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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jean H. Toal
Acting Circuit Court Judge

Appellate Case No. 2025-002104

RECORD ON APPEAL
(VOLUME IX)

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 in Related Case,

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 the..... Appellants.

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EXHIBIT A

Last Will and Testament

I, **ISABELLA F. D. R. PARK**, of Spartanburg County, South Carolina, declare this to be my Last Will and Testament, and I revoke all prior Wills and Codicils that I have made.

ITEM I

I direct that all my legally enforceable debts, secured and unsecured, including funeral expenses, any expenses of my last illness, and all expenses of the administration of my estate, be paid as soon after my death as is practicable. This provision shall not be construed to require the payment of any debt which may be barred by the statute of limitations or by a non-claim statute.

ITEM II

Except as may otherwise be provided herein, all estate, inheritance, succession or transfer taxes imposed by the laws of any domestic or foreign taxing authority at the time of or by reason of my death, including interest and penalties, if any (collectively, "death taxes"), including those death taxes payable with respect to assets which do not pass under this Will, shall be paid out of and charged generally against the principal of my residuary estate passing under Item V herein, without apportionment. In no event shall any amount not otherwise includable in my gross estate for federal estate tax purposes, nor any property traceable to any such amount, be used to pay death taxes.

ITEM III

I hereby make the following disposition of my tangible personal property:

A. I give and bequeath all of the tangible personal property that I own at my death, including any household furniture and furnishings, automobiles, boats, books, pictures, art objects, hobby equipment and collections, jewelry, wearing apparel and other articles of household or personal use or ornament, together with any airline frequent flier miles to my credit, in accordance with the terms of any written memorandum or list which I may attach to this Will, which list or memorandum shall be incorporated herein by reference. In default of a written memorandum or list, or to the extent that such list or memorandum does not completely dispose of my tangible personal property, then I give and bequeath said property to such of my children, FIONA R. WILEY, KEITH W. PARK, and ALASTAIR C. PARK, as shall survive me, in shares of substantially equal value, provided, however, the then living issue of a deceased child of mine shall take *per stirpes* the share their parent would have taken had he or she survived me.

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B. If any beneficiary herein has not reached legal age under the law of the jurisdiction in which the child is domiciled at the time of my death, then the person having legal custody of the child (i) shall represent the child in any division of the property, (ii) may give a binding receipt for and hold the child's share for his or her benefit, (iii) may sell any part or all of the share, and (iv) shall deliver the share or sale proceeds to the child before or when the child reaches legal age, all as that person considers advisable.

C. All costs of safeguarding, insuring, packing and storing my tangible personal property before its distribution and of delivering each item to the place of residence of the beneficiary of that item shall be deemed to be an expense of administration of my estate.

ITEM IV

I give and devise to my husband, ANDREW D. PARK, if he shall survive me, to have and to hold for and during his natural life, any interest which I own in the house and lot located at 244 Mills Avenue, Spartanburg, South Carolina, or in any other real property which I occupy as my primary residence at the time of my death, together with all policies of casualty insurance on such property, and I give and devise a vested remainder interest in said property in equal shares to such of my children as shall survive me, the then living issue of a deceased child of mine to take *per stirpes* the share their parent would have taken had he or she survived me.

ITEM V

I give, devise and bequeath all the rest, residue and remainder of my property of every kind and description (including lapsed legacies and devises), wherever situate and whether acquired before or after the execution of this Will, but not including any property over which I have a power of appointment, in equal shares to such of my children as shall survive me, the then living issue of a deceased child of mine to take *per stirpes* the share their parent would have taken had he or she survived me.

ITEM VI

I hereby nominate, constitute and appoint my son, KEITH W. PARK, of Central, South Carolina, as Executor of this my Last Will and Testament. If my said son predeceases me or elects not to accept this appointment or is for any reason ineligible or precluded from accepting this appointment, then I appoint my son, ALASTAIR C. PARK, of Alvin, Texas, as Executor. No Executor serving hereunder shall be required to provide a bond or other security.

ITEM VII

By way of illustration and not of limitation and in addition to any inherent, implied or statutory powers granted to Executors generally, my Executor is specifically authorized and empowered with respect to any property, real or personal, at any time held under any provision of

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this my Will: to allot, allocate between principal and income, assign, borrow, buy, care for, collect, compromise claims, contract with respect to, continue any business of mine, convey, convert, deal with, dispose of, enter into, exchange, hold, improve, incorporate any business of mine, invest, lease, manage, mortgage, grant and exercise options with respect to, take possession of, pledge, receive, release, repair, sell, sue for, to make distributions or divisions in cash or in kind or partly in each without regard to the income tax basis of such asset, and in general to exercise all of the powers in the management of my Estate which any individual could exercise in the management of similar property owned in his own right, upon such terms and conditions as to my Executor may seem best, and to make disclaimers and renunciations of any inheritance or other interest in property on behalf of me, my estate or any trust, to execute and deliver any and all instruments and to do all acts which my Executor may deem proper or necessary to carry out the purposes of this my Will, without being limited in any way by the specific grants of power made, without being limited by § 62-3-711(b) of the **Code of Laws of South Carolina (1976)**, as amended, and without the necessity of a court order. All of the powers enumerated in § 62-3-715 of the **Code of Laws of South Carolina (1976)**, as amended, are hereby incorporated by reference and granted to my Executor.

ITEM VIII

Despite the preceding provisions of this instrument, my Executor may elect to withhold any property otherwise distributable to a beneficiary who has not reached the age of twenty-one (21) years and may retain the property for that beneficiary in a separate trust named for the beneficiary, to be distributed to the beneficiary when he or she reaches the age of twenty-one (21) years, or before then if my Executor so elects, or my Executor may distribute any such property to a custodian to be designated by my Executor for such beneficiary under a Uniform Transfers or Gifts to Minors Act or similar applicable law. My Executor shall apply as much of the net income and principal of the trust so retained as my Executor believes desirable for the health, support in reasonable comfort, education, best interests, and welfare of the beneficiary for whom the trust is named, considering all circumstances and factors deemed pertinent by my Executor. Any undistributed net income shall be accumulated and added to principal, as from time to time determined by my Executor. If the beneficiary for whom the trust is named dies before complete distribution of the trust, the remaining net income and principal of the trust shall be distributed to the beneficiary's estate.

ITEM IX

Any person may irrevocably disclaim and renounce any part or all of my estate, including any life estate, whether or not passing under this Will, to which such person is entitled. Any future interest in the property that takes possession or enjoyment following the interest disclaimed shall take effect as if the person making the disclaimer predeceased me, including the determination of subsequent takers and the vesting of their interest. This right to disclaim may also be exercised by the executor, administrator, guardian, committee, attorney-in-fact, or other legal representative of any person entitled to disclaim under this Will. In the event that any person disclaims any part or all of any bequest or devise, then I direct that such disclaimed property shall be disposed of as if such

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person had not survived me. In such event, the provisions of this Will shall control, and South Carolina Code § 62-2-603 (the "anti-lapse" statute) shall not apply in the construction of this Will.

ITEM X

If any beneficiary and I should die under such circumstances as would render it doubtful whether the beneficiary or I died first, then it shall be conclusively presumed that said beneficiary predeceased me. For all purposes hereunder, if a descendant of mine shall not survive me by ninety (90) days, such descendant shall be deemed to have predeceased me.

ITEM XI

In applying the provisions of this my Will, the following shall govern:

A. My husband's name is ANDREW D. PARK, and all references in this Will to my husband are to him only.

B. I have three (3) children, FIONA R. WILEY, KEITH W. PARK, and ALASTAIR C. PARK, and all references herein to my children are to them only.

C. For purposes of this Will, "children" means the lawful blood descendants in the first degree of the parent designated; and "issue" and "descendants" means all persons who are the lawful blood descendants in any degree of the ancestor designated; provided, however, that if a person has been adopted, that person shall be considered a child of the adopting parent and the adopted child and any issue shall be considered as issue of the adopting parent or parents and of anyone who is by blood or adoption an ancestor of the adopting parent or parents, provided that legal adoption occurred before the person adopted attained legal age. For purposes of determining who is an issue of mine, a person born out of wedlock and those claiming through that person shall be deemed to be issue (1) of the natural mother and her ancestors, and (2) if the natural father acknowledges paternity, of the natural father and his ancestors, in each case unless a decree of adoption terminates such parent's parental rights. Half blood relations shall be treated as whole blood relations.

D. The term "*per stirpes*," as used herein, means in equal shares among living children of the person whose descendants are referred to and the descendants (taken collectively) of each deceased child of such person, with each deceased child's descendants taking by right of representation the share of such deceased child, and is intended to describe "taking by representation," as defined in the South Carolina Probate Code; except, however, that the division of shares shall be made at each generation regardless of whether there is surviving issue representing that generation. If no issue representing a generation are surviving, the number of shares for that generation shall equal the number of predeceased issue of that generation leaving surviving issue. If issue representing a generation are surviving, the number of shares for that generation shall equal the number of issue of that generation surviving, plus the number of predeceased issue of that generation leaving surviving issue. This definition of "*per stirpes*" is intended to state the common

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law definition of such term prior to the adoption of the South Carolina Probate Code in 1986, so that representation shall be calculated from the first generation below that of the person whose descendants are referred to, whether or not there is anyone in that generation living at the time of calculation.

E. A person in gestation who is later born alive shall be treated as alive during the period of gestation for purposes of determining (1) whether any person has died without leaving issue surviving him or her; (2) the right to distributions on the termination of a trust created under this instrument; and (3) any person's right to share in required principal distributions, though for all other purposes such person's rights accrue only from the date of birth.

F. The term "Executor" shall include the singular and the plural, the masculine, feminine and neuter gender thereof, and shall apply equally to the Executor named herein, and to any successor or substitute Executor acting hereunder, and such successor or substitute Executor shall possess all the rights, powers and duties, authority and responsibility conferred upon the Executor originally named herein. The term "Executor" shall have the same meaning as the term "Personal Representative," as defined by the South Carolina Probate Code.

G. Any property devised or bequeathed to a beneficiary under this Will who does not survive me and for whom no effective alternative provision has been made shall pass as part of my residuary estate and shall not pass pursuant to the anti-lapse statute of any state.

H. Reference to the Internal Revenue Code shall refer to the Internal Revenue Code amended to the date of my death.

I. Whenever the context requires, the masculine gender includes the feminine or neuter, and vice versa, and the singular number includes the plural, and vice versa.

ITEM XII

This Will and any trusts created hereby shall be construed, regulated and governed by and in accordance with the laws of the State of South Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and seal in the County of Spartanburg, State of South Carolina, this 12 day of September, 2002, in the presence of two witnesses whose signatures hereinafter appear and who, at my request and in my presence, and in the presence of each other, have affixed their signatures as witnesses to this Will.

Isabella F. D. R. Park (SEAL)

ISABELLA F. D. R. PARK

21-1296

Signed, sealed, declared and published by ISABELLA F. D. R. PARK as her Last Will and Testament, in the presence of us, the subscribing witnesses, who, at her instance and request, and in the presence of each other, have hereunto set our hands and seals the day and year aforesaid.

Jan W. Shaw of Spartanburg, S.C.

Theresa B Lancaster of Spartanburg, SC

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STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

PROOF OF WILL

We, ISABELLA F. D. R. PARK and JAMES W. SHAW, the testatrix and at least one of the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the testatrix signed and executed this instrument as her Last Will and Testament and that she signed willingly (or willingly directed another to sign for her), and she executed it as her free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the testatrix, signed the Will as witness and to the best of the witness's knowledge, the testatrix was at that time eighteen years or older, of sound mind, and under no constraint or undue influence.

Isabella F. D. R. Park
ISABELLA F. D. R. PARK

James W. Shaw
JAMES W. SHAW

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by ISABELLA F. D. R. PARK, the testatrix, and SUBSCRIBED AND SWORN TO before me by JAMES W. SHAW, witness, this 12th day of September, 2002.

Theresa H Lanier
Notary Public for South Carolina
My commission expires: 6-30-03

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STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF SPARTANBURG)

In Re: Estate of Isabella F. D. R. Park, deceased

Keith W. Park,

Petitioner,

vs.

Fiona R. Wiley and Alastair C. Park,

Respondents.

SUMMONS
Probate File No. 2021ES42 01296

JUN 2021
Filed
Judge, Probate Court
Spartanburg County SC

To the above-named Respondents in this action:

YOU ARE HEREBY SUMMONED and required to answer the Petition in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Petition on the undersigned at its office at Spartanburg, SC, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Petition within the time aforesaid, the Petitioner in this action will apply to the Court for the relief demanded in the Petition.

DENNIS, SHAW, DRENNAN & PACK, LLC

By: _____

Heather G. Hunter
P.O. Box 891 (103 Lafayette Street)
Spartanburg, SC 29304-0891
(864) 582-0708
Attorneys for Petitioner

June 17, 2021

21-1296

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF SPARTANBURG)

In Re: Estate of Isabella F. D. R. Park, deceased

Keith W. Park,

Petitioner,

vs.

Fiona R. Wiley and Alastair C. Park,

Respondents.

PETITION
Probate File No. 2021ES42 01296

JUN 2021
Filed
Judge, Probate Court
Spartanburg County SC

PETITIONER would respectfully show unto the Court:

1. Isabella F. D. R. Park (the "Decedent") died testate a resident of Spartanburg County, South Carolina on June 9, 2021, leaving a Last Will and Testament dated September 12, 2002 (the "Will"), a copy of which is attached hereto and made a part hereof as Exhibit A.

2. Petitioner Keith W. Park is a surviving adult child of the Decedent. Respondents Fiona R. Wiley and Alastair C. Park are also surviving adult children of the Decedent. The Decedent has no predeceased children. The Decedent was predeceased by her spouse, Andrew D. Park. The Decedent's children constitute all of the intestate heirs of the Decedent.

3. The Decedent named her son, Keith W. Park, as Personal Representative and he has applied to the Spartanburg County Probate Court to be named as Personal Representative of Decedent's estate.

4. The devisees under the Decedent's Will are her adult children, Keith W. Park, Fiona R. Wiley, and Alastair C. Park.

5. Despite diligent efforts, Petitioner has been unable to locate the original Will of Decedent. Petitioner is informed and believes that the Decedent's original Will was kept in her home, where she has lived since 1972, but he has been unable to locate the original. Petitioner is further informed and believes that the original Will has been inadvertently misplaced or lost.

6. Petitioner is informed and believes that Decedent did not intend to revoke or destroy her Will but that the original Will was destroyed, misplaced or otherwise lost inadvertently without the knowledge of Decedent.

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21-12-98

WHEREFORE, Petitioner prays that this Court:

a. Issue its Order admitting the photocopy of Decedent's Will as the Decedent's Last Will and Testament and duly appoint Keith W. Park as Personal Representative of the Estate of Isabella F. D. R. Park.

b. For such other and further relief as this Court deems just and proper.

DENNIS, SHAW, DRENNAN, & PACK, LLC

By: _____

Heather G. Hunter
103 Lafayette Street
P.O. Box 891
Spartanburg, SC 29304-0891
(864) 582-0708
Attorneys for Petitioner

June 17, 2021

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21-1296

EXHIBIT A

Last Will and Testament

I, **ISABELLA F. D. R. PARK**, of Spartanburg County, South Carolina, declare this to be my Last Will and Testament, and I revoke all prior Wills and Codicils that I have made.

ITEM I

I direct that all my legally enforceable debts, secured and unsecured, including funeral expenses, any expenses of my last illness, and all expenses of the administration of my estate, be paid as soon after my death as is practicable. This provision shall not be construed to require the payment of any debt which may be barred by the statute of limitations or by a non-claim statute.

ITEM II

Except as may otherwise be provided herein, all estate, inheritance, succession or transfer taxes imposed by the laws of any domestic or foreign taxing authority at the time of or by reason of my death, including interest and penalties, if any (collectively, "death taxes"), including those death taxes payable with respect to assets which do not pass under this Will, shall be paid out of and charged generally against the principal of my residuary estate passing under Item V herein, without apportionment. In no event shall any amount not otherwise includable in my gross estate for federal estate tax purposes, nor any property traceable to any such amount, be used to pay death taxes.

ITEM III

I hereby make the following disposition of my tangible personal property:

A. I give and bequeath all of the tangible personal property that I own at my death, including any household furniture and furnishings, automobiles, boats, books, pictures, art objects, hobby equipment and collections, jewelry, wearing apparel and other articles of household or personal use or ornament, together with any airline frequent flier miles to my credit, in accordance with the terms of any written memorandum or list which I may attach to this Will, which list or memorandum shall be incorporated herein by reference. In default of a written memorandum or list, or to the extent that such list or memorandum does not completely dispose of my tangible personal property, then I give and bequeath said property to such of my children, FIONA R. WILEY, KEITH W. PARK, and ALASTAIR C. PARK, as shall survive me, in shares of substantially equal value, provided, however, the then living issue of a deceased child of mine shall take *per stirpes* the share their parent would have taken had he or she survived me.

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B. If any beneficiary herein has not reached legal age under the law of the jurisdiction in which the child is domiciled at the time of my death, then the person having legal custody of the child (i) shall represent the child in any division of the property, (ii) may give a binding receipt for and hold the child's share for his or her benefit, (iii) may sell any part or all of the share, and (iv) shall deliver the share or sale proceeds to the child before or when the child reaches legal age, all as that person considers advisable.

C. All costs of safeguarding, insuring, packing and storing my tangible personal property before its distribution and of delivering each item to the place of residence of the beneficiary of that item shall be deemed to be an expense of administration of my estate.

ITEM IV

I give and devise to my husband, ANDREW D. PARK, if he shall survive me, to have and to hold for and during his natural life, any interest which I own in the house and lot located at 244 Mills Avenue, Spartanburg, South Carolina, or in any other real property which I occupy as my primary residence at the time of my death, together with all policies of casualty insurance on such property, and I give and devise a vested remainder interest in said property in equal shares to such of my children as shall survive me, the then living issue of a deceased child of mine to take *per stirpes* the share their parent would have taken had he or she survived me.

ITEM V

I give, devise and bequeath all the rest, residue and remainder of my property of every kind and description (including lapsed legacies and devises), wherever situate and whether acquired before or after the execution of this Will, but not including any property over which I have a power of appointment, in equal shares to such of my children as shall survive me, the then living issue of a deceased child of mine to take *per stirpes* the share their parent would have taken had he or she survived me.

ITEM VI

I hereby nominate, constitute and appoint my son, KEITH W. PARK, of Central, South Carolina, as Executor of this my Last Will and Testament. If my said son predeceases me or elects not to accept this appointment or is for any reason ineligible or precluded from accepting this appointment, then I appoint my son, ALASTAIR C. PARK, of Alvin, Texas, as Executor. No Executor serving hereunder shall be required to provide a bond or other security.

ITEM VII

By way of illustration and not of limitation and in addition to any inherent, implied or statutory powers granted to Executors generally, my Executor is specifically authorized and empowered with respect to any property, real or personal, at any time held under any provision of

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this my Will: to allot, allocate between principal and income, assign, borrow, buy, care for, collect, compromise claims, contract with respect to, continue any business of mine, convey, convert, deal with, dispose of, enter into, exchange, hold, improve, incorporate any business of mine, invest, lease, manage, mortgage, grant and exercise options with respect to, take possession of, pledge, receive, release, repair, sell, sue for, to make distributions or divisions in cash or in kind or partly in each without regard to the income tax basis of such asset, and in general to exercise all of the powers in the management of my Estate which any individual could exercise in the management of similar property owned in his own right, upon such terms and conditions as to my Executor may seem best, and to make disclaimers and renunciations of any inheritance or other interest in property on behalf of me, my estate or any trust, to execute and deliver any and all instruments and to do all acts which my Executor may deem proper or necessary to carry out the purposes of this my Will, without being limited in any way by the specific grants of power made, without being limited by § 62-3-711(b) of the **Code of Laws of South Carolina (1976)**, as amended, and without the necessity of a court order. All of the powers enumerated in § 62-3-715 of the **Code of Laws of South Carolina (1976)**, as amended, are hereby incorporated by reference and granted to my Executor.

ITEM VIII

Despite the preceding provisions of this instrument, my Executor may elect to withhold any property otherwise distributable to a beneficiary who has not reached the age of twenty-one (21) years and may retain the property for that beneficiary in a separate trust named for the beneficiary, to be distributed to the beneficiary when he or she reaches the age of twenty-one (21) years, or before then if my Executor so elects, or my Executor may distribute any such property to a custodian to be designated by my Executor for such beneficiary under a Uniform Transfers or Gifts to Minors Act or similar applicable law. My Executor shall apply as much of the net income and principal of the trust so retained as my Executor believes desirable for the health, support in reasonable comfort, education, best interests, and welfare of the beneficiary for whom the trust is named, considering all circumstances and factors deemed pertinent by my Executor. Any undistributed net income shall be accumulated and added to principal, as from time to time determined by my Executor. If the beneficiary for whom the trust is named dies before complete distribution of the trust, the remaining net income and principal of the trust shall be distributed to the beneficiary's estate.

ITEM IX

Any person may irrevocably disclaim and renounce any part or all of my estate, including any life estate, whether or not passing under this Will, to which such person is entitled. Any future interest in the property that takes possession or enjoyment following the interest disclaimed shall take effect as if the person making the disclaimer predeceased me, including the determination of subsequent takers and the vesting of their interest. This right to disclaim may also be exercised by the executor, administrator, guardian, committee, attorney-in-fact, or other legal representative of any person entitled to disclaim under this Will. In the event that any person disclaims any part or all of any bequest or devise, then I direct that such disclaimed property shall be disposed of as if such

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person had not survived me. In such event, the provisions of this Will shall control, and **South Carolina Code** § 62-2-603 (the "anti-lapse" statute) shall not apply in the construction of this Will.

ITEM X

If any beneficiary and I should die under such circumstances as would render it doubtful whether the beneficiary or I died first, then it shall be conclusively presumed that said beneficiary predeceased me. For all purposes hereunder, if a descendant of mine shall not survive me by ninety (90) days, such descendant shall be deemed to have predeceased me.

ITEM XI

In applying the provisions of this my Will, the following shall govern:

A. My husband's name is ANDREW D. PARK, and all references in this Will to my husband are to him only.

B. I have three (3) children, FIONA R. WILEY, KEITH W. PARK, and ALASTAIR C. PARK, and all references herein to my children are to them only.

C. For purposes of this Will, "children" means the lawful blood descendants in the first degree of the parent designated; and "issue" and "descendants" means all persons who are the lawful blood descendants in any degree of the ancestor designated; provided, however, that if a person has been adopted, that person shall be considered a child of the adopting parent and the adopted child and any issue shall be considered as issue of the adopting parent or parents and of anyone who is by blood or adoption an ancestor of the adopting parent or parents, provided that legal adoption occurred before the person adopted attained legal age. For purposes of determining who is an issue of mine, a person born out of wedlock and those claiming through that person shall be deemed to be issue (1) of the natural mother and her ancestors, and (2) if the natural father acknowledges paternity, of the natural father and his ancestors, in each case unless a decree of adoption terminates such parent's parental rights. Half blood relations shall be treated as whole blood relations.

D. The term "*per stirpes,*" as used herein, means in equal shares among living children of the person whose descendants are referred to and the descendants (taken collectively) of each deceased child of such person, with each deceased child's descendants taking by right of representation the share of such deceased child, and is intended to describe "taking by representation," as defined in the South Carolina Probate Code; except, however, that the division of shares shall be made at each generation regardless of whether there is surviving issue representing that generation. If no issue representing a generation are surviving, the number of shares for that generation shall equal the number of predeceased issue of that generation leaving surviving issue. If issue representing a generation are surviving, the number of shares for that generation shall equal the number of issue of that generation surviving, plus the number of predeceased issue of that generation leaving surviving issue. This definition of "*per stirpes*" is intended to state the common

law definition of such term prior to the adoption of the South Carolina Probate Code in 1986, so that representation shall be calculated from the first generation below that of the person whose descendants are referred to, whether or not there is anyone in that generation living at the time of calculation.

E. A person in gestation who is later born alive shall be treated as alive during the period of gestation for purposes of determining (1) whether any person has died without leaving issue surviving him or her; (2) the right to distributions on the termination of a trust created under this instrument; and (3) any person's right to share in required principal distributions, though for all other purposes such person's rights accrue only from the date of birth.

F. The term "Executor" shall include the singular and the plural, the masculine, feminine and neuter gender thereof, and shall apply equally to the Executor named herein, and to any successor or substitute Executor acting hereunder, and such successor or substitute Executor shall possess all the rights, powers and duties, authority and responsibility conferred upon the Executor originally named herein. The term "Executor" shall have the same meaning as the term "Personal Representative," as defined by the South Carolina Probate Code.

G. Any property devised or bequeathed to a beneficiary under this Will who does not survive me and for whom no effective alternative provision has been made shall pass as part of my residuary estate and shall not pass pursuant to the anti-lapse statute of any state.

H. Reference to the Internal Revenue Code shall refer to the Internal Revenue Code amended to the date of my death.

I. Whenever the context requires, the masculine gender includes the feminine or neuter, and vice versa, and the singular number includes the plural, and vice versa.

ITEM XII

This Will and any trusts created hereby shall be construed, regulated and governed by and in accordance with the laws of the State of South Carolina.

IN WITNESS WHEREOF, I have hereunto set my hand and seal in the County of Spartanburg, State of South Carolina, this 12 day of September, 2002, in the presence of two witnesses whose signatures hereinafter appear and who, at my request and in my presence, and in the presence of each other, have affixed their signatures as witnesses to this Will.

Isabella F. D. R. Park (SEAL)

ISABELLA F. D. R. PARK

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21-7296

Signed, sealed, declared and published by ISABELLA F. D. R. PARK as her Last Will and Testament, in the presence of us, the subscribing witnesses, who, at her instance and request, and in the presence of each other, have hereunto set our hands and seals the day and year aforesaid.

Jno. L. Shaw of Spartanburg, S. C.

Theresa B Lancaster of Spartanburg, S C

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21-1296

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

PROOF OF WILL

We, ISABELLA F. D. R. PARK and JAMES W. SHAW, the testatrix and at least one of the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that the testatrix signed and executed this instrument as her Last Will and Testament and that she signed willingly (or willingly directed another to sign for her), and she executed it as her free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the testatrix, signed the Will as witness and to the best of the witness's knowledge, the testatrix was at that time eighteen years or older, of sound mind, and under no constraint or undue influence.

Isabella F.R. Park
ISABELLA F. D. R. PARK

James W. Shaw
JAMES W. SHAW

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me by ISABELLA F. D. R. PARK, the testatrix, and SUBSCRIBED AND SWORN TO before me by JAMES W. SHAW, witness, this 17th day of September, 2002.

Theresa B Lawter
Notary Public for South Carolina
My commission expires: 6-30-03

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STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT 21-1296
COUNTY OF: SPARTANBURG)

IN THE MATTER OF:)
ISABELLA F. D. R. PARK) CASE NUMBER: 2021ES42 01296
(Decedent))

*COMPLETE THIS SECTION ONLY IF FILING PETITION FOR FORMAL TESTACY AND/OR FORMAL APPOINTMENT

*Keith W. Park,
Petitioner(s)
vs.
*Fiona R. Wiley and Alastair C. Park,
Respondent(s)

JUN 2021
Filed
Judge, Probate Court
Spartanburg County SC

APPLICATION FOR INFORMAL (check any that apply)
☐ PROBATE OF WILL
☒ APPOINTMENT

*PETITION FOR FORMAL
☒ TESTACY
☐ APPOINTMENT

If this is a formal filing, please explain on page 4 or attach pleadings pursuant to *SC Rules of Civil Procedure*.

*NOTE: IF THIS IS A FORMAL PROCEEDING, IN ADDITION TO THIS FORM PETITION, YOU MUST ALSO FILE A SUMMONS (FORM SCCA 401PC), AND PAY THE STATUTORY FILING FEE OF $150.00. A HEARING IN THE PROBATE COURT ON THE PETITION MAY BE REQUIRED.

I. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.

1. Applicant/Petitioner(s): Keith W. Park
Address: 109 S. Spring Street, Central, SC 29630
Telephone (Work):
(Home):
(Cell): (864) 710-3970
Email:
Relationship to Decedent: Son; named as Primary Personal Representative

2. Decedent Information:

Full Legal Name
(including all known names): Isabella F. D. R. Park
Date of Birth: [redacted].1931
Date of Death: June 9, 2021
Age at Date of Death: 90

3. Venue for this proceeding is proper in this County because:

☒ Decedent was domiciled in this County at date of death:
Address: 200 Fortress Drive, Inman, SC 29349 County: Spartanburg State: South Carolina.
☐ Decedent was not domiciled in South Carolina, but property of Decedent was located in this County at date of death at:
Address: County: State: South Carolina
☐ Decedent has a right to take legal action in this County because:

If the above address is the address of a nursing home, prison, or other residential facility, please give the last address of the Decedent prior to entering a facility: 244 Mills Avenue, Spartanburg, SC 29302

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4(a). Names and addresses of beneficiaries (devisees) named in the Will.

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Full Legal Name (including all known names)	Year of Birth	Full Address	Email Address	Relationship to Decedent
Andrew D. Park				Predeceased Spouse
Fiona R. Wiley	Over 18	PO Box 28642 Greenville, SC 29616		Daughter
Keith W. Park	Over 18	109 S. Spring Street Central, SC 29630		Son
Alastair C. Park	Over 18	4925 FM 517 Road Alvin, TX 77511		Son

☐ See attached for additional devisees (check if applicable).

4(b). Names and addresses of intestate heirs who are not devisees (persons who inherit if Decedent left no Will).

Full Legal Name (including all known names)	Year of Birth	Full Address	Email Address	Relationship to Decedent
None				

☐ See attached for additional intestate heirs (check if applicable).

4(c). Did all of the above persons survive one hundred and twenty (120) hours since the death of Decedent?

☒ YES ☐ NO If no, please explain on page 4.

5. Did Decedent have any change of marital status or the birth or adoption of any children after execution of this Will, if one exists, or has any child of the Decedent been born since his/her death, or is any birth of a child of the Decedent anticipated? (This includes illegitimate children.)

☒ NO ☐ YES If yes, please explain, on page 4.

6. To the best of your knowledge, was the Decedent a patient in a non-private State of South Carolina mental health facility during his/her lifetime?

☒ NO ☐ YES If yes, please explain, on page 4.

7. Has a Guardian or Conservator ever been appointed by a Court for this person?

☒ NO ☐ YES If yes, please explain on page 4.

8. Has a Personal Representative of the Decedent been appointed prior to this date by a Court in this state or elsewhere?

☒ NO ☐ YES If yes, please state details, including name and address of such Personal Representative on page 4.

9. Have you received or are you aware of any Demands for Notice (FORM #111ES) of any probate or appointment proceeding concerning the Decedent that may have been filed in this state or elsewhere?

☒ NO ☐ YES If yes, please state details, including names and addresses on page 4.

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10. Have more than ten (10) years passed since the Decedent's death? 21-1246

☒ NO ☐ YES If yes, please state circumstances authorizing tardy probate on page 4.

11(a). Did the Decedent own probate real estate?

☐ NO ☒ YES If yes, an approximate value of $TBD (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)

11(b). Did the Decedent own probate personal property?

☐ NO ☒ YES If yes, an approximate value of $TBD (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)

11(c). Are you seeking appointment as Personal Representative in order to pursue civil litigation on behalf of the Decedent's estate? Is there a civil litigation attorney?

