

No. 21-1276

ORIGINAL

In the  
Supreme Court of the United States

RAM MEHTA AND NEENA MEHTA,

*Petitioners,*

v.

WESTROCK CO. AND ITS OFFICIALS;  
SMURFIT-STONE CONTAINER CORPORATION AND ITS  
OFFICIALS; ROCK-TENN COMPANY AND ITS OFFICIALS,

*Respondents.*

On Petition for a Writ of Certiorari to the  
Supreme Court of Delaware

**PETITION FOR A WRIT OF CERTIORARI**

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### **QUESTIONS PRESENTED**

1. Is the refusal to distribute billions of dollars in escrow to the rightful shareholders an act of embezzlement and fraud?
2. Is it a violation of Due Process for a judge to have a pre-written ruling prior to the start of a hearing and then sign said ruling as pre-written?

## **PARTIES TO THE PROCEEDINGS**

### **Petitioners**

- Ram Mehta and Neena Mehta

### **Respondents**

- Westrock Co. and its officials
- Smurfit-Stone Container Corporation and its officials
- Rock-Tenn Company, and its officials

## LIST OF PROCEEDINGS

Delaware Supreme Court

No. 54, 2021

Ram Mehta and Neena Metha, *Plaintiffs Below, Appellants*, v. Westrock Co., and its officials, Smurfit-Stone Container Corporation and its officials, Rock-Tenn Company and its officials, *Defendants Below, Appellants*.

Final Order: September 20, 2021

Rehearing Denial: October 22, 2021

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Delaware Chancery Court

No. C.A. No. 2020-0496-PAF

Ram Mehta and Neena Metha, *Petitioners and Claimants*, v. Westrock Co., and its officials, Smurfit-Stone Container Corporation and Its Officials, Rock-Tenn Company and its officials, *Defendants*.

Final Order: February 8, 2021

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## INTRODUCTION

As indicated in our original petition to Court of Chancery state of Delaware, our total claim amount is \$1,334,892.31; and in addition, we claimed our unclaimed amount of \$1,271,833.53 in our opening brief and reply brief in the Supreme Court in the State of Delaware. Therefore, our total claim is \$2,606,725.84 i.e. **Two million six hundred six thousand and seven hundred twenty five dollars and eighty four cents** (\$1,334,892.31 + \$1,271,833.53). Please note that this total claim amount excludes our opportunity cost damages, interest, expenses and punitive damages.

We urge United States Supreme Court to Order WestRock to pay our claim and damages. In addition, we request U.S. Supreme Court to Order white collar criminal investigation on this matter against WestRock official for making us to sign settlement agreement dated November 15, 2014 (Exh.H, App.94a) under Duress and for Embezzlement of our equity money. Also, urge US Supreme Court order investigation for conspiracy and harassments by WestRock official as described in letter dated March 23, 2014 (Ex.L, App.136a).

## **OPINIONS**

The Order of the Delaware Supreme Court is included below at App.1a. The Order of the Delaware Chancery Court granting the motion to dismiss in favor of Respondents-Defendants, dated is included at App.6a.

## **JURISDICTION**

The Supreme Court of Delaware issued its order denying a motion for reargument on October 22, 2021. This Court granted Petitioners an extension of the time to file to March 21, 2022. This Court has jurisdiction under 28 U.S.C. § 1257(a).

## **STATEMENT OF THE CASE**

Petitioners Ram and Neena Metha herein relate the facts and arguments as presented in the Delaware Supreme Court.

### **Appellant's Opening Brief Delaware Supreme Court**

#### **I. Argument**

We Appellants urge honorable Supreme Court to reverse the decision of Chancery court and overturn the ruling on the ground that honorable Vice Chancellor made his ruling based on unsubstantial reasoning. In addition, honorable Vice Chancellor made his decision in a prejudicial manner, as he already had made his decision prior to argument and he read his ruling for dismissal of our petition from a piece of document which was prepared prior to hearing. He conducted the hearing just to fulfill the legal proceed-

ings of the court. Also, our argument was completely distorted in the court reporter's transcript.

