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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 theAppellants.

CHARTER APPELLANTS RETURN TO THE PUTATIVE RECEIVER’S “MOTION TO
STRIKE ATTACHMENTS TO PETITIONS FOR REHEARING”

Charter Consolidated Ltd., ESAB Corporation, and Central Mining And Investment Corporation Ltd. (“Charter Appellants”)¹ join and adopt the arguments set forth in “Altrad Defendants’ Return to the Putative Receiver’s ‘Motion to Strike Attachments to Petitions for Rehearing’” filed in this case on November 17, 2025.²

The issue presently before the Court is whether the order on appeal is “[a]n *interlocutory order or decree* in a court of common pleas . . . *granting, continuing, modifying*, or refusing the appointment of a receiver” – and therefore immediately appealable. S.C. Code Ann. § 14-3-330(4) (emphases added). Seemingly relevant to this issue would be the existence of any other order “*granting, continuing, modifying*, or refusing the appointment of the receiver at issue here – Mr. Protopapas over Cape PLC (or Cape Intermediate Holdings Ltd. (“CIHL”)). It is undisputed that the first order purporting to appoint Mr. Protopapas as receiver over any Cape entity (Cape PLC) was the March 17, 2023, Appointment Order in the *Park* case (“Park Appointment Order”),

¹ The Charter Appellants do not waive, but instead specifically preserve, all objections to personal jurisdiction and subject matter jurisdiction.

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

which was limited on its face to “in this case”. It is likewise undisputed that the Park Appointment Order contained no findings of fact related to any “moral fraud” as required by the Supreme Court. *Tibbs v. 3M Co.*, Appellate Case No. 2024-001423 (S.C. June 26, 2025); *Welch v. Advance Auto Parts, Inc.*, 445 S.C. 640, 916 S.E.2d 320 (2025). The putative Receiver’s position is that prior to October 13, 2025, there have been no other orders issued in any case (including *Park* or *Welch*) that have 1) granted a new appointment over any Cape entity and/or 2) continued or modified the Park Appointment Order.

On October 13, 2025, the circuit court issued two orders - the order on appeal (in *Tibbs*) and another order (in *Park*) - that each, among other things, made purported findings of fact about “moral fraud” to support the appointment of a receiver over CIHL, specifically referenced the Park Appointment Order, and both struck language from and added new language to (modified) the Park Appointment Order. The order issued in the *Park* case (“October 13 Park Order”) was vacated by the order that is the subject of the Receiver’s motion to strike.

When the circuit court vacated the October 13 Park Order, there remained only one order in *Park* that granted, continued or modified an appointment over any Cape entity - the (original) Park Appointment Order (that is deficient on its face). Because of the vacatur, the order on appeal remained the only order in existence purporting to make findings of fact about “moral fraud” to support the appointment of a receiver over CIHL and making specific modifications to the Park Appointment Order.

While it is unknown why the putative Receiver does not want the court to consider the vacatur of the October 13 Park Order, Charter Appellants respectfully submit that the reduction of the number of orders “granting, continuing, modifying, or refusing the appointment of a receiver” from three to two is a fact that the Court may properly consider. Accordingly, the putative

Receiver's Motion to Strike should be denied.

Respectfully submitted,

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November 17, 2025

PROOF OF SERVICE

I, the undersigned of the law offices of Gordon Rees Scully Mansukhani LLP, attorneys for Petitioners Charter Consolidated Ltd., ESAB Corporation, and Central Mining & Investment Corporation Ltd., (“Charter Petitioners”) 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): Charter Appellants’ Return to the Putative Receiver’s “Motion to Strike Attachments to Petitions for Rehearing”

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November 17, 2025