☒ NO ☐ YES If yes, please provide the name of the civil litigation attorney: _____

11(d). At the time of Decedent's death, was he or she involved in any pending civil litigation? Is there a civil litigation attorney?

☒ NO ☐ YES If yes, please state the circumstances and name of attorney on page 4.

11(e). If you answered NO to questions 11(a) - 11(d) above, but are seeking the appointment of a Personal Representative, please explain why the appointment is requested on page 4.

12. Have you made a diligent search for a Will of the Decedent?

☒ YES
☐ NO If no, please explain on page 4.

II. IF A WILL EXISTS, PLEASE COMPLETE THIS SECTION.

1. Regarding the Decedent's Will:

☐ The original is attached.
☐ The original is in the Court's possession.
☐ An exemplified (authenticated) copy of a Will probated in another jurisdiction is attached.
☐ An exemplified (authenticated) copy of a Will not probated in another jurisdiction is attached.
☒ The original of the Will is lost, destroyed, or otherwise unavailable, however, a copy or a description of its contents is attached. (for formal proceeding, explain below or attach supplemental pleadings)

2. The execution date of the Will was: September 12, 2002
Codicil(s): _____

3. Is there a memorandum that disposes of tangible personal property pursuant to 62-2-512?

☒ NO ☐ YES If yes, attach hereto.

4. To the best of your knowledge, do you believe the Will listed above is the Decedent's validly executed last Will?

☒ YES ☐ NO If no, please explain on page 4.

5. To the best of your knowledge, is any witness to the will an "interested witness" (i.e., does the will make any devise to a witness, a witness's spouse, or a witness's issue)?

☒ NO ☐ YES If yes, please explain on page 4.

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COMPLETE EXPLANATION(S) FOR QUESTIONS IN SECTIONS I and II HERE.

(If more space is required, use additional sheets.)

III. IF APPLYING FOR INFORMAL OR FORMAL APPOINTMENT, PLEASE COMPLETE THE FOLLOWING.

1. If the Applicant/Petitioner is not the proposed Personal Representative(s), list name and address of the person you are proposing be appointed as the fiduciary:

2. Priority for appointment of the proposed Personal Representative (whether applicant or nominee) is:

- ☒ named as Primary Personal Representative in Will
- ☐ named as Alternate Personal Representative in Will
- ☐ nominee of Primary Personal Representative in Will
- ☐ nominee of Alternate Personal Representative in Will
- ☐ surviving spouse of Decedent who is devisee of Decedent or nominee of said spouse
- ☐ other devisee of Decedent (describe): _____or nominee of said devisee
- ☐ surviving spouse of Decedent or nominee of said spouse
- ☐ other heir of Decedent (describe): _____ or nominee of said heir
- ☐ creditor (forty-five (45) days after death must have passed) or nominee of creditor, written statement of claim, FORM 371ES, is attached
- ☐ other (describe):_____

3. List below the name(s) of any other person(s), if any, having an equal or higher priority of appointment than the proposed Personal Representative:
None

IV. ALL APPLICANTS/PETITIONERS MUST COMPLETE VERIFICATION.

VERIFICATION

The undersigned, being sworn, states that the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief, and hereby submits to the Court's jurisdiction in this matter.

SWORN to before me this 17 day of June, 2021

Notary Public for South Carolina
My Commission Expires: 1-11-28

Signature of Applicant/Petitioner: [signature]

SWORN to before me this _____ day of _____, 20____

Notary Public for South Carolina
My Commission Expires: _____

Signature of Co-Applicant/Co-Petitioner: _____

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21-1296

ORDER OF INFORMAL PROBATE

IT IS HEREBY ORDERED that the above application for probate of a Will executed _____ and
☐ Codicil executed _____ and
☐ Memorandum

be informally ☒ GRANTED ☐ DENIED.

Executed this _____ day of _____.

_____, Probate Court Judge

☒ For formal probate of Will, see separate order executed 7/14/21

ORDER OF INFORMAL APPOINTMENT

IT IS HEREBY ORDERED that the above Application for Appointment be granted upon the filing of an appropriate bond, if applicable, and upon the signing of the Qualification and Statement of Acceptance of appointment.

Bond
☐ Fiduciary Bond in the amount of $_____
☒ Bond not required for Personal Representative nominated by Will
☐ Bond not required as Personal Representative is sole heir or sole devisee
☐ Bond not required as Personal Representative is state agency, bank, or trust company
☐ Bond waivers filed
☐ See order dated _____
☐ Other:_____

Notice to Creditors
☒ Required
☐ Not Required

Executed this _____ day of _____, 2021.

_____, Probate Court Judge

☒ For formal appointment of Personal Representative, see separate order executed 7/14/21

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QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate. I further submit personally to the jurisdiction of the Court in any proceeding relating to the Estate.

Signature: Keith W Park
Print Name: Keith W. Park
Address: 109 S. Spring Street
Central, SC 29630
Telephone (Work):
(Home):
(Cell):
Email:

Signature:
Print Name:
Address:

Telephone (Work):
(Home):
(Cell):
Email:

*Attorney: Heather G. Hunter
Address: PO Box 891
Spartanburg, SC 29304
Telephone: (864) 582-0708
Email: hhunter@dsdlegal.com

*By completing this information, attorney is designated as attorney of record for assisting Personal Representative until proper withdrawal.

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DENNIS, SHAW, DRENNAN & PACK, LLC
ATTORNEYS AT LAW
103 LAFAYETTE STREET
REPLY TO: POST OFFICE BOX 891
SPARTANBURG, S.C. 29304-0891
TELEPHONE (864) 582-0708
FAX (864) 582-0934

June 18, 2021

JAMES W. SHAW, P.A.*
JAMES B. DRENNAN, III, P.A.*
S. MICHAEL PACK, JR., P.A.**
HEATHER G. HUNTER
VIRGINIA HAYES WOOD
* CERTIFIED SPECIALIST IN ESTATE PLANNING & PROBATE LAW
** CERTIFIED SPECIALIST IN TAXATION LAW

R. RAY DENNIS
RETIRED

Tabitha Byrum
Spartanburg County Probate Court
Spartanburg County Judicial Center
180 Magnolia Street
Spartanburg, SC 29306

Re: Isabella F. D. R. Park
2021ES42 01296
DOD: June 9, 2021

Dear Tabitha:

Enclosed please find the original and two (2) copies of the following in regards to the above-referenced Estate:

1. Application for Informal Appointment and Formal Testacy
2. Summons and Petition to admit photocopy of Will,

Also enclosed is our check in the amount of $150.00 for the filing fee. Please clock the copies and let me know when they are ready to be picked up from the basket. The parties plan to submit a Consent Order in lieu of a hearing in this matter.

Please let me know if you should need anything further.

With kindest regards,

Sincerely yours,

DENNIS, SHAW, DRENNAN & PACK, LLC

Heather G. Hunter

enclosures

Clocked copies returned to atty

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-1296

DENNIS, SHAW, DRENNAN & PACK, LLC
ATTORNEYS AT LAW
103 LAFAYETTE STREET
REPLY TO: POST OFFICE BOX 891
SPARTANBURG, S.C. 29304-0891
TELEPHONE (864) 582-0708
FAX (864) 582-0934

July 12, 2021

JAMES W. SHAW, P.A.*
JAMES B. DRENNAN, III, P.A.*
S. MICHAEL PACK, JR., P.A.**
HEATHER G. HUNTER
VIRGINIA HAYES WOOD
* CERTIFIED SPECIALIST IN ESTATE PLANNING & PROBATE LAW
** CERTIFIED SPECIALIST IN TAXATION LAW

R. RAY DENNIS
RETIRED

Tabitha Byrum
Spartanburg County Probate Court
Spartanburg County Judicial Center
180 Magnolia Street
Spartanburg, SC 29306

Re: Isabella F. D. R. Park
2021ES42 01296
DOD: June 9, 2021

Dear Tabitha:

Enclosed please find the original and two (2) copies of the following in regards to the above-referenced Estate:

1. Acceptance of Service from Alastair C. Park and Fiona R. Wiley.
2. Affidavit of Keith W. Park.
3. Proposed Consent Order signed by the parties.

Please let me know if you should need anything further.

With kindest regards,

Sincerely yours,

DENNIS, SHAW, DRENNAN & PACK, LLC

Heather G. Hunter

enclosures

pwak processed & copies returned to all parties.
HGH

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-1296

STATE OF SOUTH CAROLINA	)	
	)	IN THE PROBATE COURT
COUNTY OF SPARTANBURG	)	
In Re: Estate of Isabella F. D. R. Park, deceased	)	
	)	**ACCEPTANCE OF SERVICE**
Keith W. Park,	)	Probate File No. 2021ES42 01296
Petitioner,	)	
vs:	)	
Fiona R. Wiley and Alastair C. Park,	)	
Respondents.	)	

Due and legal service of the within and foregoing Summons and Petition and Application for Informal Appointment and Formal Testacy is accepted and a copy retained by me at Alvin, Texas, on the date hereof.

Alastair C. Park

7 July, 2021

JUL 2021
Judge, Probate Court
Spartanburg County SC

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-1296

STATE OF SOUTH CAROLINA	)	
	)	IN THE PROBATE COURT
COUNTY OF SPARTANBURG	)	
In Re: Estate of Isabella F. D. R. Park, deceased	)	
	)	
	)	**ACCEPTANCE OF SERVICE**
Keith W. Park,	)	Probate File No. 2021ES42 01296
	)	
Petitioner,	)	
	)	
vs.	)	
	)	
Fiona R. Wiley and Alastair C. Park,	)	
	)	
Respondents.	)	
	)	

Due and legal service of the within and foregoing Summons and Petition and Application for Informal Appointment and Formal Testacy is accepted and a copy retained by me at Greenville, South Carolina, on the date hereof.

Fiona R. Wiley

July 7, 2021

JUL 2021
Filed
Judge, Probate Court
Spartanburg County, SC

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-1296

JUL 2021
Filed
Judge, Probate Court
Spartanburg County SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

AFFIDAVIT
Probate File No.: 2021ES42 01296

IN RE: Estate of Isabella F.D.R. Park

Personally appeared before me Keith W. Park, who, being first duly sworn deposes and says that:

1. I am the son of Isabella F.D.R. Park and Andrew D. Park.

2. My father died on August 16, 2020. After his death, his original Will could not be located and a copy was admitted to Spartanburg County Probate Court as will appear by reference to File No. 2020ES4201744.

3. My mother executed a Will on September 12, 2002.

4. After my father's death, I assisted my mother in searching for my father's original Will which could not be located. My mother also could not locate her original Will at that time.

5. I believe that my mother kept her Will at her home at 244 Mills Avenue, Spartanburg, South Carolina.

6. I, along with other family members, conducted a diligent search of my parents home and have not been able to locate the original Will of my mother. I have also inquired at the law firm Dennis, Shaw, Drennan & Pack, LLC who prepared the Will and they are not holding the original. My mother does not have a safe deposit box. To my knowledge, my mother did not have another Will prepared nor did she amend her September 12, 2002 Will.

7. Upon information and belief, my mother did not intentionally destroy her Will but it has been lost or misplaced without her knowledge.

Keith W. Park

SWORN TO before me this
8th day of July, 2021.

Michelle C. Steele (SEAL)
Name of Notary: Michelle C. Steele
Notary Public for South Carolina
My Commission Expires: 06-13-2027

MICHELLE C. STEELE
COMM. EXP.
NOTARY
PUBLIC
06-13-2027
SOUTH CAROLINA

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-179

STATE OF SOUTH CAROLINA	)	
	)	IN THE PROBATE COURT
COUNTY OF SPARTANBURG	)	
In Re: Estate of Isabella F. D. R. Park, deceased	)	
	)	CONSENT ORDER
Keith W. Park,	)	Probate File No. 2021ES42 01296
Petitioner,	)	
vs.	)	
Fiona R. Wiley and Alastair C. Park,	)	
Respondents.	)	

This action was commenced by the filing of a Summons and Petition on or about June 21, 2021. By his Petition, the Petitioner, who is a surviving child of Isabella F. D. R. Park (sometimes hereinafter referred to as "the Decedent") and is named as Personal Representative, requests that the Court admit a photocopy of the Decedent's Will as the Decedent's Last Will and Testament, due to the fact that the original has been lost or inadvertently destroyed, and to appoint Petitioner, Keith W. Park, as Personal Representative.

Isabella F. D. R. Park died testate on June 9, 2021 a resident of Spartanburg County, South Carolina, leaving a Last Will and Testament dated September 12, 2002 ("the Will"), a copy of which is attached to the Summons and Petition herein. The Decedent was survived by her adult children, Fiona R. Wiley, Keith W. Park, and Alastair C. Park. The Decedent has no predeceased children. The Decedent was predeceased by her spouse and was not remarried. I find that the Decedent's adult children constitute all of the intestate heirs of the Decedent.

The Decedent named her son, Keith W. Park, as Personal Representative, and he has applied to the Spartanburg County Probate Court to be appointed as Personal Representative.

pae
#1

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-1296

The Decedent's children are equal devisees under the Will.

By Affidavit, Petitioner testified that he believes his mother's original Will was kept in her home since its execution. Petitioner further testified that he believes that the original Will has been inadvertently misplaced or lost. Petitioner believes that his mother did in fact intend to leave a valid Last Will and Testament, that she did not intend to revoke or destroy her Will, but that the original has been destroyed, misplaced, or otherwise lost inadvertently without the knowledge of the Decedent. By signature hereto, the Decedent's adult children have consented to admitting the photocopy of the Will of their mother.

I find that the photocopy of the Last Will and Testament of Isabella F. D. R. Park dated September 12, 2002 should be formally admitted to Probate as the Last Will and Testament of the Decedent, and that Petitioner, Keith W. Park, should be appointed as Personal Representative of the Estate of Isabella F. D. R. Park. I further find that the intestate heirs of the Decedent are her adult children, Keith W. Park, Fiona R. Wiley, and Alastair C. Park.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the photocopy of the Last Will and Testament of Isabella F. D. R. Park dated September 12, 2002 is hereby admitted to Probate as the Last Will and Testament of Isabella F. D. R. Park, and Petitioner, Keith W. Park, is hereby appointed as the Personal Representative of the Estate of Isabella F. D. R. Park. I further find that a hearing is not necessary and that the parties have executed this Consent Order using multiple signature pages rather than circulating the original to each party and that this Court considers the counterparts of this document to be the original.

PAE
#2

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

12-1290

IT IS SO ORDERED.

Given under my hand and seal of office this 14th day of July 2021.

Ponda A. Caldwell

PONDA A. CALDWELL
Probate Judge

WE CONSENT:

Keith W. Park
Petitioner

Fiona R. Wiley
Respondent

Alastair C. Park
Respondent

#3

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-1206

IT IS SO ORDERED.

Given under my hand and seal of office this _____ day of _____, 2021.

_____
PONDA A. CALDWELL
Probate Judge

WE CONSENT:

_____
Keith W. Park
Petitioner

Fiona R. Wiley

_____
Fiona R. Wiley
Respondent

_____
Alastair C. Park
Respondent

page #4

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-1296

IT IS SO ORDERED.

Given under my hand and seal of office this _____ day of _____, 2021.

_____
PONDA A. CALDWELL
Probate Judge

WE CONSENT:

_____
Keith W. Park
Petitioner

_____
Fiona R. Wiley
Respondent

_____
Alastair C. Park
Respondent

7/7/2021

page #5

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG
PROBATE COURT

JUDGMENT IN A CIVIL CASE 21-1296

CASE NO. 2021ES4201296

KEITH W. PARK, PETITIONER, VS FIONA R. WILEY AND ALASTAIR C. PARK, RESPONDENTS.

[ ] Jury Verdict. This action came before the court for a trial by jury. The issues have been tried and the verdict rendered.

[X] Decision by court. XXXX

STATE OF SOUTH CAROLINA

COUNTY OF: SPARTANBURG

IN THE MATTER OF:
ISABELLA F.D.R. PARK

IN THE PROBATE COURT 21-1296

FIDUCIARY LETTERS

CASE NUMBER: 2021ES4201296

☑ PERSONAL REPRESENTATIVE
☐ GUARDIANSHIP
☐ CONSERVATORSHIP
☐ TRUSTEESHIP
☐ _____

On the 4th day of August, 2021, Mr. Keith W. Park was/were appointed and qualified as Fiduciary(ies) of the above matter by this Court, with all the authority granted to a fiduciary by law.

NOW, THEREFORE, LETTERS are issued as evidence of such appointment, qualification, and authority of the above Fiduciary(ies) to do and to perform all acts, which may be authorized by law.

RESTRICTIONS:

None

Executed this 4th day of August, 2021.

Ponda A. Caldwell

Ponda A. Caldwell, Probate Court Judge

Form #140PC (1/91)
62-3-103, 62-5-304, 62-5-421, 62-7-201

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF: SPARTANBURG) NOTICE TO CREDITORS 21-1296
)
IN THE MATTER OF:)
ISABELLA F.D.R. PARK) CASE NUMBER: 2021ES4201296
(Decedent)

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

*NOTICE TO CREDITORS OF ESTATES

All persons having claims against the following estates **MUST** file their claims on FORM #371ES with the Probate Court of Spartanburg County, the address of which is 180 Magnolia Street Room 302, Spartanburg, SC 29306, within eight (8) months after the date of the first publication of this Notice to Creditors or within one (1) year from date of death, whichever is earlier (SCPC 62-3-801, et seq.), or such persons shall be forever barred as to their claims. All claims are required to be presented in written statement on the prescribed form (FORM #371ES) indicating the name and address of the claimant, the basis of the claim, the amount claimed, the date when the claim will become due, the nature of any uncertainty as to the claim, and a description of any security as to the claim.

Estate: Isabella F.D.R. Park
Date of Death: June 9, 2021
Case Number: 2021ES4201296

Personal Representative: Mr. Keith W. Park
Address: 109 S. Spring St, Central, SC 29630

Personal Representative:
Address:

Attorney, if applicable: Heather G. Hunter
Address: P.O. Box 891, Spartanburg, SC 29304*

INSTRUCTIONS: Publication to be in Spartan Weekly, a newspaper of general circulation in Spartanburg County. Publish only this (*) portion of this form. Notices may be combined by listing individualized statements of the information concerning each of the estates under one heading consisting of the notice text. Publish once a week for three successive weeks.

File a copy of this form with proof of its publication with the Probate Court.
August 4, 2021

CERTIFICATE OF PUBLICATION

I hereby certify that on these dates, _____, _____, and _____, I did publish the Notice to Creditors in _____, a newspaper of general circulation in Spartanburg County, South Carolina, in accordance with law.

SWORN to before me this _____ day of _____, 20____.

_____
Notary Public for South Carolina
My Commission Expires: _____

Newspaper Representative Signature: _____
Print Name: _____
Address: _____
_____
Telephone: _____
Email: _____

FORM #370ES (1/2014)
62-3-704, 62-3-801, 62-3-803, 62-3-804

Isabella Z. D. R. Park

21-1296
Acc

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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Personally appeared before me B. D. Dailey, Jr., who, after being duly sworn, according to law, deposes and says that he is the Editor of The Spartan Weekly News, a newspaper of general circulation published in Spartanburg, State and County aforesaid, and that the attached advertisement was published in The Spartan Weekly News once a week for 3 week(s) in the following issue(s):

August 26, 2021
September 2, 9, 2021

Sworn to before me this 9th day of September, 2021

Sel Tammy R. Dailey
Notary Public for South Carolina

My Commission expires on September 12, 2029

SEP 2021
PAID
Judge Probate Court
Spartanburg County
S C

21-1296

DENNIS, SHAW, DRENNAN & PACK, LLC
ATTORNEYS AT LAW
103 LAFAYETTE STREET
REPLY TO: POST OFFICE BOX 891
SPARTANBURG, S.C. 29304-0891
TELEPHONE (864) 582-0708
FAX (864) 582-0934

August 19, 2021

JAMES W. SHAW, P.A.*
JAMES B. DRENNAN, III, P.A.*
S. MICHAEL PACK, JR., P.A.**
HEATHER G. HUNTER
VIRGINIA HAYES WOOD
* CERTIFIED SPECIALIST IN ESTATE PLANNING & PROBATE LAW
** CERTIFIED SPECIALIST IN TAXATION LAW

R. RAY DENNIS
RETIRED

Sarah Edney
Spartanburg County Probate Court
Spartanburg County Judicial Center
180 Magnolia Street
Spartanburg, SC 29306

Re: Estate of Isabella F.D.R. Park
2021ES42 01296

Dear Sarah:

Enclosed please find the original and one (1) copy of a Proof of Delivery along with Information to Heirs and Devisees in regards to the above-referenced matter. Please clock the copy and return the same to me by mail.

With kindest regards.

Sincerely yours,

DENNIS, SHAW, DRENNAN & PACK, LLC

Heather G. Hunter

enclosure
cc:
Keith W. Park
109 S. Spring Street
Central, SC 29630

Returned clocked copy to attorney

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-1296

STATE OF SOUTH CAROLINA

COUNTY OF: SPARTANBURG

IN THE MATTER OF:
ISABELLA F D R PARK
(Decedent)

IN THE PROBATE COURT

PROOF OF DELIVERY

CASE NUMBER: 2021ES42 01296

On the 19 day of August, 2021, I mailed or delivered the following document(s):

Information to Heirs and Devisees

☒ A copy of which is attached hereto and incorporated herein, or
☐ The original of which is on file with the Court.

Delivery was accomplished by the following method (check appropriate box):

☐ personal delivery
☐ certified mail
☐ commercial delivery
☒ ordinary first-class mail
☐ registered mail
☐ electronic message (Article 7, Trust matters only)

to each of the following persons at the address shown:

NAME	ADDRESS
Fiona R. Wiley	PO Box 26642, Greenville, SC 29616
Alastair C. Park	4925 FM 517 Road, Alvin, TX 77511

SWORN to before me this 19 day of August, 20 21

Notary Public for South Carolina
My Commission Expires: 2-1-31

MARY STEWART LORING NOTARY PUBLIC SOUTH CAROLINA

Signature:
Print Name: Heather G. Hunter
Address: PO Box 891
Spartanburg, SC 29304
Telephone (Work): (864) 582-0706
(Home):
(Cell):
E-mail: hhunter@dsdlegal.com

Relationship to Decedent/Estate: Attorneys for Personal Representative

AUG 2021 Filed Jenna Pruette Court Spartanburg County SC

FORM #120FS (1/2014)
62-1-401, 62-3-709, 62-3-1001, SCRCP 4(d)(9)

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ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF: SPARTANBURG) 21-1296
)
INFORMATION TO HEIRS AND DEVISEES
IN THE MATTER OF:)
ISABELLA F.D.R. PARK) CASE NUMBER: 2021ES42 01296
(Decedent))

On June 21, 2021, Application/Petition was made to the Probate Court of Spartanburg County at (address), 180 Magnolia Street, Spartanburg, SC 29306, for the (check all that apply):

INFORMAL	FORMAL
☐ PROBATE OF WILL	☒ TESTACY
☒ APPOINTMENT	☐ APPOINTMENT

in the above matter.

(Complete if applicable) The Decedent's Will dated September 12, 2002, Codicil(s) dated N/A, and Memorandum(s) dated N/A was/were presented.

Bond HAS ☐ HAS NOT ☒ been filed.

This notice is being sent to persons who have or may have some interest in the estate.

Please note: This form is required to be sent to all potential devisees and heirs of the Decedent. Receipt of this form does not mean that you will inherit from the Decedent. You may review the file in the Probate Court or see an attorney if you desire further information.

My application/petition was granted within the past thirty (30) days on **August 4, 2021**

Applicant/Personal Representative Name: **Keith W. Park**
Address: **109 S. Spring Street**
Central, SC 29630
Telephone (Work):
(Home): **(864) 710-8970**
(Cell):
Email:

Co-Applicant/Co-Personal Representative Name:
Address:

Telephone (Work):
(Home):
(Cell):
Email:

Attorney: **Heather G. Hunter**
Address: **PO Box 891**
Spartanburg, SC 29304
Telephone: **(864) 582-0708**
Email: **hhunter@dsdlegal.com**

FORM #306ES (1/2014)
62-3-306, 62-3-705

Probate Court
County of Spartanburg

21-1296

Spartanburg County Judicial Center
180 Magnolia Street
Spartanburg, South Carolina 29306-2392
Telephone: (864) 596-2556 • Fax: (864) 596-2011

ESTATE DIVISION:
KATE KENDALL
ASSOCIATE PROBATE JUDGE
DARLETT M. OWENS
COURT SUPERVISOR

PONDA A. CALDWELL
PROBATE JUDGE

COMMITMENT DIVISION:
DAVID F. ANDERSON
ASSOCIATE PROBATE JUDGE
GEORGIA J. BENNETT
COURT SUPERVISOR

November 5, 2021

Mr. Keith W. Park
109 S. Spring St
Central, SC 29630

Re: Estate of Isabella F.D.R. Park, Deceased
Probate Court File No. 2021ES4201296

Dear Mr. Park:

The appraisal in the above estate was due in this office on November 4, 2021.

The law requires that all documents be promptly filed within the statutory time provided, and the South Carolina Court Administration audits our files periodically to determine compliance. It is therefore imperative that you file your appraisal immediately. If you feel that you have a legal reason for failure to file, you must contact this court upon receipt of this letter.

My staff will be happy to assist you with this matter.

Thanking you, I am

Sincerely yours,

Ponda A. Caldwell

Ponda A. Caldwell
Judge, Probate Court

PAC:[redacted]

cc: Heather G. Hunter
P.O. Box 891
Spartanburg, SC 29304

LE01

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Probate Court
County of Spartanburg

21-1296

Spartanburg County Judicial Center
180 Magnolia Street
Spartanburg, South Carolina 29306-2392
Telephone: (864) 596-2556 • Fax: (864) 596-2011

ESTATE DIVISION:
KATE KENDALL
ASSOCIATE PROBATE JUDGE
DARLETT M. OWENS
COURT SUPERVISOR

PONDA A. CALDWELL
PROBATE JUDGE

COMMITMENT DIVISION:
DAVID F. ANDERSON
ASSOCIATE PROBATE JUDGE
GEORGIA J. BENNETT
COURT SUPERVISOR

November 19, 2021

Mr. Keith W. Park
109 S. Spring St
Central, SC 29630

Re: Estate of Isabella F.D.R. Park, Deceased
Probate Court File No. 2021ES4201296

Dear Mr. Park:

You did not respond to our letter dated November 5, 2021, requesting that you file the Inventory and Appraisement, Form 350PC, in the above estate. Section 62-3-706, Code of Laws of South Carolina, requires such filing which, in your case, was due on November 4, 2021, and is now past due. Unless you file the appraisal or petition the court for an extension of time in which to file it within fifteen (15) days from the date of this letter, I will have no alternative but to order you before the court to show cause why you should not be held in contempt.

Please do not make this sort of legal action necessary by your failure to comply with the above-cited law. If a summons has to be issued and served by the Sheriff's office, a $50.00 fine will be charged.

If you have any questions, please call Sarah Edney.

Sincerely yours,

Ponda A. Caldwell

Ponda A. Caldwell
Judge, Probate Court

PAC:sce

cc: Heather G. Hunter
P.O. Box 891
Spartanburg, SC 29304

LE01

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-1296

DENNIS, SHAW, DRENNAN & PACK, LLC
ATTORNEYS AT LAW
103 LAFAYETTE STREET
REPLY TO: POST OFFICE BOX 891
SPARTANBURG, S.C. 29304-0891
TELEPHONE (864) 582-0708
FAX (864) 582-0934

November 29, 2021

JAMES W. SHAW, P.A.*
JAMES B. DRENNAN, III, P.A.*
S. MICHAEL PACK, JR., P.A.**
HEATHER G. HUNTER
VIRGINIA HAYES WOOD
* CERTIFIED SPECIALIST IN ESTATE PLANNING & PROBATE LAW
** CERTIFIED SPECIALIST IN TAXATION LAW

R. RAY DENNIS
RETIRED

Sarah Edney
Spartanburg County Probate Court
Spartanburg County Judicial Center
180 Magnolia Street
Spartanburg, SC 29306

Re: Estate of Isabella F.D.R. Park
2021ES42 01296

Dear Sarah:

Enclosed please find the original and one (1) copy of a Motion for Extension in regards to the above-referenced matter. Please clock the copy and return the same to me by mail.

With kindest regards,

Sincerely yours,

DENNIS, SHAW, DRENNAN & PACK, LLC

Heather G. Hunter

enclosure

Returned clocked copy to atty

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

STATE OF SOUTH CAROLINA

COUNTY OF: SPARTANBURG

IN THE MATTER OF:
ISABELLA F.D.R. PARK
(Decedent)

IN THE PROBATE COURT

21-1280
SE

MOTION FOR EXTENSION
Request #1

CASE NUMBER: 2021ES42 01298

- ☒ INVENTORY AND APPRAISEMENT
- ☐ ACCOUNTING
- ☐ ALLOWANCE AND/OR DISALLOWANCE OF CLAIMS
- ☐ CLOSING DOCUMENT(S)
- ☐ OTHER: _____

Keith W. Park is/are the duly qualified and acting Personal Representative(s) of the above estate.

I/We request an extension of 90 days to allow the Personal Representative(s) to complete and/or file the above referenced document or action for the following reason(s):
Additional time is needed to identify and value assets of the estate.

Executed this 29 day of November, 2021.

Attorney for the Personal Representative / Personal Representative
Signature: Heather G. Hunter
Print Name: Heather G. Hunter
Address: PO Box 891
Spartanburg, SC 29304
Telephone (Work): (864) 582-0708
(Home):
(Cell):
Email: hhunter@dsdlegal.com

Co-Personal Representative Signature:
Print Name:
Address:

Telephone (Work):
(Home):
(Cell):
Email:

DEC 2021
Filed
Judge, Probate Court
Spartanburg County, SC

FORM #362ES (3/2018)
62-3-704, 62-3-706, 62-3-804

Page 1 of 2

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-1296
SCC

STATE OF SOUTH CAROLINA	IN THE PROBATE COURT
COUNTY OF: SPARTANBURG	**ORDER FOR EXTENSION**
IN THE MATTER OF: ISABELLA F.D.R. PARK (Decedent)	CASE NUMBER: 2021ES42 01298

After reviewing the foregoing request and the record, it appears that the request should be:

- ☒ Granted
- ☐ Final Extension; _____ prior extensions granted for same reason recited on Motion, no new information
- ☐ Granted for a shorter extension of _____ days
- ☐ Granted for a longer extension of _____days
- ☐ Denied and refer for Summons
- ☐ Personal Representative / Court to copy all interested parties with copy of Motion for Extension; Proof of Delivery to be filed within ten (10) days of date of this Order
- ☐ Final Extension due to timeframe imposed by SC Court Administration
- ☐ Denied / Hearing scheduled for _____
- ☐ Denied – see explanation below

Filing(s) are now due on or before the 2nd day of March, 2022, at _____ o'clock ____ M

IT IS SO ORDERED:

Executed this 2nd day of December, 2021

Ponda A. Caldwell

Ponda A. Caldwell, Probate Court Judge

FORM 638ZES (3/2018)
62-3-704, 62-3-705, 62-3-804

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT
COUNTY OF: SPARTANBURG)

21-1296

INVENTORY AND APPRAISEMENT: PROBATE PROPERTY

☒ ORIGINAL
☐ AMENDED #
(must restate the unchanged information from the original inventory)

IN THE MATTER OF:
ISABELLA F.D.R. PARK
(Decedent)

CASE NUMBER: 2021ES42 01296

File the original Inventory and Appraisement with the Probate Court within ninety (90) days following the fiduciary appointment. A copy shall be sent to each interested person who has demanded it. A Proof of Delivery must be filed with the Court. The gross fair market value of all probate assets, regardless of location (whether in this state or elsewhere), should be listed as of the date of death. Continue on additional sheets if necessary. An Amended Inventory should be utilized for correcting, adjusting or adding to an original inventory, and *must restate the unchanged information from the original inventory.* A qualified and disinterested appraiser may be employed to ascertain the value of any asset. If an appraiser is employed, his/her name and address must be indicated with the item or items he/she appraised.