In his ruling, honorable Vice Chancellor stated that in January 2020 Mr. John Stakel (Sr. Vice President and Treasurer, WestRock Co.) informed the plaintiff that although in March 2011 there has been one very small distribution of Smurfit-Stones' new stocks to a different set of escrow stocks than the ones that the plaintiffs held, there had been no other distributions on the escrow positions and there would be no more distributions on the escrow positions (court reporter's transcript, p.40, line 3-10). Matter of fact is, honorable Vice Chancellor failed to recognize the fact that after paying all General Unsecured claims in bankruptcy court about \$2 billion was left to distribute in Smurfit-Stones escrow stock position holder account. We included this fact about the leftover \$2 billion money in our original petition (p.#8, #9, #13 and #14 of petition filed on June 18, 2020), and also in our opposition to defendant motion to dismiss brief (p.#10 of our opposition to defendant motion to dismiss, dated November 12, 2020). Also, in an email dated January 24, 2020 (Ex.K, App.119a, Email correspondence of John Stakel) Mr. John Stakel stated that there will be no further money or stocks that will be distributed to former Smurfit-Stones' shareholders, and also he telephonically told us there is no money left to be distributed to old escrow stock position of Smurfit-Stone. Whereas, after paying all General Unsecured claims in bankruptcy court about \$2 billion was left to distribute in Smurfit-Stones' escrow stock position holder account. As stated above, we included this fact about the leftover \$2 billion money in our original petition.

Therefore, denial of the fact of \$2 billion leftover money, and denial to distribute it to the escrow stock positions is fraudulent and is an act of embezzlement of our escrow stock position (escrow equity position) by Mr. Stakel.

In his ruling honorable Vice Chancellor stated that the court of chancery as per rule 12 (b)(1) court lacks subject matter to hear the petition as a court of chancery can acquire subject matter jurisdiction over this action only if plaintiffs' claims for relief is equitable in character, and is equitable in nature, and is conferred by statute (court reporter's transcript pgs.41, line 14-22). And further honorable Vice Chancellor stated that plaintiffs do not request equitable relief; rather, the petition seeks compensatory damages in the form of "final distribution money," legal interest, and costs and expense& Matter of fact is, this observation of honorable Vice Chancellor is completely wrong and is to favor defendant to dismiss our petition. In reality, we the petitioners are asking for our right full money that was left over after paying all General Unsecured claims of Smurfit-Stone in our escrow stocks position. It should be noted that escrow stocks itself is the escrow equity. In the title of our petition, we did not mention equity claim but in the body of our petition we repeatedly have claimed for our escrow stocks final distribution which we have not received as of today. Therefore, we are requesting final escrow stock position (also referred as escrow equity position) final distribution, and compensation for intentional and willful delay and fraudulent act by WestRock by holding our rightful leftover balance money for our escrow stock position. Hence, our petition is equitable in character,

and equitable in nature, and is confirmed by statute in the chancery court and this matter falls under the court of chancery.

In his ruling honorable Vice Chancellor stated that, the settlement agreement and release contains a very broad release of all claims, including known, or unknown, disclosed or undisclosed that "arise out of or relate in any manner, directly or indirectly... (Court Reporter's transcript, p.51, line 1-17). Please note that honorable Vice Chancellor ignored the fact that the settlement and release agreement dated 1111512014 contains very limited explanation of release, whereas defendants' opening brief in support of motion to dismiss contains very broad release explanation (pgs.9, 10 of Defendants' opening brief in support of motion to dismiss). Matter of fact is, honorable Vice Chancellor did not consider our opposition to defendants' litigation release and confirmation order which we described in our opposition to defendant's motion to dismiss (pgs.6, 7, 8 of opposition to defendant's motion to dismiss, and in Ex.L, App. 136a). In that, we have described that the release is for case #6891 VCL, filed on September 23, 2011 in the court of chancery. Also, we have described how defendants' intentional maliciously and recklessly harassed us, because as individual investors we filed the violation of fiduciary duty and fraud case (#6891 VCL) in the court of chancery against the defendants. Furthermore, prior to signing the agreement and release Mr. Robert McIntosh (General Counsel, WestRock), and the attorney hired by WestRock, threatened us and indicated that if we did not sign the agreement, WestRock will not pay us a single penny. Please note that at the time both Mr.

