

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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Oct 06 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

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S.C. SUPREME COURT

Civil Action No. 2023-CP-40-01759

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Appellate Case Nos. 2024-001423 and 2024-001499

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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.

**RETURN TO “MOHED ALTRAD AND ALTRAD INVESTMENT AUTHORITY  
S.A.S.’S MOTION TO SUPPLEMENT THE RECORD”**

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, Respondent Cape PLC, individually and as successor in interest to Cape Asbestos Company Limited, by and through its

duly appointed Receiver Peter D. Protopapas (“the Receiver”) respectfully requests this Court deny the “Motion to Supplement the Record” filed by the Altrad defendants on October 2, 2025.

### INTRODUCTION

These remanded appeals stem from numerous interlocutory appeals taken by the Altrad defendants and others of almost every order issued by the circuit court in this litigation. The Court of Appeals dismissed the appeals, and the Altrad defendants, among others, requested review of those summary dismissals from this Court. On June 26, 2025, this Court denied certiorari in five of the pending appeals, granted certiorari in its original jurisdiction in two of the appeals, dispensed with further briefing, and remanded the case back to the circuit court. While the Court included certain directives in the remand order and reserved a pending sanctions motion for adjudication in due course, it otherwise made clear that the remand was “**for all purposes.**” Against the backdrop of the “dozens of interlocutory appeals in asbestos cases” over “the last few years,” many of which “have bordered on frivolous,” the Court unequivocally stated its “intention . . . to reach and address the merits of issues properly before” the Court.

Considering all arguments raised by the Altrad defendants and other litigants in, collectively, the ten petitions for a writ of certiorari, two supplements to the petitions for a writ of certiorari, and countless motions and other briefing—including, *inter alia*, South Carolina’s jurisdiction over Cape,<sup>1</sup> South Carolina’s jurisdiction over Altrad,<sup>2</sup> alleged defective service,<sup>3</sup> the

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<sup>1</sup> See, e.g., Altrad Petition for a Writ of Certiorari at p. 2, 6, 14, Appellate Case No. 2024-002114; Altrad Petition for a Writ of Certiorari at p. 2, Appellate Case No. 2024-000916; Altrad Petition for a Writ of Certiorari at p. 1, 4, 6, Appellate Case No. 2025-000052.

<sup>2</sup> See, e.g., Altrad Petition for a Writ of Certiorari at p. 7, Appellate Case No. 2024-001499; Altrad Petition for a Writ of Certiorari at p. 5–6, Appellate Case No. 2024-002114; Altrad Petition for a Writ of Certiorari at p. 5, Appellate Case No. 2025-000052.

<sup>3</sup> See, e.g., Altrad Petition for a Writ of Certiorari at p. 4–5, Appellate Case No. 2024-002114; Altrad Petition for a Writ of Certiorari at p. 5, Appellate Case No. 2024-001499; Altrad Petition for a Writ of Certiorari at p. 4–5, Appellate Case No. 2025-000052.

purported lack of a bond,<sup>4</sup> an appointment order that was entered in *Park*,<sup>5</sup> the tolling agreement,<sup>6</sup> actions by various foreign courts,<sup>7</sup> the *Adams* decision from England,<sup>8</sup> the purported resolution of *Park*<sup>9</sup>—the Court remanded this case to the circuit court, signaling that all determinations were best made by the circuit court so the case could eventually be presented to this Court upon a full record.

On September 25, 2025, the Court issued an order clarifying the June 26 remand order, stating:

As we await the trial court’s ruling on the matters referenced in this Court’s order dated June 26, 2025, we issue this order to clarify that nothing in the June 26, 2025 order prevents the trial court proceedings from continuing in the normal course in the asbestos litigation, including the filing of and decisions on motions to approve settlement agreements.