RECAPITULATION

Schedule A - Real Estate	$259,300
Schedule B - Stocks and Bonds	$1,264.36
Schedule C - Notes Due Decedent and Cash	$27,966
Schedule D - Insurance on Decedent's Life - Payable to the Estate	$0
Schedule E - Jointly Owned Property	NA
Schedule F - Other Miscellaneous Assets	$4,376
Schedule G - Transfers During Decedent's Life Payable to the Estate	$0
Schedule H - Powers of Appointment Payable to the Estate	$0
Schedule I - Annuities and Retirement Accounts Payable to the Estate	$0
GROSS VALUE OF PROBATE ESTATE	$292,906.36

The undersigned, being sworn, states: That the following schedules contain a complete and accurate inventory and appraisement of all probate real and personal property of this estate so far as the undersigned is informed; that he/she has estimated and/or appraised all listed property at its fair market value, according to the best of his/her knowledge and ability.

SWORN to before me this 14th day of March, 20 22.

Michelle C. Steele
Notary Public for South Carolina
My Commission Expires: 06-13-2027

MICHELLE C. STEELE NOTARY PUBLIC SOUTH CAROLINA COM. EXP. 06-13-2027

Personal Representative Signature: Keith W. Park
Print Name: Keith W. Park
Address: 109 S. Spring Street
Central, SC 29630
Telephone (Work):
(Home):
(Cell): (864) 710-8970
(Email):

Attorney: Heather G. Hunter
Address: PO Box 691
Spartanburg, SC 29304
Telephone: (864) 582-0708
Email: hhunter@dsdlegal.com

Co-Personal Representative Signature
Name:
Address:
Telephone (Work):
(Home):
(Cell)
(Email):

MAR 2022 Filed Probate Court Spartanburg County SC

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-1290
(If none, so state)

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

	% Owned by Decedent	Fair Market Value of Decedent's Interest
A. REAL ESTATE in Decedent's name alone or tenants in common (not as joint with right of survivorship). Describe each property by listing its full address, tax map number, deed book and page and description consistently (house, lot, buildings, acreage). Also list oil / mineral rights and time shares, if it is real property. If the property is encumbered, list the full fair market value of the property here and the encumbrance on Encumbrance section below		
1. house and lot(s), 244 Mills Avenue, Spartanburg, SC; Tax Map No. 7-12-12-082.00; Deed Book 39-Z, at Page 261, and Deed Book 135-P, at Page 520	100%	259,300
2.		
3.		
B. STOCKS, BONDS in Decedent's name alone or tenants in common (not as joint with right of survivorship). List each type of security and number of shares.		
1. treasury bonds	100%	1,284.36
2.		
3.		
C. CASH, BANK ACCOUNTS, NOTES RECEIVABLES in Decedent's name alone or as tenants in common. List each separate account type and institution and the last two digits of each account. List all bank accounts owned by Decedent alone or as joint tenants with checking, savings, CDs, money market, brokerage, employment bonus, cash award, final paycheck etc.), cash on hand, notes payable to Decedent, and survival action proceeds.		
1. cash on hand	100%	27,966
2.		
3.		
D. LIFE INSURANCE payable to the Decedent's estate.		
1. None		0
2.		
E. JOINTLY OWNED PROPERTY – REPORTING IS NOT REQUIRED		N/A
F. ALL OTHER MISCELLANEOUS PERSONAL PROPERTY in Decedent's name alone or as tenants in common. List below any tangible personal property, including household goods & furnishings, vehicles, boats/motors/trailers, mobile homes that are not de-titled (include year/make/model/VIN, if applicable), airplanes, equipment, interest in a partnership or unincorporated business, articles or collections having either artistic or intrinsic value, including coins, guns, artwork, jewelry, etc., and any other miscellaneous probate items not listed elsewhere, including any digital assets		
1. furniture and appliances	100%	2,457
2. miscellaneous personal property	100%	1,919
3.		
4.		
G. TRANSFERS DURING DECEDENT'S LIFE PAYABLE TO ESTATE ONLY Any transfers intended to take effect at death if payable to the Estate shall be reported. A trust created by Decedent in which income for life was retained by the Decedent, power to revoke or other incidents of ownership retained by the Decedent, lifetime transfers of real property in which Decedent retained life estate, etc.		
1. None		0
2.		
H. POWERS OF APPOINTMENT PAYABLE TO THE ESTATE ONLY List property, both real and personal, over which Decedent possessed a Power of Appointment whether testamentary or otherwise, if such property is payable to the Estate.		
1. None		0
I. ANNUITIES AND IRA, ETC. PAYABLE TO THE ESTATE ONLY List any annuities or retirement accounts owned by the Decedent and payable to the Estate.		
1. None		0
2.		

TOTAL PROBATE ESTATE VALUE $ 292,906.36

ENCUMBRANCES (e.g., mortgages, liens, judgments, etc., **but not general debts of the estate**). List debts of the Decedent secured by assets on the above schedule and describe the debt and the specific asset encumbered.

1. mortgage, Schedule A Item 1	76,459
2.	

TOTAL ENCUMBRANCES $ 76,459

Probate Court
County of Spartanburg

21-1296

Spartanburg County Judicial Center

180 Magnolia Street
Spartanburg, South Carolina 29306-2392

Telephone: (864) 596-2556 • Fax: (864) 596-2011

ESTATE DIVISION:
KATE KENDALL
ASSOCIATE PROBATE JUDGE
DARLETT M. OWENS
COURT SUPERVISOR

FONDA A. CALDWELL
PROBATE JUDGE

COMMITMENT DIVISION:
DAVID F. ANDERSON
ASSOCIATE PROBATE JUDGE
GEORGIA J. BENNETT
COURT SUPERVISOR

March 3, 2022

Mr. Keith W. Park
109 S. Spring St
Central, SC 29630

Re: Estate of Isabella F.D.R. Park, Deceased
Probate Court File No. 2021ES4201296

Dear Mr. Park:

This court granted an extension for the filing of the Inventory and Appraisement in regard to the above estate. Section 62-3-706, Code of Laws of South Carolina, requires such filing which was due on March 2, 2022, and is now past due. Unless you file the appraisal within fifteen (15) days from the date of this letter, I will have no alternative but to order you before the court to show cause why you should not be held in contempt.

If a summons has to be issued and served by the Sheriff's office, a $50.00 fine will be charged. Please do not make this sort of legal action necessary by your failure to comply with the above-cited law.

If you have any questions, please call Sarah Edney.

Sincerely yours,

Fonda A. Caldwell

Fonda A. Caldwell
Judge, Probate Court

PAC:sce

cc: Heather G. Hunter
P.O. Box 891
Spartanburg, SC 29304

LE41

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21-1296

DENNIS, SHAW, DRENNAN & PACK, LLC
ATTORNEYS AT LAW
103 LAFAYETTE STREET
REPLY TO: POST OFFICE BOX 891
SPARTANBURG, S.C. 29304-0891
TELEPHONE (864) 582-0708
FAX (864) 582-0934

March 17, 2022

JAMES W. SHAW, P.A.*
JAMES B. DRENNAN, III, P.A.*
S. MICHAEL PACK, JR., P.A.**
HEATHER G. HUNTER
VIRGINIA HAYES WOOD
* CERTIFIED SPECIALIST IN ESTATE PLANNING & PROBATE LAW
** CERTIFIED SPECIALIST IN TAXATION LAW

R. RAY DENNIS
RETIRED

Sarah Edney
Spartanburg County Probate Court
Spartanburg County Judicial Center
180 Magnolia Street
Spartanburg, SC 29306

Re: Estate of Isabella F.D.R. Park
2021ES42 0 1296

Dear Sarah:

Enclosed please find the original and one (1) copy of an Inventory and Appraisement in the above-referenced matter. Please clock the copy and return the same to me by mail.

With kindest regards,

Sincerely yours,

DENNIS, SHAW, DRENNAN & PACK, LLC

Heather G. Hunter

enclosure

MAR 2022
Filed
Judge, Probate Court
Spartanburg County SC

Returned clocked copy to atty

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21-1296

Evert | Weathersby | Houff
ATTORNEYS AT LAW

3455 Peachtree Road NE, Suite 1550
Atlanta, GA 30326
Tel: 678.651.1200
Fax: 678.651.1201

Patricia A. McGrath
Direct: 678.651.1261
PAMcGrath@ewhlaw.com

Other Offices:
Athens, Georgia
Marlboro, Maryland

February 9, 2022

Via FedEx
Clerk of Court
Spartanburg County Probate Court
180 Magnolia St
Spartanburg, SC 29306

Re: *Isabella F.D.R. Park* – Spartanburg Probate Court No. 2021ES4201296
Ronnie Clyde DeYoung – Spartanburg Probate Court No. Unknown

Dear Clerk:

I am writing to request complete copies of the probate court files with regard to Isabella Park and Ronnie DeYoung. Enclosed are money orders for the total estimated costs, $44 and $32, and a FedEx mailing slip and envelope to use in shipping the copies. Please also e-mail scanned copies upon receipt of payment.

Thank you.

Best regards,

Patricia A. McGrath

Patricia A. McGrath

21-1296

Probate Court
County of Spartanburg

Spartanburg County Judicial Center
180 Magnolia Street
Spartanburg, South Carolina 29306-2392
Telephone: (864) 596-2556 • Fax: (864) 596-2021

ESTATE DIVISION:
KATE KENDALL
ASSOCIATE PROBATE JUDGE
DARLETT M. OWENS
COURT SUPERVISOR

PONDA A. CALDWELL
PROBATE JUDGE

COMMITMENT DIVISION:
DAVID F. ANDERSON
ASSOCIATE PROBATE JUDGE
GEORGIA J. BENNETT
COURT SUPERVISOR

February 11, 2022

Evert Weathersby & Houff
Attn: Patricia A. McGrath
3455 Peachtree Road NE Ste 1550
Atlanta, GA 30326

Re: Estate of Isabella F.D.R. Park, Deceased
Probate Court File No. 2021ES4201296

Dear Ms. McGrath:

Pursuant to your request, the documents checked below are enclosed and your cost, if any, is also indicated. If your request specified certified copies, we have complied with your direction.

( ) Copy of Last Will and Testament.

( ) Copy of Application/Petition for Informal/Formal Appointment.

( ) Copy of Inventory and Appraisement.

(XXX) Other: Copy of File as of 02/11/22.

( ) The cost is $. Please remit a cashier's check or money order made payable to Ponda A. Caldwell, Probate Judge for Spartanburg County, South Carolina.

( ) Pursuant to statute, there is no charge for the enclosed.

If we may be of further assistance, please let us know.

Sincerely yours,

Ponda A. Caldwell
Judge, Probate Court

PAC:mlb

Enclosure(s)

LE45

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21-1296

OFFICIAL RECEIPT

Ponda A. Caldwell, Judge

Probate Court of Spartanburg County

Spartanburg, South Carolina

DATE: 02112022 08 TRANS #: 58161

RECEIPTED: 44.00 ISABELLA FFDR PARK COPIES

44.00 010-020-00026- XEROX COPIES

DUPLICATE

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21-1294

Probate Court
County of Spartanburg

Spartanburg County Judicial Center
180 Magnolia Street
Spartanburg, South Carolina 29306-2392
Telephone: (864) 596-2556 • Fax: (864) 596-2011

PONDA A. CALDWELL
PROBATE JUDGE

ESTATE DIVISION:
KATE KENDALL
ASSOCIATE PROBATE JUDGE
DARLETT M. OWENS
COURT SUPERVISOR

COMMITMENT DIVISION:
DAVID F. ANDERSON
ASSOCIATE PROBATE JUDGE
GEORGIA J. BENNETT
COURT SUPERVISOR

March 21, 2022

Mr. Keith W. Park
109 S. Spring St
Central, SC 29630

Re: Estate of Isabella F.D.R. Park, Deceased
Probate Court File No. 2021ES4201296

Dear Mr. Park:

We are in receipt of the Inventory and Appraisement, Form 350ES, in regard to the above estate.

A review of the estate file reveals that additional court cost is due in the amount of $359.36. Please make your check payable to me, as Probate Judge, and remit as soon as possible. If you have employed an attorney to represent the estate, a copy of this letter is being furnished to him/her as information only.

Thanking you for your prompt attention to this matter, I am

Sincerely yours,

Ponda A Caldwell

Ponda A. Caldwell
Judge, Probate Court

PAC:sce

cc: Heather G. Hunter
P.O. Box 891
Spartanburg, SC 29304

LE07

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

Probate Court
County of Spartanburg

21-1296

Spartanburg County Judicial Center
180 Magnolia Street
Spartanburg, South Carolina 29306-2382
Telephone: (864) 596-2556 • Fax: (864) 596-2012

ESTATE DIVISION:
KATE KENDALL
ASSOCIATE PROBATE JUDGE
DARLETT M. OWENS
COURT SUPERVISOR

PONDA A. CALDWELL
PROBATE JUDGE

COMMITMENT DIVISION:
DAVID F. ANDERSON
ASSOCIATE PROBATE JUDGE
GEORGIA J. BENNETT
COURT SUPERVISOR

May 5, 2022

Mr. Keith W. Park
109 S. Spring St
Central, SC 29630

Re: Estate of Isabelle F.D.R. Park, Deceased
Probate Court File No. 2021ES4201296

Dear Mr. Park:

On the previously scheduled appointment date, you failed to appear or to mail in documentation concerning the filing of an accounting in regard to the above estate. I have rescheduled August 26, 2022, at 11:00 o'clock for you to do so. If you have a conflict with this new date and time, please let us know as soon as possible so that we can set a date and time that is more convenient for you. Because our schedules are booked several weeks out and there are so many people needing appointments, it is important that you come in at the scheduled time. We are enclosing an appointment slip containing all the information needed by us in order to file the accounting.

In the event you do not appear as stated above, it will be necessary to issue a summons to require your appearance. If a summons has to be issued and served by the Sheriff's office, a $50.00 fine will be charged. Please do not make this action necessary by your failure to appear.

Sincerely yours,

Ponda A. Caldwell

Ponda A. Caldwell
Judge, Probate Court

PAC:sce

cc: Heather G. Hunter
P.O. Box 891
Spartanburg, SC 29304

LEG2

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PROBATE COURT FOR SPARTANBURG COUNTY, S.C.
PONDA A. CALDWELL, Probate Judge
180 Magnolia Street, Room 302
Spartanburg, SC 29306
Telephone Number: 864-596-2556

21-1796

NAME OF ESTATE: Isabella Park
APPOINTMENT: August 26, 2022 AT 11:00 P.M.
ESTATE SPECIALIST: Sarah Edney 562-4495
PURPOSE OF APPOINTMENT:
(AS CHECKED)

- ☐ TO BE APPOINTED PERSONAL REPRESENTATIVE
- ☐ TO BE APPOINTED SPECIAL ADMINISTRATOR
- ☐ TO PROBATE THE WILL
- ☐ TO BE APPOINTED CONSERVATOR FOR MINOR
- ☑ FOR APPROVAL OF ACCOUNTING
- ☐ FINAL SETTLEMENT OF ESTATE

BAGS OR PURSES ARE NOT ALLOWED TO BE BROUGHT INTO THE SPARTANBURG COUNTY COURTHOUSE.

NOTE: IF YOU ARE UNABLE TO KEEP THIS APPOINTMENT FOR ANY REASON, PLEASE CALL THE ABOVE NUMBER AS SOON AS POSSIBLE TO CANCEL YOUR APPOINTMENT AND RESCHEDULE A MORE CONVENIENT DATE.

ITEM(S) REQUIRED ARE MARKED BELOW:

- ☑ **Accounting with Supporting Documentation (i.e. All Bank Statements, Bills, Receipts, and Cancelled Checks, etc.)**

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-1296

May 26, 2022

Probate Court
Attn: Margaret
180 Magnolia Street
Spartanburg, South Carolina 29306

To Margaret,

Per instruction from your office, I am submitting payment [$58] and [$53] for copies of the below cases.

Case: 2020 ES42 01744
Estate of Andrew Park

Case: 2021 ES42 01296
Estate of Isabella Park

Please feel free to contact me with any questions and/or concerns you may have in regards to my request. Thank you for your assistance.

Sincerely,

Lauren Gillette

Lauren Gillette
5755 North Point Pkwy
Suite 278
Alpharetta, GA 30022
lmaddux@smithcarson.com
423-605-2630

5755 North Point Parkway • Suite 278 • Alpharetta, GA 30022 •
Tel 770-350-2550 • Fax 877-349-0267

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21-1296

Probate Court
County of Spartanburg

Spartanburg County Judicial Center
180 Magnolia Street
Spartanburg, South Carolina 29306-2392
Telephone: (864) 596-2556 • Fax: (864) 596-2022

ESTATE DIVISION:
KAYE KENDALL
ASSOCIATE PROBATE JUDGE
DARLETT M. OWENS
COURT SUPERVISOR

PONDA A. CALDWELL
PROBATE JUDGE

COMMITMENT DIVISION:
DAVID F. ANDERSON
ASSOCIATE PROBATE JUDGE
GEORGIA J. BENNETT
COURT SUPERVISOR

May 31, 2022

Ms. Laura Gillette
5755 North Point Pkwy Ste 278
Alpharetta, GA 30022

Re: Estate of Isabella F. D. R. Park, Deceased
Probate Court File No. 2021ES4201296

Dear Ms. Gillette:

Pursuant to your request, the documents checked below are enclosed and your cost, if any, is also indicated. If your request specified certified copies, we have complied with your direction.

( ) Copy of Last Will and Testament.

( ) Copy of Application/Petition for Informal/Formal Appointment.

( ) Copy of Inventory and Appraisement.

(XXX) Other: Copy of File as of 05/31/22.

( ) The cost is $. Please remit a cashier's check or money order made payable to Ponda A. Caldwell, Probate Judge for Spartanburg County, South Carolina.

( ) Pursuant to statute, there is no charge for the enclosed.

If we may be of further assistance, please let us know.

Sincerely yours,

Ponda A. Caldwell
Judge, Probate Court

PAC:mlb

Enclosure(s)

LE49

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-1296

OFFICIAL RECEIPT

Ponda A. Caldwell, Judge

Probate Court of Spartanburg County

Spartanburg, South Carolina

DATE: 05312022 11 TRANS #: 61055
RECEIPTED: 53.00 ISABELLA F D R PARK COPIES

53.00 010-020-00026- XEROX COPIES

DUPLICATE

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-1296

DENNIS, SHAW, DRENNAN & PACK, LLC
ATTORNEYS AT LAW
103 LAFAYETTE STREET
REPLY TO: POST OFFICE BOX 891
SPARTANBURG, S.C. 29304-0891
TELEPHONE (864) 582-0708
FAX (864) 582-0934

June 8, 2022

JAMES W. SHAW, P.A.*
JAMES B. DRENNAN, III, P.A.*
S. MICHAEL PACK, JR., P.A.**
HEATHER G. HUNTER
VIRGINIA HAYES WOOD
* CERTIFIED SPECIALIST IN ESTATE PLANNING & PROBATE LAW
** CERTIFIED SPECIALIST IN TAXATION LAW

R. RAY DENNIS
RETIRED

Sarah Edney
Spartanburg County Probate Court
Spartanburg County Judicial Center
180 Magnolia Street
Spartanburg, SC 29306

Re: Estate of Isabella F.D.R. Park
2021ES42 01296

Dear Sarah:

Enclosed please find two (2) copies of a recorded deed of distribution, along with the original and one (1) copy of three Receipts and Releases and an Application for Settlement in the above-referenced matter. Please clock the copies and return the same to me by mail.

If anything further is needed to close this estate, please let me know.

With kindest regards,

Sincerely yours,

DENNIS, SHAW, DRENNAN & PACK, LLC

Heather G. Hunter

enclosure

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

DEE BK 137-N PG 309

21-1296

JUN 2022
Filed
Judge, Probate Court
Spartanburg County, SC

DEE-2022030001
Recorded 3 on 06/07/2022 03:23:26 PM
Recording Fee: $15.00
Office of REGISTER OF DEEDS, SPARTANBURG, S.C.
DOROTHY SAHLE REGISTER OF DEEDS
BK:DEE 137-N PG:309-311

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
COUNTY OF SPARTANBURG	)	**DEED OF DISTRIBUTION (Real Property Only) NOT A WARRANTY DEED**
IN THE MATTER OF: ISABELLA F.D.R. PARK (Decedent)	)	CASE NUMBER: 2021ES42 01296

The undersigned states as follows:

Decedent died on June 9, 2021; and probate of the Estate is being administered in the Probate Court for Spartanburg County, South Carolina, in File #2021ES42 01296.

I/We was/were appointed Personal Representative (s) on August 4, 2021.

Decedent owned real property described as follows:

Tax Map Number: 7-12-12-082.00

Street/Property Address: 244 Mills Avenue, Spartanburg, SC 29302

Legal Description:

All that lot or parcel of land in the City of Spartanburg, County of Spartanburg, State of South Carolina, fronting 75.0 feet on the west side of Mills Avenue, with a rear width of 76.0 feet, and a uniform depth of 136.8 feet, and being shown on a plat of a Survey for Andrew D. Park dated September 6, 1972, by J. R. Smith, R.L.S., recorded in Plat Book 68, at Page 671, Office of the Register of Deeds for Spartanburg County. For a more full and particular description, reference is hereby specifically made to said plat.

This being the same property conveyed to Isabella F.D.R. Park by deed of distribution in the Estate of Andrew D. Park, dated January 27, 2022, and recorded January 31, 2022, in Deed Book 135-P, at Page 620, Office of the Register of Deeds for Spartanburg County. Reference is also made to deed of Sara Anne Shea Ransdell, formerly Sara Anne Shea, to Andrew D. Park and Isabella F.D.R. Park, dated September 18, 1972, and recorded September 21, 1972, in Deed Book 39-Z, at Page 261, said Register of Deeds Office.

LESS AND EXCEPT, all that piece or parcel of land in the City and County of Spartanburg, State of South Carolina, being a portion of Lot 3, Block 20, on a plat of Converse Heights recorded in Plat Book 2, at Pages 94 and 95, Office of the Register of Deeds for Spartanburg County, and more particularly described as follows: BEGINNING at an iron pin on the western side of Mills Avenue 86 feet northwest of its intersection with Norwood Street and running thence S. 54-05 W. 136.8 feet to an iron pin on the edge of a 15 foot alley; thence along with the alley N. 35-55 W. 5 feet to a point; thence N. 54-05 E. 136.8 feet to a point on the edge of Mills Avenue; thence along and with Mills Avenue S. 35-55 E. 5 feet to the point of beginning. This being the same property conveyed to W. McA. Davis by deed of Andrew D. Park and Isabel F.D.R. Park, dated September 21, 1972, and recorded October 2, 1972, in Deed Book 40-A, at Page 232, Office of the Register of Deeds for Spartanburg County.

☐ Additional sheet(s) for additional property(ies) is attached (check if applicable)

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

DEE BK 137-N PG 310

21-1296

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

This transfer is made pursuant to:

☒ Decedent's Will
☐ Intestacy Statute: SCPC 62-2-103
☐ Private Family Agreement: SCPC 62-3-912
☐ Disclaimer by: _____
☐ Probate Court Order issued on
☐ Other: _____

In accordance with the laws of the State of South Carolina, the Personal Representative(s) does/do hereby release all of the Personal Representative's(s') right, title and interest, including statutory and/or testamentary powers, over the real property described to the beneficiaries named below

Keith W. Park
109 S. Spring Street
Central, SC 29630

Fiona R. Wiley
PO Box 26042
Greenville, SC 29616

Alastair C. Park
4925 FM 517 Road
Alvin, TX 77511

☐ Additional sheet(s) for names of additional beneficiaries is attached (check, if applicable)

IN WITNESS WHEREOF the undersigned, as Personal Representative(s) of the above Estate, has executed this Deed of Distribution, on this 6 day of June 2022

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Witness: Cynthia Hutchinson
Print Name: Cynthia Hutchinson
Witness: [signature]
Print Name: ANN P GWINN

Estate of: Isabella F.D.R. Park
Signature of Personal Representative: [signature]

Print Name: Keith W. Park

If applicable
Signature of Co-Personal Representative: _____

Print Name: _____

21-1291

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF SPARTANBURG)

I, ANN POWERS GWINN, Notary Public, a notary for the State of South Carolina do hereby certify that Keith W. Park, as Personal Representative(s) of the Estate of Isabella F.D.R. Park, personally appeared before me this day and acknowledged the due execution of the foregoing Deed of Distribution.

Witness my hand and seal this the 6 day of JUNE, 2022.

(SEAL)
(Signature of Notary Public)

ANN POWERS GWINN
(Print Name of Notary Public)

Notary Public for South Carolina
My Commission Expires: 11-21-26

Note: It is recommended that an attorney prepare this document and determine if a title examination is necessary.

FORM 440PC (10/2014)

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-1296

STATE OF SOUTH CAROLINA

PROBATE COURT

COUNTY OF SPARTANBURG

IN THE MATTER OF Estate of Isabella F.D.R. Park

CASE NUMBER 2021ES4201296

RECEIPT AND RELEASE

The undersigned hereby acknowledges receipt from the Personal Representative in this matter of the following property:

All of the property to which I am entitled under The Last Will and Testament of Isabella F.D.R. Park. I am totally familiar with the assets in this estate, their disposition, and the manner in which the administration has taken place, and I desire that the estate be closed without the filing of an interim or final formal accounting. The undersigned also waives notice of right to demand a hearing on all accountings, proposal for distribution and petition for discharge.

In consideration of the distribution, the undersigned releases and forever discharges the estate and the Personal Representative from any and all rights and claims which the undersigned may have relating to the estate.

Executed this 21 day of May, 2022.

Witness: Beneficiary:

Fiona R. Wiley

JUN 2022
Filed
Judge, Probate Court
Spartanburg County, SC

Form #403C (7/87)
SCPC administrative

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-1290

STATE OF SOUTH CAROLINA

PROBATE COURT

COUNTY OF SPARTANBURG

IN THE MATTER OF Estate of Isabella F.D.R. Park

CASE NUMBER 2021ES42 01296

RECEIPT AND RELEASE

The undersigned hereby acknowledges receipt from the Personal Representative in this matter of the following property:

All of the property to which I am entitled under The Last Will and Testament of Isabella F.D.R. Park. I am totally familiar with the assets in this estate, their disposition, and the manner in which the administration has taken place, and I desire that the estate be closed without the filing of an interim or final formal accounting. The undersigned also waives notice of right to demand a hearing on all accountings, proposal for distribution and petition for discharge.

In consideration of the distribution, the undersigned releases and forever discharges the estate and the Personal Representative from any and all rights and claims which the undersigned may have relating to the estate.

Executed this 22 day of May, 2022.

Witness:

Beneficiary:

Alastair C. Park

JUN 2022
Filed
Judge, Probate Court
Spartanburg County, SC

Form #403C (7/87)
SCPC administrative

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

21-1296

STATE OF SOUTH CAROLINA

PROBATE COURT

COUNTY OF SPARTANBURG

IN THE MATTER OF Estate of Isabella F.D.R. Park

CASE NUMBER 2021ES42 01296

RECEIPT AND RELEASE

The undersigned hereby acknowledges receipt from the Personal Representative in this matter of the following property:

All of the property to which I am entitled under The Last Will and Testament of Isabella F.D.R. Park. I am totally familiar with the assets in this estate, their disposition, and the manner in which the administration has taken place, and I desire that the estate be closed without the filing of an interim or final formal accounting. The undersigned also waives notice of right to demand a hearing on all accountings, proposal for distribution and petition for discharge.

In consideration of the distribution, the undersigned releases and forever discharges the estate and the Personal Representative from any and all rights and claims which the undersigned may have relating to the estate.

Executed this 6 day of June, 2022.

Witness:

Beneficiary:

Keith W. Park

JUN 2022
Filed
Probate Court
Spartanburg County SC

Form #403C (7/87)
SCPC administrative

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

IN THE MATTER OF:
ISABELLA F.D.R. PARK
(Decedent)

IN THE PROBATE COURT 21-1296

APPLICATION FOR SETTLEMENT

CASE NUMBER: 2021ES42 01296

1. The undersigned as the Personal Representative(s) has/have collected and managed the assets of the Estate; has/have paid all lawful claims against the Estate; either has/have distributed assets or propose(s) to distribute as designated on the Proposal for Distribution; and has/have performed all other required acts pertaining to Estate of Decedent.
2. The Personal Representative(s) has/have filed:
   - ☒ Proof of Publication ☐ No Publication required
   - ☒ Inventory and Appraisement(s)
   - ☐ Proposal for Distribution for assets not yet distributed
   - ☐ Final Accounting ☒ Accounting waived by all required parties
   - * ☐ Proof of Delivery that all required documents have been sent to interested persons as required by law
   - ☒ All required tax returns (including final income tax return, fiduciary income tax return, Estate tax return) and any taxes due have been paid. If not, please explain:
   - ☐ Documents with IRS electing portability
3. The time period for submission of claims has expired.
4. I request that the Court issue Orders as appropriate together with such other Orders as the law may require and as the Court may deem applicable and proper.
5. I request that the Court (check all that apply)
   - ☐ A. Consider or approve the Personal Representative's Accounting and, if applicable, the Proposal for Distribution for assets not yet distributed.
   - ☐ B. Approve the distributions previously made and authorize the Personal Representative(s) to transfer title to the assets and distribute them to the distributees in the amount and manner set forth in the Proposal for Distribution (FORM 410ES).
   - ☒ C. Discharge, or set forth the conditions of the termination of the appointment of the Personal Representative, and the release of the Personal Representative's bond, if any.
   - ☐ D. (Other:) ____ * Proof should have been checked

Executed this 6 day of June, 2022.

SWORN to before me this 6 day of June 20 22

Notary Public for South Carolina
My Commission Expires: 1/21/26

Personal Representative Signature: Keith Park
Print Name: Keith W. Park
Address: 109 S. Spring Street
Central, SC 29630
Telephone (Work):
(Home):
(Cell): (864) 710-8970
Email:

SWORN to before me this ____ day of ____, 2022

Notary Public for ____
My commission expires: ____

Co-Personal Representative Signature:
Print Name:
Address:
Telephone (Work):
(Home):
(Cell):
Email:

JUN 2022 Filed Probate Court Spartanburg County SC

FORM 441ES (1/2014)
62-3-601, 62-3-1001, 62-3-1002, 62-3-1003

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

IN THE MATTER OF:
ISABELLA F.D.R. PARK
(Decedent)

MR. KEITH W. PARK
Personal Representative(s)

IN THE PROBATE COURT 21-1296

ORDER CLOSING ESTATE

CASE NUMBER: 2021ES4201298

Upon consideration of the Application for Settlement, it appears to the court that the allegations in the Application are true. All required notices have been given/waived. The asset(s) has/have been administered according to the laws of South Carolina.

The final closing documents have been considered and/or waived.

The Personal Representative(s) in the above estate appear(s) to have completed the administration, and the appointment is hereby terminated.

