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Oct 21 2025

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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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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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.; 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.

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**THE RECEIVER’S REPLY IN FURTHER SUPPORT OF SECOND MOTION FOR  
LEAVE TO SUPPLEMENT MOTION FOR SANCTIONS AS TO MOHED ALTRAD  
AND ALTRAD INVESTMENT AUTHORITY S.A.S.**

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The Receiver hereby submits this brief reply to Mohed Altrad and Altrad Investment Authority S.A.S’s (“the Altrad defendants”) Consent to the Receiver’s Second Motion to

Supplement the Motion for Sanctions.<sup>1</sup> The Receiver disagrees with the Altrad defendants' characterizations in the return. Jurisdiction in this case lies with the circuit court and has been confirmed as so by the trial court, the Court of Appeals, and this Court. This Court remanded the case to the circuit court "for all purposes" on June 26, 2025. Trial in this case—which was previously scheduled on April 15, 2024, December 9, 2025, and February 3, 2025, but delayed, in part, to the Altrad defendants' improper interlocutory appeals of every order issued by the circuit court—finally commenced on October 20, 2025, and is ongoing.<sup>2</sup> The trial is not a "show trial," as alleged by the Altrad defendants. The trial is on the merits of the case.

Six days before trial was set to begin on October 20, 2025, the Altrad defendants and the Charter defendants improperly appealed the latest interlocutory order of the circuit court to the Court of Appeals. This order, issued on October 13, 2025, confirmed, in accordance with this Court's instructions in the June remand order, that the Receiver was authorized to conduct his work in the *Tibbs* case and denied the re-filed motions to dismiss the third-party complaint and strike all pleadings by the Receiver due to the Altrad and Charter defendants' continued objections

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<sup>1</sup> The Altrad defendants continue to refer to the Receiver as a "putative receiver," exhibiting their disregard of and refusal to follow orders of the South Carolina courts. Further, in the return, the Altrad defendants have indicated their "Consent to the Putative Receiver's Second Motion to Supplement the Record." However, the Receiver's motion is to supplement the pending motion for sanctions, as that is the only motion before the Court following the Court's June remand and there is no general "record" in this case as the interlocutory appeals have been premature before a final order on the merits by the circuit court.

<sup>2</sup> Prior to the commencement of the trial, the court received into the record, a copy of the October 20, 2025 UK Order (filed with this Court yesterday by the Altrad defendants) which granted Anglo-American and De Beers third-party defendants request to consummate its settlement with the Receiver without fear of contempt. As noted in the UK order, this settlement recognizes the Receiver's authority is limited to claims asserted in South Carolina and the resulting Qualified Settlement Fund is limited to claims brought in South Carolina. Mann Oct. 20 Order at ¶ 16.

to the receivership.<sup>3</sup> The Court of Appeals issued the attached Order dismissing the notices of appeal as interlocutory on October 20, 2025.<sup>4</sup>

The improper interlocutory notices of appeal, as well as these defendants' original jurisdiction Petitions for Writ of Prohibition and Writ of Certiorari filed with this Court on Sunday evening, twelve hours before the trial was set to begin, formed the basis, in part, for the Altrad and Charter defendants' arguments that the trial on the merits of this matter could not proceed this week.

Inasmuch as the UK Order submitted to the Court yesterday by the Altrad defendants is relevant to the Court's consideration of the pending motion for sanctions, the Receiver does not object to its inclusion in the record for that purpose. The UK Order relates to the Altrad defendants' ongoing efforts in foreign courts to prevent this case from proceeding on its merits, as

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<sup>3</sup> On October 13, 2025, as discussed in the circuit court's second and third reports to this Court, the circuit court issued an Order on Altrad Defendants' Notice of Recent Supreme Court Authority Voiding Third Party Litigation, Renewed Motion to Dismiss and Motion to Strike All Filings and Orders in the Third-Party Case and the Receiver's and Tibbs Plaintiff's Motions to Confirm the Appointment of the Receiver.

<sup>4</sup> "Where an order is interlocutory, and thus not appealable, the notice of intent to appeal does not transfer jurisdiction to this Court, nor does it stay further proceedings in the lower court." *S.C. Pub. Serv. Auth. v. Arnold*, 287 S.C. 584, 586, 340 S.E.2d 535, 536 (1986) (rejecting an appellant's argument that "the lower court was without jurisdiction to try the case prior to this Court's issuance of remittitur, since the filing of the notice of intent to appeal vested this Court with exclusive jurisdiction"). *See also Dibble v. Schade*, 308 S.C. 88, 93, 417 S.E.2d 104, 107 (Ct. App. 1992) ("When an order is interlocutory and not immediately appealable, the service and filing of a notice of intent to appeal does not transfer jurisdiction to the Supreme Court and does not stay the proceedings in the trial court."); *Brown v. Greenwood Sch. Dist. 50 Bd. Of Trustees*, 344 S.C. 522, 524–25, 544 S.E.2d 642, 643 (Ct. App. 2001) ("Where an order is interlocutory, and thus not appealable, the notice of intent to appeal does not transfer jurisdiction to the [appellate] [c]ourt ..." (quoting *Arnold*, 287 S.C. at 586, 340 S.E.2d at 536)); *Fibkins v. Fibkins*, 303 S.C. 112, 116–17, 399 S.E.2d 158, 161 (Ct. App. 1990) (finding order interlocutory and did not stay proceedings in the lower court); Order, *Childers*, Appellate Case No. 2023-000727 (filed Sept. 8) (finding order denying motion to dismiss and dissolve receivership and receivership not stayed during the pendency of appeal).

this Court has ordered.<sup>5</sup> The UK proceeding, as recently noted to this Court, also seeks to prevent litigants that are participating in the South Carolina courts from resolving their disputes through voluntary settlements—an effort that the UK court rejected.

By: /s/ Jonathan M. Robinson

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<sup>5</sup> Importantly, the UK court considered arguments that permitting the settlement to go forward would negatively impact the Altrad defendants’ appeals, referring to the Altrad defendants as “other companies in the Cape group.” Mann Oct. 20 Order at ¶ 25 (vi). This further illustrates the lack of separation of these entities. As discussed in the motion for sanctions, the Altrad defendants are not only proceeding in foreign courts against the Receiver in their own name but are also utilizing its subsidiary to present the Altrad defendants’ interests to the UK court in order to interfere with the jurisdiction of the South Carolina courts and parties from settling South Carolina litigation.

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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 21, 2025  
Columbia, South Carolina