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Jan 09 2025

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
In the Court of Common Pleas
For the Fifth Judicial Circuit
The Honorable Jean H. Toal,
Acting Circuit Court Judge

Civil Action No. 2023-CP-40-01759

Appellate Case Nos. 2024-001423, 2024-001499, 2024-000916, 2024-002114, 2024-002116,
2024-002117

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.; Lowserve 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, Incl; 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,

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

Mohed Altrad, Altrad Investment Authority SAS, Charter Consolidated Ltd., ESAB Corporation, and Central Mining & Investment Corporation Ltd. are the

Petitioners.

RECEIVER'S MOTION TO STAY DEADLINES

Peter D. Protopapas, in his capacity as the court-appointed Receiver for Cape PLC, individually and as successor in interest to Cape Asbestos Company Limited, n/k/a Cape Intermediate Holdings Ltd. (the "Receiver"), hereby files this Motion to Stay Deadlines.

The Court currently has under consideration an Emergency Motion for Supersedeas to Protect and Enforce Jurisdiction and for Temporary Restraining Order (“the Emergency Motion”) filed by Respondent Receiver Peter D. Protopapas on December 13, 2024, in Appellate Case No. 2024-001499. However, the Receiver’s Returns to Petitioners’ recently filed petitions for writ of certiorari are due on January 15, 2025. *See* Appellate Case Nos. 2024-002114, 2024-002116, and 2024-002117. Due to the highly unusual circumstances and the ongoing use of criminal and civil threats against the Receiver and his counsel, the Receiver is requesting a stay of all deadlines while the Court considers the Emergency Motion.

Despite representations to this Court to the contrary, Petitioners Mohed Altrad and Altrad Investment Authority S.A.S. (the “Altrad Petitioners”) continue to threaten and are presently seeking to imprison, fine, and seize the assets of anyone who purports to act on behalf of the court-appointed Receiver, including the attorneys for the court-appointed Receiver. Several days after filing their Memorandum in Opposition to Receiver’s Motion, in which they represented they had had no involvement in either the UK proceedings or the threats against the Receiver and his counsel, the Altrad Petitioners filed another action against the Receiver. This time in France (the “French action”). *See* December 26, 2024 Summons To Appear On A Fixed Date For Enforcement Purposes Before The Montpellier Civil Court, attached as **Exhibit 1**. The joint Plaintiffs in the French action, **Cape Plc, Cape Intermediate Holdings Limited (CIHL), Altrad Investment Authority (AIA), and Mr Mohed Altrad**, are seeking to domesticate the UK judgment against the Receiver in France as a matter of "urgency" as well as additional relief. The Altrad Petitioners assert in the French action:

By this English Decision, the *High Court* held that the appointment by the American court of the defendant, Mr Peter Protopapas, as receiver of CIHL was irregular and therefore ordered him to:

- cease to act or purport to act as a receiver of CIHL in England, South Carolina and worldwide;
- discontinue the action intended to sue Mr Altrad and AIA as third party defendants in the proceedings in the context of US proceedings.

....

However, Mr Protopapas is currently pursuing the proceedings against Mr Altrad and AIA in the context of an US proceedings in South Carolina (detailed below, see §§7-20), despite the terms of the injunction issued, with the aim of obtaining a decision on the merits during the first quarter of 2025.

Therefore, the Plaintiffs hereby seek the enforcement in France of the English Decision in order to protect themselves against the potentially very negative effects of a decision to be taken in the coming months in South Carolina in the context of an abusive procedure.

Id. at 5 (emphasis in original).

Additionally, today, the Altrad Petitioners served upon the Receiver an additional notice of their intent to extract monetary sanctions against the Receiver personally for fulfilling his statutory and court-ordered duties under the Order of Appointment. *See* Exhibit 1. If any doubt existed prior to the Altrad Petitioners' commencement of the French action, it cannot now be denied, the Altrad Petitioners are intentionally using the appeals process in conjunction with criminal threats to obstruct justice and avoid any trial on the merits in the United States. The Altrad Petitioners' latest pursuits outside of the Receivership Court and South Carolina appellate courts to enjoin the South Carolina Receiver illustrate their complete disregard of the *Barton* Doctrine and South Carolina jurisprudence. To further complicate matters, on December 16, 2024, Petitioners filed a new round of Petitions for a Writ of Certiorari: one relating to a scheduling order and the other a discovery order. *See* Appellate Case Nos. 2024-002114, 2024-002116, and 2024-002117. The Receiver's responses to the newly filed Petitions for a Writ of Certiorari are currently due on January 15, 2024. However, as noted by the Receiver in the Emergency Motion, "The

mere participation of the Receiver in the appeals filed by Mr. Carroll on behalf of Altrad in this Court, and in other litigation currently pending in South Carolina and elsewhere in the United States, is being weaponized by Altrad and used to threaten the Receiver and his attorneys with imprisonment, fines, and seizure of assets.” Emergency Motion at p. 4.

As such, counsel for the Receiver, and the Receiver himself, have been placed in the untenable position by the Altrad Petitioners of having to choose between fulfilling their obligations under the South Carolina Rules of Professional Conduct as counsel of record for the Receiver and the Order of Appointment or neglecting those obligations to avoid the Altrad Petitioners’ pursuit of criminal and civil threats. As Petitioners proceed in these appeals, continue to file new interlocutory appeals, and pursue every effort to avoid a trial on the merits in the United States, the Altrad Petitioners simultaneously threaten and pursue efforts to imprison, fine, and seize the assets of anyone who acts on behalf of the Receiver.

While the Court considers the Receiver’s Emergency Motion requesting the Court confirm the jurisdiction of this Court over the pending appeals and the South Carolina courts’ jurisdiction over the Cape Receivership and prevent the Altrad Petitioners and their counsel from continuing these threats against the court-appointed Receiver, his counsel, and anyone assisting him in fulfilling his court-appointed obligations, the Receiver respectfully requests the Court stay all deadlines, or in the alternative, provide guidance to the Receiver and his counsel as to their obligations on behalf of their client in light of the criminal and civil threats and international proceedings being advanced by the Altrad Petitioners.

Conclusion

Accordingly, the Receiver respectfully requests the Court grant his Motion to stay deadlines until the Court is able to rule on his Emergency Motion or to provide other guidance on continuing with the appellate process created by Petitioners.

Respectfully Submitted,

By: /s/ John T. Lay, Jr.

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January 9, 2025.