It is appropriate that the sureties on the bond, if any, in this estate be released. If applicable, the security instrument recorded in the Office of the Clerk of Court (or ROD) in Book N/A, at Page N/A, shall be and is hereby released, and cancellation of said instrument is authorized.

Therefore, the estate is closed.

IT IS SO ORDERED.

Executed this 26th day of August, 2022.

Ponda A. Caldwell

Ponda A. Caldwell, Probate Court Judge

FORM #413ES (1/2014)
62-3-610, 62-3-1001, 62-3-1007

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

Probate Court
County of Spartanburg

21-1296

Spartanburg County Judicial Center
180 Magnolia Street
Spartanburg, South Carolina 29306-2392
Telephone: (864) 596-2556 • Fax: (864) 595-3011

ESTATE DIVISION:
KATE KENDALL
ASSOCIATE PROBATE JUDGE
DARLETT M. OWENS
COURT SUPERVISOR

PONDA A. CALDWELL
PROBATE JUDGE

COMMITMENT DIVISION:
DAVID F. ANDERSON
ASSOCIATE PROBATE JUDGE
GEORGIA J. BENNETT
COURT SUPERVISOR

August 26, 2022

Mr. Keith W. Park
109 S. Spring St
Central, SC 29630

Re: Estate of Isabella F.D.R. Park, Deceased
Probate Court File No. 2021ES4201296

Dear Mr. Park:

Enclosed is your copy of Termination of Appointment (Form 414ES) in regard to the above estate.

There are numerous laws which must be complied with in order to insure proper and complete administration in every estate. It is our desire to assist those whom we aid in compliance with these laws, and I hope your task has been made easier by the help of this office.

Please let me know if we can be of assistance to you. I welcome your comments and suggestions so that this office may serve the public better and more efficiently.

Sincerely yours,

Ponda A. Caldwell

Ponda A. Caldwell
Judge, Probate Court

PAC:sce

Enclosure

cc: Heather G. Hunter
P.O. Box 891
Spartanburg, SC 29304

LE15

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

STATE OF SOUTH CAROLINA)
) IN THE PROBATE COURT 21-12-96
COUNTY OF: SPARTANBURG)
) TERMINATION OF APPOINTMENT
IN THE MATTER OF:)
ISABELLA F.D.R. PARK) CASE NUMBER: 2021ES4201296
(Decedent)

The appointment of Mr. Keith W. Park Personal Representative(s) for the above estate, is hereby terminated for the following reason(s):

- [x] Satisfactory Completion of Assigned Duties
- [ ] Death
- [ ] Disability
- [ ] Voluntary Resignation
- [ ] Removal
- [ ] Change of Testacy Status
- [ ] Special Administrator
- [ ] Other (specify): _____

Termination does not discharge a Personal Representative from liability for transactions or omissions occurring before termination or relieve him/her of the duty to preserve assets subject to his/her control, to account therefore, and to deliver the assets.

Executed this 26th day of August, 2022.

Ponda A. Caldwell

Ponda A. Caldwell, Probate Court Judge

FORM #414ES (1/2014)
32-3-608, 62-3-609, 62-3-610, 62-3-611, 62-3-618

ELECTRONICALLY FILED - 2025 Aug 07 5:36 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

DENNIS, SHAW, DRENNAN & PACK, LLC
ATTORNEYS AT LAW
400 E. HENRY STREET
REPLY TO: POST OFFICE BOX 891
SPARTANBURG, S.C. 29304-0891
TELEPHONE (864) 582-0708
FAX (864) 582-0934

July 25, 2025

JAMES W. SHAW, P.A.*
JAMES B. DRENNAN, III, P.A.*
S. MICHAEL PACK, JR., P.A.**
HEATHER G. HUNTER, P.A.
VIRGINIA HAYES WOOD
* CERTIFIED SPECIALIST IN ESTATE PLANNING & PROBATE LAW
** CERTIFIED SPECIALIST IN TAXATION LAW

R. RAY DENNIS
RETIRED

New Estate Clerk
Spartanburg County Probate Court
Spartanburg County Judicial Center
180 Magnolia Street
Spartanburg, SC 29306

Re: Andrew D. Park Estate
Isabella F.D.R. Park Estate

Dear Clerk:

Enclosed please find an Application for Subsequent Administration for both the Andrew D. Park Estate and the Isabella F.D.R. Park Estate along with two checks in the amount of $22.50 each. Please process the Applications and when the Certificates of Appointment are ready, I would appreciate you providing us with five (5) Certificates for each Estate and letting us know when those will be ready to pick up from the basket.

With kindest regards,

Sincerely yours,

DENNIS, SHAW, DRENNAN & PACK, LLC

Heather G. Hunter

enclosures

ELECTRONICALLY FILED - 2025 Aug 04 3:09 PM - RICHLAND - COMMON PLEAS - CASE#2021CP4002727

STATE OF SOUTH CAROLINA)
)
COUNTY OF: SPARTANBURG)
)
)
IN THE MATTER OF:)
ANDREW D. PARK)
(Decedent))

IN THE PROBATE COURT

APPLICATION/*PETITION FOR SUBSEQUENT ADMINISTRATION

CASE NUMBER: 2020ES4201744-2

***ONLY COMPLETE THIS SECTION IF FILING PETITION FOR SUBSEQUENT ADMINISTRATION**

*
Petitioner(s)
vs.
*
Respondent(s)

☒ **INFORMAL** ☐ ***FORMAL**

The undersigned states as follows:

1. Subsequent administration of the above Estate is needed because:
☐ The following additional property in the above estate has been discovered. A description of the property and its approximate value at the date of Decedent's death is:

☒ Other reason: POSSIBLE CIVIL LITIGATION

2. ☒ I served as Personal Representative under the previous administration and fiduciary bond requirement:

☐ was waived by Decedent's Will
☒ was waived pursuant to the filing of Waivers of Bond
☐ was waived by the Court
☐ was required and an appropriate bond is attached

☐ I did not serve as Personal Representative under the previous administration; my priority for this appointment is:

☐ named as Primary Personal Representative in Will
☐ named as Alternate Personal Representative in Will
☐ nominee of above Primary Personal Representative in Will
☐ nominee of above Alternate Personal Representative in Will
☐ surviving spouse of Decedent who is devisee of Decedent or nominee of said spouse
☐ other devisee of Decedent (describe): or nominee of said devisee
☐ surviving spouse of Decedent or nominee of said spouse
☐ other heir of Decedent (describe): or nominee of said heir
☐ creditor (Forty-five (45) days after death must have passed) or nominee of creditor; written statement of claim, FORM 371ES, is attached
☐ other (describe):

***NOTE: IF THIS IS A FORMAL PROCEEDING, IN ADDITION TO A PETITION, YOU MUST ALSO FILE A SUMMONS (FORM SCCA 401PC) AND PAY THE STATUTORY FILING FEE OF $150.00. A HEARING IN THE PROBATE COURT ON THE PETITION MAY BE REQUIRED.**

ELECTRONICALLY FILED - 2025 Aug 04 3:09 PM - RICHLAND - COMMON PLEAS - CASE#2021CP4002727

ELECTRONICALLY FILED - 2025 Aug 04 3:09 PM - RICHLAND - COMMON PLEAS - CASE#2025CP4002727

VERIFICATION

The undersigned, being sworn, states that the facts set forth in the foregoing statements are true to the best of the undersigned's knowledge, information and belief; and hereby submits to the Court's jurisdiction in this matter.

SWORN to before me this 24th day of July, 20 25

Michelle C. Steele

Notary Public for South Carolina

My Commission Expires: 06-13-2027

MICHELLE C. STEELE NOTARY PUBLIC SOUTH CAROLINA COM. EXP. 06-13-2027

Signature: Keith W Park

Print Name: KEITH W. PARK

Address: 149 BROWNING HEIGHTS WAY
CENTRAL, SC 29630

Telephone (Work):

(Home):

(Cell): 864-710-8970

Email:

Relationship to Decedent/Estate: SON

ORDER FOR HEARING

IT IS HEREBY ORDERED that a hearing on this matter be set for:

DATE: _____

TIME: _____

PLACE: _____

Pursuant to SCPC 62-1-401, Petitioner is ordered to give notice of this hearing to all interested persons at least twenty (20) days prior to the hearing.

Executed this day of , 20 .

_____

, Probate Court Judge

ORDER FOR SUBSEQUENT ADMINISTRATION

IT IS HEREBY ORDERED that KEITH W. PARK be appointed Personal Representative to administer property not previously administered as indicated in the above application/petition.

- ☐ Bond previously waived
- ☒ Previous bond waivers on file
- ☐ Other:

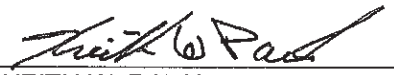
Executed this day of , 20 .

_____

PONDA A. CALDWELL, Probate Court Judge

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate and to submit to the Court's jurisdiction in this matter.

Signature: 
Print Name: KEITH W. PARK
Address: 149 BROWNING HEIGHTS WAY
CENTRAL, SC 29630
Telephone (Work):
(Home):
(Cell): 864-710-8970
Email:

Attorney: HEATHER G. HUNTER
Address: P.O. BOX 891
SPARTANBURG, SC 29304
Telephone: 864.582.0708
Email: HHUNTER@DSDLEGAL.COM

ELECTRONICALLY FILED - 2025 Aug 04 3:09 PM - RICHLAND - COMMON PLEAS - CASE#2021CP4002727

STATE OF SOUTH CAROLINA)
)
COUNTY OF: SPARTANBURG)
)
)
IN THE MATTER OF:)
ISABELLA F.D.R. PARK)
(Decedent))

IN THE PROBATE COURT

APPLICATION/*PETITION FOR SUBSEQUENT ADMINISTRATION

CASE NUMBER: 2021ES4201296-2

***ONLY COMPLETE THIS SECTION IF FILING PETITION FOR SUBSEQUENT ADMINISTRATION**

*
Petitioner(s)
vs.
*
Respondent(s)

☒ **INFORMAL** ☐ ***FORMAL**

The undersigned states as follows:

1. Subsequent administration of the above Estate is needed because:
   ☐ The following additional property in the above estate has been discovered. A description of the property and its approximate value at the date of Decedent's death is:

   ☒ Other reason: POSSIBLE CIVIL LITIGATION

2. ☒ I served as Personal Representative under the previous administration and fiduciary bond requirement:

   ☒ was waived by Decedent's Will
   ☐ was waived pursuant to the filing of Waivers of Bond
   ☐ was waived by the Court
   ☐ was required and an appropriate bond is attached

   ☐ I did not serve as Personal Representative under the previous administration; my priority for this appointment is:

   ☐ named as Primary Personal Representative in Will
   ☐ named as Alternate Personal Representative in Will
   ☐ nominee of above Primary Personal Representative in Will
   ☐ nominee of above Alternate Personal Representative in Will
   ☐ surviving spouse of Decedent who is devisee of Decedent or nominee of said spouse
   ☐ other devisee of Decedent (describe): or nominee of said devisee
   ☐ surviving spouse of Decedent or nominee of said spouse
   ☐ other heir of Decedent (describe): or nominee of said heir
   ☐ creditor (Forty-five (45) days after death must have passed) or nominee of creditor; written statement of claim, FORM 371ES, is attached
   ☐ other (describe):

***NOTE: IF THIS IS A FORMAL PROCEEDING, IN addition TO A PETITION, YOU MUST ALSO FILE A SUMMONS (FORM SCCA 401PC) AND PAY THE STATUTORY FILING FEE OF $150.00. A HEARING IN THE PROBATE COURT ON THE PETITION MAY BE REQUIRED.**

ELECTRONICALLY FILED - 2025 Aug 04 3:09 PM - RICHLAND - COMMON PLEAS - CASE#2021CP4002727

ELECTRONICALLY FILED - 2025 Aug 04 3:09 PM - RICHLAND - COMMON PLEAS - CASE#2021CP4002727

VERIFICATION

The undersigned, being sworn, states that the facts set forth in the foregoing statements are true to the best of the undersigned's knowledge, information and belief; and hereby submits to the Court's jurisdiction in this matter.

SWORN to before me this 24th day of July, 20 25

Michelle C. Steele
Notary Public for South Carolina
My Commission Expires: 06-13-2027

MICHELLE C. STEELE NOTARY PUBLIC SOUTH CAROLINA COM. EXP. 06-13-2027

Signature: Keith W Park
Print Name: KEITH W. PARK
Address: 149 BROWNING HEIGHTS WAY
CENTRAL, SC 29630
Telephone (Work):
(Home):
(Cell): 864-710-8970
Email:
Relationship to Decedent/Estate: SON

ORDER FOR HEARING

IT IS HEREBY ORDERED that a hearing on this matter be set for:

DATE: _____
TIME: _____
PLACE: _____

Pursuant to SCPC 62-1-401, Petitioner is ordered to give notice of this hearing to all interested persons at least twenty (20) days prior to the hearing.

Executed this day of , 20 .

_____, Probate Court Judge

ORDER FOR SUBSEQUENT ADMINISTRATION

IT IS HEREBY ORDERED that be appointed Personal Representative to administer property not previously administered as indicated in the above application/petition.

- ☒ Bond previously waived
- ☐ Previous bond waivers on file
- ☐ Other:

Executed this day of , 20 .

_____
PONDA A. CALDWELL, Probate Court Judge

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate and to submit to the Court's jurisdiction in this matter.

Signature: Keith W Park
Print Name: KEITH W. PARK
Address: 149 BROWNING HEIGHTS WAY
CENTRAL, SC 29630
Telephone (Work):
(Home):
(Cell): 864-710-8970
Email:

Attorney: HEATHER G. HUNTER
Address: P.O. BOX 891
SPARTANBURG, SC 29304
Telephone: 864.582.0708
Email: HHUNTER@DSDLEGAL.COM

ELECTRONICALLY FILED - 2025 Aug 04 3:09 PM - RICHLAND - COMMON PLEAS - CASE#2021CP4002727

ELECTRONICALLY FILED - 2025 Aug 06 3:09 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

STATE OF SOUTH CAROLINA **PROBATE COURT**
COUNTY OF SPARTANBURG

IN THE MATTER OF ANDREW D. PARK

CASE NUMBER 2020ES4201744-2

CERTIFICATE OF APPOINTMENT

This is to certify that

MR. KEITH W. PARK

is/are the duly qualified

- [X] PERSONAL REPRESENTATIVE
- [ ] GUARDIAN
- [ ] CONSERVATOR
- [ ] TRUSTEE
- [ ] _____

in the above matter and that this appointment, having been executed on the 30th day of July, 2025. Now in full force and effect, including authorization to receive monies, income, principal, interest & dividends of and belonging to said estate.

RESTRICTIONS:

NONE.

Executed this 30th day of July, 2025.

Ponda A. Caldwell

Ponda A. Caldwell, Probate Court Judge

Do not accept a copy of this certificate without the raised seal of the Probate Court.

FORM #141
62-1-305, 6 , 62-7-201 BOMAR PRINTING

ELECTRONICALLY FILED - 2025 Aug 06 3:09 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

STATE OF SOUTH CAROLINA **PROBATE COURT**
COUNTY OF SPARTANBURG

IN THE MATTER OF ISABELLA F.D.R PARK

CASE NUMBER 2021ES4201296-2

CERTIFICATE OF APPOINTMENT

This is to certify that

MR. KEITH W. PARK

is/are the duly qualified

- [x] PERSONAL REPRESENTATIVE
- [ ] GUARDIAN
- [ ] CONSERVATOR
- [ ] TRUSTEE
- [ ] _____

in the above matter and that this appointment, having been executed on the 30th day of July, 2025. Now in full force and effect, including authorization to receive monies, income, principal, interest & dividends of and belonging to said estate.

RESTRICTIONS:

NONE.

Executed this 30th day of July, 2025.

Ponda A. Caldwell

Ponda A. Caldwell, Probate Court Judge

Do not accept a copy of this certificate without the raised seal of the Probate Court.

FORM #141
62-1-305, 62-7-201

BOMAR PRINTING

Carroll, Todd

Subject:	June Trial Block (Park/Wilson/Wannamaker): Mediation w/Tom Wills
Location:	Zoom or Haynsworth Sinkler Boyd, P.A.- 134 Meeting Street, 3rd Floor Charleston, SC 29401 [TIme is ET]
Start:	Tue 5/24/2022 10:00 AM
End:	Tue 5/24/2022 5:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Organizer:	WBD.SCASBESTOS

From: WBD.SCASBESTOS
Sent: Thursday, May 19, 2022 11:24:34 AM
To: WBD.SCASBESTOS <WBD.SCASBESTOS@wbd-us.com>; Baker, Charles <Chuck.Baker@wbd-us.com>; Richmond, Scott <Scott.Richmond@wbd-us.com>; O'Neill, Elizabeth <Elizabeth.ONeill@wbd-us.com>; Sullivan, Kimberly <Kimberly.Sullivan@wbd-us.com>; Robusto, Matt <Matt.Robusto@wbd-us.com>; Rubenstein, Rosa <Rosa.Rubenstein@wbd-us.com>; Wallace, Julie <Julie.Wallace@wbd-us.com>
Subject: June Trial Block (Park/Wilson/Wannamaker): Mediation w/Tom Wills
When: Tuesday, May 24, 2022 10:00 AM-5:00 PM.
Where: Zoom or Haynsworth Sinkler Boyd, P.A.- 134 Meeting Street, 3rd Floor Charleston, SC 29401 [TIme is ET]

Join Zoom Meeting
https://zoom.us/j/2411888578

Meeting ID: 241 188 8578

Telephone Number: +19292056099

5/19/22 – Time, Zoom and location per Julia Wills email (see attached)

Rosa Rubenstein
Paralegal
Womble Bond Dickinson (US) LLP

d: 336-747-2680
m: 336-549-1302
e: Rosa.Rubenstein@wbd-us.com

One West Fourth Street
Winston-Salem, NC 27101

womblebonddickinson.com

ELECTRONICALLY FILED - 2023 Sep 01 4:41 PM - RICHLAND - COMMON PLEAS - CASE#2023CP4001759

From: Theile McVey <tmcvey@kassellaw.com>
Sent: Friday, June 3, 2022 8:24 AM
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Subject: RE: June Pretrial Hearing

Attachments: Proposed Agenda for Motions Hearing for June 2022 Block.docx

EXHIBIT 8

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Chief Justice Toal: This morning we are delivering to you and Maya notebooks for the hearing on Monday, June 6th. The notebooks contain the motions for summary judgment and responses, the Plaintiffs'
External (tmcvey@kassellaw.com<mailto:tmcvey@kassellaw.com>)

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Chief Justice Toal:

This morning we are delivering to you and Maya notebooks for the hearing on Monday, June 6th. The notebooks contain the motions for summary judgment and responses, the Plaintiffs' motions in limine and the Nash motion. By way of update, the Park and Garren cases have both fully resolved. The remaining Defendants in Wannamaker and Wilson are listed below. I am also attaching a proposed agenda. Please let me know if you have any questions or concerns. Best, Theile

1. Wannamaker

   * Ethyl
   * Santee Cooper (South Carolina Public Service Authority)

1. Wilson
   * Research Cottrell
   * Whittaker, Clark & Daniel

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Subject: June Pretrial Hearing

Hi All:

The pretrial hearing for the June trial block, including Wannamaker v. 3M Company et. al., will be held on June 6th, 2022 at the Richland County courthouse. An agenda will be sent out prior to the hearing that will confirm time and courtroom.

Please send a copy of all motions to Chief Justice Toal and I. Chief Justice Toal prefers that motions binders be sent to her home address (please reach out to me individually for her home address if needed) and motions can be sent to me at the Senate Street address below my signature.

The court is providing a court reporter for this hearing.

Thank you,

Maya J. Weeks, M.A., J.D.
Circuit Court Law Clerk- Floater
South Carolina Judicial Branch

EXHIBIT 8

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Re: Amended Cape PLC Tolling Agreement

This agreement amends the tolling agreement entered into on June 6, 2013. This is a confidential agreement between and among the lawyers and clients of Dean, Omar, Branham, & Shirley, LLP (collectively referred to as "Dean Omar") and the Reciever for Cape PLC and its successors and predecessors (hereinafter referred to as "Cape"). The purpose of this agreement is to allow the parties to this agreement to avoid the uncertainties and expense of litigation. Specifically, the parties intend to enter into an agreement whereby all current malignant asbestos claims (collectively "the Malignant Claims") filed by Dean Omar against Cape will be dismissed without prejudice (using dismissal documents provided by Cape's counsel), pursuant to this tolling agreement. In exchange for Dean Omar's dismissal of the Malignant Claims, Cape hereby agrees to toll the operation of the applicable statute of limitations and !aches to allow the parties to evaluate these Malignant Claims outside of the tort system. At such time as these cases are called to trial against the remaining defendants, Cape agrees to evaluate these cases under the framework of its prior dealings with Dean Omar in good faith.

Future Dean Omar asbestos Malignant Claims filed against other defendants may also avail themselves of this tolling agreement and need not include Cape in any future lawsuit filing against other asbestos defendants to do so.

In the event that a settlement agreement is not reached outside of the tort system:

1. Dean Omar agrees to re-file such cases in the same court from which each Malignant Claim originally was dismissed (or was originally filed against other defendants);

2. Cape agrees not to remove any re-filed Malignant Claim to Federal Court provided that the case was not removable as of the date of this agreement and that grounds for such removal arose as a result of this Agreement; and

3. The Parties agree that Cape shall be entitled to avail itself of all remedies for purposes of establishing other shares and/or settlement credits as would have been available to it had this Agreement never existed.

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4. The Parties agree that Cape will not and may not assert that it was not present for any discovery, fact, expert, or otherwise and thus that that evidence may not be used against it. Any contemporaneous objections lodged to such discovery by any other party may be exerted by either party.

In the event that any Malignant lawsuit is closed as to all other defendants, this tolling shall terminate as to that case two years following such closure and the statute of limitations for that case from that date.

Nothing in this agreement shall operate to revise or reset the applicable limitations or laches periods for claims where limitations have already expired.

This Agreement may be terminated upon ninety (90) days written notice. The termination notice must be sent by certified mail return receipt requested by sending it to Cape's counsel as identified below or Dean Omar's counsel, Trey Branham, at the address below.

The Patties agree to maintain the confidentiality of this agreement from other asbestos counsel.

So Agreed:

Trey Branham
Dean Omar Branham Shirley, LLP
302 N. Market Street, Suite 300
Dallas, Texas 75202

FOR DEAN OMAR AND ITS CUENTS

sl Peter D. Protopapas
RECEIVER

For CAPEPLC and its successors, predecessors and assigns

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Peter D. Protopapas, Receiver
2110 N Beltline Blvd – Columbia, South Carolina 29204 – 803.978.6111 – pdp@rplegalgroup.com

June 12, 2023

VIA ELECTRONIC MAIL

Mr. Trey Branham
DEAN OMAR BRANHAM & SHIRLEY, LLP
302 N. Market Street, Suite 300
Dallas, Texas 75202

Re: Cape PLC Tolling Agreement

This is a confidential agreement between and among the lawyers and clients of Dean, Omar, Branham, & Shirley, LLP (collectively referred to as "Dean Omar") and Cape PLC (hereinafter referred to as "Cape"). The purpose of this agreement is to allow the parties to this agreement to avoid the uncertainties and expense of litigation. Specifically, the parties intend to enter into an agreement whereby all current malignant asbestos claims (collectively "the Malignant Claims") filed by Dean Omar against Cape will be dismissed without prejudice (using dismissal documents provided by Cape's counsel), pursuant to this tolling agreement. In exchange for Dean Omar's dismissal of the Malignant Claims, Cape hereby agrees to toll the operation of the applicable statute of limitations and laches to allow the parties to evaluate these Malignant Claims outside of the tort system. At such time as these cases are called to trial against the remaining defendants, Cape agrees to evaluate these cases under the framework of its prior dealings with Dean Omar in good faith.

Future Dean Omar asbestos Malignant Claims filed against other defendants may also avail themselves of this tolling agreement and need not include Cape in any future lawsuit filing against other asbestos defendants to do so.

In the event that a settlement agreement is not reached outside of the tort system:

1. Dean Omar agrees to re-file such cases in the same court from which each Malignant Claim originally was dismissed (or was originally filed against other defendants);

2. Cape agrees not to remove any re-filed Malignant Claim to Federal Court provided that the case was not removable as of the date of this agreement and that grounds for such removal arose as a result of this Agreement; and

3. The Parties agree that Cape shall be entitled to avail itself of all remedies for purposes of establishing other shares and/or settlement credits as would have been available to it had this Agreement never existed.

4. The Parties agree that Cape will not and may not assert that it was not present for any discovery, fact, expert, or otherwise and thus that that evidence may not be used against it. Any contemporaneous objections lodged to such discovery by any other party may be exerted by either party.

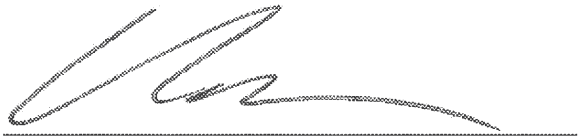
In the event that any Malignant lawsuit is closed as to all other defendants, this tolling shall terminate as to that case 90 days following such closure and the statute of limitations for that case shall proceed from the date of this Agreement.

Nothing in this agreement shall operate to revise or reset the applicable limitations or laches periods for claims where limitations have already expired.

This Agreement may be terminated upon ninety (90) days written notice. The termination notice must be sent by certified mail return receipt requested by sending it to Cape's counsel as identified below or Dean Omar's counsel, Trey Branham, at the address below.

The Parties agree to maintain the confidentiality of this agreement from other asbestos counsel.

So Agreed:



Trey Branham
DEAN OMAR BRANHAM & SHIRLEY, LLP
302 N. Market Street, Suite 300
Dallas, Texas 75202

FOR DEAN OMAR AND ITS CLIENTS

s/ Peter D. Protopapas
RECEIVER

FOR CAPE PLC

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ELECTRONICALLY FILED - 2024 Sep 05 3:14 PM - RICHLAND - COMMON PLEAS - CASE#2024CP4005397

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND	IN THE COURT OF COMMON PLEAS FOR THE FIFTH JUDICIAL CIRCUIT
CAPE, PLC, Individually and as successor in interest to CAPE ASBESTOS COMPANY LIMITED, by and through its duly appointed Receiver Peter D. Protopapas, Plaintiff, vs. Winston & Strawn, LLP, Defendant.	In re: Asbestos Personal Injury Litigation Coordinated Docket Civil Action Number: SUMMONS

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and required to answer the Original Complaint in this action, a copy of which is hereby served on you, and to serve a copy of your Answer to the said Complaint upon the subscribers at 1722 Main Street, Suite 200, Columbia, South Carolina 29201, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in such Complaint.

HARLING & WEST, LLC

By:s/W. Jonathan Harling
W. Jonathan Harling, Esquire
SC Bar# 16658
1722 Main Street, Suite 200
Columbia, SC 29201
Phone: 803-252-2050
Fax: 800-762-4915
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RIKARD & PROTOPAPAS
SC Bar #106271
2104 N. Beltline Blvd.
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Attorneys for the Plaintiff

September 5, 2024

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CAPE, PLC, Individually and as successor in interest to CAPE ASBESTOS COMPANY LIMITED, by and through its duly appointed Receiver Peter D. Protopapas, Plaintiff, vs. Winston & Strawn, LLP, Defendant.	In re: Asbestos Personal Injury Litigation Coordinated Docket Civil Action Number: COMPLAINT

COMES NOW the duly appointed South Carolina Receiver for Cape PLC, individually and as successor in interest to Cape Asbestos Company Limited ("Receiver" or "Plaintiff") complaining of the Defendant Winston & Strawn, LLP ("Defendant" or "Winston"), who through undersigned counsel respectfully shows unto the Court as follows:

This case arises out of Winston's threat to sue South Carolina attorney Peter D. Protopapas personally and related to his official acts as the court-appointed receiver for Cape PLC in the High Court of London and Wales. The *Barton* doctrine bars Winston's gambit in London, and Winston knows that. The United States Supreme Court, the United States Court of Appeals for the Fourth Circuit, and the United States District Court for the District of South Carolina have all determined that, pursuant to the *Barton* doctrine, the South Carolina receiver court appointing the receiver has exclusive jurisdiction over any action against that state court-appointed receiver.[1] Winston threatens Mr. Protopapas with litigation against him personally if he will not agree to the entry of

[1] *See, e.g., Protopapas v. Travelers Casualty & Surety Co.*, 94 F.4th 351, 358 (4th Cir. 2024) ("[e]xercising federal jurisdiction over a suit by or against a state-appointed receiver, who functions as an "arm" or "executive" of the state-receivership court, would infringe on the state court's control over the receivership assets—its exclusive jurisdiction. Thus, as a matter of comity, as well as custom, the *Barton* doctrine rests on this exclusivity of the state receivership over the assets before it as a matter of jurisdiction").

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an order which on its face violates the lawful orders of the receivership court appointing him as receiver and tasking him with an array of specific duties. The Receiver seeks declarations as to the relationship between the parties, the role of the Receiver, and the nature of the Winston letter which demands violation of this Court's orders.

PARTIES

1. The Receiver is a lawyer who was appointed as Receiver for Plaintiff, by Order of The Honorable Chief Justice Jean H. Toal (ret.) on March 17, 2023, in *Keith W. Park, Individually and as Personal Representative of the Estate of Isabella Park vs. Armstrong International, Inc., et al.* (Civil Action 2021-CP-40-02727, Richland County). The Receiver maintains his residence and principal place of business in Richland County, South Carolina. The Receiver has not been to England for over 20 years.

2. Cape PLC, n/k/a Cape Intermediate Holdings Ltd., the entity in Receivership, was deeply involved in all elements of the global asbestos industry, mining raw asbestos in Apartheid-era South Africa, and then selling asbestos fiber to manufacturers of asbestos products in the United States, of which substantial quantities which were sold and used in South Carolina. Because Cape failed to answer a South Carolina asbestos personal injury case in this Court (thereby defaulting), Chief Justice Toal (ret.) appointed the Plaintiff "with the power and authority [to] fully administer all assets of Cape, accept service on behalf of Cape, engage counsel on behalf of Cape and take any and all steps necessary to protect the interests of Cape whatever they may be." See Order of Appointment. Pursuant to Court Order and years of well-established jurisprudence, the Receiver acts as an arm of the Court appointing the Receiver (the "Receiver Court"). The Receiver Court maintains exclusive jurisdiction over the Receivership and lawsuits against the Receiver.

3. Plaintiff is informed and believes the Defendant, Winston & Strawn, LLP, is a limited liability partnership organized under the laws of the State of Delaware with offices in North

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Carolina and lawyers licensed in the State of South Carolina, including Kobi Kennedy Brinson, Terry Brown Jr., Stacie Knight, and Alyson Traw. As lawyers licensed in the State of South Carolina, Kobi Kennedy Brinson, Terry Brown Jr., Stacie Knight, and Alyson Traw are familiar, or should be familiar, with laws governing lawyers and receiverships. On information and belief, Winston & Strawn LLP is the ultimate parent company of Winston & Strawn London LLP, and Winston & Strawn LLP holds Winston & Strawn London LLP as the London office of its international law firm, one of fifteen offices identified as part of Winston & Strawn LLP.

JURISDICTION

4. This Court has jurisdiction over the matters alleged herein pursuant to S.C. Code Ann. §§ 36-2-802 and 36-2-803, Article V of the Constitution of the State of South Carolina, and the Court's plenary powers.

