THE STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jean H. Toal
Acting Circuit Court Judge

Appellate Case No. 2024-002116

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; 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,

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

Mohed Altrad and Altrad Investment Authority SAS are the..... Appellants.

REPLY IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI
(CONTEMPT APPEAL)

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January 27, 2025

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INTRODUCTION

This case demands the Court's considered attention because of what can only be regarded as an extraordinary and unconstitutional overreach at the circuit court level. The circuit court has unconstitutionally reached outside of the state's borders and, under the guise of a receivership, has attempted to seize control of an active, solvent English company that has no operations or property in South Carolina. It is unprecedented. It is unconstitutional. There is nothing appropriate or lawful about the circuit court's extraterritorial reach. To borrow this Court's phrasing, the circuit court's attempt to authorize a receiver to reach beyond South Carolina and to meddle in the business of an active English company is "shocking and indefensible." (Order (Jan. 16, 2025).)

This appeal further highlights the unprecedented nature of what's happening below. In response to the circuit court's order purporting to appoint a receiver over Cape Intermediate Holdings Limited, the Altrad Defendants (and several others) immediately appealed that appointment order, precisely as authorized by South Carolina Code § 14-3-330(4). Through that immediate appeal, the Altrad Defendants (and several others) respectfully and rightfully requested that the Court of Appeals faithfully apply South Carolina law and end this unconstitutional receivership before it was able to create international chaos by unlawfully interfering with that English company's business affairs, its legal relationships, and decades of English (and South Carolina) precedent that exposes the complete falsity of the "claims" the Receiver is presenting in this case. (Appellate Case No. 2024-001499.)

Because Appellate Court Rule 205 divests the circuit court of jurisdiction over every matter that is impacted by an appeal—including "inchoate" issues that could be affected by the order on appeal, *Stokes-Craven Holding Corp. v. McKenzie*, 416 S.C. 517, 539, 787 S.E.2d 485, 496 (2016) (Pleicones, C.J., concurring in result)—the Altrad Defendants have diligently held firm to their

law-based objection to anything happening below until this Court has a chance to quash this patently unlawful situation. (Appellate Case No. 2024-000916.) This isn't some contrived argument—it's exactly what South Carolina law requires. *See* Rule 205, SCACR (providing that after service of a notice of appeal, "the appellate court shall have ***exclusive jurisdiction*** over the appeal") (emphasis added).

In response to their diligent adherence to Rule 205's unambiguous jurisdictional guardrails, the Altrad Defendants have been wrongly punished by the circuit court. The Receiver's "counter-statement" makes this sequence obvious, as he mocks the Altrad Defendants' arguments as a strategy to "delay" and "avoid trial" and "wast[e]" resources and "forum shop" and make "piecemeal appeals," all because the Altrad Defendants—an individual French citizen and a French company, neither of which are even subject to jurisdiction in South Carolina—are daring to follow the law, preserve their issues, and protect their rights. (Opp. at 2, 3.)

The irony of the Receiver's argument is that if he and the circuit court had simply abided by the clear jurisdictional restrictions of Rule 205, there would be no "piecemeal" appeals; this situation would have been stopped from the outset while this Court reviewed their unconstitutional attempt to reach beyond South Carolina's borders and put a South Carolina receiver in charge of CIHL's affairs. The Receiver's chiding of the Altrad Defendants (and others) for adhering to the law, and his blaming of the Altrad Defendants (and others) for procedural problems that the Receiver himself and the circuit court's rulings have created, is undoubtedly misplaced.

The Receiver has taken extraordinary steps to avoid this Court's necessary review and scrutiny of what's been happening below. In furtherance of this appellate-avoidance strategy, the Receiver's argument in opposition to certiorari review is based on nothing more than mischaracterizations of what the circuit court orders at issue actually do.