Mcintosh, and WestRock hired attorney confirmed that the release will not affect our final distribution for escrow stock position. As explained above the release was for case #6891 VCL and this is the reason WestRock company did not remove our escrow position stock immediately from our T.D. Ameritrade account, even after we signed the settlement agreement and release (dated November 15. 2014). Moreover, at the end of January 2020 Mr. John Stakel said that there was no money, and there will be no further distribution. And suddenly on January 30, 2020 (that is about 6 years after we signed the settlement agreement), TD Ameritrade removed our 170,082 Smurfit-Stones' escrow stocks from our trading account. Until January 30, 2020 we were hopeful that WestRock will deposit our final distribution for our escrow stock position into our T.D Ameritrade account, and once T.D. Ameritrade removed our escrow position stocks from our account (on January 30, 2020), that day we knew that WestRock company has embezzled our escrow stock positions (escrow equity positions), and the final distribution coming from it

Please note, due to continuous pressure and threats from WestRocks' attorney stating that, if we will not sign the agreement and release then WestRock will not pay us a penny. Under duress we signed the agreement, because during that time we used to live in a not so great school district neighborhood, and we needed money to buy house in good school district for our daughter. Under the duress we signed the settlement agreement because we thought if we don't sign we will not get any money from WestRock (as threatened by West Rock attorney) and if we did not get

the money we were unable to buy house in a good school district neighborhood. After getting the money from Westrock we bought our new house in good school district. Now, we feel proud in saying that this year my daughter got into pre-med program for Neuroscience in Topmost universities where she applied. Our total claim at the time was \$504,291.44 and in duress we settled it for \$105,000 (Ex.L, App.136a). Also, we urge Supreme Court of State of Delaware to review thoroughly Ex.L, App.136a for details of West Rocks' intentional malicious, and fraudulent acts against us.

All the other reasons given by honorable Vice Chancellor in his ruling are in favor of defendants and are unjustifiable, and prejudicial against us. With this opening brief to Supreme Court we petitioners are incorporating our opposition of defendants opening brief (dated November 12, 2020) in support of motion to dismiss (total pages 1 to 12), and our original petition for fraud and embezzlement of money by WestRock company officials, Smurfit-Stone Container officials, Rock-Tenn officials, and Mr. John Stakel (current Sr. Vice President, Treasure, WestRock Co.) against the petitioner and the claimant. Please see the following TABLE 1 for the timeline of events related to this case.

## II. Timeline of Events Related to This Case

**Table 1**

Event Date	No. of Stocks	Event
	253,000,000	No. of outstanding stocks before the restructuring filing (dated 01/26/2009) by Smurfit-Stone. Note (A)
	170,082	No. of old Smurfit-Stone stock owned by us out of the above (A). Later the same quantity of stock was converted in to escrow stock position. Note (B)
1/26/2009		Smurfit-Stone filed voluntary petition for relief under chapter 11 for restructuring and reorganization
6/30/2010		Smurfit-Stone completed its financial restructuring and officially emerged from chapter 11. (Ex.C, App.26a)
	160,000,000	No. of stocks authorized to be issued by Reorganized Smurfit-Stone after emerging from Chapter 11, (Ex.C, App.26a). Note

		(C)
	150,000,000	No. of new common stocks authorized by Reorganized Smurfit-Stone, out of the above under note (C). (Ex.C, App.26a. Note (D)
	100,000,000	No. of new common stocks for distribution to creditors and interest holders out of the above indicated under (D). (Ex.C, App.26a, Ex.D, App.36a). Note (E)
	95,500,000	No. of stocks out of the above under (E) that was allocated to holders of General Unsecured creditors claim of Smurfit-Stone. (Ex.C, App.26a, Ex.D, App.36a). Note (F)
	4,500,000	No. of stocks left (E)-(f) for distribution on a pro rata basis to old common stockholders and old preferred stockholders. (Ex.C, App.26a, Ex.D, App.36a). Note (G)
	2,250,000	No. of new common stocks out of the above under (G) to be distributed on a pro rata basis to Smurfit-

		Stone Stones' old common stockholders of approximately 253,000,000 as indicated under the above note (A). (Ex.C, App.26a, Ex.D, App.36a). Note (H)
	2,250,000	No. of new common stocks out of the above under (G) to (J) be distributed on a pro rata basis to Smurfit-Stone Stones' old common stockholders of approximately 253,000,000 as indicated under the above note (A). (Ex.C, App.26a, Ex.D, App.36a)
	1,486	No. of new Smurfit-Stone Stones' stocks we received from the above (I) for our original held 170,082 (B) old common stocks; plus we received 170,082 escrow stocks under CUSIP #3272ESC1 @1 escrow stock for each originally held stock of 170,082. As per Smurfit-Stones' and T.D. Ameritrade officials explained to me escrow position stock was distributed to old common stockholders of Smurfit-