VENUE

5. Venue is proper in this Court because it is the Receiver Court, and as such, all pending and new filings related to the Receivership must be filed in this Court. Further, on March 3, 2019, pursuant to the Order of the Supreme Court of South Carolina, Order Number 2017-03-03-01, the Chief Justice Toal (ret.) was appointed to have jurisdiction in all circuits in the State to dispose of all pretrial matters and motions, as well as trials, arising out of asbestos and asbestos litigation filed within the South Carolina state court system. Thus, the Honorable Jean H. Toal has jurisdiction over this matter.

FACTS

6. Once again, lawyers are attempting to assist Cape in avoiding liability for the damage its asbestos caused in the United States.

7. Defendant purports to represent Cape Intermediate Holdings Limited ("CIHL"), the successor in interest to Cape Industries Ltd. (f/k/a Cape Asbestos Company Ltd. and Cape PLC)

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("Cape"), and a Bailiwick of Jersey entity also named Cape plc formed in 2011. Cape was considered an industrial gem of the Anglo and De Beers mining houses, which were controlled by the powerful Oppenheimer family of Johannesburg, South Africa.[2] Cape owned and operated asbestos mines in South Africa and was involved in all elements of the global asbestos industry, including the mining of raw asbestos fiber and then selling it to the most dominant manufacturers of asbestos-containing products in the United States—substantial quantities of which were used in South Carolina. From the time Cape entered the U.S. market through its wholly owned subsidiary, North American Asbestos Corporation ("NAAC"), Cape was well aware its asbestos harmed U.S. citizens but still sent this material into the United States and South Carolina.

8. By 1977, Cape and its subsidiary NAAC were named as defendants in asbestos personal injury lawsuits in the United States, and ultimately contributed $1 million to a settlement in litigation in Tyler, Texas. Rather than take further responsibility for its tortious conduct, Cape liquidated NAAC, created a new, disguised United States company to continue its American operations, and openly refused to participate in future United States tort litigation.

9. Having employed complex and fraudulent legal maneuvering to avoid liability in American asbestos litigation—in the face of the bankruptcies of scores of companies that used Cape-supplied raw asbestos fiber—a post-asbestos Cape emerged as a world leader in its industrial insulation, scaffolding, and corrosion protection activities under the name Cape Industrial Services. In 2017, Cape plc was acquired by the Altrad Group, "a world leader in industrial services with turnover of £5 billion per year."[3]

---

[2] *See* Laurie Flynn, *Studded with Diamonds and Paved with Gold: Miners, Mining Companies and Human Rights in Southern Africa* 180 (1992) [hereinafter, "Flynn (1992)"] ("Cape Industries, a British-registered part of Harry Oppenheimer's Anglo American empire . . . [was] among the biggest asbestos producers from the beginning. . . .").

[3] *See* ***Exhibit 1****,* Letter from Winston & Strawn to Peter D. Protopapas, Aug. 30, 2024, at 2.

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10. Cape and its successors, including Altrad Group-related entities, are now forced to reckon with their U.S. asbestos scheme after more than four decades of liability avoidance. These entities, which the Receiver named as Third-Party Defendants to an asbestos personal injury action in South Carolina state court, have gone to great lengths to avoid the merits of the litigation—serially appealing non-appealable orders, improperly removing a state court case to federal court, and now threatening the receiver personally with an extra-jurisdictional temporary restraining order in the High Court of Justice of England and Wales.

BACKGROUND OF RECEIVERSHIP

A. The Receiver was duly appointed pursuant to South Carolina law when Cape failed to appear in an asbestos personal injury action.

11. On June 4, 2021, Isabella Park filed a lawsuit in Richland County, South Carolina asserting personal injury claims arising from asbestos exposure against (among others), Cape plc, individually and as successor in interest to Cape Asbestos Company Ltd. *See Park v. Armstrong Int'l, Inc. et al.*, Summons and Complaint, No. 21-CP-40-02727 (June 4, 2021), at 1, 7. Ms. Park sought relief after being "diagnosed with mesothelioma caused by exposure to asbestos dust and fibers" unintentionally "brought home" for years "as a result of her husband's work with and around asbestos-containing products." *Id*. at ¶ 4.

12. On June 9, 2021, less than five months after her diagnosis, and within five days of filing her lawsuit, Ms. Park passed away. On November 17, 2021, Ms. Park's son, Keith, amended the complaint, appearing individually and as personal representative to Ms. Park's estate (the "*Park* Plaintiffs), to assert a wrongful death action. *See Park et al. v. Armstrong Int'l, Inc., et al.*, First Amended Simmons and Complaint, No. 21-CP40-02727 (Nov. 17, 2021). The amended complaint added Cape Intermediate Holdings Limited (f/k/a Cape Intermediate Holdings PLC) as a defendant, though both Cape Intermediate Holdings Limited and Cape PLC referred to the same

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English company originally named Cape Asbestos Co. Ltd. and were identified as successors in interest to Cape Asbestos Company Ltd. *Id.* at 9; *see also id.* at ¶¶ 26–27. In December 2021, the *Park* Plaintiffs served the named Cape entity, which (as has been its practice for decades) never answered, moved, or otherwise responded to this complaint.

13. When Cape failed to answer the Park Complaint, Mr. Park moved for the appointment of a Receiver. *See Park et al. v. Armstrong Int'l, Inc., et al* March 6, 2023, Motion to Appoint Receiver, 21-CP-40-02727, Richland County). On March 17, 2023, Chief Justice Jean H. Toal (ret.) appointed Peter D. Protopapas as a receiver for an entity identified as "Cape PLC as successor in interest to Cape Industries Ltd. (f/k/a Cape Asbestos Company Ltd.)" pursuant to S.C. Code § 15-65-10(5), as well as § 15-65-10(4) in the alternative. *See Park et al. v. Armstrong Int'l, Inc., et al.*, Order Appointing Receiver, . 2021-CP-40-02727 (Mar. 17, 2023) ("Appointment Order"), at 1. Pursuant to the Appointment Order and South Carolina law, the Receiver has "power and authority [to] fully administer all assets of Cape, . . . engage counsel on behalf of Cape and take any and all steps necessary to protect the interests of Cape"—in proper satisfaction of claims against Cape—"whatever they may be." *Id*.

14. In his role as Receiver, the Plaintiff was and is charged by order of the Court to:

> (F)ully administer all assets of Cape, accept service on behalf of Cape, engage counsel on behalf of Cape and take any and all steps necessary to protect the interests of Cape whatever they may be. This order is inclusive of, but not limited to, the right and obligation to administer any insurance assets of Cape as well as any claims related to the actions or failure to act of Cape's insurance carriers.

Id.

15. The South Carolina Receivership Court further Ordered, in relevant part, that it

> (E)xpects the Receiver to investigate the existence of all insurance coverages potentially available to the company in receivership.
>
> …
>
> **The Court further orders that, as the Receiver Court, the Receiver or Cape may not be sued outside this Court without**

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> **obtaining the Receiver's consent or an order of this Court prior to doing so.**

Id. (emphasis added).

B. Chief Justice Jean Hoefer Toal (ret.), a prominent and respected South Carolina jurist, appointed the Receiver.

16. Then Chief Justice of the South Carolina Supreme Court Donald W. Beatty appointed Chief Justice Jean H. Toal as the Chief Judge for Administrative Purposes over all asbestosis and asbestos litigation filed within the South Carolina state court system on May 28, 2019. As former United States Supreme Court Justice Sandra Day O'Connor wrote of Chief Justice Toal, "Jean is truly a trailblazer in her state." W. Lewis Burke, Jr. & Joan P. Assey, *Madam Chief Justice: Jean Hoefer Toal of South Carolina*(2016) at 1. Another former United States Supreme Court Justice, Ruth Bader Ginsburg, with whom Justice Toal worked on a seminal South Carolina civil rights case from 1971 to 1973, wrote of Justice Toal, "I am pleased that I was able to collaborate with Jean at the very beginning of her career and to watch with admiration as she has risen to the pinnacle of South Carolina's judicial system." *Id.* at 6.

17. The South Carolina Supreme Court's biography of Justice Toal best articulates her storied career. "Chief Justice Jean Hoefer Toal began her service as an Associate Justice on the Supreme Court of South Carolina on March 17, 1988, becoming the first woman to serve as a Justice of the South Carolina Supreme Court. She was re-elected in February of 1996 and was elected as Chief Justice of the South Carolian Supreme Court on March 23, 2000, for the balance of the term of her predecessor, which expired June 30, 2004. She was re-elected as Chief Justice in February of 2004 and again in February of 2014, each time for ten-year terms."[4]

[4] *Chief Justice Jean Hoefer Toal,* South Carolina Judicial Branch Biography, available at https://www.sccourts.org/supreme/displayJustice.cfm?judgeID=1118 (last accessed Sept. 4, 2024).

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18. Prior to becoming a Justice on the South Carolina Supreme Court, Justice Toal was a practicing lawyer. "As a lawyer she appeared on a frequent basis in all levels of trial and appellate courts in South Carolina. She also had considerable experience as a litigator in United States District Court, the Fourth Circuit Court of Appeals and appeared as co-counsel before the United States Supreme Court. Her twenty years as a practicing lawyer included a balance of plaintiff and defense work, criminal trial work, and complex constitutional litigation. She wrote many trial and appellate briefs at all court levels. She also had considerable administrative law experience in litigation involving environmental matters, federal and state procurement, hospital certificates of need, employment matters and election matters."[5]

19. "In addition to practicing law, Chief Justice Toal utilized her law degree in public service. Beginning in 1975 she served in the South Carolina House of Representatives representing Richland County for 13 years. She was the first woman in South Carolina to chair a standing committee of the House of Representatives. She served as Chairman of the House Rules Committee and Chairman of the Constitutional Laws Sub-Committee of the House Judiciary Committee. Her legislative service included floor leadership of complex legislation in the fields of constitutional law, utilities regulation, criminal law, structure of local government, budgetary matters, structure of the judicial system, banking and finance legislation, corporate law, tort claims, workers' compensation, freedom of information act and environmental law."[6]

20. "During her 27 years on the Supreme Court, Justice Toal has written opinions addressing the full range of issues both criminal and civil which come before her Court. Also, she and two of her law clerks have authored a book entitled Appellate Practice in South Carolina."[7]

[5] *Id.*
[6] *Id.*
[7] *Id.*

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21. "In addition to her work on the bench, Chief Justice Toal has become chief advocate for South Carolina's Judicial Automation Project. Under her leadership, technology initiatives are being integrated into the eight levels of the South Carolina Judiciary. Some of the technology projects include high-speed network connectivity to all 46 county courthouses and an on-line, statewide case management system. Because of her efforts in promoting technology as a way to create a more efficient court system, Chief Justice Toal was recognized by Government Technology magazine as one of the 2002 "Top 25 Doers, Dreamers & Drivers" of technology in government."[8]

C. Following his appointment, the Receiver initiated a Third-Party Action against participants in and beneficiaries of Cape's liability avoidance scheme.

22. Once appointed, the Receiver quickly discovered through analysis of publicly available court records and other documentation that Cape's failure to appear in *Park* was just one example of a decades-long liability avoidance scheme concocted from the time that Cape's U.S. subsidiary NAAC was established in 1953 to facilitate Cape's sale of raw asbestos fibers to customers in the United States, and relied upon to escape U.S. liability once NAAC and Cape began facing torrents of asbestos-related litigation in the late 1970s.

23. On June 30, 2023, the Receiver filed a Third-Party Complaint against Mohed Altrad and Altrad Investment Authority S.A.S. ("Altrad Owners Third Party Defendants"); the U.S. subsidiaries of the Altrad Group, Arranco US LLC ("Arranco") Hawk Bidco (US) Inc., and Sparrows Offshore, LLC ("Altrad Sparrows Third-Party Defendants"); Central Mining & Investment Corporation Ltd, Charter Consolidated Ltd., and ESAB Corporation ("Charter Third-Party Defendants"); Anglo American PLC (individually and as successor in interest to Anglo American Corporation of South Africa Ltd.), De Beers PLC, De Beers Centenary AG, De Beers

[8] *Id.*

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UK Ltd., and De Beers Consolidated Mines Pty. Ltd. ("Oppenheimer Third Party Defendants") (collectively, the "Third Party Defendants"), asserting claims for (i) unjust enrichment, (ii) constructive trust, (iii) alter ego and veil-piercing liability, and (iv) an accounting. *See Tibbs v. 3M Company, et al.*, Summons and Third Party Complaint, No. 23-CP-40-01759 (June 30, 2023). Each of the Third-Party Defendants named in the Third-Party Complaint is alleged to have facilitated, caused, or directed Cape's U.S.-based asbestos sales and liability-avoidance scheme, or otherwise acted as successors in interest to or beneficiaries of entities involved in that scheme, and are therefore responsible for the bodily injuries underlying the claims against Cape, including specifically those claims asserted by South Carolinians.

24. The 65-page Third-Party Complaint alleges a deliberate system of avoiding responsibility for the harm caused by Cape's asbestos over a period of decades. In doing so, it categorizes the Third-Party Defendants into three groups: The Altrad Third-Party Defendants (Third-Party Compl. ¶ 119); the Oppenheimer Third-Party Defendants (*id*. ¶ 122); and the Charter Third-Party Defendants (*id.* ¶ 124). The Third-Party Complaint (along with other publicly available information) comprehensively describes the alleged interconnected history of Cape and certain of these entities, their alleged dominion over the South African commodity mining industry, and their alleged role in controlling, continuing, and/or benefitting from Cape's strategic exploitation of the U.S. asbestos market as well as its accompanying alleged scheme to insulate itself, and its foreign affiliates and agents, from the resulting tort litigation exposure. *See* Third-Party Complaint.

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ACTIVITIES IN CLEAR CONTRAVENTION OF THE *BARTON* DOCTRINE

25. Any claim by or against the Receiver falls squarely within the exclusive jurisdiction of the South Carolina Receivership Court under the doctrine articulated in *Barton v. Barbour*, 104 U.S. 126 (1881). Under the "*Barton* doctrine," the state court that appoints a receiver maintains exclusive jurisdiction over all claims filed by and against that receiver—subject only to the state court's own waiver of that exclusive jurisdiction. *McDaniel v. Blust*, 668 F.3d 153, 157 (4th Cir. 2012). In elaborating on the doctrine in *Porter v. Sabin*, 149 U.S. 473 (1893), the Supreme Court emphasized that federal courts *lack* jurisdiction because state receivership courts have *exclusive* jurisdiction over matters involving court-appointed receivers. The Supreme Court explained that "[w]hen a court exercising jurisdiction in equity appoints a receiver of all the property of a corporation, the court assumes the administration of the estate," and "[t]he possession of the receiver is the possession of the court." *Id.* at 479. The Receivership Court exercises exclusive *in rem* jurisdiction over all the property in its possession, including the Receiver's claims on behalf of the estate. *See Penn Gen. Cas. Co. v. Commonwealth of Pennsylvania ex rel. Schnader*, 294 U.S. 189, 195 (1935) ("[T]he principle, applicable to both federal and state courts, is established that the court first assuming jurisdiction over the property may maintain and exercise that jurisdiction to the exclusion of the other. This is the settled rule with respect to suits in equity for the control by receivership of the assets of an insolvent corporation."). And "[i]t is for *that court*, in its discretion, to decide whether it will determine for itself all claims of or against the receiver or will allow them to be litigated elsewhere." *Porter*, 149 U.S. at 479 (emphasis added).

26. Further, the *Barton* doctrine is *not* an abstention doctrine, and no court has held that it is. Instead, it is an expression of the exclusivity of *in rem* jurisdiction. *See Penn Gen. Cas. Co.*, 294 U.S. at 195. Unlike familiar abstention doctrines, the *Barton* doctrine now also has a statutory basis as 28 U.S.C. § 959 codified the *Barton* doctrine and legislatively carved out one exception

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from it. *See In re McKenzie*, 716 F.3d 404, 423 (6th Cir. 2013) (describing Section 959(a) as adding an "exception" to the *Barton* doctrine); *Satterfeld v. Malloy*, 700 F.3d 1231, 1237 (10th Cir. 2012) (same); *SEC v. Rubera*, 535 F. App'x 553, 554 (9th Cir. 2013) ("In *Barton v. Barbour*, the Supreme Court set forth the general rule—which, with a specific exception, is now embodied in 28 U.S.C. § 959(a).").

27. The United States Court of Appeals for the Fourth Circuit in *Protopapas v. Travelers Casualty & Surety Co.*, 94 F.4th 351 (4th Cir. 2024), applying *Barton*, confirmed that the state court appointing a receiver has exclusive jurisdiction over that receiver :

> Exercising federal jurisdiction over a suit by or against a state-appointed receiver, who functions as an "arm" or "executive" of the state-receivership court, would infringe on the state court's control over the receivership assets—its exclusive jurisdiction. Thus, as a matter of comity, as well as custom, the *Barton* doctrine rests on this exclusivity of the state receivership over the assets before it as a matter of jurisdiction, and indeed we have confirmed as much. *See, e.g., Conway* [*v. Smith Dev., Inc.*], 64 F.4th [540,] 545 [4th Cir. 2023] (noting that "Barton concerns subject-matter jurisdiction"); *McDaniel* [*v. Blust*], 668 F.3d [153,] 156 [4th Cir. 2012] (noting that "[t]he Supreme Court established in Barton that before another court may obtain subject-matter jurisdiction over a suit filed against a receiver for acts committed in his official capacity, the plaintiff must obtain leave of the court that appointed the receiver").

Id. at 358.

28. The United States District Court for the District of South Carolina likewise has routinely rejected attempts to remove cases involving receivers—properly remanding them back to the receivership courts that enjoy exclusive jurisdiction over them. *See, e.g.*, *Pipe & Boiler Insulation, Inc. v. Cont'l Ins. Co. et al.*, No. 3:21-cv-03033-SAL, ECF No. 153, at 4–9 (S.C. Ct. Com. Pl. Mar. 9, 2023) (remanding receivership matter because "the *Barton* doctrine prevents Defendants from removing this matter, filed *by* a Receiver, to federal court," while also considering judicial economy in light of the fact that any "settlement agreement is not final until the

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Receivership Court approves the settlement"); *Protopapas v. Zurich Am. Ins. Co. et al.*, No. 3:21-cv-04086-DCC, ECF No. 180, at 4–6, 10 (S.C. Ct. Com. Pl. Feb. 24, 2023) (remanding receivership case because "*Barton*, and its subsequent application in *Porter*, act as a limitation on federal jurisdiction when a state court has previously exercised its authority by appointing a receiver," such that allowing removal "would directly interfere with the exclusive jurisdiction of the receivership court over this dispute"); *see also Southern Insulation, Inc. v. OneBeacon Ins. Grp., Ltd.*, No. 3:22-cv-01308-MGL, ECF No. 46, at 4–6 (S.C. Ct. Com. Pl. Nov. 8, 2022) (remanding receivership case on other basis).

29. Despite these clear pronouncements from the United States Supreme Court, the United States Court of Appeals for the Fourth Circuit, and the United States District Court for the District of South Carolina, Anglo American plc improperly removed the entire case from the receivership court to federal court on June 28, 2024—almost a year after the Receiver filed its third-party action against the Third-Party Defendants in *Tibbs*. Even though Altrad Investment Authority S.A.S. and Mohed Altrad have repeatedly asserted that their appeals of prior orders of the Receivership Court prevent the matter from proceeding despite orders from the South Carolina Court of Appeals to the contrary, they also consented to this belated attempt at removal to federal court, on the improper contention that this matter is "not properly characterized as a third-party action," while also incorrectly asserting that "plaintiffs had dismissed their claims against Cape."

30. On August 13, 2024, the Honorable Judge Mary G. Lewis of the United States District Court for the District of South Carolina remanded the case to the South Carolina state court. *See* August 13, 2024, Order Granting Motion to Remand, United States District Court, Columbia Division, 3:24-3771-MGL, ECF No. 75. Judge Lewis reasoned that South Carolina state court appointed the receiver "pursuant to S.C. Code Ann. § 15-65-10, 'A receiver represents the Court appointing him; he is an officer of the Court and is the agency through which the Court acts.

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As he has no power other than that given him by the Order of appointment, his authority is derived solely from the Court. He is subject only to the Court's direction.'" *Id.* at 5.

31. Judge Lewis further explained,

> The Removing Defendants contend the Barton doctrine does not apply because (1) since the Removing Defendants do not have assets in South Carolina, removal does not interfere with the state court's control over in-state assets; (2) the Receiver is acting ultra vires because he cannot assert control over assets outside of South Carolina; (3) the Receiver's lawsuit violates the Commerce Clause of the United States Constitution; (4) and the Receiver's lawsuit violates South Carolina's receivership statute. Anglo American's Opp'n to Pl.'s Mot. to Remand, ECF No. 45 at 19-28. These and other questions interpreting the statutory authority of the Receiver must be raised in state court and, if necessary, appealed through the state system. **It is not for this Court to sit in judgment of the Receiver's actions taken as a representative of the court that appointed him**. *Rooker v. Fidelity Trust Co*., 263 U.S. 413 (1923); District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983).

Id. at 7-8 (emphasis added).

SOUTH CAROLINA BARRED LAWYER EMPLOYEES OF DEFENDANT ARE AWARE OF SOUTH CAROLINA RECEIVERSHIP LAW

32. Defendant is fully aware of the exclusive jurisdiction of this Court. In its August 30, 2024, Pre-Action Letter to the Receiver, Winston & Strawn specifically notes the Third-Party Defendants' failed removal: "As you will be aware, various of the Third-Party Defendants in the 3P Complaint, applied to transfer the 3P Complaint from the South Carolina Court to a Federal Court. By an order of 13 August 2024, the Federal Court remanded the case back to the South Carolina Court." *See* **Exhibit 1**.

33. This admission was made within the context of a Pre-Action Letter in which Cape Intermediate Holdings Limited and Cape PLC threaten "to commence proceedings" against the Receiver personally if he does not consent to a one-sided, self-serving "Draft Order." *Id.* at 1. Among other items, the Order declares that "Mr. Protopapas has and had no power or authority to

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act as receiver in relation to the Claimants in England and Wales ***or worldwide*** and has no power or authority in respect of the Claimants in England and Wales ***or worldwide*** to carry out the acts referred to in paragraphs 5-8 below. *Id.* at 10 (emphasis added). Further, paragraphs 7 and 8 of the Order appear to enjoin the Receiver Court in South Carolina from acting, in direct contravention of the *Barton* doctrine:

> 7. Mr. Protopapas be injuncted from acting or purporting to act as a receiver of the Claimants in the Park Claim and the Tibbs Claim (as defined in Oren 1.)
>
> 8. Mr. Protopapas be injuncted from litigating as "Cape plc" or CIHL in any legal proceedings in the State of South Carolina, USA or elsewhere.

Id. at 10.

34. Defendant Winston & Strawn is an international law firm with multiple offices in the United States.

35. Advertising itself as a "global powerhouse in the restructuring and insolvency space," Winston & Strawn offers "a fully integrated team of attorneys across a global platform to guide clients through any distressed situation."[9] Winston & Strawn's lawyers have contributed to scholarship in the restructuring space, some of which specifically address the application of the *Barton* doctrine. For instance, JoAnn J. Brighton, identified as associated with Winston & Strawn, contributed to the 2013 American College of Bankruptcy Circuit Review of Consumer Cases.[10] Ms. Brighton contributed to a section related to the Fourth Circuit, which highlighted the Fourth Circuit opinion in *McDaniel v. Blust*, 668 F.3d 153 (4th Cir. 2012). The summary specifically referenced the Court's holding as to the *Barton* doctrine's application to bankruptcy trustees:

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[9] Restructuring & Insolvency, Winston & Strawn, available at https://www.winston.com/en/capabilities/services/restructuring-and-insolvency (last accessed Sept. 4, 2024).

[10] PDF available at https://www.americancollegeofbankruptcy.com/file.cfm/38/docs/2013-Consumer-Circuit-Review.pdf (last accessed Sept. 4, 2024).

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> Principals of a chapter 7 debtor sued the chapter 7 trustee's counsel in state court for various acts of misconduct by counsel in connection with the filing of an adversary proceeding. The case was removed to federal district court, which found that the Barton doctrine applied and dismissed the suit as to trustee's counsel. On appeal the Fourth Circuit affirmed. **Under the Barton doctrine, which applies to bankruptcy trustees, a plaintiff must obtain approval from the appointing bankruptcy court prior to filing suit against the trustee for acts committed in the trustee's official capacity. Moreover, "a bankruptcy trustee 'is an officer of the court that appoints him,' and therefore that court 'has a strong interest in protecting him from unjustified personal liability for acts taken within the scope of his official duties.'"** Id. at 157. The trustee retained counsel to prosecute the adversary proceeding, and counsel's activities were within the scope of its employment even if some of its activities had not been directed by the trustee.[11]

36. Additionally, Winston & Strawn partner James T. Bentley serves on the Bankruptcy Advisory Board of Strafford, a Barbri Company.[12] Strafford currently is advertising a Bankruptcy CLE webinar on Thursday, October 24, 2024, entitled " Representing Chapter 11 Trustees in Operating Cases: Navigating 28 U.S.C. 959, Barton Doctrine, Limits of Immunity." The preview outline of the CLE includes a section on "Heightened protection under Barton doctrine and quasi judicial immunity."[13]

37. Winston & Strawn employees Kobi K. Brinson, Terry M. Brown, Stacie Knight, and Alyson G. Traw are barred in South Carolina. *See* South Carolina Bar Associations Member Directory as of August 30, 2024. Employee Brinson herself is a member of the firm's Bank Receivership Task Force, presumably meaning that she has familiarity with Receivership law including the *Barton* Doctrine.

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[11] *Id.* at 48.
[12] Representing Chapter 11 Trustees in Operating Cases: Navigating 28 U.S.C. 959, Barton Doctrine, Limits of Immunity, available at https://www.straffordpub.com/products/representing-chapter-11-trustees-in-operating-cases-navigating-28-u-s-c-959-barton-doctrine-limits-of-immunity-2024-10-24 (last accessed Sept. 4, 2024).
[13] *Id.*

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38. As South Carolina lawyers, these individuals are keenly aware of this Court's exclusive jurisdiction over the Receiver under *Barton v. Barbour*, 104 U.S. 126 (1881); *Porter v. Sabin*, 149 U.S. 473 (1893); *Protopapas v. Travelers Casualty & Surety Co.*, 94 F.4th 351 (4th Cir. 2024); and the South Carolina federal district court order of August 13, 2024 in this action, 3:24-3771-MGL, ECF No. 75.

39. Against this backdrop, ignoring decisions of the United States Supreme Court, the United States Court of Appeals for the Fourth Circuit, and the United States District Court for the District of South Carolina, Defendant has threatened the Receiver personally with litigation in a foreign jurisdiction designed both to intimidate Mr. Protopapas as an individual and to seek to avoid the December 9, 2024, trial in this action.

USE OF PROCEDURAL TACTICS TO AVOID LITIGATION IN STATE COURT

40. Winston's threats against the receiver in its August 30, 2024 letter are only the latest in a series of actions designed to avoid a December 9, 2024 bench trial action in the receivership court. The Third-Party Defendants initially attempted to avoid its South Carolina asbestos liabilities as alleged in the Third-Party Complaint by moving to dissolve the Cape receivership. In an Order dated December 6, 2023, Chief Justice Toal (ret.) first denied the Third-Party Defendants' arguments that Cape was not properly served:

> The Court is disturbed by evidence in the record indicating a decades-long practice by Cape of ignoring asbestos lawsuits filed against it in the United States—simply accepting defaults ostensibly because it believes defaults entered by this Court cannot be enforced. Cape's own disclosures are before this Court, and they reveal Cape never intends to respond to litigation pending in the United States in the future, because that would purportedly "have a materially adverse effect on the financial status of the Group and almost certainly result in insolvency proceedings." It is against that backdrop that the Court examines Third-Party Defendants' arguments regarding service and ultimately rejects them as unfounded.

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See Tibbs v. 3M Company, et al., Order Denying Certain Third Party Defendants' Motions to Dissolve Receivership, No. 2023-CP-40-01759 (December 6, 2023) at 16. The Third-Party Defendants attempted to inject confusion into the question of service by introducing a second Cape PLC entity that was allegedly created in the Bailiwick of Jersey in April 2011 and identified in the *Park* litigation for the first time by the Third-Party defendants in their responsive pleadings to the Receiver's Third-Party Complaint as the entity that the plaintiffs intended to sue. *Id.*at 17. The Court identified this as a "red herring argument," summarily dismissed it, and found that the *Park* Plaintiffs effectively served the 130-year old Cape entity (known as Cape PLC from 1989 to 2011) organized under the laws of the United Kingdom. *Id.* at 18-19.

41. Chief Justice Toal (ret.) also rejected the Third-Party Defendants' arguments that the Receiver was improperly appointed. *See Id.* at 23-25.

42. Finally, in the same December 6, 2023 Order, Chief Justice Toal (ret.) denied the Third-Party Defendants' respective personal jurisdiction motions. *See id.* at 26-73. Specifically, the Court found that it had jurisdiction:

> (O)ver Cape as a "person who act[ed] directly or by an agent as to a cause of action arising from" Cape's and NAAC's (i) "causing tortious injury or death in this State by an act or omission outside this State" and by "regularly . . . engag[ing] in [a] persistent course of conduct, or deriv[ing] substantial revenue from goods used or consumed or services rendered in this State," and/or (ii) "production, manufacture, or distribution of goods with the reasonable expectation that those goods are to be used or consumed in this State and are so used or consumed." S.C. Code §§ 36-2-803(4), (8).

Id. at 36.

43. Further, in a carefully considered, nine-page analysis of personal jurisdiction as to the Altrad Third-Party Defendants, the Court found:

> The Third-Party Complaint, along with the submitted affidavits and publicly available materials presented to the Court, adequately alleges facts sufficient to support the exercise of personal jurisdiction over each of the Responding Altrad Third-Party

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> Defendants—the current owners of Cape—under an alter ego, guiding light, and/or single business enterprise theory. . . . The Altrad Third-Party Defendants are alleged to be responsible, with Cape, for an ongoing scheme to evade responsibility for harm caused to South Carolinians by Cape's asbestos, while also financially benefitting from that scheme as effective alter egos of Cape. As detailed below, the Court finds that consistent with fair play and substantial justice, it can exercise jurisdiction over each of these Responding Altrad Third-Party Defendants, based on the record before the Court at this early stage.

Id. at 38.

USE OF SERIAL APPEALS IN FURTHERANCE OF LITIGATION AVOIDANCE

44. In furtherance of their attempt to avoid the impending December 9, 2024 trial date in the Receivership Court, the Third-Party defendants have filed 13 appeals in South Carolina. Most recently, on September 3, 2024, Charter Consolidated Ltd., ESAB Corporation, and Central Mining & Investment Corporation Ltd. filed a Petition for Writ of Certiorari in the South Carolina Supreme Court seeking review of the South Carolina Court of Appeals' May 9, 2024 decision dismissing the Third-Party Defendants' appeal of the December 6, 2023 Order denying the Motion to Dissolve the Receivership as not immediately appealable.

45. Further, on August 30, 2023, the multiple entities consisting of the Charter Third-Party Defendants, Altrad Owner Third-Party Defendants, and Altrad Sparrows Third-Party Defendants each filed appeals couched as "mode of trial" appeals. In each of the three mode of trial appeals, the Third-Party Defendants assert that they have been deprived of their constitutional right to a jury trial because the circuit court issued a Scheduling Order setting the Receiver's Third-Party Action in *Tibbs* for a non-jury trial on December 9, 2024. The Receiver has moved to dismiss the appeals because (1) none of the Receiver's claims are triable by a jury, (2) the scheduling order is not appealable, and (3) the Third-Party Defendants waived their ability to argue their entitlement to a jury trial because they never contested that this case would be tried in a bench trial, despite myriad opportunities to do so.

