

FILED
United States Court of Appeals
Tenth Circuit

PUBLISH

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

October 25, 2023

Christopher M. Wolpert
Clerk of Court

CHASE MANUFACTURING, INC.,

Plaintiff - Appellant,

v.

JOHNS MANVILLE CORPORATION,

Defendant - Appellee.

No. 22-1164
(D.C. No. 1:19-CV-00872-MEH)
(D. Colo.)

UNITED STATES OF AMERICA,

Amicus Curiae.

ORDER

Before **PHILLIPS**, **MURPHY**, and **ROSSMAN**, Circuit Judges.

This matter is before the court on the *Petition for Panel Rehearing and Rehearing En Banc of Defendant-Appellee Johns Manville Corporation*. We also have a response from Appellant. Upon careful consideration of the petition and the response, we direct as follows.

Pursuant to Fed. R. App. P. 40, the petition for panel rehearing is granted in part to the extent of the modifications in the attached revised opinion. The court’s August 21, 2023 opinion is withdrawn and replaced by the attached revised opinion, which shall be

filed as of today's date. Because the court's decision to partially grant panel rehearing does not affect the outcome of this appeal, Appellee may not file a second or successive rehearing petition. *See* 10th Cir. R. 40.3.

The petition, response, and the attached revised opinion were transmitted to all non-recused judges of the court who are in regular active service. As no member of the panel and no judge in regular active service on the court requested that the court be polled, the request for rehearing en banc is denied. *See* Fed. R. App. P. 35(f).

Entered for the Court,

A handwritten signature in black ink, appearing to read 'C. Wolpert', with a long horizontal stroke extending to the right.

CHRISTOPHER M. WOLPERT, Clerk