

# The South Carolina Court of Appeals

John A. Tibbs and Margaret B. Tibbs, Respondents,

v.

3M Company; 4520 Corp., Inc.; A.O. Smith Corporation; A.W. Chesterton Company; ABB Inc.; Air & Liquid Systems Corporation; Aiw-2010 Wind Down Corp.; Amentum Environment & Energy, Inc.; Anchor/Darling Valve Company; Armstrong International, Inc.; Asbestos Corporation Limited; ASCO, L.P.; Atlas Asbestos Co; Atlas Turner, Inc.; AWT Air Company, Inc.; Bahnson, Inc.; Banner Industries International, Inc.; Banner Industries, LLC; Banner Industries Of N.E., Inc.; Barretts Minerals Inc.; Beaty Investments, Inc.; Bechtel Corporation; The Bonitz Company; Brand Insulations, Inc.; BW/IP Inc.; Canvas Ct, LLC; Cape PLC; Carboline Company; CB&I Laurens, Inc.; Cleaver-Brooks, Inc.; Consolidated Electrical Distributors, Inc.; Copes-Vulcan, Inc.; Covil Corporation; Crane Instrumentation & Sampling, Inc.; Crosby Valve, LLC; Daniel International Corporation; Davis Mechanical Contractors, Inc.; Dezurik, Inc.; Duke Energy Carolinas, LLC; Duke Energy Corporation; Eaton Corporation; Ellington Insulation Company, Inc.; Emerson Electric Co.; Fisher Controls International LLC; Flame Refractories, Inc.; Flowserve Corporation; Flowserve US Inc.; Fluor Constructors International; Fluor Constructors International, Inc.; Fluor Daniel Services Corporation; Fluor Enterprises, Inc.; FMC Corporation; Foster Wheeler Energy Corporation; Gardner Denver Nash, LLC; General Boiler Casing Company, Inc.; General Cable Corporation; General Cable Industries, Inc.; General Electric Company; Gould Electronics Inc.; Goulds Pumps, Incorporated; Goulds Pumps LLC; Great Barrier Insulation Co.; Grinnell LLC; Hajoca Corporation; Howden North America Inc.; HPC Industrial Services, LLC; IMO Industries Inc.; ITT LLC;

Joy Global Underground Mining LLC; K-Mac Services Incorporated; Metropolitan Life Insurance Company; Mine Safety Appliances Company, LLC; MP Supply, Inc.; The Nash Engineering Company; Occidental Chemical Corporation; Paramount Global; Patterson Pump Company; PECW Holding Company; Pfizer Inc.; Piedmont Insulation, Inc.; Plastics Engineering Company; Presnell Insulation Co., Inc.; Redco Corporation; Riley Power Inc.; Rockwell Automation, Inc.; RSCC Wire & Cable LLC; Schneider Electric USA, Inc.; Sequoia Ventures Inc.; Spirax Sarco, Inc.; SPX Corporation; Stafford Insulation Company; Standard Insulation Company Of N. C., Inc.; Starr Davis Company, Inc.; Starr Davis Company Of S.C., Inc.; Sterling Fluid Systems (USA) LLC; TE Wire & Cable LLC; Thermo Electric Company, Inc.; Union Carbide Corporation; Valves And Controls Us, Inc.; Velan Valve Corp.; Viking Pump, Inc.; Vistra Intermediate Company LLC; The William Powell Company Wind Up, Ltd.; Yuba Heat Transfer LLC; Zurn Industries, LLC, Defendants,

Of which Asbestos Corporation Limited is the Appellant,

and

Peter Protopapas, Duly Appointed Receiver for Atlas Corporation Limited, is the Respondent,

and

Cape PLC, individually and as successor in interest to Cape Asbestos Company Limited, by and through its duly appointed Receiver Peter D. Protopapas, Third-Party Plaintiff, Respondent,

v.