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46. These mode of trial appeals are substantially similar to those employed by another defendant to an unrelated receivership action, Penn National, which successfully delayed a December 12, 2022 scheduled trial in that case for nearly a year. The Court of Appeals dismissed Penn National's appeal, and, on November 7, 2023, the South Carolina Supreme Court denied the Petition for Certiorari in *Covil Corp. v. Penn Nat'l Mut. Cas. Ins. Co.*, 2023-001079. That case was finally tried on November 27 and 28, 2023.

47. The volume of appeals of interlocutory orders—all of which are not immediately appealable under South Carolina law—has frustrated the Receiver Court and the court-appointed Receiver's ability to fulfill his duties.

48. Further, in its decision in *Childers v. Davis Mechanical Contractors*, Appellate Case No. 2023-000727 (Sep. 08, 2023), the South Carolina Court of Appeals, considering the effect of an appeal of a motion to dismiss third-party claims and dissolve the Payne & Keller receivership, stated that the Order Denying the Motion to Dismiss and Dissolve the Receivership "is not stayed during the pendency of this appeal. . . . Accordingly, the receivership action and the receiver's ability to carry out his duties are not stayed." *Id.* at 3. Directly violating the South Carolina Court of Appeals' order, many of the Third-Party Defendants, including the Altrad defendants, assert that the pendency of their appeals protects them from answering discovery—even after the trial court issued sanctions and adverse inferences against them for failure to participate in discovery.[14]

[14] *See, e.g.* Third-Party Defendant Mohed Altrad's Responses and Objections to the Receiver's Second Set of Interrogatories and Second Set of Requests for Production, at 3 ("In addition to the Reservation of Rights stated above, the Third-Party Defendant objects to this Interrogatory on the grounds that the Circuit Court lacks jurisdiction, and the Receiver is without authority, to proceed with this matter at the present time, as all issues regarding the purported Receiver's appointment and his purported authority to engage in litigation are presently pending before the South Carolina Court of Appeals").

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FLAGRANT REFUSAL TO PARTICIPATE IN THE SOUTH CAROLINA STATE COURT ACTION

49. The Receiver's Third-Party Action in *Tibbs* initially was scheduled for a bench trial set to commence April 15, 2024. The Court was forced to continue the bench trial during an April 10, 2024 pre-trial hearing "because of the Altrad and Charter Third Party Defendants' refusal to provide **any** discovery to the Receiver to prepare this case for trial." *Tibbs v. 3M Company, et al.*, Order, No. 23-CP-40-01759 (May 23, 2024) at 10-11.

50. The Altrad and Charter Third Party Defendants' failure to participate in discovery initially was the subject of a first motion to compel, which the Court granted on March 12, 2024. Pursuant to the March 12 Order, the Court directed all Third-Party Defendants "(i) to provide responsive, substantive, and complete answers to the Receiver's Discovery Requests within 14 days of entry of this Order and (ii) to begin producing documents in response to the Receiver's Requests for Production the same day," and (iii) as to Arranco and Central Mining, "to designate witnesses for . . . Rule 30(b)(6) depositions" by March 19, and "produce those witnesses" by April 2. *Tibbs v. 3M Company, et al.*, Order, No. 23-CP-40-01759 (March 12, 2024) at 13.

51. In the May 23 Order in *Tibbs*, the Court found that the "only excuses offered by these Third-Party defendants are frivolous. . . . They argue that Rule 205, SCACR, poses a jurisdictional bar preventing this third-party action from continuing, because by simply appealing [their] denied motions to dissolve the receivership, they can deprive the trial court of jurisdiction for an indeterminate time period." *See Tibbs,* Order of May 23, 2024, at 11-12. Citing a string of orders by the South Carolina Court of Appeals and the South Carolina Supreme Court in receivership actions, the Court reasoned, "Thus, the Supreme Court and Court of Appeals have

made clear that—categorically—the denial of motions to dismiss and dissolve a receivership, like discovery orders, are not immediately appealable." *Id.* at 12.

52. The Court further noted that the Altrad and Charter Third-Party Defendants "continue to refuse any effort at compliance with the Court's orders and the discovery rules of this State," and their continuation of their misconduct "[d]espite multiple warnings by this Court and directives to **proceed with discovery**." *Id.* at 15 (emphasis in original). As a result, the Court found that "this continued discovery misconduct on the part of these Third-Party Defendants amounts to bad faith, willful disobedience, and gross indifference to the rights of the Receiver and this Court's management of its docket." *Id.* Based on this discovery misconduct, the Court found "Certain adverse inferences to be warranted . . . against the Altrad and Charter Third-Party Defendants on facts and matters underlying the Receiver's claims." *Id.*

53. Given these findings, as to the Altrad Third-Party Defendants, the Court drew the adverse inference "that each of the Altrad Third-Party Defendants was at relevant times the alter ego of Cape, requiring piercing of the corporate veil. Likewise, each of the Altrad Third-Party Defendants is responsible for or has benefitted unjustly from Cape's liability-avoidance scheme." *Id.* at 27. To reach that general inference the Court also entered 47 separate adverse inferences related to the relationship between Altrad and Cape, Altrad's responsibility for Cape, the relationship between Altrad and the Altrad Sparrows Third-Party Defendants, the common ownership between Altrad and Cape and Altrad's liability for Cape's activities, the Altrad Defendants' liability as the alter ego of Cape, and the unjust enrichment from which the Altrad Defendants have benefitted as a result of the Cape liability avoidance scheme. *Id.* at 27-31. The Court also emphasized that those inferences were rebuttable, should these Third-Party Defendants choose to start participating in the litigation and offering a viable defense. Instead of participating

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in the South Carolina proceeding, Winston now threatens the South Carolina receiver with litigation in London if he does not defy the lawful court orders appointing him.

FOR A FIRST CAUSE OF ACTION

(Declaratory Judgment)

1. The foregoing allegations are realleged and reincorporated as if fully set forth herein verbatim to the extent not inconsistent herewith.
2. Defendant has threatened the Receiver personally with litigation in the High Court of England and Wales.
3. Pursuant to SC Code Ann § 15-53-10, et. seq, the Receiver seeks a declaratory judgment as follows:
    a. Plaintiff seeks a declaration of the legal relationship between Plaintiff and Defendant.
    b. That Plaintiff is the duly appointed receiver for Cape PLC;
    c. That Plaintiff is a court appointed officer of the Court;
    d. That Defendant is improperly demanding Plaintiff violate orders of the South Carolina courts;
    e. That Defendant is improperly interfering with an Officer of the Court in the conduct of his duties;
    f. That Defendant is attempting to induce Plaintiff to violate the Rules of Professional Conduct that governs lawyers in South Carolina;
    g. That Defendant's conduct has violated the Rules of Professional Conduct in South Carolina;
    h. That Defendant is attempting to intimidate and Officer of the Court in the conduct of his duties;

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i. That Defendant is acting outside the scope of its representation of a client when it threatens to a Receiver in the performance of his duties;

j. That Defendant does not represent Plaintiff and therefore can take no action on his behalf;

k. That Defendant is no longer acting as attorneys when it attempts to threaten, extort, and/or intimidate a Receiver during the performance of his duties;

l. That Defendant's conduct is an attempt to obstruct justice;

m. That Defendant's conduct is in violation of the Court's order appointing Plaintiff as Receiver;

n. That Defendant's conduct is a wrongful attempt to interfere with the due administration of justice; and

o. That Defendant's conduct is a fraud on the court.

4. Plaintiff also seeks a further declaration that Plaintiff shall comply with his duly-assigned obligations as Receiver without interference from Defendant.

5. Plaintiff also seeks a further declaration that Defendant, with its South Carolina licensed lawyer employees, is not entitled or permitted to be used as an instrumentality to aid and abet Cape's decades old litigation avoidance scheme designed to insulate it from the significant tort liability arising from its history of sales of asbestos fiber across the United States market, including in South Carolina.

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PRAYER FOR RELIEF

WHEREFORE, Peter D. Protopapas, as the duly-appointed Receiver for Cape PLC, demands judgment against defendants as follows:

A. For Plaintiff's costs, expenses, and attorneys' fees for bringing this action;

B. For the declaratory relief stated above;

C. For such other and further relief as the Court may deem just and proper, including pre-judgment and post-judgment interest as provided by South Carolina.

HARLING & WEST, LLC

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September 5, 2024

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30 August 2024

FAO: Peter D. Protopapas
Rikard & Protopapas, LLC,
2110 N Beltline Blvd,
Columbia SC 29204

BY EMAIL ONLY: pdp@rplegalgroup.com

Dear Mr Protopapas

Re: Pre-Action Letter Regarding Declaratory and Injunctive Relief Contemplated Before the English court

Introduction

We are instructed by Cape Intermediate Holdings Limited ("**CIHL**") (a company incorporated in England and Wales) and Cape Plc ("**Cape plc**") (a company incorporated under the laws of Jersey) (together, "**the Claimants**").

We are writing to request that:

1. you agree to consent by 12 pm on Friday 6 September to the terms of the draft court order we propose to seek from the English Court, which is provided at Annex A ("**the Draft Order**").

2. alternatively, should you be unwilling to agree to the terms of the Draft Order, you agree to accept service of our clients' claim form and related documents on counsel you have engaged in London (Morgan, Lewis & Bockius UK LLP), or out of the jurisdiction at 2110 N Beltline Bvld, Columbia, South Carolina 29204, United States of America.

Should you decline to consent to the Draft Order, our clients intend to commence proceedings against you in the English Court pursuant to Part 8 of the CPR for an order substantially in the form set out in the Draft Order ("**the Part 8 Claim**"). Should you decline to provide your agreement to accept service, our clients will make an application for permission to serve the Claim out of the jurisdiction.

Winston & Strawn London LLP is a limited liability partnership registered in England and Wales under number OC386268. It is authorised and regulated by the Solicitors Regulation Authority. The word 'partner' is used to refer to a member of the LLP or to an employee or consultant with equivalent status. A list of members is open to inspection at the registered office. Winston & Strawn London LLP is affiliated with Winston & Strawn LLP, which operates Winston & Strawn offices outside of England and Wales.

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Factual background to the Part 8 Claim

CIHL is a holding company registered in England and Wales and is the successor to "Cape Asbestos Company Ltd" (which was incorporated in 1893).

Cape plc is a company incorporated in Jersey in 2011. It is the ultimate parent company of the Cape group of companies ("**the Cape Group**"). In 2017 Cape plc was acquired by Altrad UK Ltd (which is part of the Altrad group of companies – "**the Altrad Group**" – a world leader in industrial services with a turnover of £5 billion per year).

The Part 8 Claim arises in the context of (and relates to) certain legal proceedings in the US commenced against "Cape plc" and CIHL.

These proceedings ("**the USA Proceedings**") involve two separate actions in the Court of Common Pleas, State of South Carolina, County of Richland ("**the South Carolina Court**") against various defendants for the alleged exposure of the respective plaintiffs to asbestos. The two separate actions are: (1) the "**Park Claim**" (which was initiated in June 2021 by Ms Park, and subsequently taken over by her son) and (2) the "**Tibbs Claim**" (which was brought in April 2023 by Mr and Mrs Tibbs).

In the Park Claim, the Summons and Complaint names "Cape plc" as a defendant – and an Amended Summons and Complaint has added CIHL as a defendant. In the Tibbs Claim, "Cape plc" is a named defendant (but CIHL is not a named defendant).

The Part 8 Claim relates to certain of your actions in the Park Claim and the Tibbs Claim – which actions you purport to pursue in the name of and on behalf of the Claimants. Specifically, we refer to the following:

1. The Receivership Order.

    (a) This is the receivership order of Toal J dated 16 March 2023 ("**the Receivership Order**") that was granted pursuant to the Park Plaintiffs' motion dated 6 March 2023 ("**the Receivership Motion**"). (see enclosure)

    (b) The Receivership Order[1] appears to provide you with very broad powers in your capacity as receiver, including "***the power and authority [to] fully administer all assets of Cape[2]****, accept service on behalf of Cape, engage counsel on behalf of Cape and* ***take any and all steps necessary to protect the interests of Cape whatever they may be***" (emphasis added).

    (c) The Receivership Motion was based on rule 15-65-10(4) of the South Carolina Code which provides that a receivership order can be made in relation to a company where it (1) is dissolved (2) is insolvent or in imminent danger of insolvency or (3)

[1] While it is only Cape plc that is named in the Receivership Order, you have subsequently confirmed that CIHL was the only company over which the Receivership Order was intended to be made, and the Claim has been issued in the name of both the Claimants (i.e. CIHL and Cape plc) as 'belt and braces' and in order to provide maximum security/protection to those companies' respective positions.

[2] "Cape" is defined in the Receivership Order as "*Cape PLC as the successor in interest to Cape Industries Ltd. (f/k/a Cape AsbestosCompany Ltd.) ("Cape Asbestos") and its subsidiaries and global affiliates*".

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has forfeited its corporate rights. Neither Cape plc or CIHL have been dissolved, nor are they insolvent, nor are they in imminent danger of insolvency.

(d) Despite the Tibbs Plaintiffs never having issued a motion seeking to appoint you as a receiver of Cape plc or CIHL in the Tibbs Claim, you have purported to act as such.

(1) The 3P Complaint.

(a) These are the third-party proceedings issued by you on 30 June 2023 in the name of and on behalf of Cape plc against a variety of defendants ("**the 3P Complaint**").

(b) The 3P Complaint was stated to be brought by "*Cape plc, individually and as successor in interest to Cape Asbestos Company Limited, by and through its duly appointed Receiver Peter D. Protopapas*" against various third party defendants ("**the Third-Party Defendants**") including, but not limited to, "Cape Holdco Ltd", "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 S.A.S.", "Sparrows Offshore Group Limited", "Hawk Bidco US Inc", "Arranco US, LLC", "Sparrows Offshore, LLC" and "The Sparrows Group LLC".

(c) The Third-Party Defendants include, *inter alia*, both the direct subsidiaries and the immediate parent companies of the Claimants.

(d) The 3P Complaint is based on many highly contentious and wide-ranging allegations against Cape itself – and also purports to constitute admissions by Cape which are against the best interests of Cape.

(e) The claims sought in the 3P Complaint are based on unjust enrichment and/or constructive trust and/or alter-ego and veil-piercing liability and/or accounting. The claims are for an indeterminate amount.

(f) There is no express authority given to a receiver under rule 15-65-10(4) of the South Carolina Code to pursue third-party derivative claims and the Receivership Order did not expressly authorise you to initiate any third-party derivative proceedings.

(g) Despite this, you have taken the various steps in the name of Cape plc in pursuit of the 3P Complaint. Amongst other things, this has included: (i) seeking and obtaining the 3P Complaint Default Judgement against certain Third-Party Defendants including the Claimants' direct parent and subsidiaries (which include companies in the Altrad Group, and upon which the Cape Group rely for funding/financing and business cross-opportunities); (ii) making motions for disclosure, adverse inferences and sanctions for adverse inferences against certain Third-Party Defendants.

In terms of the Park Claim and the Tibbs Claim, the position is that at no stage have CIHL or Cape plc submitted to the jurisdiction of the South Carolina Court in the Park Claim or the Tibbs Claim. In this regard, CIHL and Cape plc refer to and rely upon the decision of the English Court of Appeal in Adams v Cape Industries Plc [1990] 1 Ch 433 ("**Adams v Cape**"). Nor has there been any judgment made in the Park Claim or the Tibbs Claim against CIHL or Cape plc in the State of South Carolina.

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Our clients' reasons for requesting relief from the English court should you fail to agree to the terms of the Draft Order

As a matter of English private international law (which is the law governing the incorporation of CIHL) the Receivership Order has not been made by a court of competent authority, it cannot be recognised or enforced as such in England and Wales, and it provides no legitimate basis upon which you can act as the receiver of CIHL. You therefore have no authority or mandate to act on behalf of CIHL, and the directors of CIHL require you to cease and desist from purporting to do so. The same applies in respect of Jersey law and Cape plc.

In this regard:

1. CIHL is a holding company incorporated in England, which is where its management and control is based. It does not carry on any business activities in the US, or the State of South Carolina (and never has) and its management and control is not, and never has been, in the US or the State of South Carolina. It also has no, and never has had any, assets in the US or the State of South Carolina.

2. Cape plc is a holding company incorporated in Jersey, its management and control is not in the US or the State of South Carolina, it does not carry on business in the US, or the State of South Carolina and it has no, and never has had any, assets in the US or the State of South Carolina.

3. Accordingly, neither CIHL nor Cape plc have any connection with the State of South Carolina.

4. In terms of the Park Claim and the Tibbs Claim, the position is that at no stage have CIHL or Cape plc submitted to the jurisdiction of the South Carolina Court in the Park Claim or the Tibbs Claim.

5. In these circumstances, as a matter of English private international law the Receivership Order made by the South Carolina Court is not capable of recognition or enforcement by the English Court. It does not satisfy the "*sufficient connection*" threshold test for the recognition of the appointment of a foreign receiver as a matter of English private international law (in relation to which see the decision Goulding J in Re Schemmer [1975] Ch 273). As to this:

   (a) Pursuant to this test, the English Court is required to determine whether a foreign court was jurisdictionally capable to make the appointment according to the relevant principles of English private international law.

   (b) The "*sufficient connection*" test involves looking at the place of incorporation, where a company's management and control is based, whether a company is carrying on business within the jurisdiction of the foreign court and whether a company has submitted to the jurisdiction of the foreign court.

   (c) In the light of the above facts, none of those criteria are satisfied in this case.

6. In this regard, it should be noted that the only relevant American subsidiary of CIHL was North American Asbestos Corporation, which was dissolved in 1978 and has been the subject of controversy in historic American asbestos litigation. However, in Adams v Cape the English Court of Appeal specifically found that CIHL was not present in the US jurisdiction via NAAC

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for the purposes of applying the common law test on the recognition of foreign judgments and that it had not otherwise submitted to the jurisdiction of the US Courts. That is the established legal position.

7. Given that, the English Court cannot recognise a final (let alone an interlocutory) US judgment against CIHL as having been made by a jurisdictionally competent foreign court it therefore follows that the English Court cannot recognise a receivership order against CIHL made on the same basis. The same applies in respect of Cape plc.

8. In this regard, the question of capacity and the constitution of the Claimants, namely, whether the acts of its directors, or others who purport to be the companies' agents, are the acts of CIHL is exclusively a question of English law, in the case of CIHL, and Jersey law in the case of Cape Plc. The law of the place of incorporation determines who are the corporation's officials authorised to act on its behalf. The appointments of the directors of CIHL are therefore governed by the law of England in the case of CIHL, and Jersey in the case of Cape plc.

9. Further, as a matter of English law, the appointment of the directors of CIHL and their competence to act on its behalf is legally unaffected by the Receivership Order made by the South Carolina Court. The same applies under Jersey law in respect of Cape plc. In this regard, any questions in relation to the governance of a company incorporated in England and Wales are plainly and properly a matter for the supervision and determination of the English Court.

10. The *de jure* directors of the Claimants (whose authority arises pursuant to the Claimants' articles of association, as well as the English Companies Act 2006 and the Jersey Companies Law 1991) remain in lawful control of the Claimants. Accordingly, the directors of both of the Claimants are entitled to seek the relief sought from the Court to be able to manage respectively CIHL and Cape plc in accordance with their best interests.

11. Accordingly, and for these reasons, and given that as a matter of English law the South Carolina Court was not jurisdictionally competent to make the Receivership Order, you have had no legitimate basis for acting and you have been acting without the Claimants' authority and/or any mandate from the Claimants.

12. The directors of CIHL and Cape plc are entitled to the relief sought against you to prevent the actual and potential harm caused by your actions. They rely *inter alia* on the following:

    a. The negative impact on directors/management. There are currently two conflicting centres of authority, which is highly prejudicial to the directors of the Claimants and the proper management of those companies (and the broader group of which they form part).

    b. The negative impact on operations/business. Customers and/or suppliers of the Cape Group (who will carry out regular credit checks and adverse media checks through their online reporting databases) will be concerned as to the extent to which authority is apparently vested in yourself as receiver and this could adversely impact their willingness to do business with the companies within the Cape Group (which are the operational subsidiaries of CIHL and Cape plc).

    c. The issues associated with your purported authority to deal with all the assets of the Claimants on a worldwide basis. In this regard, the Claimants own substantial assets

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worldwide (for example, the shares that they own in the subsidiary trading companies of the Cape Group – which has a turnover of approximately £1 billion per year).

d. The negative impact on the reputation of the Claimants and the broader Cape Group. The Cape Group has a valuable brand, both in the UK and abroad, which it has sought to protect and secure.

e. The negative impact on the Scheme of Arrangement in respect of CIHL (and 12 other subsidiary companies in the Cape Group) which was sanctioned in 2006 and continues to be supervised by the English High Court.

f. The negative impact on the funding/financing arrangements of the Altrad Group (which have an indirect effect on the funding/financing of the Claimants and the broader Cape Group).

13. In addition, the issuing and pursuit of the 3P Complaint is abusive, vexatious and unconscionable. The 3P Complaint makes multiple – and highly contentious – allegations directed against the Claimants. It also purports to constitute admissions that have not been authorised by the directors of the Companies.

14. The 3P Complaint is self-evidently contrary to the Companies' best interests and the Companies are entitled to injunctions from the English Court requiring you to cease and desist pursuing such claims in their respective names.

In these circumstances, the directors of CIHL and Cape plc are entitled to the assistance of the English court as the duly appointed directors of CIHL and Cape plc in order to enable them to administer, manage and run the companies efficaciously in accordance with their legal duties and in the best interests of the companies; and to prevent and contain the manifest prejudice to both them and the wider Cape group of companies by your conduct, which is directly contrary to the interests of CIHL and Cape plc and is abusive, vexatious and unconscionable.

There is a real and present dispute as to who is in control and authorised to act on behalf of the Claimants, and it is appropriate for the Court to make the declarations sought. In addition, it is appropriate to grant the injunctive relief sought where (1) you have no legitimate authority to act on behalf of the Claimants (and, in that regard, you have harmed the rights of the Claimants) and (2) your conduct is abusive, vexatious and unconscionable.

Accordingly, CIHL and Cape plc seek your consent to the Draft Order and, if not provided, the assistance of the English Court to obtain clarification that you have no legal authority to act on behalf of our clients, that authority remains vested in the directors, and restraining you from taking any further steps in the name of Cape as set out in the Draft Order.

Requirement for you to provide consent on an urgent basis

As you will be aware, various of the Third-Party Defendants in the 3P Complaint, applied to transfer the 3P Complaint from the South Carolina Court to a Federal Court. By an order of 13 August 2024, the Federal Court remanded the case back to the South Carolina Court.

In these circumstances and given the imminent trial of the 3P Complaint on 9 December 2024 – which is not being brought with the authority of the Claimants and is plainly contrary to their interests – it is paramount that the Claim is addressed urgently.

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In consideration for our clients refraining from taking action against you in the English Court, you are required to agree to the terms of the Draft Order by no later than 12pm on 6 September 2024.

Should you fail to do so, we will without further notice apply to the English Court for the relief in the form of the Draft Order.

For the avoidance of doubt, nothing in this letter should be considered as a waiver of any of our clients' rights which are, to the fullest extent, reserved.

Part 8 of the Civil Procedure Rules

In accordance with paragraph 13.3 of the Business and Property Courts of England & Wales Chancery Guide 2022, we hereby notify you that the use of Part 8 of the England & Wales Civil Procedure Rules is being contemplated to issue the intended claim against you.

We consider that Part 8 is the more appropriate route than Part 7 in the circumstances of the current dispute, for the following reasons:

1. The contemplated claim does not relate to any substantial dispute of fact. The contemplated claim is merely requesting the court's decision on a question by way of declaratory and injunctive relief.

2. A quick resolution of the contemplated claim is required given the imminent trial date of the 3P Complaint on 9 December 2024.

In accordance with paragraph 13.3 of the Chancery Guide, we have attached the Draft Order at Annex A (which we ask you to consent to).

Given that the relief sought in the Claim arises out of the application of well-established principles of English private international law to the USA Proceedings, we do not contemplate that there will a substantial factual dispute (or that disclosure will be necessary).

Agreement to Service Out of the Jurisdiction

As you are aware, on 13 July 2023 you used David Waldron of Morgan, Lewis & Bockius UK LLP to attempt to serve documents from the USA Proceedings on Altrad Services Ltd.

In accordance with the provisions of the English Civil Procedure Rules, and to the extent that you do not agree to provide the undertakings requested above, we request your agreement to accept service of the claim form and associated documents:

1. by way of service on Morgan, Lewis & Bockius UK LLP, Condor House, 5-10 St. Paul's Churchyard, London EC4M 8AL; or, in the alternative,

2. outside the jurisdiction of England and Wales at your address at 2110 N Beltline Bvld, Columbia, South Carolina 29204, United States of America

Please confirm your consent to accept service of the claim form by either (1) or (2) by 6 September 2024, so as to facilitate the efficient and timely progress of the contemplated proceedings. Should you

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fail to provide your agreement to accept service, our clients will make an application for permission to serve out of the jurisdiction.

Pre-Action Protocol

This letter is being sent to you in accordance with the Practice Direction on Pre-Action Conduct and Protocols (the "**Pre-Action PD**") contained in the Civil Procedure Rules (CPR) (albeit that, as envisaged in paragraph 13 of the Pre-Action PD, the urgency of the matter means that it is not possible to give you the full time suggested for your response to this letter). We refer you to paragraphs 13 to 16 of the Pre-Action PD concerning the court's powers to impose sanctions for failing to comply with its provisions.

We enclose the key documents which we intend to rely on to substantiate our clients' claims. Ignoring this letter will lead our clients to commence proceedings against you and may increase your liability for costs.

We look forward to your response.

Yours faithfully,

Winston & Strawn London LLP

Winston & Strawn London LLP

Enc. Receivership Order

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Annex A – Draft Order

Claim No. [#]

IN THE HIGH COURT OF JUSTICE **BUSINESS AND PROPERTY COURTS**

OF ENGLAND AND WALES

BUSINESS LIST (CHD)

Before [Mr]/[Mrs] Justice []

B E T W E E N:

(1) CAPE INTERMEDIATE HOLDINGS LIMITED

(2) CAPE PLC (a company incorporated under the laws of Jersey)

Claimants

- and -

PETER D. PROTOPAPAS

Defendant

[DRAFT] ORDER

UPON THE CLAIM of Cape Intermediate Holdings Limited ("**CIHL**") and Cape plc ("**the Claimants**") issued by Part 8 Claim Form on [] September 2024

AND UPON HEARING Leading Counsel for the Claimants [and Leading Counsel for the Defendant]

AND UPON READING the evidence, being the first witness statement of Ran Oren dated [] September 2024 ("**Oren 1**")

IT IS DECLARED THAT

1. The receivership order of the Court of Common Pleas for the Fifth Judicial Circuit of the State of South Carolina, County of Richland ("**the South Carolina Court**") dated 16 March 2023 appointing Mr Peter Protopapas ("**Mr Protopapas**") as a receiver over the Claimants ("**the Receivership Order**") is not recognised and has no legal effect in England and Wales and worldwide.

2. Mr Protopapas has and had no power or authority to act as a receiver in relation to the Claimants in England and Wales or worldwide and has no power or authority in respect of

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the Claimants in England and Wales or worldwide to carry out the acts referred to in paragraph 5-8 below.

3. The rights and duties of the directors of the Claimants remain unaffected by the appointment of Mr Protopapas as receiver of the Claimants pursuant to the Receivership Order.

4. Mr Protopapas has and had no power or authority to act as the receiver of the Claimants in the South Carolina Court in respect of the Park claim and the Tibbs Claim (as defined in Oren 1) and has and had no power or authority to issue third party claims in the Tibbs Claim against any of the third party defendants in those proceedings, including (i) Mohed Altrad (ii) Altrad Investment Authority SAS (iii) Altrad UK Ltd (iv) Cape UK Holdings Newco Ltd (v) Cape Industrial Services Group Ltd (vi) Cape Holdco Ltd (vii) Altrad Services Ltd (viii) Hawk Bidco (US) Inc (ix) ArranCo US LL (x) Sparrows Offshore LLC.

AND IT IS ORDERED THAT:

5. Mr Protopapas be injuncted in England and Wales and worldwide from acting or purporting to act as a receiver of the Claimants pursuant to the Receivership Order.

6. Mr Protopapas be injuncted in England and Wales and worldwide from appropriating, interfering with or usurping (in any way whatsoever) the lawful exercise of the rights and duties of the directors of the Claimants.

7. Mr Protopapas be injuncted from acting or purporting to act as a receiver of the Claimants in the Park Claim and the Tibbs Claim (as defined in Oren 1).

8. Mr Protopapas be injuncted from litigating as “Cape plc” or CIHL in any legal proceedings in the State of South Carolina, USA or elsewhere.