The law doesn't allow a lower court's order to avoid appellate review based on a label; instead, substance what matters. *See, e.g.*, *Morrow v. Fundamental Long-Term Care Holdings, LLC*, 412 S.C. 534, 539, 773 S.E.2d 144, 147 (2015) (finding that an order was immediately appealable despite its "bifurcation" label and reiterating that "[o]ur review of trial court orders is not constrained by how the order is styled"). Despite the Receiver's straining, and despite the circuit court's labeling, the orders at issue in this appeal are unmistakable in their effect: they strike the Altrad Defendants' very first defense, they hold the Altrad Defendants in contempt, and they refuse to issue an injunction that is required by law. These are three ***independent*** reasons why these orders are immediately appealable, and they give this Court yet another basis to take up this appeal (as well as all others filed by the Altrad Defendants and their co-appellants) to end this illegal receivership.

Finally, none of the legal issues and background underlying the Altrad Defendants' instant certiorari petition—nor the myriad constitutional, substantive, procedural, and logical defects that infect this case and the CIHL (and Cape PLC) receivership—are set to be heard by this Court during its February term. In its January 16, 2025 Order, the Court indicated that it would "hear" arguments regarding the unconstitutionality of the CIHL receivership "during its February term of court and resolve [them] after oral argument"; however, the issues presented here are distinct from the insurance-based issues presented in the Asbestos Corporation Limited and Atlas Turner receiverships. ***This case involves no insurance issues.*** And despite numerous chances, the Receiver has never even attempted to defend the unconstitutionality of the CIHL receivership, instead weakly claiming that the impropriety of his appointment—the fountainhead error from which this entire situation flows—is neither "important" nor "relevant." (Receiver's Return to Cert. Pet. at 12–13 (Appellate Case No. 2024-001499).)

ARGUMENT

I. These orders are immediately appealable, regardless of the Receiver's linguistic gloss, because they strike a defense, they hold the Altrad Defendants in contempt, and they refuse to enjoin litigation for which there is no jurisdiction.

This Court has been clear, and reiterated again ***just two weeks ago***, that a party opposing discovery must refuse to engage in the discovery process in order to maintain the appealability of discovery rulings. *See Innovative Waste Mgmt., Inc. v. Crest Energy Partners GP, LLC*, Op. No. 28251 (S.C. Sup. Ct. filed Jan. 15, 2025) (Howard Adv.Sh. No. 3 at 29) (holding that the appellants "have waived appellate review of all discovery orders prior to the October 1, 2019 order granting sanctions" due to their partial participation in discovery).

Accordingly, the Altrad Defendants had—and have—no choice but to hold fast to their objections below—anything else would constitute a waiver—but the circuit court struck their first defense (a general denial of all of the Receiver's factual allegations) as result. While the Receiver shades that ruling as nothing more than creating "rebuttable presumptions that Petitioners can refute through evidentiary challenge" (Opp. at 15), the Receiver's argument proves the Altrad Defendants' point.

The Altrad Defendants' very first defense is that the Receiver's allegations against them are false. (Altrad Defs.' Ans. ¶¶ 116–19.) By denying those allegations, the Altrad Defendants left the burden of proof on the Receiver—a burden that is impossible to carry, as the entirety of his "third-party complaint" was exposed as meritless 35 years ago. *See Adams v. Cape Industries plc* (1990) 1 Ch 433 (CA) (a seminal opinion—the product of an extensive trial and a subsequent extensive appeal in the English courts—finding that CIHL is not the alter ego of NAAC; there was no basis to pierce CIHL's corporate veil or impose vicarious liability on it; and CIHL could not be held responsible in the United States for any alleged conduct of NAAC or the sale and distribution

of asbestos as performed by others—all findings completely contrary to those now asserted by the Receiver in his "third-party" complaint that seeks a "reckoning" and recovery of "billions" of dollars in damages).

