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**Nov 17 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

The Honorable Jean H. Toal  
Acting Circuit Court Judge

Appellate Case No. 2025-002104  
Circuit Court Case No. 2023-CP-40-01759

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, 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

Mohed Altrad, Altrad Investment Authority SAS, Charter Consolidated Ltd., ESAB Corporation, and Central Mining & Investment Corporation Ltd. are the ..... Appellants.

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**ALTRAD DEFENDANTS’ RETURN TO THE PUTATIVE RECEIVER’S “MOTION TO STRIKE ATTACHMENTS TO PETITIONS FOR REHEARING”**

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The Court should deny the putative Receiver’s Motion to Strike. Despite the putative Receiver’s request that this Court put on blinders when determining whether the circuit court’s order is immediately appealable, the material attached to the Altrad Defendants’ Petition for Rehearing is properly before this Court.

The putative Receiver’s motion to strike public documents from the record fails for straightforward reasons: (1) the “attachments” the putative Receiver seeks to strike are relevant to the underlying order on appeal, the accompanying appealability issue, and the points the Altrad Defendants believe are relevant to the relief sought; and (2) the putative Receiver’s reliance on a rule regarding a Record on Appeal is misplaced and inapplicable.

*First*, as the Court is aware, this appeal involves an order that grants a receivership appointment in *Tibbs* and tries to modify a purported prior appointment in *Park*—each of which is without question appealable. *See* S.C. Code Ann. § 14-3-330(4) (providing for appellate jurisdiction over appeals of “[a]n *interlocutory order or decree* in a court of common pleas . . . *granting, continuing, modifying*, or refusing the appointment of a receiver.”) (emphases added).

In June 2025, the Supreme Court remanded the putative “Cape” receivership to the circuit court with instructions that it reassess its appointment orders in all receivership cases. In response, the circuit court entered two orders: (1) a new appointment order in *Park* that attempted to (but did not) comply with the remand instructions; and (2) a new appointment order in *Tibbs* that also tried

to modify an earlier order in *Park* to, in effect, retroactively approve *ultra vires* conduct. The latter of these orders is the order on appeal in this case.

After the Altrad Defendants and the Charter Defendants noticed their appeal, the circuit court vacating the new appointment order it had just entered in *Park*. While this appeal stands on its own based on the plain language of Section 14-3-330(4), the Altrad Defendants attached to their rehearing petition the latest *Park* order (vacating the new appointment order in *Park*) so that the Court could see for itself that the order on appeal is the only possible document that exists purporting to grant a receivership appointment in this case. That filing is not subject to being stricken; it is a court order of which the Court can and must take judicial notice. Rule 201(d), (f), SCRE (judicial notice is permissible “at any stage of the proceeding” and “shall” be taken when requested and supplied with the requisite information).

*Second*, the putative Receiver points to Rule 210, SCACR, to argue this Court may only review a full record where “the parties would jointly designate materials so that all parties can ensure the correct documents are being presented.” However, Rule 210 has no applicability here. The Altrad Defendants filed a Petition for Rehearing; petitions are governed by Rule 240, SCACR (entitled “Motions and Petitions Generally”). Rule 240(c)(3) states:

Where the Record on Appeal or Appendix has not been filed, or where the facts relied upon in support of the motion are not contained in the Record on Appeal or Appendix, the parties shall file affidavits and other documents in support of their positions.

This is the case here. This appeal has not yet been briefed, and no Record on Appeal has yet been filed. The Altrad Defendants look forward to their opportunity to be heard on the merits of the order on appeal, but the appeal has not yet advanced to that stage, rendering Rule 210 irrelevant to this motion.

## CONCLUSION

The Altrad Defendants have filed a valid appeal pursuant to the plain language of a South Carolina statute. *See S.C. Pub. Interest Found. v. Wilson*, Op. 28307 (Howard Adv.Sh. 40 at 27) (S.C. Nov. 12, 2025) (“Courts must sometimes walk the walls separating the powers of the three branches, but courts must be aware that their duties and responsibilities are limited to the interpretation of a statute, and we cannot rewrite a statute to suit our own policy preferences.”). Seeking to avail themselves of appellate remedies expressly permitted by South Carolina law should not garner accusations of “one-sided submissions.” The putative Receiver’s Motion to Strike should be denied.

Respectfully submitted,

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I, the undersigned of the law offices of Womble Bond Dickinson (US) LLP, attorneys for Appellants Altrad Investment Authority SAS and Mohed Altrad, do hereby certify that I have served all parties to this appeal with a copy of the pleading(s) specific below by emailing them at the addresses below:

Pleading(s): Altrad Defendants' Return to the Putative Receiver's "Motion to Strike Attachments to Petitions for Rehearing"

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November 17, 2025

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**Via Electronic Filing**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201

Re: Response to Request for Indefinite Extension  
Appellate Case No. 2025-002104

Dear Madam Clerk:

As discussed in our clients' filings, the order on appeal is immediately appealable as a matter of right under the appealability statute, S.C. Code Ann. § 14-3-330(4). The Court should reject the putative Receiver's efforts to artificially delay having to respond to the rehearing petition.

The document upon which the putative Receiver based his motion to strike is a public record from the *Park* case, of which the Court can always take judicial notice. Though the *Park* document certainly confirms the propriety of this appeal, the appealability of the order below exists independently of the *Park* document, and there is no reason to delay briefing of that issue.

Best regards,

/s/ M. Todd Carroll

cc: All Counsel of Record