

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

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

Oct 09 2025
S.C. SUPREME COURT

Civil Action No. 2023-CP-40-01759

Appellate Case Nos. 2024-001423 and 2024-001499

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 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; 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.

**SECOND MOTION FOR LEAVE TO SUPPLEMENT MOTION FOR SANCTIONS AS
TO MOHED ALTRAD AND ALTRAD INVESTMENT AUTHORITY S.A.S.**

The Receiver hereby requests leave from this Court to file the attached exhibits as a second supplement to the Receiver's pending Motion for Sanctions in the above-referenced appeals.

These exhibits show the Altrad Appellants continued pursuit of foreign litigation to intimidate

parties properly before South Carolina courts and prevent the South Carolina Receiver from settling South Carolina claims and establishing a Qualified Settlement Fund to benefit injured South Carolinians.

On June 26, 2025, the Court granted certiorari in these (two) appeals, remanded to the circuit court “for all purposes,” instructed the circuit court to report to this Court on specific items, and reserved for its consideration the Receiver’s Motion for Sanctions, stating it would “rule at a later time on any currently pending motion for sanctions.”¹ Following the Receiver’s Motion for Sanctions, the Receiver received notice of additional acts by the Altrad Appellants that directly related to the conduct addressed in the Receivers’ motion, resulting in the Receiver’s first Motion to Supplement the Sanctions Motion which the Court granted on September 24, 2025.² The Receiver has again received notice of additional acts by the Altrad Appellants that directly relate to the conduct addressed in the Receivers’ sanction motion. Therefore, the Receiver requests leave in order to apprise the Court of the additional actions related to his motion and requests the Court accept the attached exhibits as a supplement to his previously filed Motion for Sanctions.

¹ The Receiver notes he has filed a notice of filing with the circuit court to keep the circuit court apprised of the of the additional acts committed by the Altrad Appellants against the court’s Receiver.

² At the time the Motion for Sanctions was filed, Appellants Altrad Owners and the Altrad U.K. subsidiaries had (1) initiated supplemental proceedings to pursue the more than £ 3.7 million (approximately \$5 million) in costs and legal fees arising from their U.K. litigation against Mr. Protopapas personally, (2) obtained an order from a court in Montpellier, France domesticating the U.K. November 2024 order in France and ordering Mr. Protopapas personally to pay all costs associated with that action, (3) threatened the Receiver that “It follows that any attempt by you to take any steps in the PCT Claim would not only be a breach of the Order but would constitute a clear and deliberate contempt of the Order of the English Court, and (4) sought civil sanction against Mr. Protopapas personally for of €28,612,062.32 in damages, an unidentified amount in costs to the Altrad Appellants’ French attorney, €50,000 in costs to Mohed Altrad, and €50,000 in costs to Altrad Investment Authority (over \$34 million). Unchecked, the Altrad Appellants have escalated their attacks on the arm of the South Carolina Court and litigants in South Carolina as indicated in the attached exhibits.

This Court has recognized that “[a]ny attempt by a foreign court to intervene in and threaten the participants in matters properly pending in the courts of South Carolina would be shocking and indefensible.” Order, *Tibbs v. Cape plc.*, Appellate Case No. 2024-000916 at 5 (S.C. Jan. 16, 2025). However, despite this Court’s grant of certiorari at Appellants’ behest and remand to the circuit court for all purposes, the Altrad Appellants have continued to pursue foreign litigation to intimidate the Receiver into dismissing the pending case.

This week, the Altrad Appellants have continued to interfere with this South Carolina receivership. On Monday in open Court, the Receiver and certain Third-Party Defendants “(Anglo American/De Beers and affiliates)” announced a settlement of pending South Carolina litigation, and the Court acknowledged the settlement under Rule 43(k). Almost immediately thereafter, the Altrad Appellants started using additional threats of foreign litigation and imprisonment to interfere with the Receiver and the Anglo American/De Beers settlement.

Specifically, on October 7, 2025, Signature Litigation LLP³ sent a letter to Herbert Smith Freehills Kramer LLP (U.K. and U.S. offices) concerning the *Tibbs* action pursued “in the name of CIHL.” Ex. A at 2. The letter states that (i) the AADB entities (Anglo American/De Beers and affiliates) “now proposed to enter, or have already entered, into a settlement” with the Receiver on the third-party claims; (ii) Signature, purporting to speak for CIHL/Cape, demands an immediate undertaking that the AADB entities “NOT . . . enter into any such settlement agreement with Mr Protopapas,” sets a 1:00 p.m. BST October 8, 2025 deadline, and threatens urgent injunctive relief; and (iii) any settlement with the Receiver would be a nullity, would constitute contempt of the English High Court, and would expose counterparties (and their officers and advisers) to contempt

³ Signature Litigation represents (1) Cape Intermediate Holdings Limited (“CIHL”) and Cape plc (Cape Jersey) in the UK Litigation *and* (2) CIHL, Cape Jersey, and the Altrad Appellants in the French litigation. See Motion for Sanctions at p. 19 and Appendix (filed June 3, 2025).

sanctions, “economic tort,” and “unlawful means conspiracy” liability. The letter repeatedly asserts worldwide effect of two English court orders (Mann, J., and Smith, J.) and characterizes any settlement with the Receiver as aiding and abetting criminal contempt. Ex. A at 3.