By creating "rebuttable presumptions that Petitioners can refute through evidentiary challenge," the circuit court has relieved the Receiver of his burden of proof—and, accordingly, wiped out the Altrad Defendants' "general denial" defense. *See O'Neal v. Carolina Farm Supply, Inc.*, 279 S.C. 490, 493, 309 S.E.2d 776, 779 (Ct. App. 1983) (acknowledging that "the burden of presenting evidence of a fact was on the party pleading it"). Now, instead of requiring the Receiver to prove his case—which, again, cannot happen as a matter of law—the circuit court has shifted the burden of proof and is forcing the Altrad Defendants (and others) to waive their absolute personal jurisdiction defense and disprove the Receiver's claims.

The Receiver does not address this obvious consequence of the circuit court's ruling in his return. Nor did the Court of Appeals acknowledge it in its dismissal. But this unavoidable effect of the circuit court's ruling renders it immediately appealable as a matter of right. *See* S.C. Code Ann. § 14-3-330(2)(c) (providing a right to appeal any order that "strikes out an answer or ***any part thereof*** or any pleading in any action") (emphasis added).

Likewise, the Receiver opposes this Court's scrutiny because the orders on appeal contain extreme "discovery sanctions" without also using the word "contempt." But this superficial argument again ignores what the orders actually do.

Here, the circuit court determined that it was "authenticating" and "preadmitting" 2,538 exhibits that it did not even review (against only some, but not all, of the third-party defendants) and that had never been the subject of discovery "as a sanction for the persistent and baseless refusal of the Altrad Third-Party Defendants and the Charter Third-Party Defendants to participate

in the discovery process." (Order Granting the Receiver for Cape PLC's Motion to Pre-Admit Exhibits at 6 (May 23, 2024).) It determined that it was going to effectively decide this case on its merits through a series of "adverse inferences" because most of the third-party defendants "continue to refuse any effort at compliance with the Court's orders and the discovery rules of this State." (Order Issuing Adverse Inferences at 15 (May 23, 2024).) It continued: "The Court finds that this continued discovery misconduct on the part of these Third-Party Defendants amounts to bad faith, willful disobedience, and gross indifference to the rights of the Receiver and this Court's management of its docket." (*Id*.) It explained that the goal of these sanctions is to prompt these litigants into participating in discovery—activity that, of course, would result in a waiver of the Altrad Defendants' objections under *Innovative Waste Management* and others. (*Id*. at 16.)

These rulings match the "contempt" framework exactly. *See Poston v. Poston*, 331 S.C. 106, 111, 502 S.E.2d 86, 88 (1998) (explaining that the purpose of contempt is "to coerce the defendant to do the thing required by the order for the benefit of the complainant"); *Ex parte Cannon*, 385 S.C. 643, 660–61, 685 S.E.2d 814, 824 (Ct. App. 2009) (describing contempt as the natural result of "willful disobedience of a court order," and explaining that "the record must clearly and specifically reflect the contemptuous conduct" (quoting *Widman v. Widman*, 348 S.C. 97, 119, 557 S.E.2d 693, 705 (Ct. App. 2001))).

The Receiver's attempt to minimize these rulings as casual, afterthought "discovery sanctions" ignores what these orders explicitly identify as their purpose: to punish the Altrad Defendants for standing on their jurisdictional objections, coerce them into waiving those objections, and compel them to ***dis***prove the Receiver's claims (which, again, have already been rejected as a matter of fact and law after weeks of trials and appeals decades ago). There is simply no other way to understand these rulings other than as contempt. And that makes them immediately

appealable for a second reason. *See Davis v. Parkview Apartments*, 409 S.C. 266, 280, 762 S.E.2d 535, 543 (2014) ("However, to challenge the specific rulings of the discovery orders, the normal course is to refuse to comply, suffer contempt, and appeal from the contempt finding."); *Cannon*, 385 S.C. at 660, 685 S.E.2d at 824 ("Additionally, the finding of contempt is immediately appealable.").

