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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

IN THE SUPREME COURT’S ORIGINAL JURISDICTION
CONCERNING AN APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jean H. Toal
Acting Circuit Court Judge

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; 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..... Petitioners.

**MOHED ALTRAD AND ALTRAD INVESTMENT AUTHORITY S.A.S.’S REPLY IN
SUPPORT OF MOTION TO SUPPLEMENT THE RECORD**

Respectfully submitted,

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October 13, 2025

INTRODUCTION

After seeking to put additional information before this Court, the putative Receiver now opposes the Court learning anything else about what's happened below on remand as it considers a "sanctions" motion. This posturing is simply not credible. Not only does this Court have the right to know exactly what's happening below, it ordered the circuit court to provide fulsome monthly reports disclosing exactly the information that is the subject of the Altrad Defendants' motion. The Court should reject the Receiver's attempt to keep the Court uninformed.

The Altrad Defendants want the Court to know everything that is going on below because the result is inescapable: there is no jurisdiction at all for anything happening in this litigation, and the Receiver himself *does not even exist* as a jural entity. He is not now and has never been an arm of the court with respect to Cape Intermediate Holdings Limited,¹ and he has never had any authority to do anything at all in this case—including no standing to file the very "sanctions" motion pending before this Court.

There has never been any basis for sanctions in the first place. Each and every filing made by the Altrad Defendants with this Court has been fully supported by South Carolina's rules, statutes, and case law, and a court or party's ultimate disagreement with them does not render those arguments sanctionable. To rule otherwise risks chilling the very advocacy that contested litigation demands. Even so, the supplemental information provided by the Altrad Defendants relieves the Court from even having to make such a judgment, as the absence of jurisdiction below and the lack of standing by the putative Receiver void the motion at the outset.

¹ No South Carolina plaintiff has ever moved for the appointment of a receiver over any assets of Cape Intermediate Holdings Limited, which is not even a defendant in *Tibbs*.

ARGUMENT

The putative Receiver’s opposition appears to be based on two primary contentions: (1) the information the Altrad Defendants present to the Court somehow demonstrates “disregard and contempt of this Court’s remand order” (Opp. at 5); and (2) the Altrad Defendants should not have explained why they are providing the supplemental information to the Court (*id.* at 7–9). Each is easily rebutted.

I. The Altrad Defendants have fully embraced the Court’s orders in *Welch* and *Tibbs* and have insisted that the circuit court follow them in exacting detail because those rulings expose the absence of jurisdiction below.

On remand, the putative Receiver has urged the circuit court to ignore the obvious consequences of this Court’s orders in *Welch* and *Tibbs* have on this putative receivership: it does not, and cannot, exist as a matter of law. And the circuit court has indulged those arguments, even stating that this Court misunderstands South Carolina law on receiverships. (*See* 3d Supp. App. 228, Hr’g Tr. 17:21–25 (July 22, 2025) (“I also think that it [*Welch*] and the *Tibbs* case and its third-party receivership is the subject of all this illustrates that the [Supreme] Court is not completely aware of how receiverships are used in South Carolina.”) (remarks of Judge Toal).)

It defies logic, then, that the Receiver would suggest to this Court that the Altrad Defendants’ filing indicates any type of “contempt” for the Court’s remand order. The Altrad Defendants have fully embraced the Court’s rulings, as those rulings should bring an immediate and swift end to this litigation. The Altrad Defendants encourage this Court to read the transcripts attached to their motion to supplement in full, as those transcripts show the Altrad Defendants and many others—including the Charter Defendants (in *Tibbs*) and several insurers (in *Park*)—explaining more than a dozen reasons why this Court’s orders in *Welch* and *Tibbs* expose the lack of jurisdiction below and the lack of authority for anything the putative Receiver has presented.

Simply put, everything below is a nullity, and the putative Receiver never offered any substantive response to those arguments, but instead urged the circuit court to simply push forward with litigation without addressing any of the threshold, dispositive, jurisdictional problems that the Court identified in its *Tibbs* remand order.

Similarly, when the circuit court's monthly reports to this Court omitted or misstated material information, all three groups of litigants in *Tibbs* and *Park* filed extensive, neutral discussions of the true "status of *Park*" and other issues addressed in the reports with the circuit court, and they requested that the circuit court provide the full discussion to this Court. The circuit court never acknowledged any of those requests.