On September 25, 2025, this Court issued an Order clarifying that “nothing in the June 26, 2025 order prevents trial court proceedings from continuing in the normal course. . . , including the filing of and decisions on motions to approve settlement agreements.” *Tibbs v. 3M Co. et. al*, Order, App. Case Nos. 2024-001423, 2024-001499, 2024-000916, 2024-002114, 2024-002116, 2024-002117, 2025-000052 (Sept. 25, 2025). The circuit court addressed precisely this issue in open court on October 6, 2025. Justice Toal admonished Altrad’s counsel that the Altrad Third-Party Defendants lack authority to interfere with other defendants’ settlements—“I certainly don’t think you’ve got the authority . . . to try to interfere with the ability of Anglo to settle its responsibilities as it sees them”—and emphasized that the court “intend[s] to move forward with these settlements and to move forward with this trial.” Ex. B, Oct. 6, 2025 Hr’g Tr. at 29, 43. She further explained that “the notion that you could interfere with the legitimate desires of other participants in this litigation to settle their matters is something that I can’t comprehend.” Ex. B at 44-45. The October 7 letter does exactly what the circuit court condemned: it seeks to prevent South Carolina litigants from resolving their dispute through settlement with the Receiver by threatening criminal prosecution if properly participating litigants refuse to disregard South Carolina’s judicial process.⁴ Ex. A at 2–6.

⁴ “A lawyer shall not present, participate in presenting, or threaten to present criminal or professional disciplinary charges solely to obtain an advantage in a civil matter’. Rule 4.5 RPC, Rule 407. *See also* S.C. Code Section 16-9-340 – “Intimidation of court officials, jurors or witnesses (A) It is unlawful for a person by threat or force to:(1) intimidate or impede a judge, magistrate, juror, witness, or potential juror or witness, arbiter, commissioner, or member of any commission of this State or any other official of any court, in the discharge of his duty as such; or (2) destroy,

Altrad and CIHL are one and the same. Ran Oren identifies himself as both the “CEO of the Altrad Group” and director of both CIHL and Cape plc in court filings in England. *See* September 6, 2024 Witness Statement of Ran Oren ¶¶ 1–3, Appendix to the Receiver’s Motion for Sanctions at 249–50, Appellate Case Nos. 001423 and 2024-001499 (filed June 3, 2025)). In correspondence to certain insurers who the Receiver subpoenaed in South Carolina, Mr. Oren identifies himself as “the sole director of CIHL, being the only person legally entitled to represent CIHL, as confirmed by the High Court Order.” R. Oren May 7, 2025 Letter to Liberty Mutual, Appendix to the Receiver’s Motion for Sanctions at 249–50, Appellate Case Nos. 001423 and 2024-001499 (filed June 3, 2025). Mr. Oren wrote this correspondence on Altrad letterhead and signed it as “Director, Cape Intermediate Holdings.” *Id.* Mr. Oren directs activities of both CIHL and Altrad—their activities cannot be viewed as independent.

As explained in the Motion for Sanctions, Altrad acquired Cape in 2017 and has continued to acknowledge Cape’s asbestos liabilities and reaffirm its responsibility for them. *See* Motion for Sanctions at 12–13. The annual report submitted to this Court with the Motion for Sanctions demonstrates the connected nature of the entities following the acquisition.

If these statements were not sufficient to establish the unified front of Cape and Altrad, Signature Litigation appears simultaneously in the English High Court for Cape Intermediate Holdings Ltd. (“CIHL”) and Cape plc and, in France, for Altrad Investment Authority SAS (“AIA”), CIHL, Cape, and Mr. Mohed Altrad himself, confirming that all four parties share the same counsel and litigation strategy. *See* Ex. C, Application for Expedited Proceedings, *Cape & Altrad v. Protopapas* ¶¶ 2–3 (Trib. Jud. de Paris Sept. 2025). In England, where Signature

impede, or attempt to obstruct or impede the administration of justice in any court.(B) A person who violates the provisions of subsection (A) is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.”

represents only CIHL, Signature’s own Bill of Costs records coordination with “SC Counsel” and “other outside lawyers,” reflecting active cross-border communication with Altrad’s U.S. counsel. *See* Ex. D, Claimants’ Bill of Costs – Supporting Papers (2025). Taken together, these documents show that the Altrad Group and its subsidiaries—through shared leadership and interlocked counsel in France, England, and the United States—are acting as one to execute a single litigation strategy to nullify this Court’s orders and undermine its Receiver. The October 7 letter is therefore not an independent communication from CIHL but a manifestation of Altrad’s coordinated plan to obstruct the authority of this State’s courts.

These liability threats aimed at settling parties frustrate Mr. Protopapas’s ability to carry out the circuit court’s appointment order and contravene this Court’s certiorari and remand directives. This Court’s remand order made it clear that the determination of issues raised by the Altrad Appellants is properly before, and will be decided by, the South Carolina courts. Yet, the Altrad Appellants refuse to abide by the orders of or recognize the authority of the South Carolina courts. Instead, these litigants continue to repudiate the authority of this State’s courts.

Accordingly, the Receiver requests that this Court grants leave for the Receiver to once again supplement his motion for sanctions with the attachments.

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
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. Scudato
MORGAN, LEWIS & BOCKIUS LLP
101 Park Avenue
New York, NY 10178
paul.scudato@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. Protopapas*

October 9, 2025
Columbia, South Carolina