And third, the orders refuse to enter an injunction required as a matter of jurisdictional law. Appellate Court Rule 205 removed jurisdiction from the circuit court regarding this receivership the moment the Altrad Defendants (and others) appealed the order unconstitutionally appointing a receiver over CIHL—again, an English company with nothing at all to do with South Carolina. Despite the absence of jurisdiction, the Receiver attempted to press forward with litigation at the trial level. The Altrad Defendants then, rightly, invoked Rule 205's jurisdictional boundaries to avoid being put through void litigation activities while the unlawfulness of the receivership appointment was being addressed on appeal.

The Altrad Defendants raised this jurisdictional objection in February 2024. Incredibly, the Receiver implies that the Altrad Defendants' objection is still being considered by the circuit court and encourages this Court to look the other way while a jurisdictional objection (based on the Appellate Court Rule that is designed to protect this Court's "exclusive jurisdiction") languishes interminably below. (Opp. 16–18.) The General Assembly has crafted the appellate statute with language designed to block precisely such a situation.

The Altrad Defendants' right to appeal does not arise only from a "denial" of their motion for an injunction. Instead, it is triggered by an "interlocutory order or decree in a court of common pleas . . . ***refusing*** an injunction." S.C. Code Ann. § 14-3-330(4) (emphasis added). This is the same language used in the federal appellate statute, and federal courts construe it exactly as argued

by the Altrad Defendants here. *See, e.g.*, *In re Fort Worth Chamber of Com.*, 100 F.4th 528, 533 (5th Cir. 2024) ("[I]f a district court does not timely rule on a preliminary-injunction motion, it can effectively deny the motion. We have accordingly recognized that simply sitting on a preliminary-injunction motion for too long can effectively deny it." (citing 16 Wright & Miller, Federal Practice & Procedure § 3924.1 (3d Ed.))).

The Receiver's argument on this point is telling. He never bothers with the actual language of the appellate statute, but instead argues that if the Court accepts certiorari review here, then "any litigant could manufacture an immediately-appealable issue out of ***any garden-variety discovery order at any point*** by simply opposing the underlying motion with a 'gotcha' request to enjoin the moving party from taking any action." (Opp. at 16 (emphasis supplied by the Receiver).) And then he argues that "context" should control the Court's analysis. (*Id.* at 17.)

On this latter point, the parties agree: context matters, but this case doesn't involve "any garden-variety discovery order" in any way. Instead, this case involves a state-court trial judge attempting to appoint a receiver over CIHL, an English company with no contacts whatsoever with South Carolina in violation of, at least, the Commerce and Due Process Clauses, as well as decades-old South Carolina law.

This case involves a South Carolina Receiver trying to seize control of CIHL's assets, which are not in South Carolina.

This case involves a South Carolina Receiver trying to enter into contracts on behalf of CIHL, with the same plaintiffs' lawyers who are adverse to CIHL.

This case involves a South Carolina Receiver trying to undercut CIHL's interests by, stunningly, actively presenting claims at the trial level that were categorically rejected 35 years ago after both a full trial and a full appeal before the English courts.

This case involves a South Carolina Receiver who has continued to claim to speak on behalf of CIHL despite being told by its management that he has no such authority.

This case involves a South Carolina Receiver who is actively trying to fracture CIHL's attorney-client relationships.

This case involves a South Carolina Receiver who has entered an appearance as counsel (not as a receiver) for Cape PLC, a Jersey company, despite being told by Cape PLC's actual directors that he has no such authority.

This case involves a South Carolina Receiver whose behavior has been so plainly unlawful that he has been deemed an "impostor" by the High Court of Justice in the Business and Property Courts of England and Wales, the only court that has jurisdiction over CIHL. *Cape Intermediate Holdings Limited v. Protopapas* [2024] EWHC 2999

And, for purposes of this appeal, this case involves a Receiver and a circuit court who have pressed forward with litigation activities while the order appointing the Receiver—the fountainhead from which all other errors in this case flow—has been on appeal. The circuit court has no jurisdiction to do so, and every order it has issued (including the orders involved in this appeal) is void as a matter of law.