		Stone to receive for final distribution after settling Allowed General Unsecured Claims of Smurfit-Stone in Bankruptcy Court. Note (I)
	50,000,000	No. of remaining new common stocks, which is (D)-(E). Note (K)
	9,000,000	No. of stocks out of the above under note (K) was reserved for equity incentive plans. (Ex.C, App.26a, Ex.D, App.36a). Note (L)
	3,500,000	No. of stocks out the above under (K) allotted for bond holder claim. (Ex.C, App.26a, Ex.D, App.36a). Note (M)
	37,500,000	No. of stocks of new stocks which has no accountability and could not be traced, computed as (K) (L)-(M). As per the law, these 37.5 million stocks should be distributed on pro rata basis to old Smurfit-Stone common stockholders. Note (N)

1/23/2011		Smurfit-Stone stone and Rock-Tenn issued joint statement announcing the proposal merger transaction. (Ex..B, App.14a)
5/27/2011		The merger transaction agreement is approved by Smurfit-Stone Container and Rock-Tenn (Ex..B, App.14a). We declined the merger agreement and filed the appraisal right in the court of chancery and after filing the appraisal right, Rock-Tenn informed us that we did not perfected the appraisal right. Then on September 23rd, 2011 we filed Petition for opposition of distribution of new stock by Smurfit-Stone and its merger with Rock-Tenn company and fraud by Smurfit-Stone officials in court of chancery state of Delaware case #6891-VCL. (Ex..B, App.14a, Ex.C, App.26a)
11/15/2014		We settled the case #6891-VCL with Rock-Tenn company, our settlement was \$50.45 per stock

		(based on the price of Rock-Tenn class A common stock on 01/17/2014, the value of the merger consideration for each outstanding stock of Smurfit-Stone Common stock rounded to the nearest penny, \$50.45 per share stated by Rock-Tenn in the settlement agreement dated 11/15/2014 (Ex.H, App.94a). As per the WestRocks' general counsel and hired attorney (who used threatened me if I won't sign agreement then Westrock will not pay a penny to me), stated that escrow stock will be paid after settling all the general unsecured claims. Total claim for the case #6891-VCL was \$504,291.44, but we settled the matter under duress for \$105,000. (as explained in pages 3, 4 of this brief)
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### **III. Events After November 15, 2014**

Every four to six months after settling my case (#6891 VCL, dated 11/15/2014), I called Smurfit-Stone Containers' customer service (#877-264-9638) to inquire about final distribution of money in escrow stock positions. Smurfit-Stone customer service operator told me that they do not know and had no idea when it will be distributed. About early 2017, the operator from the same Smurfit-Stones' customer service number gave me the number of EPIQ Mr. Thomas (#347-949-1264), Therefore, in 2017, whenever I used to call customer service of Smurfit-Stone, and EPIQ, I used to get the same feedback that is-they do not know when the final distribution of monies in the escrow stock position will be done. In late October 2018 EPIQ's Mr. Thomas informed me that the bankruptcy case was over, and about the final distribution of the escrow stocks I should call Mr. Stakel from the WestRocks' investor division. However, Mr. Thomas did not give me bankruptcy case #. Then called Mr. Stakel but was directed by the operator to Mr. Kupper who was working under Mr. Stakel. I spoke with Mr. Kupper, at this time Mr. Kupper informed me that in summer of 2018 WestRock made final distribution of escrow stock positions and asked me to provide him the details of my escrow stocks. After provided the requested details to Mr. Kupper to my surprise few months later on December 11, 2018 Mr. Kupper wrote us that there is no further distribution of escrow stock positions. Upon receiving Mr. Kupper's email, I started to look for the creditors' bankruptcy case # In this regard I called court of chancery and asked them where I could get Smurfit-Stones bankruptcy case# and court of chancery registrar clerk officials advised me to call bankruptcy court, state of Delaware to get the bankruptcy case # of Smurfit-

Stone. Upon calling the bankruptcy court the state of Delaware, I came to know the Smurfit-Stones' bankruptcy case. After this, I researched the case docket and came to know the final amount that was paid by Smurfit-Stones' to allowed General Unsecured creditors claim. Based on this, I calculated the amount we should get paid for our escrow stocks position.