Again, the Court noted that the matters referenced in the Court’s June 26 order were properly in front of, and being actively considered by, the circuit court. Since the remand, the circuit court has diligently scheduled status conferences and hearings to methodically consider all arguments raised by the parties and rule on the matters referenced in the remand order. The circuit court has provided timely updates to this Court pursuant to the June 26 order.

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<sup>4</sup> See, e.g., Altrad Petition for a Writ of Certiorari at p. 5, Appellate Case No. 2024-002114.

<sup>5</sup> See, e.g., Altrad Petition for a Writ of Certiorari at p. 5, Appellate Case No. 2024-002114; Altrad Petition for a Writ of Certiorari at p. 4, Appellate Case No. 2024-000916; Altrad Petition for a Writ of Certiorari at p. 5, Appellate Case No. 2025-000052.

<sup>6</sup> See, e.g., Altrad Petition for a Writ of Certiorari at p. 4–5, Appellate Case No. 2024-002114; Altrad Petition for a Writ of Certiorari at p. 3, 6, Appellate Case No. 2024-001499; Altrad Petition for a Writ of Certiorari at p. 5, Appellate Case No. 2025-000052.

<sup>7</sup> See, e.g., Supplement to the Altrad Defendants’ Petitions for a Writ of Certiorari at p. 3–6, Appellate Case Nos. 2024-000916, 2024-001499; Altrad Petition for a Writ of Certiorari at p. 4, 7–8, Appellate Case No. 2024-002114; Altrad Petition for a Writ of Certiorari at p. 1, 4, 9–10, Appellate Case No. 2025-000052.

<sup>8</sup> See, e.g., Altrad Petition for a Writ of Certiorari at p. 3, Appellate Case No. 2024-002114; Altrad Petition for a Writ of Certiorari at p. 3, Appellate Case No. 2025-000052.

<sup>9</sup> See, e.g., Altrad Petition for a Writ of Certiorari at p. 4, Appellate Case No. 2025-000052.

Now, the Altrad defendants request leave to supplement the “record” to include 474-pages of additional documents dating back to 2022 and 20-pages of argument that the Court should reconsider its remand order, wrest jurisdiction from the circuit court, and dismiss the *Tibbs* case and all proceedings involving the Cape receivership. This is another improper attempt to obtain review by this Court. And, although it is not styled as a petition for writ of certiorari, the motion is in direct contradiction of this Court’s instructions to cease the constant attempts for premature appellate review. The Altrad defendants’ filings illustrate their disregard for and contempt of this Court’s remand orders, the trial court’s jurisdiction and orders, appellate court rules, South Carolina’s independent judiciary in a sovereign independent state, as well as state statutes. What Altrad now seeks to do is take its case back to this Court for a trial on the merits.

The only matter currently under consideration by this Court related to the Cape receivership in the *Tibbs* case is the Receiver’s June 3, 2025 motion for sanctions. In the June 26 remand order, the Court specifically stated: “We will rule at a later time on any currently pending motion for sanctions[.]” This is a narrow sliver—a motion that was fully briefed four months ago relating to the Altrad defendants’ specific actions infringing on the sovereignty of our courts by seeking remedies in foreign courts to hold the Receiver personally liable for fulfilling his court-appointed duties and threatening criminal prosecution against the Receiver on foreign soil. This Court has called any attempt by foreign courts to “intervene in and threaten the participants in matters properly pending in the courts of South Carolina . . . shocking and indefensible.” January 16, 2025 Order, Appellate Case No/ 2024-002117.

Despite the Court’s remand to the circuit court, the Altrad defendants have not ceased the activity giving rise to the Receiver’s motion for sanctions, namely employing an array of tactics in a variety of foreign courts to force the Receiver to terminate the civil litigation in South Carolina,

defy the order of appointment, and ignore the duties and obligations with which the South Carolina courts have charged him. Therefore, the Receiver filed the September 24, 2025 Motion for Leave to Supplement the Motion for Sanctions. This filing was narrowly related only to the sanctions motion under consideration by this Court, not the issues pending before the circuit court, included limited argument as to additional sanctionable conduct, and requested the Court accept a recent international judgment obtained by the Altrad defendants as a supplement to the Motion for Sanctions.<sup>10</sup> That motion was granted by this Court on September 24, 2025.