The law on this point is settled. *See, e.g.*, *Stokes-Craven Holding Corp.*, 416 S.C. at 534, 787 S.E.2d at 494 (explaining that "Rule 205 divests the lower court or administrative tribunal of jurisdiction over '***matters affected by the appeal***'" (quoting *Tillman v. Oakes*, 398 S.C. 245, 255, 728 S.E.2d 45, 51 (Ct. App. 2012))) (emphasis supplied by this Court); *Arnal v. Fraser*, 371 S.C. 512, 518–19, 521–22, 641 S.E.2d 419, 422, 423–24 (2007) (holding various parts of a trial court order issued after an appeal was taken were "void *ab initio*" because the trial court "did not have jurisdiction to ***modify*** matters in the final divorce order that were on appeal," as Rule 205 prohibits

the trial court from "issu[ing] orders that affect an issue on appeal") (emphasis supplied by this Court); *Wingate v. Wingate*, 289 S.C. 574, 575, 347 S.E.2d 878, 878 (1985) (holding that a family court's order reducing alimony payments "is void" because "alimony was an issue on appeal from the divorce decree" and "this Court had exclusive jurisdiction over the alimony issue"); *Wilson v. Walker*, 340 S.C. 531, 540, 532 S.E.2d 19, 23 (Ct. App. 2000) (vacating a contempt order "for lack of jurisdiction" because the trial court issued that order while an earlier order on which the contempt order was based was on appeal).[1]

Obviously, this entire situation is one-of-a-kind. Nothing about it is "garden-variety," but virtually everything about it violates the law—the United States Constitution, the South Carolina Code, and now even international law. The circuit court's "refus[al]" to enter an injunction required by Appellate Court Rule 205 is immediately appealable under South Carolina Code § 14-3-330(4), which is a third independent basis for this appeal proceeding. The Court should grant the Altrad Defendants' petition and grant certiorari accordingly.

II. This case has fundamental distinctions from the ACL and Atlas Turner appeals pending before the Court.

As the Court is aware, there are numerous certiorari petitions pending before the Court that involve the CIHL (and Cape PLC) receiverships—the Altrad Defendants have filed five themselves, and the Charter Defendants have filed several as well. Other than involving receiverships unconstitutionally created over active foreign companies, the CIHL receivership is

[1] To ensure no doubt on the point, the existence or nonexistence of a stay at the trial level has nothing to do with this dispositive issue of jurisdiction. *See, e.g.*, *Tillman*, 398 S.C. at 255, 728 S.E.2d at 51 ("Thus, the existence or nonexistence of a stay under Rule 241 does not control the family court's power to proceed with the action and address matters not affected by the appeal. Rather, the lower court's power to proceed is determined by whether the issue sought to be litigated in the lower court during the appeal is a 'matter affected by the appeal' under Rules 205 and 241(a).") (cleaned up).

not identical to the ACL and Atlas Turner receiverships, which are on this Court's oral argument schedule for February 2025. (*Cf.* Order (Jan. 16, 2025) ("The dispute giving rise to the English Court's attempt to intervene in these matters involves the appropriate reach of the Receiver appointed by the South Carolina Circuit Court—an issue this Court will hear during its February term of court and resolve after oral argument.").)

To be sure, all or substantially all issues involved in the Altrad Defendants' pending petitions are unrelated to or distinguishable from those currently on the Court's docket. The Receiver himself concedes this point:

> The Receiver also agrees with Appellant's [*i.e.* ACL's] objection to the consolidation of this appeal involving the ACL receivership and the *Welch* appeal involving the Atlas [Turner] receivership with any other appeals pending from the *Tibbs* case involving a separate receivership, separate parties, entirely separate issues, and different procedural backgrounds [*i.e.*, all of the appeals involving the CIHL/Cape PLC receiverships].