The Altrad Defendants have been deferential to the circuit court regarding its reports that have been either incorrect or incomplete, but there is no rule or custom that compels their sustained silence when this Court is given a report missing fundamental information as to foundational issues, such as jurisdiction. It is demonstrably incorrect for the Receiver to suggest that anyone is showing "contempt" for any court or that anyone is "ignoring" any court by trying to keep this Court aware of information it specifically requested.

At bottom, the Court's remand order in *Tibbs* put the controlling law squarely before the circuit court. That law exposes the complete absence of jurisdiction below and the complete absence of authority for the putative Receiver to do anything at all, including seeking "sanctions" against the Altrad Defendants. The Altrad Defendants are in no way showing "contempt" for that remand order; they embrace it.

II. The Court is entitled to know the context as it considers its next step with this litigation.

In addition to wrongfully assigning "contempt" to the Altrad Defendants, the Receiver's opposition seeks to prevent this Court from considering the full circumstances relevant to the

matters at hand. As outlined in the motion to supplement, the very claims the Receiver seeks to litigate (again, without any authority to do so) were already fully decided in the English *Adams* decision in 1990. Since Cape Intermediate Holdings Limited secured a November 2024 judgment from an English court that affirmed *Adams* specifically with respect to this putative Receiver, multiple other foreign courts have cast doubt or outright halted proceedings due to the issues with South Carolina receiverships. This has occurred not just in the United Kingdom and France, but now in multiple American federal courts, including the Third Circuit, and in Canada.

As more fully outlined in the Altrad Defendants' motion, those decisions are rooted in the same principle on which this Court reversed the circuit court in *Welch*: a receiver cannot attempt to seize corporate authority from an active foreign company, which is precisely what the putative Receiver claims to do here. The Receiver strains to inflame this Court and, apparently, pit it against courts around the globe—but those decisions from elsewhere reiterate the same principle that this Court enforced when reversing the circuit court in *Welch*.

And those decisions also explain that the law and rulings of the jurisdiction where such a company is at home governs whether a receiver can attempt to interfere in the company's affairs. *E.g., Protopapas v. Brenntag AG (In re Whittaker, Clark & Daniels, Inc.)*, ___ 4th ___, 2025 U.S. App. LEXIS 23439, at *16–22 (3d Cir. Sept. 10, 2025). Here, that is the courts of the United Kingdom, and they have already addressed and resolved the issues that the Receiver is purporting to present here: first, in *Adams* in 1990; second, in the 2024 declarations and injunction; and third, in the most recent 2025 order that approved the mutual release between Cape Intermediate Holdings Limited and the Altrad Defendants regarding the “claims” the Receiver is attempting (without authorization by CIHL or *any* court) to prosecute in CIHL's name.

It is important for the Court to understand the context of both what's happening below in this case, and what's happening globally regarding courts enforcing constitutional boundaries on the Receiver, as it considers the sanctions motion.

There was no basis for sanctions in the first place, and a growing body of case law cabining this Receiver when he attempts to ignore constitutional boundaries and the Rule of Law only reinforces the impropriety of his sanctions request. The Altrad Defendants were right to present that context in their motion.

CONCLUSION

By the plain language of this Court's orders in *Tibbs* and *Welch*, there is no authority for a receiver to exist in this case, which necessarily means that no entity even exists that could properly litigate the third-party claims or request sanctions. The fact that the putative receivership here is a nullity has been raised to the circuit court on multiple occasions by multiple litigants without being addressed in the reports provided to this Court.

However, without an order stating a jurisdictional basis for appointing a receiver, identifying any property that could possibly be the subject of a putative receivership, delineating the scope and authority of any purported receiver, fixing a bond, and addressing other applicable constitutional and statutory requirements, the Altrad Defendants are left with no recourse but to provide this Court additional context, reiterate the fact that its *Tibbs* remand order has not been complied with, and note that the Receiver—even now through his return—is actively seeking to thwart compliance with that order.²

² There remains no motion at all with the circuit court by any plaintiff that would even authorize a receiver in *Tibbs*. There is literally no vehicle for the Receiver to even “exist” in *Tibbs*, particularly with respect to CIHL—which, as mentioned above, is not even a defendant in *Tibbs*. There is no way to square anything that is happening below with this Court's orders or the Rule of Law in general.

Providing information and the necessary context does not warrant sanctions, but without moving to supplement the record, there was no other appropriate vehicle to provide such context. Accordingly, the motion to supplement the record should be granted, and the request for sanctions should be denied.³

Respectfully submitted,

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³ As with their prior submissions, the Altrad Defendants file this reply without waiving any of their prior objections or arguments, including those related to personal jurisdiction.