After completing my research, I spoke telephonically and wrote an email to John Stakel, he responded that there will be no further money or stocks that will be distributed to former Smurfit-Stones' shareholders, and also he telephonically told us there is no money left to be distributed to old escrow stock position of Smurfit-Stone. This statement of Mr. Stakel is fraudulent and is an act of embezzlement of our escrow stock position (escrow equity position). And suddenly, on January 30, 2020 T.D Ameritrade removed our 170,082 Smurfit-Stones' escrow stocks from our trading account, and on that day, we knew that WestRock company has embezzled our escrow stock positions and the final distribution coming from it and therefore we filed petition in the court of chancery on June 12, 2020 (Ex.K, App.119a) for our email correspondence with Mr. John Stakel and his assistant Mr. Christoph Keupper

**IV. Details of Our Claim Amount for Our Escrow Stock Position Is Indicated in the Following Table 2**

Notes	Amt. (\$) or # of stocks	Explanation
(a)	\$50.45	Amount per new stock of Smurfit-Stone paid by Rock-

		Tenn. (settlement agreement dated 11/15/2014, Ex.H, App.94a)
(F) from Table 1	95,500,000	No. of stocks allocated (reserved) for General Unsecured Claims. (Ex.D, App.36a)
(b) = (a) x (F)	\$4,817,975, 000.00	95,500,000 (F) X \$50.45 (a) = \$ 4,817,975,000. This Amount was reserved for claim of General Unsecured claims of Smurfit-Stone
(c)	\$2,832,298, 942.20	Final claim allowed as per Epiq bankruptcy solution for the General Unsecured claims. (Ex.I, App.104a)
(d) = (b)-(c)	\$1,985,676, 057.80	\$1,985,676,057.80 \$4,817,975, 000 (b)-\$2,832,298,942.20 (c) = \$1,985,676,057.8. This is the final remaining amount after paying the claims of General unsecured claims of Smurfit-Stone Stone in the bankruptcy Court, State of Delaware. This amount should be distributed to 253,000,000 of escrow stock position
(e) = (d)/ (A)	\$7.85	\$1,985,676,057.80 amount should be distributed to per stock of 253,000,000 escrow stock position of old common shareholders. Therefore,

		amount to be paid for per stock for each of the escrow stock position is \$1,985,676,057.80 (d)/253,000,000 (A) = \$7.85
(f)= (e) x (B)	\$1,334,892. 31	Out of the total 253,000,000 (A), we had 170,082 (B) escrow stock position. Therefore \$7.85 (g) X 170,082  (B) = \$1,334,892.31. This is our rightful balance amount claim that we are claiming in our petition.
<b>Our unclaimed claim on this case for 37.5 million of new unaccounted Smurfit-Stone stocks</b>		
(N) From Table 1	37,500,000	No. of new stocks which has no accountability and could not be traced. As per the law, these 37.5 million stocks should be distributed on pro rata basis to old Smurfit-Stone common shareholders. (Ex.C, App.26a, Ex.D, App.36a)
(g)= (N) x (a)	\$1,891,875, 000.00	37.5 million X \$50.45 (amount per new stock of Smurfit-Stone paid by Rock-Tenn. (settlement agreement dated 1/15/2014, Ex.H, App.94a) = \$1,891 ,875,000

(h) = (g) / (A)	\$7.48	\$1,891,875,000 amount should be distributed to per stock of 253,000,000 escrow stock position of old common shareholders (\$1,891,875,000/ 253,000,000) = \$7.48
(i)= (B) x (h)	\$1,271,833. 53	Out of the total 253,000,000 (A), we had 170,082 (B) escrow stock position, therefore \$7.48 (j) X 170,082 (B) = \$1,271,833.53, this amount we did not include as a claim in our original petition; therefore through this brief we are also including this claim in our current petition

## V. Conclusion

Based on the above facts, we urge honorable Supreme Court to review our incorporated opposition, and petition thoroughly, and due to all the above indicated reasons, reverse the decision of Chancery court. In addition, please overturn the ruling on the ground that honorable Vice Chancellor made his ruling on the basis of unsubstantial reasoning. Also, order to pay our final escrow stock position distribution. Furthermore, we request to honorable Supreme Court of Delaware on their own cognizance file a criminal charge against WestRock and its' officials for intentional malicious and fraudulent act.