(Receiver's Ret. to Mot. to Consol., Appellate Case No. 2023-001461, at 2 (Oct. 21, 2024).) Accordingly, the Altrad Defendants respectfully note that the issues presented here are ***not the same*** as those at issue in the ACL and Atlas Turner appeals. A non-exclusive survey of some of the material distinctions include:

1. **No Insurance at Issue.** The circuit court has stated in repeated hearings that it created the receivership scheme that permeates the Asbestos Docket to compensate plaintiffs through legacy insurance policies for which premiums had been paid by the defunct companies being placed in receivership. This "historic insurance coverage" background has animated numerous receivership matters, including the ACL and Atlas Turner appeals that are on the Court's February docket (even though ACL and Atlas Turner are not defunct). But there are no insurance interests in play in this case: no carriers, no policies, no coverage questions, no insurance implications at all. Rather than attempting to seize "insurance assets" from CIHL, the Receiver

here is attempting to seize actual assets (along with corporate decision-making authority and attorney-client relationships) away from CIHL. The complete absence of any insurance-related issues is a fundamental distinction between this situation and the ACL/Atlas Turner matters.

2. **Receivership Arises from Different Case.** The Atlas Turner and ACL receiverships were created in the respective cases from which those appeals arise (*Welch* and *Tibbs*). By contrast, this situation arose through a receivership appointment in *Park* over Cape PLC, which was then modified to create a brand-new appointment over CIHL in this case—even though CIHL isn't even a party to this case. The impropriety of the initial appointment in *Park*, the Receiver's unlawful movement of his appointment out of the *Park* case into this one, and the unlawful mutation of that appointment into one over CIHL, and the unlawful (and incomprehensible) appointment of a receiver over CIHL in this case to which CIHL isn't a party are all dispositive procedural differences between this case and the ACL/Atlas Turner appeals.

3. **No Service, Appearance, or Notice.** In the Atlas Turner and ACL cases, those entities acknowledge that they were served with process and appeared before the circuit court prior to being placed in receivership. But neither Cape PLC nor CIHL were ever served with process of any then-operative pleading, neither made any appearance, neither were given due notice of any prospect of being placed in receivership, and neither has been given due process required by federal or state law.

4. **No Personal Jurisdiction.** The circuit court's perceived avenue for exercising jurisdiction over Atlas Turner and ACL derived from the "insurance" nature of those cases. No such avenue exists here because there is no insurance policy involved. Instead, the circuit court purported to assert personal jurisdiction over the Altrad Defendants—an individual French citizen and a French company—based on an "alter ego" argument that fails as a matter of settled law.

5. **Standalone Constitutional Violations.** The circuit court and Receiver's actions below—at every turn, and underpinning each petition for certiorari review—violate numerous protections under both the United States and South Carolina Constitutions. As the Altrad Defendants have detailed in the various petitions with this Court, the actions here violate ***at least*** the Commerce Clause, the Due Process Clause, the Equal Protection Clause, the Takings Clause, and the Excessive Fines Clause. Such constitutional violations can only be assessed on a case-by-case, but the Receiver has never even attempted to defend what's happened (and continues to happen in violation of Rule 205) below. The Court should not confuse the Receiver's actions regarding CIHL with its pending appeals involving Atlas Turner and ACL.

Because this case is separate and distinct from the appeals pending on the Court's February docket, as the Receiver has acknowledged to this Court as referenced above, the Altrad Defendants respectfully note that this case is not currently scheduled to be heard by the Court during its upcoming term.

CONCLUSION

The Court should grant this petition, as well as all others presented by the Altrad Defendants and the Charter Defendants; void the contempt orders below; and vacate this unconstitutional receivership and dismiss this matter, as explained in the Altrad Defendants' filings in Appellate Case Nos. 2024-000916 and 2024-001499. Respectfully, nothing in the ACL or Atlas Turner appeals scheduled for February oral argument changes the required result here: this unconstitutional receivership should end immediately.

As before, pursuant to Rules 208(b)(6) and 240, SCACR, the Altrad Defendants incorporate herein, to the extent applicable, all additional arguments raised and authorities cited

by all similarly-situated parties. Finally, by submitting this reply, the Altrad Defendants do not waive, but continue to specifically preserve their objection to personal jurisdiction.

Respectfully submitted,

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