Anglo American PLC, individually and as successor in interest to Anglo American Corporation of South Africa

LTD., De Beers PLC, individually and as successor in interest to De Beers S.A., De Beers Centenary AG, De Beers Consolidated Mines Ltd., n/k/a De Beers Consolidated Mines Proprietary Ltd., De Beers UK Ltd., De Beers Jewellers LTD., De Beers Jewellers US, Inc., Anglo American US Holdings Inc., Element Six US Corp., Element Six Technologies US Corp., Element Six Technologies (OR) Corp., First Mode Holdings, Inc., Platinum Guild International (U.S.A.) Jewelry Inc., Lightbox Jewelry Inc., Forevermark US Inc., Anglo American Crop Nutrients (U.S.A.) LLC, Charter Consolidated Ltd., ESAB Corporation, Central Mining & Investment Corporation Ltd., Cape Holdco Ltd., The Law Debenture Corporation PLC, Cape Industrial Services Group Ltd., Mohed Altrad, Altrad UK Ltd., Cape UK Holdings Newco Ltd., Altrad Services, Ltd., f/k/a Cape Industrial Services Ltd., Altrad Investment Authority S.A.S., Sparrows Offshore Group Ltd., Hawk Bidco US Inc., ArranCo US, LLC, Sparrows Offshore, LLC, and The Sparrows Group, LLC, Third-Party Defendants,

Of which Mohed Altrad, Altrad Investment Authority S.A.S., ArranCo US, LLC, Hawk Bidco US Inc., Sparrows Offshore, LLC, Anglo American PLC, De Beers, PLC, De Beers Centenary AG, De Beers Consolidated Mines Proprietary Ltd., De Beers UK Ltd., ESAB Corporation, Charter Consolidated Ltd., and Central Mining & Investment Corporation Ltd. are Appellants.

Appellate Case No. 2023-001461

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ORDER

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Century Indemnity Company and Federal Insurance Company (collectively, Chubb Insurers) have filed a motion to intervene in this appeal for the purpose of filing a "motion to clarify and enforce Rule 205" of the South Carolina Appellate Court

Rules. After careful consideration, the motion to intervene is denied and this court declines to act upon Chubb Insurers' concomitantly-filed motion.

Receiver Peter Protopapas has filed a motion to be added as a Respondent in this appeal. No return was filed. After careful consideration, we grant the motion and the caption is amended as set forth in this order.

Appellant Asbestos Corporation Limited (ACL) filed a petition for supersedeas on November 22, 2023. On December 7, 2023, ACL requested leave to withdraw the petition for supersedeas. After careful consideration, we grant the request to withdraw and therefore decline to act upon the petition.<sup>1</sup> Accordingly, the Receiver's motion to dismiss ALC's petition for supersedeas is denied as moot.

Receiver Protopapas's request to supplement the record on appeal is denied as premature. The Receiver's request for attorney's fees and sanctions, or, alternatively, to remand this appeal to the circuit court, is also denied. However, any further actions by any party taken for the purpose of delay during the pendency of this appeal may result in sanctions pursuant to Rule 269, SCACR.

  
C.J.  
FOR THE COURT

Columbia, South Carolina

**FILED**  
**Feb 05 2024**

cc:

Stephen Lynwood Brown, Esquire  
Russell Grainger Hines, Esquire  
James D. Gandy, III, Esquire  
Theile Branham McVey, Esquire  
Jamie Rae Rutkoski, Esquire  
Aaron Daniel Chapman, Esquire  
David Christopher Humen, Esquire

<sup>1</sup> We decline to act upon the relief requested by Respondents John and Margaret Tibbs' in their "return to request to set briefing schedule"; any request for action by this court must be in the form of a motion. Moreover, the Tibbs' request regarding the briefing schedule and their request to deny ACL's supersedeas on the merits are now moot.

Kevin Kendrick Bell, Esquire  
Charles William Branham, III, Esquire  
Matthew Todd Carroll, Esquire  
Kevin A. Hall, Esquire  
Mary Elizabeth O'Neill, Esquire  
Shanon N. Peake, Esquire  
G. Murrell Smith, Jr., Esquire  
John Thomas Lay, Jr., Esquire  
Gray Thomas Culbreath, Esquire  
Lindsay Anne Joyner, Esquire  
Laura Watkins Jordan, Esquire  
Eleanor Lasseigne Jones, Esquire  
Jonathan M. Robinson, Esquire  
Steven James Pugh, Esquire  
Benjamin Palmer Carlton, Esquire  
Carmen Vaughn Ganjehsani, Esquire  
Ashwin Ray Sanzgiri, Esquire  
James H. Elliott, Jr., Esquire  
Cameron D Berthelsen, Esquire  
A. Victor Rawl, Jr., Esquire