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STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	
COUNTY OF RICHLAND	)	**FOR THE FIFTH JUDICIAL CIRCUIT**

AUGUSTUS A. ADAMS and **DIANE ADAMS**	)	**C/A NO. 2024-CP-40-_____**
TOMMY D. AGNER, SR. as Executor of the Estate of **VONNIE K. AGNER**, deceased	)	In Re: Asbestos Personal Injury Litigation Coordinated Docket
ALLAN N. ANDERSON, JR. and **CYNTHIA ANDERSON**	)	
GEORGE J. ARSENITH and **CHRISTINE A. ARSENITH**	)	**SUMMONS**
DONALD BARNHART, JR. and **MARY BARNHART**	)	
KATHRYN BARONE, individually and as Executrix of the Estate of **NICHOLAS BARONE**, deceased	)	
RICHARD TREE, individually and as successor-in-interest to **RICHARD J. BOETSCH**, deceased, and **LEAH SANDFORD**, individually	)	
BRENDA E. BOSTIAN, individually and as Personal Representative of the Estate of **HOYLE S. BOSTIAN**, deceased	)	
TRACY BOWERY MEYER, as Personal Representative of the Estate of **LEON B. BOWERY**, deceased	)	
RONALD J. BROKSHIRE and **BELVIA R. BROOKSHIRE**	)	
ALICIA KNIGHT, individually and as Administratrix of the Estate of **WALLACE B. CHAMBERS**, deceased	)	
LENORA CHILDERS, individually	)	

and as Personal Representative of the Estate of)
LEWIS C. CHILDERS, deceased)
)
DAVID E. CHRISTENSEN and)
LINDA G. CHRISTENSEN)
)
LINDA A. COOK, individually)
and as Executor for the Estate of)
ROLAND COOK, deceased)
)
DON R. COX, SR.)
)
JAY S. CREEKMORE, individually)
and as Executor of the Estate of)
MARY M. CREEKMORE)
)
JAMES F. DAVIS and)
VERA C. DAVIS)
)
ROBBIE M. EFIRD)
as Administrator of the Estate of)
ROBIN M. EFIRD, deceased, and)
LINDA EFIRD, individually)
)
CHARLES FERRELL and)
PATRICIA A. FERRELL)
)
WENDY M. FITZGERALD, individually)
and as Special Administrator of the Estate of)
DENNIS J. FITZGERALD, deceased)
)
RICKY DEAN FLYNN,)
as the Executor of the Estate of)
JERRY K. FLYNN, deceased)
)
AMY GEE, individually)
and as Personal Representative of the Estate of)
MICHAEL L. GEE, deceased)
)
GLENDA T. GIROIR and)
DALE GIROIR)
)
SANDRA M. GONCE, individually)
and as Executrix of the Estate of)
DWIGHT GONCE, deceased)
)

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GEORGE N. GOSNELL and
PATRICIA C. GOSNELL

TERRY L. GREEN, SR.,
as Personal Representative of the Estate of
ROBERT J. GREEN, deceased, and
EVELYN V. GREEN, individually

RACHEL P. GREENE, individually
and as Personal Representative of the Estate of
CHRISTOPHER GREENE, deceased

MICHELLE L. MCCORMICK and
KRISTEN R. HELTON, as Co-Personal
Representatives of the Estate of
KENNETH D. HARDING, deceased

CINDY HARTSELL MARTIN, individually
and as Personal Representative of the Estate of
JERRY G. HARTSELL, deceased, and
JOAN HARTSELL, individually

SHIRLEY ANN CARPIN,
as Independent Executor of the Estate of
SHIRLEY A. HILSTER , deceased

MISTI K. CRAWLEY and
ZACHARY D. HUNT, as
Personal Representatives of the Estate of
LESLEY D. HUNT, deceased

MICHAEL D. JOHNSON and
KRISTI R. JOHNSON

THEODORE L.KELLY, SR. and
BERENICE M. KELLY

SUSAN K. McCARTY
as Executor of the Estate of
JAMES H. KENNON, deceased

GREGORY N. TARBUCK, JR.
as Personal Representative of the Estate of
RICHARD D. KING, deceased

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JOLENE R. KOTZERKE, individually as the surviving spouse and Executor for the Estate of **STEVEN D. KOTZERKE**, deceased)

GARY S. LACKEY and **VIRGINIA C. LACKEY**)

PATRICIA LAMM, individually and as Personal Representative of the Estate of **MICHAEL H. LAMM**, deceased)

ROBERT P. LEBLANC)

MICHAEL D. LINK and **SANDRA STRICKLAND LINK**)

RICHARD LONG)

JAMES E. LOVE, JR. and **JOAN M. LOVE**)

ROBERT W. LYNN and **KAREN J. LYNN**)

CRAIG R. HAGAN, as Personal Representative of the Estate of **NIKOLAUS J. MARCHER**, deceased, and **KLAUS MARCHER**, individually and as legal heir to **NIKOLAUS J. MARCHER**, deceased)

DONALD MCDOWELL and **RHONDA V. MCDOWELL**)

PHILIP J. MCGUIRE and **PATRICE MCGUIRE**)

DAVID P. MCKELVEY, as Personal Representative of the Estate of **PAUL R. MCKELVEY**, deceased)

SHARON M. MILAM, individually and as Independent Executor of the Estate of **JIMMIE R. MILAM**, deceased)

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MARTHA M. WILSON, individually)
and as Personal Representative of the Estate of)
TED E. MITCHELL, deceased)
)
NELSON W. MOGG and)
DOROTHY MOGG)
)
ELAINE M. MONLUX, individually as the)
surviving spouse and Executor for the Estate of)
RICHARD A. MONLUX, deceased)
)
GARY MULLINS and)
ARVELLA MULLINS)
)
LEONARD O'LOUGHLIN and)
KAREN REISSFELDER)
)
MICHELLE OLIVE, individually)
and as Executor of the Estate of)
EVERETT R. OLIVE, deceased)
)
JUDITH D. PATTERSON, individually)
and as Executor of the Estate of)
JOHN K. PATTERSON, JR., deceased)
)
KELLY PAYNE CLARK and **SHANNON**)
PAYNE LANCASTER, as Co-Executors of the)
Estate of **SHELBY L. PAYNE**, deceased)
)
DORENE L. PEIFER, individually)
and as Trustee for the next-of-kin for)
RONALD M. PEIFER, deceased)
)
RICHARD R. PELFREY and)
PATRICIA H. PELFREY)
)
CURTIS R. PERKINS, Individually)
and as Executor of the Estate of)
PATRICIA L. PERKINS, deceased)
)
LINWOOD W. PIERCE and)
BRIDGET PIERCE)
)
SHANE CHADWICK PIKE and **JASON**)
ANDREW PIKE, as Co-Executors of the Estate)
of **MARSHALL E. PIKE**, deceased)

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ELECTRONICALLY FILED - 2024 Nov 12 12:36 PM - RICHLAND - COMMON PLEAS - CASE#2024CP4006639

ROBERT B. RAY and **BESSIE E. RAY**	)
JACKIE D. ROBERTS and **VICTORIA A. ROBERTS**	)
DEBORAH ROBICHAUD, individually as the surviving spouse and Executor for the Estate of **GARY P. ROBICHAUD**, deceased	)
SHARON LYNN TESSENIAR, as Personal Representative of the Estate of **ANTHONY D. ROBINSON**, deceased, and **JOYCE J. ROBINSON**, individually	)
JERRY P. ROSS and **PAULETTE W. ROSS**	)
ALYCE M. SCOGGINS, individually and as successor-in-interest to **DAVID M. SCOGGINS**, deceased; **DAVID D. SCOGGINS**, and **SCHANTEL R. GREEN**, individually and as legal heirs to **DAVID M. SCOGGINS**, deceased	)
KATHLEEN SCOGGINS, individually and as Special Administrator to the Estate of **DAVID C. SCOGGINS**, deceased	)
LARRY G. SELLARS and **GLENDA K. SELLARS**	)
ANNA MARIE S. PRITCHETT, as Personal Representative of the Estate of **CHARLES E. SHIPMAN**, deceased, and **DANIELLE B. SHIPMAN**, individually	)
MICHAEL L. SIMS, as Personal Representative of the Estate of **DONALD E. SIMS**, deceased	)
GEORGE R. SPAYD, JR.	)
DELLA JEANETTE KENNEDY, individually and as Administrator of the Estate of	)

RODNEY L. SPENCE, deceased,
and as Administrator of the Estate of
ANN TAYLOR SPENCE, deceased

TERRY SYLVESTER,
as Personal Representative of the Estate of
EUGENE L. SYLVESTER, deceased, and
SARA SYLVESTER, individually

SANDRA F. TAYLOR, individually
and as Administrator of the Estate of
BRADLEY D. TAYLOR, deceased

SHIRLEY BUTTS TAYLOR, individually
and as Personal Representative of the Estate of
HORACE E. TAYLOR, deceased

JOHN A. TIBBS and
MARGARET B. TIBBS

DONNA B. WELCH, individually and as
Personal Representative of the Estate of
MELVIN G. WELCH, deceased

ROSALIE WILKINSON and
HARRY WILKINSON

RICHARD A. WILLIAMS and
NANCY N. WILLIAMS

BRUCE S. WRIGHT and
LOUISE K. WRIGHT

Plaintiffs**,**

v.

CAPE PLC
by and through its court appointed Receiver
Peter Protopapas, sued as successor-in-interest to
CAPE INDUSTRIES LTD. (f/k/a CAPE
ASBESTOS COMPANY LTD.) and its
subsidiaries and global affiliates

ANGLO AMERICAN PLC
individually and as successor-in-interest to

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ANGLO AMERICAN CORPORATION OF SOUTH AFRICA LTD.)
)
)
DE BEERS PLC)
)
DE BEERS CENTENARY AG)
)
DE BEERS CONSOLIDATED MINES LTD.)
)
DE BEERS S.A.)
)
DE BEERS UK LTD.)
)
DE BEERS JEWELLERS LTD.)
)
DE BEERS JEWELLERS US, INC.)
)
ANGLO 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 (U.S.A.) JEWELRY INC.)
)
LIGHTBOX JEWELRY INC.)
)
FOREVERMARK US INC.)
)
ANGLO AMERICAN CROP NUTRIENTS (U.S.A.), LLC)
)
CHARTER CONSOLIDATED LTD.)
)
ESAB CORPORATION)
)
CENTRAL MINING & INVESTMENT CORPORATION LTD.)
)

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ELECTRONICALLY FILED - 2024 Nov 12 12:36 PM - RICHLAND - COMMON PLEAS - CASE#2024CP4006639

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 S.A.S.	)
	)
Defendants**.**	)
	)

SUMMONS

TO DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the Plaintiffs' counsel, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service. If you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

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Respectfully submitted,

/s/ Charles W. Branham, III

Charles W. Branham, III (SC Bar No. 106178)
DEAN OMAR BRANHAM SHIRLEY, LLP
302 N. Market Street, Suite 300
Dallas, Texas 75202
T: 214-722-5990
F: 214-722-5991
tbranham@dobslegal.com
Other email: tgilliland@dobslegal.com

and

/s/ Theile B. McVey

Theile B. McVey (SC Bar No. 16682)
Jamie D. Rutkoski (SC Bar No. 103270)
KASSEL MCVEY ATTORNEYS AT LAW
1330 Laurel Street
Columbia, South Carolina 29202
T: 803-256-4242
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tmcvey@kassellaw.com
jrutkoski@kassellaw.com
Other email: emoultrie@kassellaw.com

ATTORNEYS FOR PLAINTIFFS

November 11, 2024
Columbia, South Carolina.

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STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	
COUNTY OF RICHLAND	)	**FOR THE FIFTH JUDICIAL CIRCUIT**

AUGUSTUS A. ADAMS and **DIANE ADAMS** **TOMMY D. AGNER, SR.** as Executor of the Estate of **VONNIE K. AGNER**, deceased **ALLAN N. ANDERSON, JR.** and **CYNTHIA ANDERSON** **GEORGE J. ARSENITH** and **CHRISTINE A. ARSENITH** **DONALD BARNHART, JR.** and **MARY BARNHART** **KATHRYN BARONE**, individually and as Executrix of the Estate of **NICHOLAS BARONE**, deceased **RICHARD TREE**, individually and as successor-in-interest to **RICHARD J. BOETSCH**, deceased, and **LEAH SANDFORD**, individually **BRENDA E. BOSTIAN**, individually and as Personal Representative of the Estate of **HOYLE S. BOSTIAN**, deceased **TRACY BOWERY MEYER,** as Personal Representative of the Estate of **LEON B. BOWERY**, deceased **RONALD J. BROKSHIRE** and **BELVIA R. BROOKSHIRE** **ALICIA KNIGHT**, individually and as Administratrix of the Estate of **WALLACE B. CHAMBERS**, deceased	)	**C/A NO. 2024-CP-40-_____** In Re: Asbestos Personal Injury Litigation Coordinated Docket Multi-Plaintiff Cause of Action: Includes Living and Deceased Plaintiffs **COMPLAINT** (Jury Trial Demanded)

LENORA CHILDERS, individually)
and as Personal Representative of the Estate of)
LEWIS C. CHILDERS, deceased)
)
DAVID E. CHRISTENSEN and)
LINDA G. CHRISTENSEN)
)
LINDA A. COOK, individually)
and as Executor for the Estate of)
ROLAND COOK, deceased)
)
DON R. COX, SR.)
)
JAY S. CREEKMORE, individually)
and as Executor of the Estate of)
MARY M. CREEKMORE)
)
JAMES F. DAVIS and)
VERA C. DAVIS)
)
ROBBIE M. EFIRD)
as Administrator of the Estate of)
ROBIN M. EFIRD, deceased, and)
LINDA EFIRD, individually)
)
CHARLES FERRELL and)
PATRICIA A. FERRELL)
)
WENDY M. FITZGERALD, individually)
and as Special Administrator of the Estate of)
DENNIS J. FITZGERALD, deceased)
)
RICKY DEAN FLYNN,)
as the Executor of the Estate of)
JERRY K. FLYNN, deceased)
)
AMY GEE, individually)
and as Personal Representative of the Estate of)
MICHAEL L. GEE, deceased)
)
GLENDA T. GIROIR and)
DALE GIROIR)
)
SANDRA M. GONCE, individually)
and as Executrix of the Estate of)
DWIGHT GONCE, deceased)

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GEORGE N. GOSNELL and **PATRICIA C. GOSNELL**

TERRY L. GREEN, SR.,
as Personal Representative of the Estate of
ROBERT J. GREEN, deceased, and
EVELYN V. GREEN, individually

RACHEL P. GREENE, individually
and as Personal Representative of the Estate of
CHRISTOPHER GREENE, deceased

MICHELLE L. MCCORMICK and
KRISTEN R. HELTON, as Co-Personal
Representatives of the Estate of
KENNETH D. HARDING, deceased

CINDY HARTSELL MARTIN, individually
and as Personal Representative of the Estate of
JERRY G. HARTSELL, deceased, and
JOAN HARTSELL, individually

SHIRLEY ANN CARPIN,
as Independent Executor of the Estate of
SHIRLEY A. HILSTER , deceased

MISTI K. CRAWLEY and
ZACHARY D. HUNT, as
Personal Representatives of the Estate of
LESLEY D. HUNT, deceased

MICHAEL D. JOHNSON and
KRISTI R. JOHNSON

THEODORE L.KELLY, SR. and
BERENICE M. KELLY

SUSAN K. McCARTY
as Executor of the Estate of
JAMES H. KENNON, deceased

GREGORY N. TARBUCK, JR.
as Personal Representative of the Estate of
RICHARD D. KING, deceased

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JOLENE R. KOTZERKE, individually as the surviving spouse and Executor for the Estate of **STEVEN D. KOTZERKE**, deceased)

GARY S. LACKEY and **VIRGINIA C. LACKEY**)

PATRICIA LAMM, individually and as Personal Representative of the Estate of **MICHAEL H. LAMM**, deceased)

ROBERT P. LEBLANC)

MICHAEL D. LINK and **SANDRA STRICKLAND LINK**)

RICHARD LONG)

JAMES E. LOVE, JR. and **JOAN M. LOVE**)

ROBERT W. LYNN and **KAREN J. LYNN**)

CRAIG R. HAGAN, as Personal Representative of the Estate of **NIKOLAUS J. MARCHER**, deceased, and **KLAUS MARCHER**, individually and as legal heir to **NIKOLAUS J. MARCHER**, deceased)

DONALD MCDOWELL and **RHONDA V. MCDOWELL**)

PHILIP J. MCGUIRE and **PATRICE MCGUIRE**)

DAVID P. MCKELVEY, as Personal Representative of the Estate of **PAUL R. MCKELVEY**, deceased)

SHARON M. MILAM, individually and as Independent Executor of the Estate of **JIMMIE R. MILAM**, deceased)

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MARTHA M. WILSON, individually)
and as Personal Representative of the Estate of)
TED E. MITCHELL, deceased)
)
NELSON W. MOGG and)
DOROTHY MOGG)
)
ELAINE M. MONLUX, individually as the)
surviving spouse and Executor for the Estate of)
RICHARD A. MONLUX, deceased)
)
GARY MULLINS and)
ARVELLA MULLINS)
)
LEONARD O'LOUGHLIN and)
KAREN REISSFELDER)
)
MICHELLE OLIVE, individually)
and as Executor of the Estate of)
EVERETT R. OLIVE, deceased)
)
JUDITH D. PATTERSON, individually)
and as Executor of the Estate of)
JOHN K. PATTERSON, JR., deceased)
)
KELLY PAYNE CLARK and **SHANNON**)
PAYNE LANCASTER, as Co-Executors of the)
Estate of **SHELBY L. PAYNE**, deceased)
)
DORENE L. PEIFER, individually)
and as Trustee for the next-of-kin for)
RONALD M. PEIFER, deceased)
)
RICHARD R. PELFREY and)
PATRICIA H. PELFREY)
)
CURTIS R. PERKINS, Individually)
and as Executor of the Estate of)
PATRICIA L. PERKINS, deceased)
)
LINWOOD W. PIERCE and)
BRIDGET PIERCE)
)
SHANE CHADWICK PIKE and **JASON**)
ANDREW PIKE, as Co-Executors of the Estate)
of **MARSHALL E. PIKE**, deceased)

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ROBERT B. RAY and
BESSIE E. RAY

JACKIE D. ROBERTS and
VICTORIA A. ROBERTS

DEBORAH ROBICHAUD, individually as the surviving spouse and Executor for the Estate of **GARY P. ROBICHAUD**, deceased

SHARON LYNN TESSENIAR, as Personal Representative of the Estate of **ANTHONY D. ROBINSON**, deceased, and **JOYCE J. ROBINSON**, individually

JERRY P. ROSS and
PAULETTE W. ROSS

ALYCE M. SCOGGINS, individually and as successor-in-interest to **DAVID M. SCOGGINS**, deceased; **DAVID D. SCOGGINS**, and **SCHANTEL R. GREEN**, individually and as legal heirs to **DAVID M. SCOGGINS**, deceased

KATHLEEN SCOGGINS, individually and as Special Administrator to the Estate of **DAVID C. SCOGGINS**, deceased

LARRY G. SELLARS and
GLENDA K. SELLARS

ANNA MARIE S. PRITCHETT, as Personal Representative of the Estate of **CHARLES E. SHIPMAN**, deceased, and **DANIELLE B. SHIPMAN**, individually

MICHAEL L. SIMS, as Personal Representative of the Estate of **DONALD E. SIMS**, deceased

GEORGE R. SPAYD, JR.

DELLA JEANETTE KENNEDY, individually and as Administrator of the Estate of

RODNEY L. SPENCE, deceased,
and as Administrator of the Estate of
ANN TAYLOR SPENCE, deceased

TERRY SYLVESTER,
as Personal Representative of the Estate of
EUGENE L. SYLVESTER, deceased, and
SARA SYLVESTER, individually

SANDRA F. TAYLOR, individually
and as Administrator of the Estate of
BRADLEY D. TAYLOR, deceased

SHIRLEY BUTTS TAYLOR, individually
and as Personal Representative of the Estate of
HORACE E. TAYLOR, deceased

JOHN A. TIBBS and
MARGARET B. TIBBS

DONNA B. WELCH, individually and as
Personal Representative of the Estate of
MELVIN G. WELCH, deceased

ROSALIE WILKINSON and
HARRY WILKINSON

RICHARD A. WILLIAMS and
NANCY N. WILLIAMS

BRUCE S. WRIGHT and
LOUISE K. WRIGHT

Plaintiffs**,**

v.

CAPE PLC
by and through its court appointed Receiver
Peter Protopapas, sued as successor-in-interest to
CAPE INDUSTRIES LTD. (f/k/a CAPE
ASBESTOS COMPANY LTD.) and its
subsidiaries and global affiliates

ANGLO AMERICAN PLC
individually and as successor-in-interest to

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ANGLO AMERICAN CORPORATION OF SOUTH AFRICA LTD.)
)
)
DE BEERS PLC)
)
DE BEERS CENTENARY AG)
)
DE BEERS CONSOLIDATED MINES LTD.)
)
DE BEERS S.A.)
)
DE BEERS UK LTD.)
)
DE BEERS JEWELLERS LTD.)
)
DE BEERS JEWELLERS US, INC.)
)
ANGLO 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 (U.S.A.) JEWELRY INC.)
)
LIGHTBOX JEWELRY INC.)
)
FOREVERMARK US INC.)
)
ANGLO AMERICAN CROP NUTRIENTS (U.S.A.), LLC)
)
CHARTER CONSOLIDATED LTD.)
)
ESAB CORPORATION)
)
CENTRAL MINING & INVESTMENT CORPORATION LTD.)
)

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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 S.A.S.	)
	)
Defendants**.**	)
	)

PLAINTIFFS' ORIGINAL COMPLAINT

Plaintiffs in the above caption are identified above and on Exhibit A, hereto. Exhibit A details the injured party name, Personal Representative (if applicable), disease, date of diagnosis, date of death (if applicable) and relevant years of exposure and details of alleged exposure to asbestos attributable to Defendants.

Plaintiffs as named above and on Exhibit A, in their just and legal capacities, name Defendants CAPE PLC, by and through its court appointed Receiver, Peter D. Protopapas, as successor-in-interest to Cape Industries Ltd. (f/k/a Cape Asbestos Company Ltd.) ("CAPE PLC" or "Cape"); Anglo American PLC (individually and as successor-in-interest to Anglo American Corporation of South Africa Ltd.), De Beers PLC, De Beers Centenary AG, De Beers Consolidated Mines Ltd., De Beers S.A., De Beers UK Ltd., De Beers Jewellers Ltd., De Beers Jewellers US,

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Inc., Anglo 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 (U.S.A.) Jewelry Inc., Lightbox Jewelry Inc., Forevermark US Inc., Anglo American Crop Nutrients (U.S.A.), 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.), and Altrad Investment Authority S.A.S. (each a "Defendant" and collectively, and with CAPE PLC the "Defendants") and its subsidiaries and global affiliates, for compensatory and punitive damages, by and through their attorneys, and come before this court and alleges as follows:

GENERAL ALLEGATIONS

1. This action is brought pursuant to the laws of South Carolina for the following causes of action: 1) Negligence; 2) Product Liability: Strict Liability - S.C. Code Ann. § 15-73-10, et seq.; 3) Vicarious Liability of Defendants Based upon Respondeat Superior; 4) Negligence Imparted to Contractor Defendants; 5) Product Liability: Breach of Implied Warranties - S.C. Code Ann. § 36-2-314; 6) Negligence Per Se; 7) Fraudulent Misrepresentation; 8) the South Carolina Unfair Trade Practices Act- S.C. Code Ann. § 39-5-10, *et. seq*.; and 9) Loss of Consortium.

2. In some instances, Plaintiffs also bring this cause of action pursuant to the Wrongful Death Act, S.C. Gen. Stat. 15-51-10 *et seq*., as well as the Survival Action, S.C. Code Ann. § 15-5-90, for the wrongful death of the specified Plaintiffs on Exhibit A, on behalf of all persons entitled to recover damages.

3. Collective Plaintiffs (hereinafter, "Plaintiffs") were all diagnosed with asbestos related diseases caused by exposure to asbestos dust and fibers including but not limited to

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mesothelioma or lung cancer. Plaintiffs' exposure occurred during the course of their employment with and around asbestos-containing products and/or though asbestos fibers carried home on family members' persons and clothing.

4. This Court has personal jurisdiction over CAPE PLC and its alter egos/successors in interest because CAPE PLC is deemed to have its principle place of business is located in South Carolina. In addition, Plaintiffs' claims arise from Defendants' conduct in:

(a) Transacting business in this State, including the sale, supply, purchase, and/or use of asbestos and/or asbestos-containing products, within this State; and/or

(b) Contracting to supply services or things in the State; and/or

(c) Commission of a tortious act in whole or in part in this State; and/or

(d) Having an interest in, using, or possessing real property in this State; and/or

(e) Entering into a contract to be performed in whole or in part by either party in this State; and/or

(f) Exposing Decedent to asbestos dust, fibers and/or particles generated from the ordinary and foreseeable use of the asbestos-containing products it sold, supplied, distributed, incorporated, and/or otherwise placed in the stream of commerce in the State of South Carolina; and/or

(g) Cape, PLC is in receivership, the order of appointment which encompasses the subsidiaries of the Defendants, including specifically, but not limited to North American Asbestos Company located in the State of South Carolina.

5. Upon information and belief, each of the Defendants is subject to this Court's jurisdiction because, among other things, this action arises from the acts of each Defendant, and/or their agents, co-conspirators, predecessors in interest, and/or amalgamated corporate parents: (i) transacting business in the State; (ii) contracting to supply services or things in the State; (iii) committing a litany of tortious acts in whole or in part in the State; (iv) causing injuries and deaths in the State by acts or omissions outside the State, while regularly conducting or soliciting

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business, engaging in a persistent course of conduct, or deriving substantial revenue from goods used or consumed or services rendered in the State; (v) having an interest in, using, or possessing real property in the State; (vi) entering into a contract to be performed in whole or in part by either party in the State; and/or (vii) producing, manufacturing, or distributing goods with the reasonable expectation (or in this case, the actual knowledge) that those goods are to be used or consumed in the State and were so used or consumed. *See* S.C. Code §§ 36-2-803(A)(1)–(5), (7)–(8).

6. Plaintiffs' cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products/actions, individually and together, was a substantial factor in causing Plaintiffs' asbestos related diseases and other related injuries and therefore under South Carolina law, is the legal cause of Plaintiffs' injuries and damages.

7. Plaintiffs, nor their family members, were aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease or the hazards associated with bringing home asbestos fibers on one's clothing and person.

8. Plaintiffs and/or their family members, worked with, or in close proximity to others who worked with, asbestos-containing materials including but not limited to asbestos-containing products and other asbestos-containing materials manufactured and/or sold by Defendants identified above.

9. Defendants are liable for damages stemming from their own tortious conduct or the tortious conduct of an "alternate entity" as hereinafter defined. Defendants are liable for the acts of their "alternate entity" and each of them, in that there has been a corporate name change, Defendants are the successor by merger, by successor in interest, or by other acquisition or operation of law including, but not limited to theories of alter-ego or amalgamation of interests, resulting in a virtual destruction of Plaintiffs' remedy against each such "alternate entity";

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Defendants, have acquired the assets, product line, or a portion thereof, of each such "alternate entity"; such "alternate entities" have acquired the assets, product line, or a portion thereof of each such Defendants; Defendants caused the destruction of Plaintiffs' remedy against each such "alternate entity"; each such Defendants has the ability to assume the risk-spreading role of each such "alternate entity;" and that each such Defendants enjoys the goodwill originally attached to each "alternate entity."

DEFENDANT	ALTERNATE ENTITY
CAPE PLC	Successor-in-interest to Cape Industries Ltd. (f/k/a Cape Asbestos Company Ltd.) ("CAPE PLC" or "Cape"); Anglo American PLC (individually and as successor-in-interest to Anglo American Corporation of South Africa Ltd.), De Beers PLC, De Beers Centenary AG, De Beers Consolidated Mines Ltd., De Beers S.A., De Beers UK Ltd., De Beers Jewellers Ltd., De Beers Jewellers US, Inc., Anglo 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 (U.S.A.) Jewelry Inc., Lightbox Jewelry Inc., Forevermark US Inc., Anglo American Crop Nutrients (U.S.A.), 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.), and Altrad Investment Authority S.A.S.

10. Plaintiffs have been informed and believe, and thereon allege, that at all times herein mentioned, Defendants or their "alternate entities" were or are corporations, partnerships, unincorporated associations, sole proprietorships and/or other business entities organized and existing under and by virtue of the laws of the State of South Carolina, or the laws of some other

state or foreign jurisdiction, and that said Defendants were and/or are authorized to do business in the State of South Carolina, and that said Defendants have regularly conducted business in the State of South Carolina.

11. Plaintiffs have been informed and believe, and thereon allege, that progressive lung disease, mesothelioma and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

12. As a direct and proximate result of the conduct as alleged within, Plaintiffs suffered permanent injuries, including, but not limited to, mesothelioma and other lung damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

13. As a direct and proximate result of the conduct as hereinafter alleged, Plaintiffs incurred liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to Plaintiff at this time. Plaintiff requests leave to supplement this Court and all parties accordingly when the true and exact cost of Plaintiffs' medical treatment is ascertained.

14. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiffs incurred, and will incur, loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs. Plaintiffs pray leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

15. Plaintiffs hereby disclaim each and every claim or cause of action which does or may arise from any United States Military service or on any federal enclave. This disclaimer is

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not related solely to actions taken by or at the direction of a federal officer, but is, rather broader. Plaintiffs are not making any claims and are not alleging any causes of action against any entity for any asbestos exposure of any kind which occurred as a result of and military service of the injured parties herein named. Moreover, Plaintiffs further disclaim each and every claim or cause of action arising from any exposure to asbestos as a result of Plaintiffs' presence on or at any federal enclave. Plaintiffs further disclaim each and every claim or cause of action arising under the United States Constitution and under any Federal Law or Regulation. Finally, Plaintiffs disclaim each and every claim or cause of action which may be asserted under federal admiralty or maritime law. Courts across the Country have found that such disclaimers are proper and within the province of the Plaintiffs to disclaim. Any removal by any Defendants on the basis of the disclaimed claims will result in a motion for sanctions and seeking attorneys' fees.

THE PARTIES

16. Plaintiffs are identified above and on Exhibit A, hereto. Exhibit A details the injured party name, Personal Representative (if applicable), disease, date of diagnosis, date of death (if applicable) and relevant years of exposure and details of alleged exposure to asbestos attributable to Defendants.

17. Defendants, **CAPE PLC**, as successor-in-interest to CAPE INDUSTRIES LTD. (f/k/a CAPE ASBESTOS COMPANY LTD.) and its subsidiaries and global affiliates, was and is a United Kingdom public limited company with its principal place of business in England. At all times material hereto, CAPE PLC was authorized to do business in the State of South Carolina while engaged, directly or indirectly, in the business of mining, designing, manufacturing, processing, importing, converting, compounding, supplying, installing, replacing, repairing, using, and/or retailing substantial amounts of asbestos and/or asbestos-containing products, materials, or

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equipment, including, but not limited to, raw asbestos fibers and products resulting from use of the fiber. CAPE PLC is sued as a Product Defendants. Furthermore, this Defendants has done and does substantial business in the State of South Carolina, including the sale and distribution of its dangerous and/or defective products and services. The exposures to this Defendant's products, actions, inactions, and/or other activities, which caused or contributed to cause Plaintiffs' disease and injury, occurred in South Carolina. Plaintiffs' claims against CAPE PLC arise out of this Defendant's business activities in the State of South Carolina. CAPE PLC may be served through its court appointed Receiver who maintains his principle place of business in Richland County South Carolina. *See* CAPE PLC Receivership Order.

18. Plaintiffs are informed and believe that Defendant **Anglo American PLC** (individually and as successor-in-interest to Anglo American Corporation of South Africa Ltd.) is a corporation organized under the laws of England, United Kingdom, with its principal place of business located in London, England, United Kingdom.

19. Plaintiffs are informed and believe that Defendant **De Beers PLC** is a corporation organized under the laws of the Bailiwick of Jersey, with its principal place of business located in St. Helier, Jersey.

20. Plaintiffs are informed and believe that Defendant **De Beers Centenary AG** is a corporation organized under the laws of Switzerland, with its principal place of business in Emmenbrücke, Switzerland.

21. Plaintiffs are informed and believe that Defendant **De Beers Consolidated Mines Ltd.** is a corporation organized under the laws of the Republic of South Africa, with its principal place of business in Kimberly, Northern Cape, South Africa.

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22. Plaintiffs are informed and believe that Defendant **De Beers S.A**. is a corporation organized under the laws of the Grand Duchy of Luxembourg, with its principal place of business in the Grand Duchy of Luxembourg.

23. Plaintiffs are informed and believe that Defendant **De Beers UK Ltd**. is a corporation organized under the laws of England, United Kingdom, with its principal place of business in London, England, United Kingdom.

24. Plaintiffs are informed and believe that Defendant **De Beers Jewellers Ltd**. is a corporation organized under the laws of England, United Kingdom, with its principal place of business in London, England, United Kingdom.

25. Plaintiffs are informed and believe that Defendant **De Beers Jewellers US, Inc.** is a corporation organized under the laws of the State of Delaware, with its principal place of business in Fairfield County, Connecticut.

26. Plaintiffs are informed and believe that Defendant **Anglo American US Holdings Inc.** is a corporation organized under the laws of the State of Delaware, with its principal place of business in New Castle County, Delaware.

27. Plaintiffs are informed and believes that Defendant **Element Six US Corp.** is a corporation organized under the laws of the State of New York, with its principal place of business in Harris County, Texas.

28. Plaintiffs are informed and believe that Defendant **Element Six Technologies US Corp**. is a corporation organized under the laws of the State of Delaware, with its principal place of business in Santa Clara County, California.

