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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. 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.

ADDENDUM TO PETITION FOR EXTRAORDINARY WRITS

On October 19, 2025, the Altrad Petitioners and the Charter Petitioners filed petitions for extraordinary writs from this Court based on three primary arguments: there exists no receivership appointment order in *Tibbs* that complies with this Court’s June 2025 order, the putative Receiver is a nullity in the eyes of the law, and the circuit court lacks jurisdiction. On October 30 and 31, 2025, the circuit court issued three orders that reinforce the very reasons those Petitions were filed, making relief more urgent, and the Altrad Petitioners and the Charter Petitioners file this addendum to make the Court aware of these three orders and their impact on this matter.

1. Order Vacating October 13, 2025 Order in *Park v. Armstrong International*, Case No. 2021-CP-40-02727 (Oct. 30, 2025).

As the Court is aware, *Park* is the fountainhead of all activity undertaken by the putative Receiver. The first “receivership appointment order” over any “Cape” entity was issued in March 2023 in *Park*—after that case had been “fully resolved,” after the Park Estate had closed, without service of process, and without any judgment against any “Cape” entity.

At the first hearing following this Court’s June 2025 *Tibbs* remand order, counsel for the putative Receiver expressly conceded that the March 2023 “appointment” order in *Park* did not satisfy this Court’s requirements in *Welch* or *Tibbs* for the appointment of a receiver. As counsel acknowledged: “The order that you issued in response to that petition [in *Park*], I’m not sure made factual findings regarding the fraud that had been alleged [as required by *Welch* and *Tibbs*].” (Hr’g Tr. 54:21–23 (July 22, 2025), 3d Supp. App. 265 (statement of counsel for the putative Receiver).)

The putative Receiver’s acknowledgment that the March 2023 appointment order in *Park* lacked the findings necessary to support the appointment of a prejudgment receiver ends any argument that the March 2023 *Park* order authorized him to accept service in this case (*Tibbs*) on behalf of Cape plc (not CIHL, which is not even a named defendant), and then file the “third-party complaint” that brought the Altrad Petitioners and Charter Petitioners into this case.¹

In response to the Receiver’s concession about the invalidity of the March 2023 order, the putative Receiver sought to “cure” the lack of a valid appointment order by seeking a new appointment order in *Park*, which the circuit court issued on October 13, 2025. (4th Supp. App. 102.)

However, the purported “cure” has now been undone. After the putative Receiver’s counsel conceded the invalidity of the March 2023 order, the October 13th “appointment” order was the only “appointment” order remaining in *Park*, but the circuit court vacated it through an order issued on October 30, 2025. The ruling is unambiguous: “The Court’s October 13, 2025 Order is hereby vacated.” (Attachment A, Order in *Park*, at 2 (Oct. 30, 2025).) With no appointment order left in *Park*—not even one purporting to satisfy the *Welch/Tibbs* requirements—the putative Receiver has no colorable authority to act in *Park*, much less authority to retroactively claim to accept service on behalf of any “Cape” entity in *Tibbs*.

Without valid service, there is no jurisdiction. The proceedings below that purport to involve the Altrad and Charter Petitioners remain a nullity as a matter of law. This most recent order vacating the *Park* appointment order provides yet another basis for this Court to issue the writ of prohibition.

¹ The March 2023 order in *Park* was a nullity for other reasons as well, including, but not limited to, the circuit court lacking subject matter jurisdiction and personal jurisdiction.

2. Order Approving Confidential Settlement and Creating Qualified Settlement Fund in *Tibbs v. 3M*, Case No. 2023-CP-40-01759, and in *Park v. Armstrong International*, Case No. 2021-CP-40-02727 (Oct. 30, 2025).

At noon on October 30, 2025, the Altrad Petitioners notified this Court that the putative Receiver made motions in the circuit court seeking an order approving of a settlement contract purportedly executed in CIHL’s name and other documents authorizing the putative Receiver to waive service of process in future lawsuits against CIHL, to manage litigation in CIHL’s name, and to seal the settlement agreement from public view (and view of the parties). Both the Altrad Petitioners and the Charter Petitioners promptly objected to those motions in the circuit court.

However, shortly after this Court was informed of that activity, the circuit court entered an order granting the motions and purporting to grant the putative Receiver sweeping “boardroom” authority—without notice or a hearing. (Attachment B, Order in *Park* and *Tibbs* (Oct. 30, 2025).)

As explained in the Petitions, the putative receivership is a nullity as a matter of law, and the circuit court lacks jurisdiction to take any action in this matter. Beyond those dispositive defects, the circuit court’s latest order compounds the error by attempting to authorize the putative Receiver (1) to enter contracts and make litigation decisions on behalf of an active English company that has expressly forbidden him from doing so; and (2) to undertake work outside any case in which he has been validly appointed (cases that have not even been filed and for injuries that have not yet occurred).

Clearly, these unidentified “claimants” have never sought a receivership under South Carolina Code § 15-65-10 *et seq.*, and such actions are squarely prohibited by *Welch*, *Tibbs*, the U.S. Constitution, and the South Carolina receivership statute, among numerous other authorities cited in the Petitions. This order only underscores the urgency with which this Court should issue the requested writs of prohibition and certiorari.

3. Notice of Hearing Ordering “Trial” on November 12, 2025 in *Tibbs v. 3M*, Case No. 2023-CP-40-01759 (Oct. 31, 2025).

As set forth above, the putative Receiver acknowledges that there was no valid receivership appointment in *Park*. The only putative appointment order issued in *Tibbs* was filed on October 13, 2025, which is the subject of both the Petitions and an appeal as a matter of right under South Carolina Code § 14-3-330(4) that is pending before the Court of Appeals.

Despite pending and imminent appellate review, the circuit court began “trial” on the putative Receiver’s “third-party complaint” on October 20, 2025 (to which the Petitioners objected). On October 22, 2025, the circuit court recessed “trial” for at least 30 days, meaning that proceedings would not resume until November 24, 2025, or later. The circuit court confirmed this at-least-30-day pause in its Fourth Report to this Court. (Fourth Report at 2 (Oct. 23, 2025).)

Since then, numerous additional matters have occurred at the circuit court, which the Petitioners have attempted to bring to this Court’s attention promptly so that it can stay aware of the status of this matter.

On October 30, 2025, this Court wrote the parties an email stating that briefing on the Petitions would close on November 12, 2025. (Attachment C.)

The next day—October 31, 2025—the circuit court issued the attached notice stating that it was intending to restart and conclude the “trial” on November 12, 2025. (Attachment D.) This, too, underscores that the Court should consider temporary measures to pause the proceedings below while it considers the Petitions.²

² As always, the 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,

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