Shockingly, six days after the Court permitted the supplement to the Receiver's sanctions motion, the Altrad defendants served additional foreign process on the Receiver which states:

**PENAL NOTICE**

**IF YOU, PETER D. PROTOPAPAS, DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE YOUR ASSETS SEIZED.**

**ANY PERSON WHO KNOWS OF THIS ORDER AND DISOBEYS THIS ORDER OR DOES ANYTHING WHICH HELPS OR PERMITS ANY PERSON TO WHOM THIS ORDER APPLIES TO BREACH THE TERMS OF THIS ORDER MAY ALSO BE HELD TO BE IN CONTEMPT OF COURT AND MAY BE IMPRISONED, FINED OR HAVE THEIR ASSETS SEIZED.**

Exhibit A.<sup>11</sup> These served documents further direct that an (English) order requires:

6. Mr Protopapas be restrained from taking any further step in the Third-Party Complaint (or in relation to any proceedings, including but not limited to any Settled Claims) against the Claimants in the name of or on behalf of CIHL.

7. Mr Protopapas shall forthwith take all and any steps to effect a final and with prejudice dismissal of the Third-Party Complaint against the Claimants with

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<sup>10</sup> In fact, the Receiver's motion for sanctions is based, in part, on the Altrad Defendants' filings in France to domesticate the UK order. The order the Receiver supplemented his motion with is a recent order issued in the French action that is the very subject of the motion for sanctions.

<sup>11</sup> The Receiver was again emailed the document on October 3, 2025, by the Altrad defendants' international counsel with the following note: "We draw your attention in particular to the penal notice on the Order." Exhibit B.

immediate effect and, in any event, Mr Protopapas is to have effected such a dismissal of the Third-Party Complaint against the Claimants within 14 days of the date of this order.

*Id.* at 3.<sup>12</sup>

### **DISCUSSION**

The Court should deny the Altrad defendants' motion for leave to supplement the record because it relates to matters that are no longer before this Court and instead are pending before the circuit court. Though styled as motion to supplement the record, the filings and proposed supplement directly seek appellate review of issues already determined by the Court to be interlocutory and remanded to the circuit court. The Altrad defendants are rearguing the grounds that they have argued in front of this Court previously and in the circuit court as to jurisdiction, the establishment and continuation of the Cape receivership, and the need for our courts to adopt foreign case law to protect foreign entities who our courts have determined availed themselves of the jurisdiction of South Carolina.

In the motion, the Altrad defendants make arguments related to (1) the appointment order, (2) orders in foreign courts, (3) the factual predicate supporting the receivership appointment, (4) the purported relevance of the *Adams* decision, (5) a release executed in the United Kingdom, (6) personal jurisdiction, and (7) the *Park* estate. As discussed above, these arguments have been raised repeatedly to this Court in connection with the petitions for writ of certiorari the Court already ruled on and remanded, as well as to the circuit court, both before the appeals and in the various status conferences and hearings the circuit court held in connection with the remand order.

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<sup>12</sup> Interestingly, the Altrad defendants have included the September 30, 2025 approved judgment from the UK with their motion to supplement but did not include the order of the same date that contains the penal notice on the first page and that was served on the Receiver with the approved judgment.

The Altrad defendants have also included arguments disagreeing with the circuit court's status reports on matters that are currently under consideration by the circuit court. However, the circuit court has already directed the Altrad defendants that any objections to the circuit court's status reports should be raised to the circuit court. Following the remand orders, the trial court has submitted three (3) status reports to this Court outlining the status of various motions, hearings, and trial, which is scheduled for October 20, 2025. In July, when the circuit court submitted the first status report, the Altrad defendants informed the circuit court: "To the extent our clients have concerns with any points made in the report, we will note them to the Supreme Court with a copy to Her Honor." Exhibit C. The circuit court responded promptly: "Please know this matter is not pending at the Supreme Court at this time, it has been remanded to me by the South Carolina Supreme Court. Therefore, your comments need to be directed to me." Exhibit C.

