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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, 2024-001499, 2025-002120, and 2025-002121

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

Charter Consolidated Ltd.; ESAB Corporation; Central Mining & Investment Corporation Ltd; Mohed Altrad; and Altrad Investment Authority SAS, are, in their respective cases, the..... Petitioners.

JOINT NOTICE TO THE COURT AS DIRECTED BY THE CIRCUIT COURT REGARDING STATUS OF APPEAL IN COURT OF APPEALS

Charter Consolidated Ltd., ESAB Corporation, and Central Mining & Investment Corporation Ltd. (collectively, “Charter Petitioners”) and Mohed Altrad and Altrad Investment Authority SAS (collectively, “Altrad Petitioners,” and together with Charter Petitioners, “Petitioners”) are jointly providing the Court with the status of the appeal of the October 13, 2025 Order as directed by the circuit court in its e-mail dated October 21, 2025, which is attached hereto as Exhibit A so that the Court can understand the reason for this filing.¹

1. On October 13, 2025, the circuit court issued a 48-page order entitled “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 PLAINTIFFS’ MOTIONS TO CONFIRM THE APPOINTMENT OF THE RECEIVER.”

¹ On October 21, 2025. the circuit court e-mailed counsel for Petitioners and instructed as follows:

Gentlemen: Please supplement Altrad and Charter filings of Petitions for Writ of Prohibition submitted to the SC Supreme Court Sunday evening and Receiver’s Response when made with a copy of the Court of Appeals’ Order above referenced and copy this Court. Thank you for your cooperation,

Jean Toal

Exhibit A.

2. On October 14, 2025, Charter Petitioners and Altrad Petitioners each filed a Notice of Appeal of the October 13, 2025 Order, which included an abbreviated explanation of the basis of appealability. Copies of the Notices of Appeal are attached hereto as Exhibits B and C.

3. On October 15, 2025, the Respondent (purported receiver for Cape PLC) filed a “Motion to Dismiss Interlocutory Appeal and for Expedited Review.”

4. On October 20, 2025, prior to Charter Petitioners or Altrad Petitioners filing a response to Respondent’s Motion to Dismiss Interlocutory Appeal pursuant to Rule 240(e), SCACR, the Court of Appeals issued an Order dismissing the appeal. A copy of the Order is attached hereto as Exhibit D.

5. The Court of Appeals Order stated, “The remittitur will be sent as provided by Rule 221(b), SCACR.” *See* Exhibit D. The deadline for Petitioners to file their respective petitions for rehearing is November 4, 2025.

6. After the issuance of the Court of Appeals Order dismissing the appeal, the circuit court began trial over the objections of Petitioners that the circuit court lacked personal jurisdiction and subject matter jurisdiction because, *inter alia*, the remittitur had not been returned.

7. Charter Petitioners and Altrad Petitioners each intend to file a timely petition for rehearing and address issues with the dismissal order with the Court of Appeals in a manner consistent with the South Carolina Appellate Court Rules. Among other things, the petitions will demonstrate that the October 13, 2025 Order constituted the granting or modification of a receivership and was therefore immediately appealable by statute, as Petitioners would have demonstrated to the Court of Appeals had they been given the opportunity to oppose the Motion to Dismiss.

* * * * *

To be clear, Petitioners intend to address these issues with the Court of Appeals consistent with the Appellate Court Rules. They are simply informing the Court of the status of that appeal as directed by the circuit court and providing additional context so that this Court will understand the current state of the proceedings. By so doing, Petitioners are not waiving, but instead continue to specifically preserve, all objections to these proceedings, including in particular the absence of personal jurisdiction.

Respectfully submitted,

GORDON REES SCULLY MANSUKHANI, LLP

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

A. Victor Rawl, Jr. (S.C. Bar No. 09261)

Email: vrawl@grsm.com

677 King Street, Suite 450

Charleston, South Carolina 29403

Tel.: (843-714-2501)

Attorneys For Petitioners Charter Consolidated Ltd., ESAB Corporation, and Central Mining And Investment Corporation Ltd.

WOMBLE BOND DICKINSON (US) LLP

By: /s/ M. Todd Carroll.

M. Todd Carroll (S.C. Bar No. 74000)

todd.carroll@wbd-us.com

Kevin A. Hall

S.C. Bar No. 15063

kevin.hall@wbd-us.com

M. Elizabeth O'Neill

S.C. Bar No. 104013

elizabeth.oneill@wbd-us.com

1221 Main Street, Suite 1600

Columbia, SC 29201

(803) 454-6504

Attorneys for Petitioners Mohed Altrad and Altrad Investment Authority SAS

October 29, 2025