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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.

CHARTER PETITIONERS’ RESPONSE TO MOTION TO STRIKE

Charter Consolidated Ltd., ESAB Corporation, and Central Mining & Investment Corporation Ltd. (“Charter Petitioners”) submit this short response to the putative Receiver’s Motion to Strike (Nov. 3, 2025).¹ The putative Receiver objects to Petitioners’ attempts to ensure that the record before this Court remains complete and transparent. The putative Receiver’s motion claims that (1) the Petitioners’ filings were procedurally improper, and (2) his post-petition actions and the circuit court’s new actions are immaterial. These points are addressed briefly below.²

1. **Procedural propriety.** The Petitioners’ October 30–31, 2025 filings reported events that occurred after the Petitions were filed so that the Court would be aware of the activity below as it manages these proceedings. The Petitioners submitted those filings to ensure the Court would not be deprived of new material information arising below that may impact the issues before the Court, and to assist the Court in managing these proceedings, especially where the reported events further demonstrate why involvement by this Court is necessary.

¹ By making this filing, the Charter Petitioners do not waive, but instead specifically preserve, all defenses asserted and objections previously made regarding these proceedings through its written motions, oral arguments, memoranda and briefs, responsive pleadings, served responses, and appellate filings, including, inter alia, that: the Court lacks personal jurisdiction over each of the Charter Appellants.

² Per Rule 208(b)(6), SCACR, Charter Petitioners incorporate herein, to the extent applicable, all additional arguments raised and authorities cited by similarly situated Petitioners Mohed Altrad and Altrad Investment Authority S.A.S.

2. **Material developments.** As detailed in the Petitioners' filings, the circuit court has entered orders that are material to the issues presented to this Court while these matters have been pending with this Court:

- The circuit court vacated the October 13, 2025 receivership order entered in *Park v. Armstrong*, which purported to issue an appointment order in the *Park* case that complied with this Court's recently clarified requirements for a receiver appointment order (Oct. 30, 2025);
- Without notice or a hearing, the circuit court approved the creation of a "Qualified Settlement Fund" ("QSF") to be funded by a purported settlement reached by the Receiver in the *Tibbs* Third-Party action and purporting to authorize the Receiver to act "in the name of CIHL" in cases other than *Tibbs* (and to waive service "on behalf of" CIHL for unknown future claims) even though this Court explicitly held that a South Carolina pre-judgment receiver appointed pursuant to Title 15 may only marshal South Carolina assets for the purpose of satisfying a judgment for the specific plaintiff who requested appointment of the receiver. (Oct. 30, 2025); and
- The circuit court proposed to allow the Receiver to resume the stand alone "trial" of the Receiver's Third-Party derivative claims (prior to any trial or determination or liability or damages in the first party case.)

While the putative Receiver disputes the Petitioners' description of the activity below, they do not dispute that the referenced documents were filed with the circuit court. The circuit court's orders and the related documents speak for themselves. The Petitioners provided these materials to this Court specifically so it could stay informed.

In particular, the putative Receiver suggests it is a mischaracterization to say that the purported QSF claims to give him authority to engage in "boardroom" activity on behalf of CIHL. (which is not even a party to these proceedings). This suggestion is then contradicted by the putative Receiver's acknowledgement of the expanded authority granted to him in the QSF.

The putative Receiver admits that the QSF order authorizes him to "evaluate, and if meritorious, resolve claims relating to bodily injuries resulting from Cape asbestos products in South Carolina without the claimant first having served Cape." (Mot. to Strike at 4.) Then in the

very next passage, the putative Receiver confirms that he has “discretion to waive the service requirement” on CIHL prior to channeling money to “claimants,” and that he intends to pay these “claimants” with “Cape’s assets” controlled by him in the QSF. (*Id.* at 5.) The putative Receiver clearly acknowledges that the QSF expands his authority from being a prejudgment receiver in *Park* or *Tibbs* to having authority to act for CIHL in countless unknown future matters. The breadth of this authority is unprecedented and is squarely contrary to *Welch v. Advance Auto Parts, Inc.*, 445 S.C. 640, 667, 916 S.E.2d 320, 334 (2025), *petition for cert. filed at* Case No. 25-213 (U.S. Aug. 18, 2025), where this Court forbade a receiver from attempting to address any claim beyond those asserted by the party requesting the appointment of a pre-judgment receiver appointment. (Here neither the Park Estate nor any *Tibbs* plaintiff petitioned for the appointment of a receiver over any Cape entity – the putative Receiver is the only person who requested such authority.)

Further, the putative Receiver attempts to downplay the breadth of the power given to him by the QSF. The “Operating Agreement” states: “Claimants shall serve Cape Asbestos Suits on Cape Intermediate Holdings Ltd. in England, but the Manager [*i.e.*, the putative Receiver] has discretion to waive such requirement.” (“*Operating Agreement*” § 3.2).³ And it authorizes the putative Receiver to “pay for legal fees and settlement costs” on behalf of CIHL. In other words, the putative Receiver is being given the authority to accept service for a foreign active company and use the QSF to pay for settlements for those claims - all without the requirement of court approval. The “Operating Agreement” further gives apparent authorization for the putative Receiver to sue others in CIHL’s name seeking “reimbursement or indemnification” for amounts that he agrees to pay claimants. (*Id.* § 1.2(iv).)

³ The Operating Agreement is attached to the Altrad Petitioners’ Reresponse to Motion to Strike filed on November 7, 2025.

It cannot possibly comport with Due Process for the circuit court to first appoint a pre-judgment receiver without a valid petition from any party in the case (Park), allow that putative Receiver to then act as receiver in a different case (Tibbs) (without that plaintiff moving for the appointment of a pre-judgment receiver), and then issue an order (ignoring the very points on which *Welch* reversed the circuit court) authorizing the putative Receiver to accept service of and then resolve claims on behalf of an English company that is not even before a South Carolina court and also authorizing the putative Receiver to try and recover money from “third parties” in CIHL’s name to fund his own “fund” (to pay himself, his lawyers, and unknown future claimants without court oversight.)

* * * * *

These latest actions in the circuit court exceed the limitations on a receiver’s authority as set forth in this Court’s rulings in *Welch* and *Tibbs* – the very issue that is the subject of the Petitioners’ requests for a common-law writ of certiorari. The Court is of course entitled to know fully what is happening below as it assesses the Petitions.

3. **Requested disposition.** The putative Receiver now asks this Court to strike the very filings that reveal those developments— even as the putative Receiver (as the arm of the court) seeks to have the circuit court seal/keep secret his activities, the assets/amounts he has “recovered” as receiver, the amount of funds being put into the fund (QSF) that he can spend at his discretion, the full terms of the QSF, and the amount of funds he has paid to himself and his counsel/consultants. Transparency, not secrecy, serves both the integrity of these proceedings and this Court’s supervisory role. *See* S.C. Const. art V, § 5.

While the putative Receiver suggests that this Court cannot do anything about the ongoing proceedings below, the South Carolina Constitution gives the Court full authority to intercede to

