

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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May 19 2025

S.C. SUPREME COURT

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Appeal from Richland County  
Court of Common Pleas  
Jean Hoefer Toal, Circuit Court Judge

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Court of Appeals Case No. 2023-001461  
Circuit Court Case No. 2023-CP-40-01759

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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

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. are Appellants.

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**RESPONDENTS JOHN AND MARGARET TIBBS' RESPONSE TO ORDER RE:  
EFFECT OF BANKRUPTCY STAY**

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## INTRODUCTION

On May 8, 2025, this Court instructed the parties to file a response as to whether the Tibbs cases are stayed in light of the Southern District of New York bankruptcy court's stay dated May 6, 2025. Respondents John and Margaret Tibbs respectfully respond as follows.

### STATUS OF CANADIAN AND NEW YORK BANKRUPTCY COURT MATTERS

The Tibbs generally agree with the sequence of events set forth in Asbestos Corporation Limited's ("ACL") Response to the Court's May 8, 2025, letter. The Tibbs acknowledge that on May 6, 2025, ACL and CLMI jointly commenced an "insolvency proceeding" in Quebec, Canada ("Canadian Proceeding"). The Tibbs also agree that on May 6, 2025, the United States Bankruptcy Court for the Southern District of New York, in recognition of the Canadian Proceeding, issued a Temporary Restraining Order staying the commencement or continuation of any suit, action, or proceeding against the Stay Parties or their U.S. interests ("New York Bankruptcy Stay").<sup>1</sup>

Various ACL creditors and/or the Receiver have filed oppositions in the Canadian Proceeding and the New York Bankruptcy Stay. Both actions were initiated by ACL and its insurers based upon numerous misrepresentations made by ACL about its United States litigation (including the instant matter), request relief for ACL's insurers in violation of U.S. bankruptcy law, and are a direct attack on the power and jurisdiction of United States courts over a company which operated in the United States for decades, exposing millions of Americans to deadly asbestos.

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<sup>1</sup> As ACL itself notes in its Response to this Court's directive, under South Carolina Supreme Court precedent, the fact that it was ACL itself which filed the petition for a writ of certiorari in the instant matter means that a §362(a) automatic stay does not apply. *See, Southern Bank & Trust Co. v. Harley*, 296 S.C. 423 (S.C. 1988). ACL's argument that a decision by this Court would "possibly result in a [diminution] of the estates," is without merit, and the entire purpose of the Receiver is to actually gather and increase the value of ACL by locating and marshalling assets which ACL and its insurers seek to hide from creditors.

However, ACL creditors have agreed to a temporary extension of the stay pending a scheduled May 19, 2025, recognition hearing set to take place in the New York bankruptcy matter. As such, at the instant time, the Tibbs agree the New York Bankruptcy Stay should be applicable to case number 2023-00146.<sup>2</sup>

**CONCLUSION – RESPONDENT TIBBS’ POSITION**

Although the Tibbs believe ACL’s Canadian Proceeding and New York Bankruptcy Stay are ultimately without merit and should be dismissed, vacated, and/or modified, at this time they do not oppose a stay as to case number 2023-00146.

Respectfully submitted, May 19, 2025

s/Theile B. McVey  
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AND

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<sup>2</sup> Although these matters are all related, the Tibbs are not parties to certain related appeals listed in this Court’s May 8, 2025 letter. They therefore limit this response to the case in which they are actually named Respondents. The Tibbs further note that although originally consolidated with this matter for purposes of oral argument, *Welch v. Atlas Turner, Inc.*, Appellate Case No. 2023-001096 involves a separate Defendant not subject to any stay.

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