

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Court of Common Pleas
The Honorable Jean H. Toal, Circuit Court Judge

Civil Action No. 2023-CP-40-01759
Appellate Case No.

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; Zurn Industries, LLC.....**DEFENDANTS,**

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 ArranCo US, LLC, Hawk Bidco US Inc., and Sparrows Offshore, LLC are the.....**APPELLANTS.**

NOTICE OF APPEAL

Please take notice that ArranCo US, LLC, Hawk Bidco (US) Inc., and Sparrows Offshore, LLC appeal the circuit court orders entitled “Order Granting the Receiver for Cape PLC’s Motion to Pre-Admit Exhibits” and “Order Granting the Receiver for Cape PLC’s Motion for Sanctions and Motion for Adverse Inference as to the Altrad and Charter Third-Party Defendants,” both of which were entered on May 23, 2024. These Orders are immediately appealable pursuant to the

following authorities: (1) the two Orders contained findings that are contempt¹; (2) the entering of adverse inferences in a bench trial effectively “determines the action”; (3) the entering of adverse inferences of fact effectively struck out portions of the Answers filed by each party; (4) the two orders demonstrate the further refusal to enter the requested injunction required as a matter of law; and (5) South Carolina appellate authority is clear that orders such as this *must* be appealed² to preserve the right to appellate review.

ArranCo US, LLC, Hawk Bidco (US) Inc., and Sparrows Offshore, LLC, received written notice of entry of these Orders on May 23, 2024, making this notice timely. By attached correspondence of the same date hereof, ArranCo US, LLC, Hawk Bidco (US) Inc., and Sparrows Offshore, LLC have ordered all necessary transcripts for this appeal from the appropriate court reporter.

Respectfully submitted,

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*Attorneys for Third-Party Defendants ArranCo US,
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¹ See, e.g., *Arnal v. Arnal*, 363 S.C. 268, 297, 609 S.E.2d 821, 837 (Ct. App. 2005) (“An order finding a party in contempt is immediately appealable.”).

² *Davis v. Parkview Apartments*, 409 S.C. 266, 280, 762 S.E.2d 535, 543 (2014).

June 21, 2024

CERTIFICATE OF SERVICE

I, the undersigned, an employee of Richardson Plowden & Robinson, P.A., for Appellants ArranCo US, LLC, Hawk Bidco (US) Inc., and Sparrows Offshore, LLC, do hereby certify that I have this date served the foregoing **NOTICE OF APPEAL**, by personally serving the same pursuant to Section (d)(1) of the Supreme Court's Order dated April 24, 2024, on all counsel of record using the primary email addresses listed in the Attorney Information System (if applicable).

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Date: June 21, 2024

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Cc: [Steve Pugh](#); [Ben Carlton](#); [Charity McQueen](#); [Carmen Ganjehsani](#)
Subject: John A. Tibbs v. Asbestos Corporation Limited (Civil Action No. 2023-CP-40-01759)
Date: Friday, June 21, 2024 5:08:00 PM
Attachments: [Notice of Appeal - Sparrows Appellants 6-21-24 \(3410126\).pdf](#)
[Order - Granting Receiver's Motion to Pre-Admit Exhibits \(3392660\).pdf](#)
[Order - Granting Receiver's Motion for Sanctions and Adverse Inferences \(3392661\).pdf](#)
[Transcript Request and Letter - Sparrows Appellants 06-21-24 \(3410011\).pdf](#)

Good evening,

Please find served upon you Sparrows Appellants' Notice of Appeal, a copy of each of the two May 23 Orders being appealed, and correspondence that was sent to the Court Reporter seeking a transcript of the relevant hearing in this matter. These are being served in the above-referenced case on behalf of Appellants ArranCo US, LLC; Hawk Bidco (US) Inc.; and Sparrows Offshore, LLC and will be filed with the Court of Appeals of South Carolina later today.

Please let me know if you have any questions.

Have a good weekend!

Ashwin

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