is granted, the court of appeals' decision is summarily vacated and the matter is remanded to the court of appeals for further consideration in light of this court's decision in Johnson Controls, Inc. v. Employers Insurance of Wausau, 2003 WI 108, 264 Wis. 2d 60, 665 N.W.2d 257;

In light of the remand to the court of appeals,

IT IS FURTHER ORDERED that the motion to abate and/or enjoin appeal is denied. Third-party defendants-respondents-cross appellants may, if they wish, renew their motion in the court of appeals.

Wilcox, J., did not participate.

No.
00-3344 & 01-0580