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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jean H. Toal
Acting Circuit Court Judge

Appellate Case No. 2023-002011
Appellate Case No. 2023-002010
Appellate Case No. 2023-002009
Circuit Court Case No. 2023-CP-40-01759

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

Plaintiffs,

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; and Zurn Industries, LLC,

Defendants,

of which

Asbestos Corporation Limited is the.....

Appellant,

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.; DeBeers PLC; DeBeers Centenary AG; DeBeers Consolidated Mines Ltd.; DeBeers S.A.; DeBeers UK Ltd.; DeBeers Jewelers US, Inc.; Angle 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 (USA) Jewelry Inc.; Forevermark US Inc.; Anglo American Crop Nutrients (USA), 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 SAS; Sparrows Offshore Group Ltd.; Hawk Bidco US Inc.; Arranco US, LLC; Sparrows Offshore, LLC; The Sparrows Group, LLC,.....

Third-Party Defendants,

of which

Charter Consolidated Ltd., ESAB Corporation, and Central Mining & Investment Corporation Ltd. are the Appellants.

CHARTER DEFENDANTS' DESIGNATION OF MATTER (INJUNCTION APPEAL)

In addition to those materials previously designated for inclusion in the record on appeal, pursuant to Rule 209, SCACR, the Appellants Charter Consolidated Ltd., ESAB Corporation, and Central Mining & Investment Corporation Ltd. ("Charter Defendants") designate the following additional materials:

Orders

1. Order (Mar. 12, 2024)

Transcripts

2. Hearing Transcript (Feb. 2, 2024)

Motions

3. Charter's Motion for Protective Order and to Dissolve Receivership (October 6, 2023), and all referenced documents, supporting exhibits and memoranda, including replies
4. ESAB's Motion for Protective Order and to Dissolve Receivership (October 6, 2023), and all referenced documents, supporting exhibits and memoranda, including replies
5. Central Mining's Motion for Protective Order and to Dissolve Receivership (October 6, 2023), and all referenced documents, supporting exhibits and memoranda, including replies
6. The Receiver's Motion to Compel Discovery Responses from Charter Consolidated Ltd., ESAB Corporation, and Central Mining & Investment Corporation Ltd (Jan. 12, 2024), and all supporting exhibits
7. The Receiver's Motion to Compel 30(b)(6) Deposition of Central Mining & Investment Corporation Ltd (Jan. 12, 2024), and all supporting exhibits
8. Charter Defendants' Memorandum in Opposition to Motions to Compel Deposition and Discovery and Cross Motion for Injunctive Relief (Feb. 16, 2024), and all referenced documents, supporting exhibits and memoranda, including replies

9. Charter Defendants' Objection to the Court Ruling on Motions for Protective Order or the Receiver's Motions to Compel (Feb. 27, 2024), and all referenced documents, supporting exhibits and proposed order

Other Materials

10. Charter Defendants' Notice of Second Appeal (Mar. 19, 2024)
11. Charter Defendants' Initial Appellate Brief for Initial Appeal (Feb. 22, 2024)
12. E-mail from Court (Eva Diaz) to Counsel of Record attaching the March 12, 2012 order with subject line: "Cape PLC v. Anglo American PLCC, et al. (2023-CP-40-01759) – Pending Motions to Compel" (Mar. 12, 2024)

The below-signed certify that this Designation contains no matter which is irrelevant to this appeal. Additionally, the Charter Defendants reserve the right to rely on any matter designated by any other party to this appeal or any of the related appeals involving the same underlying orders and/or receivership at issue in this appeal.

Respectfully submitted,

Dated: March 20, 2024

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PROOF OF SERVICE

I, the undersigned of the law offices of Gordon Rees Sculls Mansukhani LLP, attorneys for Appellants Charter Consolidated Ltd., ESAB Corporation, and Central Mining & Investment Corporation Ltd., do hereby certify that I have served all parties to this appeal with a copy of the pleading(s) specific below by emailing them at the addresses below:

Pleading(s): Charter Consolidated Ltd., ESAB Corporation, and Central Mining & Investment Corporation Ltd.'s Designation of Matter (Injunction Appeal)

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March 20, 2024