

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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Jun 17 2025

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

S.C. SUPREME COURT

Civil Action No. 2023-CP-40-01759

Appellate Case Nos. 2024-001423, 2024-001499, 2024-000916

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.; 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 (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.

**REPLY TO MOTION FOR SANCTIONS AS TO MOHED ALTRAD
AND ALTRAD INVESTMENT AUTHORITY S.A.S.**

The Altrad Appellants' Return to the Motion for Sanctions illustrates a continued indifference to well-established laws and precedent in the United States and South Carolina as well as our rules of court, appellate procedures, and standards of professional conduct. In defense of

behavior this Court has described as shocking and indefensible, the Altrad Appellants assert duplicitous arguments about the sanctity of comity in foreign courts while simultaneously rejecting those principles as to American courts. In their Return, Altrad Appellants attempt to justify conduct that is unjust and double down on their course of pursuing improper interlocutory appeals—while threatening criminal and civil prosecution of the court-appointed Receiver for fulfilling his court-appointed duties—in order to halt the litigation of this matter in South Carolina. To be clear, the foreign proceedings against the Receiver were initiated after the South Carolina court exercised jurisdiction over these Defendants and after an improper removal to the federal court. All the while, the Altrad Appellants refused participation in this case while they obtained favorable rulings in foreign courts which they have been unable to achieve in the South Carolina state and federal courts. Appellants have gone so far as to negotiate with themselves and execute a sham release (signed by Appellant Mohed Altrad and his subsidiary companies) which purports to wrap up the U.S. litigation—litigation these parties have thus far ignored and refused to participate in.

These appellants rely on a strategy this Court is all too familiar with: refuse participation in South Carolina proceedings; ignore interlocutory trial court rulings on jurisdiction, discovery, trial dates; and tie up the case in improper appeals to avoid discovery and a trial on the merits. Here, however, the Altrad Appellants have not stopped at merely refusing to participate in court proceedings, they have escalated their efforts to a new level of offensive civil and criminal threats against the parties and their attorneys and the court system itself. This is outright obstruction of justice, of the courts and of the court-appointed Receiver. While tying up the proceedings with interlocutory appeals, the Altrad Appellants are presently proceeding against the Receiver personally for fulfilling his court-appointed obligations. The Altrad Appellants and their other

subsidiary defendants' refusal to participate in discovery and court proceedings should not serve as a basis to assert plausible deniability of the bad acts of Mr. Altrad and his closely held companies.

The Altrad Appellants rely on unsubstantiated representations and corporate trickery to attempt to absolve themselves of wrongdoing. However, this is exactly the conduct that illustrates the amalgamation and corporate malfeasance that is at the heart of this case, which has yet to progress in the two years it has been pending due to the appeals of every interlocutory order issued by the circuit court. In seeking dismissal of the interlocutory appeals, the Receiver hopes to move the case forward so that it may be presented to this Court at the appropriate time based upon a full record, not simply the hollow ministrations of Appellants in this interlocutory echo chamber.

Contrary to the Altrad Appellants' self-serving attempts to distance themselves from Cape for the purposes of these appeals, the Cape entities are not completely distinct from Altrad – one of many issues the Altrad Appellants have successfully but improperly shielded from discovery. In Altrad's own words, Cape has "been successfully rebranded as Altrad Services in the UK market." *See* Exhibit A, January 9, 2018 News Release at p. 2. Further, as noted in the Motion for Sanctions, Ran Oren—the sole director of CIHL *and* the CEO of Altrad Investment Authority SAS (a party to this case)—orchestrated the witness statements submitted to the U.K. court to obtain the unlawful worldwide injunction.

The issue involved in this Motion is not the highbrow question of whether entities may initiate litigation in a foreign court and whether any resulting order may be transported extraterritorially. The fundamental issue is whether litigants under the jurisdiction of South

Carolina courts¹ may pursue personal, financial, and penal attacks designed to illegally punish an opposing litigant, which in this case is an arm of the Court, and threaten him personally in order to intimidate him to shirk his court-appointed duties. On June 10, 2025, a week after the filing of the instant Motion for Sanctions in this Court, the Receiver received correspondence from Signature Litigation enclosing a copy of an application to the UK court for a summary award of an additional £2,438,729.32 in costs. Exhibit B. On June 2, 2025, the Receiver received a letter on behalf of the Altrad Appellants requesting the Receiver agree to a draft consent order for filing in the English court and dismiss the South Carolina action due to the purported sham release. Exhibit C. The Altrad Appellants threatened “to commence proceedings in the English Court” to seek a number of declarations, including ones that “follow directly from the conclusions” in the injunction order; costs; and indemnification against the Receiver personally. *Id.* This is not a simple disagreement between litigants. This is a misuse of the legal system by the Altrad Appellants and those who are aiding and abetting the Appellants to intimidate the Receiver and our court system, all while the litigants refuse to abide by the orders of South Carolina courts.

The Altrad Appellants admit the foreign actions are a direct attack on the institution of the South Carolina receivership itself. *See* Return at p. 17. This collateral attack is prohibited by law, the *Barton* doctrine, and numerous orders of South Carolina courts. Even in their most recent

¹ The Altrad Appellants continue to ignore rulings of the South Carolina courts related to jurisdiction and the propriety of the Receivership. These appellants believe they are the arbiter of South Carolina law and ignore all rulings that do not align with or propel their fiction. For example, the Altrad Appellants continue to assert the Receiver’s actions have been ultra vires despite the circuit court’s order confirming the Receiver’s actions have been within the scope of his official duties. While the Altrad Appellants have attempted to appeal the interlocutory rulings of the circuit court related to the denial of the appellants’ motion to dismiss, the schedule of the case, and discovery, these appeals are not properly before the Court. The Court should refuse the Altrad Appellants’ invitation for the Court to presuppose the outcome of any future, proper appeal of those rulings.

filing, the Altrad Appellants have demonstrated they will continue to ignore precedent and rulings of our courts and pursue personal, financial, and penal attacks in foreign actions to intimidate the Receiver into abandoning his attempts to marshal assets in accordance with his court-appointed duties. The Receiver requests the Court grant the Motion for Sanctions² to stop and deter this, and future, shocking and indefensible abuses of the South Carolina legal system by the Altrad Appellants.

By: /s/ Jonathan M. Robinson

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² The Altrad Appellants allege their conduct does not fall within the purview of Rule 269. This is not true. Each filing the Altrad Appellants have taken in the pending interlocutory appeals have been frivolous and for the purposes of delay in order to halt activity in the trial court while they and their subsidiaries pursued actions in foreign courts and threatened the court-appointed South Carolina Receiver personally. Further, this Court has the inherent authority to sanction litigants before it who violate court orders, the rules of our courts, and the orderly administration of justice in our State.

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Ltd. by and through its duly appointed Receiver
Peter D. Protopapas*

June 17, 2025
Columbia, South Carolina

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