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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jean H. Toal
Acting Circuit Court Judge

Appellate Case No. 2025-
Circuit Court Case No. 2023-CP-40-01759

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, 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

Charter Consolidated Ltd.; ESAB Corporation; and Central Mining & Investment Corporation Ltd. are the Appellants.

NOTICE OF APPEAL OF ORDER GRANTING APPOINTMENT OF A RECEIVER

Please take notice that Charter Consolidated Ltd., ESAB Corporation, and Central Mining & Investment Corporation Ltd. (“Charter Appellants”) appeal the attached order entered on October 13, 2025, by the circuit court in the above-referenced case.

On June 26, 2025, the South Carolina Supreme Court granted the Appellants’ and Co-Appellants’ petitions for writs of certiorari in Appellate Case Nos. 2024-001423 and 2024-001499. The petitions argued that S.C. Code Ann. § 15-65-10 *et. seq.* did not allow the purported receiver appointed in one case (pursuant to a motion of the plaintiff in that case) to conduct his work in another case. In other words, the Title 15 pre-judgment remedy of placing assets of a defendant in the hands of a receiver, upon the motion of the plaintiff in that case, does not allow that receiver to act in other cases. In granting the petitions, the Supreme Court issued the remand order which stated: “We ... made it clear that appointing a receiver before judgment is permissible only in the ‘rarest’ and ‘most extraordinary’ cases.” The Supreme Court further directed as follows:

We now direct the circuit court to:

- 1) Ensure the receiver has been authorized to conduct its work by an order filed in the specific case as to which the work is to take place. The receiver is not to be authorized to conduct work as to a case in which no receiver appointment order has been filed.
- 2) Ensure that such an order is based on findings of fact sufficient under [*Welch v. Advance Auto Parts, Inc.*, 445 S.C. 640, 916 S.E.2d 320 (2025)] to justify the order, and that the receiver’s scope of authority is limited as set forth in *Welch*.
- 3) To the extent the circuit court intends to authorize the work of a receiver based on facts not found sufficient in *Welch*, or to authorize a

scope of work not approved in *Welch*, the circuit court should make specific findings of fact and conclusions of law the circuit court finds justify its action.

Tibbs v. 3M Company, Order (S.C. Sup. Ct. filed June 26, 2025), ¶ (A).

Shortly after the June 26 Order, the purported receiver for Cape plc (acting pursuant to an appointment order in a different case) made a motion requesting an order for “his [a]ppointment as Receiver for Cape in the above-captioned action (the “Tibbs Action”) pursuant to S.C. Code Ann. Sec. 15-65-10(4) and (5) . . .” The attached order on appeal is the circuit court’s response to the Supreme Court’s remand instructions in *Tibbs* and motion by the purported receiver. The attached order, among other things, is an order granting the appointment of a receiver in the above-captioned case, ostensibly under the directions this Court set forth in *Welch* and *Tibbs*. It is, therefore, immediately appealable pursuant to South Carolina Code Ann. § 14-3-330(4)(2017), which creates a right to immediately appeal “[a]n interlocutory order or decree in a court of common pleas . . . granting, continuing, modifying, or refusing the appointment of a receiver.”

The Charter Appellants state that there are no additional transcripts necessary for this appeal. Finally, by filing this notice of appeal, the Charter Appellants do not waive, but instead specifically preserve, all objections to personal jurisdiction and subject matter jurisdiction in the South Carolina circuit court.

Signature Page Attached

Respectfully submitted,

GORDON REES SCULLY MANSUKHANI, LLP.

By: /s/ A. Victor Rawl, Jr.

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October 14, 2025

PROOF OF SERVICE

I, the undersigned of the law offices of Gordon Rees Scully Mansukhani LLP, attorneys for Appellants Charter Consolidated Ltd., ESAB Corporation, and Central Mining & Investment Corporation Ltd. (“Charter Appellants”), do hereby certify that I have served all parties to this appeal with a copy of the pleading(s) specific below by emailing them at the addresses below:

Pleading(s): Charter Appellants’ Notice of Appeal of Order Granting Appointment of a Putative Receiver

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By: /s/ A. Victor Rawl, Jr.

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