Despite these clear instructions regarding objections to the status reports and the trial court's authority to proceed, Altrad once again ignores the courts and proceeds with taking the liberty of presenting their objections to the trial court Status Reports and asks this Court to "terminate this litigation" and "dismiss all proceedings." (Altrad Mtn. p. 13, 20). To be clear, while the Altrad defendants' filing, in and of itself, illustrates the type of sanctionable and contemptuous conduct complained of in the motion for sanctions, the arguments and additional proposed material go directly to the merits of the remanded appeals, the issues addressed in the circuit court's Status Reports, and the matters currently pending before the circuit court. The Altrad defendants' submission to the Court is violative of the trial court's specific instructions that comments relating to the reports should be directed to her and this Court's remand orders.<sup>13</sup>

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<sup>13</sup> The Altrad defendants' filing in this Court not only acknowledges coordination among its South Carolina counsel to use foreign judgments and criminal threats to thwart South Carolina civil litigation but also their intent to continue to attack jurisdiction and the merits of this litigation in

## CONCLUSION

Instead of waiting for the merits of the issues to be properly before the Court, the Altrad defendants have attempted to once again place them for review by this Court prematurely. Because the Altrad defendants' motion and suggested supplement improperly ask this Court to terminate litigation already remanded to the circuit court, the Receiver requests this Court deny the motion. If the Court intends to consider the Altrad defendants' widespread arguments, the Receiver requests the Court allow him an opportunity to provide a fulsome response.

By: /s/ Jonathan M. Robinson

Jonathan M. Robinson  
SMITH ROBINSON, LLC  
3200 Devine Street  
Columbia, SC 29205  
803-254-5445  
jon.robinson@smithrobinsonlaw.com

John T. Lay, Jr., SC Bar No. 64526  
Gray T. Culbreath, SC Bar No. 11907  
Lindsay A. Joyner, SC Bar No. 77437  
Eleanor L. Jones, SC Bar No. 104678  
GALLIVAN, WHITE & BOYD, P.A.  
1201 Main Street, Suite 1200  
PO Box 7368 (29202)  
Columbia, SC 29201  
jlay@gwblawfirm.com  
gculbreath@gwblawfirm.com  
ljoyner@gwblawfirm.com  
ejones@gwblawfirm.com  
(803) 779-1833

Troy S. Brown

MORGAN, LEWIS & BOCKIUS LLP

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the South Carolina Supreme Court, despite the case be remanded to the trial court. *See* Altrad Motion at 12 (“Conscious of the request made by the High Court, the Altrad Defendants, with the assistance of their English lawyers, are preparing materials urgently that they will file with this Court and the circuit court to explain that ruling.”).

1701 Market Street  
Philadelphia, PA 19103  
troy.brown@morganlewis.com  
dana.becker@morganlewis.com  
(215) 963-5000

Lauren McCulloch Semlinger  
MORGAN, LEWIS & BOCKIUS LLP  
1000 Louisiana St., Suite 4000  
Houston, TX 77002  
brady.edwards@morganlewis.com  
lauren.semlinger@morganlewis.com  
(713) 890-5467

Paul A. Scrudato  
MORGAN, LEWIS & BOCKIUS LLP  
101 Park Avenue  
New York, NY 10178  
paul.scrudato@morganlewis.com  
(212) 309-6000

*Attorneys for Respondent Cape PLC, individually  
and as successor in interest to Cape Asbestos  
Company Limited, n/k/a Cape Intermediate Holdings  
Ltd. by and through its duly appointed Receiver  
Peter D. Protopoulos*

October 6, 2025  
Columbia, South Carolina