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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 A PETITION FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jean H. Toal
Acting Circuit Court Judge

Appellate Case Nos. 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.

RESPONSE TO MOTION TO EXTEND BRIEFING DEADLINES

Charter Consolidated Ltd.; ESAB Corporation; and Central Mining & Investment Corporation Ltd. (“Charter Petitioners”) take no position on the Plaintiff’s motion to extend their briefing deadline on the return to the petitions for extraordinary writs, which the Court has already granted in part. Charter Petitioners do, however, request clarification as to their time to file a reply and express concern about the purported Receiver’s recent activities in the circuit court attempting to expand his authority to new cases while these issues are with the appellate courts.

Initially, Charter Petitioners expect a response to the petitions for extraordinary writs from both Plaintiffs and the purported Receiver. While Plaintiffs have received an extension to file their response (to November 7, 2025), Charter Petitioners do not know when the purported Receiver will file his response. Charter Petitioners intend to file a single reply and thus would like to clarify that their deadline to file a reply is November 14, 2025 - 5 days after November 7, 2025 - as to allow time for filing of responses by Plaintiffs and the purported Receiver and to allow for only one Reply to be filed by Petitioners.

As to the second issue, Charter Petitioners are concerned that the purported Receiver is pushing to further expand his own authority while the issue of whether he has authority to act at all in *Tibbs* or *Park* is presently with the appellate courts. (At this time, the remittitur has not been returned to the circuit court.). On October 28, 2025, the purported Receiver filed a series of

motions¹ through which he requests that the circuit court 1) consider a “confidential settlement agreement” between third-party Anglo Defendants and the putative Receiver in camera (without disclosure to other third-party defendants), 2) grant a motion to seal the “confidential settlement agreement,” 3) grant a motion approving the settlement agreement, 4) approve payment of 40% of the undisclosed amount to the Receiver’s law firm (and also the law firms of Smith Robinson, Gallivan White and Boyd, and Morgan Lewis), and 5) approve the transfer of the remaining 60% of the undisclosed amount into a confidential “qualified settlement fund” to be “managed by the Receiver.” While Charter Petitioners believe that the exclusive jurisdiction over these matters is with the appellate courts, Charter Petitioners are very concerned because the QSF requested by the purported Receiver is not limited to holding funds to satisfy a judgment in Tibbs (or Park), but rather it specifically extends the purported Receiver’s authority to include litigation of future unknown cases in the name of Cape and the authority to use these funds to pay future claimants – all well beyond the limitations placed on a receiver’s authority as set forth in *Welch v. Advance Auto Parts, Inc.*, 445 S.C. 640, 667, 916 S.E.2d 320, 334–35 (2025), *petition for cert. filed at Case No. 25-213* (U.S. Aug. 18, 2025).

In the interest of judicial economy and to help protect its own jurisdiction from being impaired by litigation activity below, the Court may want to consider some measure to maintain the status quo during the pendency of the Court’s consideration in its original jurisdiction. *See, e.g., Climer v. Loftis*, Appellate Case No. 2025-00111 (Order June 25, 2025) (enjoining

¹ Motion To Seal Confidential Settlement Agreement; Motion To Approve Confidential Settlement Agreement, Establish Qualified Settlement Fund, And Retain Jurisdiction Including Fees; and The Receiver’s Report On Attorneys’ Contingency Fee Request Related To Motion To Approve Settlement.

disbursement of funds to legislators while the Court considers in its original jurisdiction the constitutionality of a proviso that potentially increases legislative pay).

Charter Petitioners incorporate all arguments not inconsistent to those above made by Altrad Petitioners in their Response To Motion To Extend Briefing Deadlines filed earlier today (October 30, 2025) in Appellate Case Nos. 2025-002120 and 2025-002121. Charter Petitioners do not object to the modest extension of briefing deadlines but would respectfully request that the Court take notice of the recent activity in the circuit court.²

Respectfully submitted,

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October 30, 2025

² As always, the Charter Petitioners are not waiving, but instead continue to specifically preserve, all objections to these proceedings, including in particular the absence of personal jurisdiction.