

RECEIVED

Feb 22 2024

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

APPEAL FROM THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
THE HONORABLE JEAN TOAL ACTING CIRCUIT COURT JUDGE

Civil Action No. 2023-CP-40-01759

Appellate Case No. 2023-001461

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,

Appellants,

**DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

James H. Elliott, Jr.
Cameron D. Berthelsen
RICHARDSON PLOWDEN & ROBINSON, P.A.
235 Magrath Darby Blvd., Ste. 100
Mt. Pleasant, South Carolina
(843) 805-6550

Scott S. Balber (*Pro Hac Vice*)
Benjamin C. Rubinstein (*Pro Hac Vice*)
Maxwell D. Herman (*Pro Hac Vice*)
HERBERT SMITH FREEHILLS NEW YORK LLP
450 Lexington Avenue
New York, New York 10017
(917) 542-7600

**ATTORNEYS FOR APPELLANT/
THIRD-PARTY DEFENDANT
DE BEERS PLC**

Pursuant to South Carolina Appellate Court Rule 209, De Beers plc, appellant and third-party defendant in the above referenced action, proposes that the following be included in the Record on Appeal:

1. Third Party Complaint, filed by Peter D. Protopapas as purported receiver for Cape plc on June 30, 2023
2. Answer to Third Party Complaint filed by De Beers plc on December 21, 2023
3. Amended Answer to Third Party Complaint filed by De Beers plc on January 19, 2024
4. Motion to Dismiss for Lack of Personal Jurisdiction filed by De Beers plc on August 15, 2023
5. Memorandum in Support of Motion to Dismiss for Lack of Personal Jurisdiction filed by De Beers plc on October 23, 2023
6. Motion for Protective Order and to Dissolve Receivership filed by Hawk Bidco (US) Inc., ArranCo US, LLC, and Sparrows Offshore LLC on August 21, 2023
7. Motion for Protective Order and to Dissolve Receivership filed by Hawk Bidco (US) Inc., ArranCo US, LLC, and Sparrows Offshore LLC on September 5, 2023
8. Motion to Dissolve the Cape plc "Receivership" filed by Mohed Altrad and Altrad Investment Authority SAS on September 1, 2023
9. Motion for Protective Order and to Dissolve Receivership filed by Mohed Altrad and Altrad Investment Authority SAS on September 20, 2023
10. Motion for Protective Order and to Dissolve Receivership filed by Charter Consolidated Ltd. on October 6, 2023
11. Motion for Protective Order and to Dissolve Receivership filed by Central Mining and Investment Corporation Ltd. on October 6, 2023
12. Motion for Protective Order and to Dissolve Receivership filed by ESAB Corporation on October 6, 2023
13. Omnibus Opposition to Motions to Dissolve filed by Peter D. Protopapas as purported receiver for Cape plc on October 18, 2023

14. Omnibus Opposition to Third-Party Defendants Motions to Dismiss for Lack of Personal Jurisdiction filed by Peter D. Protopapas as purported receiver for Cape plc on October 18, 2023
15. Hearing Transcript, Richland County, The Honorable Jean H. Toal, October 25, 2023
16. Proposed Order Denying Certain Third-Party Defendants' Motions to Dismiss for Lack of Personal Jurisdiction filed by Peter D. Protopapas as purported receiver for Cape plc on December 4, 2023
17. Anglo American and De Beers Non-US Third-Party Defendants' Response and Opposition to Third-Party Plaintiff's Proposed Order Denying Third-Party Defendants' Motions to Dismiss for Lack of Personal Jurisdiction filed by Anglo American plc on December 4, 2023
18. Objections to the Cape plc Receiver's Proposed Order Regarding the Motion to Dissolve the Receivership and Motions to Dismiss for Lack of Personal Jurisdiction filed by Hawk Bidco (US) Inc. on December 4, 2023
19. Objections to the Cape plc Receiver's Proposed Order Regarding the Motion to Dissolve the Receivership and Motions to Dismiss for Lack of Personal Jurisdiction filed by Mohed Altrad and Altrad Investment Authority SAS on December 4, 2023
20. Response and Objection to Third-Party Plaintiff's Proposed Order Denying Certain Third-Party Defendants' Motions to Dissolve Receivership and Third-Party Defendants' Motions to Dismiss for Lack of Personal Jurisdiction filed by ESAB Corporation on December 4, 2023
21. Response and Objection to Third-Party Plaintiff's Proposed Order Denying Certain Third-Party Defendants' Motions to Dissolve Receivership and Third-Party Defendants' Motions to Dismiss for Lack of Personal Jurisdiction filed by Charter Consolidated Ltd. on December 4, 2023
22. Response and Objection to Third-Party Plaintiff's Proposed Order Denying Certain Third-Party Defendants' Motions to Dissolve Receivership and Third-Party Defendants' Motions to Dismiss for Lack of Personal Jurisdiction filed by Central Mining and Investment Corporation Ltd. on December 4, 2023
23. Supplement to Omnibus Memorandum in Opposition to Third-Party Defendants' Motion to Dismiss for Lack of Personal Jurisdiction filed by Peter D. Protopapas as purported receiver for Cape plc on December 4, 2023

24. Order Denying Certain Third party Defendants' Motions To Dissolve Receivership And Third-Party Defendants' Motions To Dismiss For Lack Of Personal Jurisdiction entered December 6, 2023
25. Notice of Joinder of Motions to Dissolve the Cape plc "Receivership" filed by De Beers plc on December 18, 2023
26. Notice of Appeal filed by De Beers plc on December 18, 2023

I certify that this designation contains no matter which is irrelevant to this appeal.

**RICHARDSON PLOWDEN
& ROBINSON, P.A.**

/s/ James H. Elliott, Jr.

James H. Elliott, Jr. (SC Bar No. 13620)
Cameron D. Berthelsen (SC Bar No. 104849)
235 Magrath Darby Blvd., Ste. 100
Mt. Pleasant, South Carolina 29464
Tel: 843-805-6550
Fax: 843-805-6599
Email: jelliott@richardsonplowden.com
cberthelsen@richardsonplowden.com

**HERBERT SMITH FREEHILLS
NEW YORK LLP**

Scott S. Balber (*Pro Hac Vice*)
Benjamin C. Rubinstein (*Pro Hac Vice*)
Maxwell D. Herman (*Pro Hac Vice*)
450 Lexington Avenue
New York, New York 10017
Tel: 917-542-7600
Fax: 917-542-7601
Email: scott.balber@hsf.com
benjamin.rubinstein@hsf.com
maxwell.herman@hsf.com

*Attorneys for Appellant/
Third-Party Defendant
De Beers plc*

February 22, 2024