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29. Plaintiffs are informed and believes that Defendant **Element Six Technologies (OR) Corp.** is a corporation organized under the laws of the State of Delaware, with its principal place of business in Multnomah County, Oregon.

30. Plaintiffs are informed and believe that Defendant **First Mode Holdings, Inc.** is a corporation organized under the laws of the State of Delaware, with its principal place of business in King County, Washington.

31. Plaintiffs are informed and believe that Defendant **Platinum Guild International (U.S.A.) Jewelry Inc.** is a corporation organized under the laws of the State of New York, with its principal place of business in New York County, New York.

32. Plaintiffs are informed and believe that Defendant **Lightbox Jewelry Inc.** is a corporation organized under the laws of the State of Delaware, with its principal place of business in Kent County, Delaware.

33. Plaintiffs are informed and believe that Defendant **Forevermark US Inc.** is a corporation organized under the laws of the State of Delaware, with its principal place of business in Fairfield County, Connecticut.

34. Plaintiffs are informed and believe that Defendant **Anglo American Crop Nutrients (U.S.A.), LLC** is a corporation organized under the laws of the State of Colorado, with its principal place of business in Burleigh County, North Dakota.

35. Plaintiffs are informed and believe that Defendant **Charter Consolidated Ltd.** is a corporation organized under the laws of England, United Kingdom, with its principal place of business located in Essex, England, United Kingdom.

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36. Plaintiffs are informed and believe that Defendant **ESAB Corporation** is a corporation organized under the laws of the State of Delaware, with its principal place of business in Montgomery County, Maryland.

37. Plaintiffs are informed and believe that Defendant **Central Mining & Investment Corporation Ltd.** is a corporation organized under the laws of England, United Kingdom, with its principal place of business located in Essex, England, United Kingdom.

38. Plaintiffs are informed and believe that Defendant **Cape Holdco Ltd.** is a corporation organized under the laws of England, United Kingdom, with its principal place of business in Warrington, England, United Kingdom.

39. Plaintiffs are informed and believe that Defendant **The Law Debenture Corporation PLC** is a corporation organized under the laws of England, United Kingdom, with its principal place of business in London, England, United Kingdom.

40. Plaintiffs are informed and believes that Defendant **Cape Industrial Services Group Ltd**. is a corporation organized under the laws of England, United Kingdom, with its principal place of business in Warrington, England, United Kingdom.

41. Plaintiffs are informed and believe that Defendant **Mohed Altrad** is an individual who resides in Montpelier, France.

42. Plaintiffs are informed and believe that Defendant **Altrad UK Ltd.** is a corporation organized under the laws of England, United Kingdom, with its principal place of business in Warrington, England, United Kingdom.

43. Plaintiffs are informed and believe that Defendant **Cape UK Holdings NewCo Ltd.** is a corporation organized under the laws of England, United Kingdom, with its principal place of business in Warrington, England, United Kingdom.

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44. Plaintiffs are informed and believe that Defendant **Altrad Services Ltd.** (f/k/a Cape Industrial Services Ltd.) is a corporation organized under the laws of England, United Kingdom, with its principal place of business in Warrington, England, United Kingdom.

45. Plaintiffs are informed and believe that Defendant **Altrad Investment Authority S.A.S.** is a corporation organized under the laws of France, with its principal place of business in Florensac, France.

46. Plaintiffs believe that one or more additional companies were likewise involved in the alleged acts described herein and are liable for the same alleged harms under the same or similar theories of liability ("Additional Defendants"). Those Additional Defendants may include one or more companies operated or managed by organizations located in the United States, United Kingdom, South Africa, Luxembourg, Lichtenstein, Switzerland, or other jurisdictions, which have been used to obfuscate responsibilities with and control over Cape PLC during the relevant period alleged herein, which were or are alter ego entities of Cape PLC, or which otherwise facilitated, took part in, or benefited from the liability-avoidance scheme described herein. When the identities of these Additional Defendants become known to Plaintiffs, this Complaint may be amended *nunc pro tunc* to state the identities of such Additional Defendants.

VENUE

47. Venue is proper in this Court as it is the Receiver Court which appointed the Receiver for CAPE, PLC and pursuant to the *Barton* Doctrine, all claims against the Receiver must be filed in the receiver court. Further, on March 3, 2019, pursuant to the Order of the Supreme Court of South Carolina, Order Number 2017-03-03-01, the Honorable Jean H. Toal was appointed to have jurisdiction in all circuits in the State to dispose of all pretrial matters and motions, as well

as trials, arising out of asbestos and asbestos litigation filed within the state court system. Thus, the Honorable Jean H. Toal will have jurisdiction over this matter.

BACKGROUND FACTS

48. Although this complaint arises out of events commencing many decades ago and continuing for decades, those events led to and resulted in asbestos-related disease that continues to be diagnosed in and suffered by residents of South Carolina, all across the United States and around the world, to this day. As described in detail below, Defendants (including their predecessors in interest) are directly responsible for injuries caused by these events, especially by the sale and use of asbestos or asbestos-containing products throughout the United States, including in South Carolina.

49. Cape PLC is the successor in interest to Cape Industries Ltd. (f/k/a Cape Asbestos Company Ltd.) and its subsidiaries and global affiliates (collectively, "Cape"), which was and is a private company organized and existing under the laws of the United Kingdom, with its principal place of business in England. At all times relevant, Cape was deeply involved in all elements of the global asbestos industry, mining hundreds of thousands of tons of raw asbestos in Apartheid-era South Africa and then selling asbestos fiber to scores of manufacturers of asbestos-containing products in the United States—substantial quantities of which were used in South Carolina.

50. Cape's historic operations involved a complex scheme to sell millions and millions of dollars of asbestos—knowing with certainty that it would kill and maim tens of thousands of Americans—while, at the same time, developing and executing on a ploy to escape any legal or financial responsibility to the people harmed by intentionally depleting its U.S.-based subsidiary of attachable assets. It is sadly unsurprising that Cape, acting with various other foreign entities, concocted this scheme, because Cape boldly admitted that it had **no** "moral responsibility" to the

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people injured or killed by Cape's asbestos products. CAPE000486. Executing on that scheme, Cape allowed default judgments against it in asbestos lawsuits across the United States, and simply absconded, leaving no assets for recovery. Ultimately, as averred below, Cape and its affiliated domestic and foreign entities got extraordinarily wealthy off the suffering and deaths of tens of thousands, and then cheated the system to escape responsibility for its and their tortious misconduct.

51. How does a company like Cape pull off such a scheme? Because Cape was part of a South African mining empire that enjoyed unparalleled political power, resource wealth, commercial and legal deviousness, and wholesale antipathy towards ethical business practices and any decent concept of responsibility. More specifically, Cape was the industrial gem of the Anglo and De Beers mining houses, which were controlled by the powerful Oppenheimer family of Johannesburg. *See, e.g.*, Laurie Flynn, *Studded with Diamonds and Paved with Gold: Miners, Mining Companies and Human Rights in Southern Africa* 180 (1992) [hereinafter, "Flynn (1992)"] ("Cape Industries, a British-registered part of Harry Oppenheimer's Anglo American empire . . . [was] among the biggest asbestos producers from the beginning").

52. As averred herein, those Defendants are responsible for a scheme that included, without limitation, the following acts:

(a) Failing to follow corporate formalities among affiliated entities, with a select few entities and individuals dominating the management and operations of Cape and its parent company, Charter Consolidated Ltd.;

(b) Leveraging that common ownership and control of numerous mining and other investment entities to effectively dominate the South African economy and global market for certain forms of asbestos;

(c) Creating and operating a byzantine web of entities with the deliberate purpose of avoiding public scrutiny and escaping the liabilities of the affiliated companies and their shareholders;

(d) Siphoning funds from entities within that web, including Cape's sole American subsidiary, to maximize the financial return to Cape's overseas owners, eliminate liabilities, and escape responsibility by neutralizing the risk of asset attachment by tort creditors; and

(e) Destroying corporate records and publicly misrepresenting the nature of Cape's business and liability-avoidance scheme in the United States, all designed to avoid responsibility to the tens of thousands of people injured by Cape asbestos.

53. Each of the named Defendants facilitated and caused Cape's U.S.-based sales and liability-avoidance scheme, or otherwise acted as successors in interest to or beneficiaries of entities involved in that scheme, and, thus, are responsible for the alleged bodily injury underlying the claims against Cape PLC across the United States, including specifically in South Carolina.

I. Cape was established as part of a South African mining empire.

54. Cape: A De Beers-Affiliated Project. From its beginning, Cape was formed to act in coordination with powerful mining interests in South Africa. Specifically, in 1891, Francis Oats— a director and eventual chairman of De Beers Consolidated Mines Ltd. (collectively with its affiliates and successors in interest, as named as Third-Party Defendants herein, "De Beers")— formed the Cape Mineral Syndicate to exploit asbestos reserves that had been recently re-discovered in the Orange River Valley in South Africa. Two years later, on December 28, 1893, the Cape Asbestos Company Ltd. was organized in the United Kingdom for the express purpose of: (i) taking over the Cape Mineral Syndicate's mining operations, and (ii) manufacturing asbestos products in England. As a De Beers-affiliated company, Cape was co-founded by Oats and his close business associate, Ludwig Breitmeyer (also a future De Beers director), while another De Beers director, Rudolf Hinrichsen, was installed as Cape's first chairman. Jock McCulloch, *African Issues: Asbestos Blues: Labour, Capital, Physicians & the State in South Africa* 43

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(Indiana Univ. Press 2002) [hereinafter, "McCulloch (2002)"]. Thus, from its founding, Cape's operations and ownership were integrated with the interests of De Beers.

55. Wernher, Beit & Co. In the 1890s, Breitmeyer was "a partner in the London [mining finance] firm of Wernher, Beit & Co.," which—with its branch in South Africa, *i.e.*, Hermann, Eckstein & Co.—"became famous as the Corner House" Group. *Cape Asbestos (1893–1953): The Story of The Cape Asbestos Company Limited* 16 (1953) [hereinafter, "Cape Diamond Jubilee"]; Sir J. Percy Fitzpatrick, *South African Memories* 14 (1932). The Corner House Group was the most powerful mining finance house in South Africa at the time and was founded by London- based "Randlords" Alfred Beit and Julius Wernher. *See* Martin Meredith, *Diamonds, Gold and War: The British, the Boers, and the Making of South Africa* 187 (2007) [hereinafter "Meredith (2007)"] ("At first, Eckstein's office in Johannesburg was called 'Beit's building'; but it later became known as Eckstein's Corner and then as the Corner House; and what it represented was the most powerful group of financiers in southern Africa."); *id.* at 294 (noting that "foreign mining magnates" such as Wernher and Beit "were dubbed by the British press" as "the Randlords," who "indulge[d] in luxury lifestyles in Britain" from their fortunes made in Africa).[1]

56. Role at De Beers and Cape. The members of the Corner House Group, particularly Alfred Beit, were fundamental to the amalgamation of diamond-mining interests that occurred with the formation of De Beers Consolidated Mines Ltd. in 1888. *See id.* at 247 ("The mastermind behind the amalgamation of the diamond mines in Kimberly was not [Cecil] Rhodes but . . . Alfred Beit – 'Little Alfred' – to whom he invariably turned for solutions.").[2] In turn, Ludwig Breitmeyer

[1] *See also, e.g.*, Sir J. Percy Fitzpatrick, *South African Memories* 157 (1932) ("In few countries . . . did any single business firm bulk as big [as] . . . Wernher, Beit & Co. Their great wealth and power on the diamond fields, where . . . they were the real backers of [Cecil] Rhodes in his great work [*e.g.*, the amalgamation of interests at De Beers], and on the Witwatersrand gold fields, where under the name of H. Eckstein & Co., their position, power and influence were overwhelmingly predominant, made them of necessity a very great factor in [South Africa].").

[2] *See also, e.g.*, Sir J. Percy Fitzpatrick, *South African Memories* 27, 33, 90 (1932) ("Alfred Beit has been very generally regarded as the ablest businessman South Africa has ever known. He was very much more than just a financier

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served as alternate director on the De Beers board for Alfred Beit, while being intimately involved in Cape's founding and becoming Cape's first long term Chairman (from 1894 until his death in 1930). *See* Cape Diamond Jubilee (1953) at 6, 16 (noting Breitmeyer became Cape's Chairman after the first one died). In that role, Breitmeyer managed Cape in the company's infancy, while it was funded and controlled by members of the Corner House Group (*i.e.*, the key members of De Beers). *See id.* at 12, 16.

57. Breitmeyer's Personal Rise. While acting as Cape's Chairman, Breitmeyer was part of the Corner House Group's continued dominance over mining in South Africa into the 1920s (until that role was overtaken by a relative newcomer, *see infra* ¶ 49). For example, in 1905, on information and belief, Breitmeyer was involved in the organization of the Central Mining & Investment Corp. Ltd. ("Central Mining") to take over the assets and business interests of Wernher, Beit & Co., which included interests in Cape Asbestos. *See, e.g.*, Duncan Innes, *Anglo American and the Rise of Modern South Africa* 55 (1984) [hereinafter "Innes (1984)"] ("[T]he House of Wernher Beit expanded considerably at this time, changing its name to Central Mining in 1905[.]").[3] In 1912, moreover, Breitmeyer became a full-time De Beers director. *See* Hedley A. Chilvers, *The Story of De Beers* 307 (1939) ("BREITMEYER, L. Director from December 5, 1912, to the date of his death, March 13, 1930. Was alternate to A. Beit from May 14, 1888, to June 25, 1889, and from May 18, 1891, to February 6, 1896."); De Beers 1930 Annual Report, at 3 (Oct. 13, 1930) (Sir Ernest Oppenheimer, as the new De Beers Chairman, reporting "regret to record

… There can be no doubt whatever that Beit was Rhodes's financial genius, and without him the great creations which are credited to Rhodes would not have been accomplished. … When the big amalgamation was completed and the De Beers Consolidated created, Rhodes, Beit and Wernher were made life-governors with a share in ultimate profits, which . . . proved of enormous value afterwards.").

[3] *See also Archives Hub: Papers of the Central Mining and Investment Corporation*, https://archiveshub.jisc.ac.uk/search/archives/780f1a0a-48ec-3e42-8e82-53503070110e; *Company Information: Central Mining & Investment Corporation Limited (The)*, https://find-and- update.company-information.service.gov.uk/company/00084511.

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the death . . . of [a] valued friend and colleague, Mr. L. Breitmeyer, who had been a Director of the Company for the past 18 years").

58. The Oppenheimer–Anglo Takeover of De Beers. In or around 1925, at a critical juncture in South African mining history, Breitmeyer sought to take control of De Beers, but was thwarted by Sir Ernest Oppenheimer—who, soon after, became De Beers' chairman. *See* Hedley A. Chilvers, *The Story of De Beers* 227 (1939) ("Offers for the purchase of the Company's diamonds were received in 1925 from L. Breitmeyer and friends and from Sir Ernest Oppenheimer and friends for a period of five years from January 1, 1926. The offer of the latter was accepted"); De Beers 1930 Annual Report, at 3 (Oct. 13, 1930) (noting leadership of Oppenheimer). Critical to his success as the new De Beers chairman, Ernest Oppenheimer also controlled the Anglo American Corporation of South Africa Ltd. (collectively with its affiliates and successors in interest, including Anglo American PLC, "Anglo"), which Oppenheimer formed in September 1917 to bring about an "amalgamation between" various mines and other business interests. *See* David Pallister et al., *South Africa Inc.: The Oppenheimer Empire (Revised & Updated Ed.)* 54–55 (Yale Univ. Press 1988) [hereinafter, "Pallister (1988)"].

59. Anglo's Interest in Cape. In the aftermath of the Oppenheimer-led takeover of De Beers, Breitmeyer maintained his directorship at De Beers and his Chairmanship at Cape. *See, e.g.*, De Beers 1930 Annual Report, at 3 (Oct. 13, 1930) (noting long, continued role as De Beers director); Cape Diamond Jubilee (1953) at 6 (chronology of Cape's initial leadership). However, Breitmeyer died soon after (in 1930), with Central Mining or other affiliates of the Corner House Group continuing to control Cape.[4] On information and belief, however, soon after the

[4] *See, e.g.*, McCulloch (2002) at 8 (observing that by 1944, "the major shareholders [in Cape] were the Central Mining and Investment Corporation of London and the estate of the late Alfred Beit," who had died nearly four decades prior in 1906); Cape Diamond Jubilee (1953) at 35, 48, 61 (referencing Central Mining and other affiliates of the Corner House Group involved with leadership and operations at Cape).

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Oppenheimer-led takeover of De Beers, Anglo and its affiliated entities developed direct and indirect ties (including by assuming contracts and liabilities) in various businesses affiliated with the Corner House Group, including Central Mining and Cape. *See cf.* Hedley A. Chilvers, *The Story of De Beers* 227 (1939) ("The new (Oppenheimer) Syndicate took over in October the stock of diamonds of the old (Breitmeyer) Syndicate and all contracts and liabilities."). And at minimum, Anglo's "involvement in Cape Asbestos grew during the Second World War," because by then, Central Mining had become affiliated as an "Oppenheimer company" and was also Cape's "majority shareholder." Geoffrey Tweedale & Laurie Flynn, *Piercing the Corporate Veil: Cape Industries and Multinational Corporate Liability for a Toxic Hazard, 1950–2004*, 8 Enterprise & Society 268, 274 (2007) [hereinafter, "Tweedale & Flynn (2007)"]. Moreover, by 1949, "Central [Mining] had a majority on the board of directors of Cape," *id.*, and by 1958 (at the latest), Anglo had executed a "take over [of] Central Mining," Pallister (1988) at 120.

60. Cape as Part of an Empire. In other words, by the middle of the twentieth century, Cape was the asbestos-mining leg of an amalgamated mining empire based out of South Africa that included the De Beers diamond monopoly and mining powerhouse of Anglo associated with the Oppenheimer business dynasty.[5]

61. Benefits of Anglo Affiliation. Cape's affiliations—especially with Anglo—were key to Cape's success, because Anglo (i) acted as "South Africa's largest and most influential corporation," (ii) dominated the mining industry, and (iii) "ma[de] up the core of the country's economy." Pallister (1988) at 25 ("The old adage that what is good for General Motors in the United States is far more apposite to Anglo and South Africa. Certainly Anglo

[5] While started by Sir Ernest Oppenheimer, leadership at Anglo was passed down to his son, Harry Oppenheimer, who is now succeeded by the founder's grandson, Nicholas ("Nicky") Oppenheimer, reportedly the third wealthiest man in Africa. *See* Rob LaFranco *The Forbes Billionaires List: Africa's Billionaires* (Jan. 30, 2023), https://www.forbes.com/lists/africa- billionaires/?sh=5a12a2a724d5.

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controls a far greater proportion of the South African economy than [GM] could ever hope to achieve in the USA."). For example, Central Mining (as controlled by Anglo) leveraged its expertise and methods in gold mining to improve the performance at Cape mines by seconding employees to Cape in South Africa—but with Anglo, not Cape, paying their compensation. *See* McCulloch (2002) at 51–52 (detailing "claims that seconded staff kept their original medical aid and pension entitlements [of Central Mining], and their salaries were paid by the parent company Anglo American").[6]

62. The Deviousness of Its Business Structure. Exhibiting extraordinary business and legal deviousness, the Oppenheimer family (along with their close associates) structured and coordinated "a web of secret companies" to avoid financial liabilities, including tax liabilities. Pallister (1988) at 25; *see also* Stefan Kanfer, *The Last Empire: De Beers, Diamonds, and the World* 292, 316–17 (1995) [hereinafter, "Kanfer (1995)"] (noting that the Anglo businesses were often investigated for "illegally doing business in the [United] States"). Outwardly, however, the Oppenheimer family and its associates did not acknowledge the true extent of cross-associations between their various companies—which in the aggregate allowed the Oppenheimer family to dominate the South African economy. *See, e.g.*, A.J.W. Owston Tr. 31–32 (Aug. 22, 1984) (Charter executive director and Anglo employee claiming not to know who controls Anglo or De Beers, but admitting the greater group enjoyed having "inside South Africa dozens of subsidiaries in all kinds of activities").[7]

[6] In turn, in later years (*see infra* ¶ 54), Charter could "call on the comprehensive technical services of Anglo," which Charter acknowledged "contributed greatly to the examination and evaluation of the many mining and prospecting projects initiated by or brought to" Charter. *See* Charter 1966 Annual Report, at 24 (May 31, 1966).

[7] *See also* Pallister (1988) at 25 ("Technically there are simply two major South African publicly quoted companies, the Anglo American Corporation of South Africa . . . and De Beers Consolidated Mines, with an admitted close working relationship and various cross-holdings with other companies. Because the boards of [Anglo] and De Beers present their companies as independent entities on stock exchanges and to business partners and governments around the world, they can never formally admit that the two operate as inseparable twins.").

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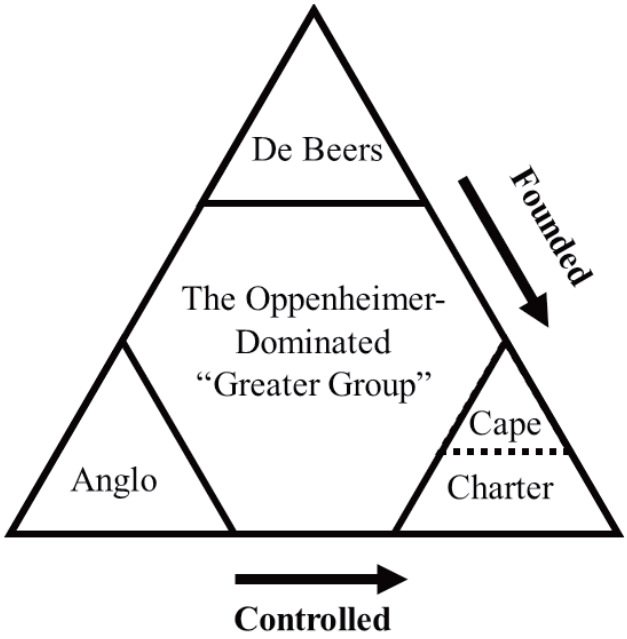
63. The Creation of Charter. After World War II, the Oppenheimer family sought to extend its business holdings internationally, including by consolidating companies with ownership and control of Cape. Thus, in 1965, Central Mining merged with two other mining and investment companies (The British South Africa Company and The Consolidated Mines Selection Company Ltd.) to form Charter Consolidated Ltd. ("Charter"). Anglo created Charter to serve as Anglo's "international investment arm," Pallister (1988) at 345, thereby creating an Oppenheimer-controlled corporate triumvirate—with Charter being the third of "three essential companies" of what insiders called "the greater group," *i.e.*, Anglo, De Beers, and Charter. *See* A.J.W. Owston Tr. 31–32, 66 (Aug. 22, 1984); J.A.B. Nichols Tr. 10, 61(Aug. 29, 1984). [8]



64. Charter's 1969 "Takeover" of Cape. Although Charter had both direct and indirect interests in Cape from its founding, it purported to only have a minority interest initially, before quickly accumulating shares and acquiring majority ownership by 1969. *See* Charter 1965 Annual

[8] *See also, e.g., Charter Website: History* (Dec. 12, 2008), https://web.archive.org/web/20081212114613/http://www.charter.ie/chtr_int/about/history/; (noting that "[v]arious companies within the Anglo American Corporation of South Africa have held an interest in Charter Consolidated shares").

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Report, at 5 (May 19, 1965) (listing Cape as a "principal interest[]" of Charter at its founding); Charter 1968 Annual Report, at 34 (May 28, 1968) (reporting 19.5% interest in Cape and the "mining and manufacture of asbestos"); Charter 1969 Annual Report, at 7, 25, 31 (June 3, 1969) (reporting 25.3% interest in Cape and efforts to obtain majority ownership through takeover offers to other unidentified Cape shareholders). On information and belief, in 1969 and prior years, Charter or other Anglo-affiliated entities purchased Cape shares from other companies associated (previously) with the Corner House Group, including, without limitation, Rand Mines Ltd., Rand Mines Holdings Ltd., or their affiliates, in which Charter and Anglo also held large ownership interests. *See* Charter 1969 Annual Report, at 28, 32 (June 3, 1969) (noting 15.9% interest in Rand Mines Ltd. and 23.6% interest in Transvaal Consolidated Land & Exploration Company Ltd.). Indeed, at its founding, Charter touted its close relationship with these and other members of the Corner House Group. *See, e.g.*, Charter 1965 Annual Report, at 7 (May 19, 1965) (noting shared interests involving Charter, Central Mining, and Rand Mines Ltd. under section of report titled "CORNER HOUSE GROUP"); Innes (1984) at 212–13 (stating that "as part of the Corner House Group, Rand Mines had become one of the country's leading mining houses," but eventually fell under the control of Anglo by the early 1960s); *see also* Meredith (2007) at 302 (detailing the founding of Rand Mines in 1893, which was formed by the contribution of mining claims and "five existing companies" by H. Eckstein & Co., with "the partners in Eckstein, including Beit and Wernher in London," receiving shares in the new entity).

65. Charter: A Shell Game. In the end, Charter's purported "takeover" of Cape was nothing more than a continuation of other Oppenheimer-affiliated entities' control of Cape over the prior decades,[9] and serves as only one example of the many corporate shell games used by the

[9] *See, e.g.*, Charter 1966 Annual Report, at 7 (May 31, 1966) (noting Central Mining "acquired interests in . . . asbestos, . . . besides a number of industrial interests in the United Kingdom"); Charter 1970 Annual Report, at 16 (June 18,

Oppenheimer business empire to obscure their financial interests globally.

66. One Main Office for One Enterprise. Similarly, the corporate separation between Charter and Anglo was superficial. By way of example only, Charter and Anglo shared common office space at 40 Holborn Viaduct in London, employed personnel who routinely switched roles between the entities, and each had boards that were dominated by the Oppenheimer family and their business associates/servants. *See, e.g.*, E.G. Rudland Tr. 7–8, 21–22 (Apr. 7, 1981) (describing overlapping personnel and directorships); House of Commons, Expenditure Comm., Session 1973–74, *Fifth Report: Wages and Conditions of African Workers Employed by British Firms in South Africa* 22–23 (Jan. 22, 1974) [hereinafter, "House of Commons Rep."] (noting that Charter "even allow[s] Anglo American to supply directors for Charter representation on boards"); Peter Schmeisser, *Harry Oppenheimer's Empire: Going for Gold*, N.Y. Times, Mar. 19, 1989 [hereinafter, "Schmeisser Article"] (noting common office space of De Beers, Anglo, and Charter in London, as well as overlapping directors among the Oppenheimer companies); Charter 1965 Annual Report, at 10 (May 19, 1965) (as part of the Charter merger, there was an "[i]ntegration of the London staffs" of the three merged companies, with the new organization located at 40 Holborn Viaduct); Charter 1966 Annual Report, at 24 (May 31, 1966) (noting merged companies were also combined "with the London staffs of Anglo . . . and Consolidated Share Registrars Limited" to create a "wholly owned subsidiary, Charter Consolidated Services Limited," which also took over the office lease and "provide[d] staff and services in London, not only for all companies in the Charter . . . group, but also for the Anglo . . . , De Beers and Corner House groups").

67. Charter's Role in the Empire. Consistent with this scheme, Charter operated such that its "every move was made in the interests of De Beers and Anglo"—furthering the

1970) (noting that "there has long been a close association [of Cape] with Charter through one of its forerunners," *i.e.*, Central Mining).

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amalgamated Oppenheimer empire's effort "to extend [its] grasp to North America," while allowing it to "unobtrusively buy, spawn or control" varied and sizeable business interests around the world through a "series of . . . cross-holdings." Kanfer (1995) at 291–92, 315 (describing Charter as one side of a "pyramid" of global business interests).[10]

68. Domination of Charter. The Oppenheimers consistently sat on Charter's board of directors after its founding,[11] while at the same time dominating Charter's share ownership.[12] Indeed, Charter's management was a long continuation of Randlord-style business, in which the "real proprietors" and "owners" of a business (such as the Oppenheimer family) participate primarily in profits, while local affiliated entities (such as Charter and Cape) profit by the grace of the Randlords—with an "unwritten obligation of honour to respect [Randlord] wishes and position." Sir J. Percy Fitzpatrick, *South African Memories* 90–91 (1932) (Corner House Group representative in Johannesburg detailing this norm between De Beers and Corner House Group members). Thus, it was clear to all, including Members of Parliament, that "[w]here Anglo American lead, Charter Consolidated are prepared to follow." House of Commons Rep. at 23.

69. Charter's Investment in South Africa. By the early 1970s, Charter became the largest English corporate investor in South Africa—albeit, one investing primarily in Anglo-affiliated entities, including its own parent Anglo (in which Charter had a 10% equity stake). *Id.*

[10] *See also, e.g.*, Schmeisser Article ("The structure of Oppenheimer's empire is dizzyingly complex and nearly impenetrable to outsiders. He wields his power indirectly, through pyramided holding companies, interlocking shareholdings and a myriad of cross-directorships. As a result of this operating strategy, few people are aware that in the last two decades scores of businesses in the United States [and elsewhere] have been founded or purchased with Oppenheimer capital and are managed by Oppenheimer loyalists while maintaining no legal ties to South Africa.").
[11] *See, e.g.*, Charter 1967 Annual Report, at 4 (June 9, 1967) (noting Oppenheimer's role as chairman, beginning a two-year term in that role); Charter 1971 Annual Report, at 3 (June 1, 1971) (noting Sir Philip Oppenheimer's role as Deputy Chairman and a member of the executive committee).
[12] *See, e.g.*, Anglo 1979 Annual Report, at 69 (June 22, 1979) (indicating that both Harry and Nicky Oppenheimer had 18,333,268 beneficial shares in Anglo, with the next highest directorship holding being 30,000 shares); Charter 1968 Annual Report, at 10 (May 28, 1968) (indicating that Harry Oppenheimer dominated ownership of Charter with 5,004,600 shares).

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at 22. Uniquely, in contrast to other corporate investors who sought majority ownership (and thus control) over their South African businesses, Charter had a minority stake (usually around 10%) in most of its South African investments, with one notable exception: its majority ownership of Cape. *Id.* at 22 & n.1.

70. Charter's Interest in Cape. Charter's "largest industrial subsidiary company" was Cape, with Charter even seconding and compensating key personnel for Cape's management. J.N. Clarke Tr. 14, 17–18 (Apr. 21, 1983); *see also, e.g.*, G.A. Higham Tr. 7–9, 28, 87 (Oct. 3, 1984) (Cape Chairman admitting that Charter had been paying his compensation for years and that he acts as Chairman for "a number of Charter's [other] industrial subsidiaries" as well). In other words, although most of Charter's assets were tied up in minority investment interests—effectively operating as a holding company—Cape was Charter's primary operating company and "principal industrial subsidiary." *See* Charter 1972 Annual Report, at 15 (May 30, 1972) (also emphasizing Cape's profitability). In turn, Charter used its "close association" with other South African companies, namely Anglo, to "exercise . . . influence" in Apartheid-era South Africa, *see* House of Commons Rep. at 22—thereby allowing Cape to profitably mine and export asbestos to the United States for decades.

71. Clear Takeaway, Despite Complexity. Ultimately, although the facts are complex, it is clear that through an "Anglo holding company" (*i.e.*, Charter), Cape and its subsidiaries were part of the "Anglo American Group of Companies"[13] that dominated the

[13] As explained by Anglo, the "term 'group' has a wider meaning in the South African mining industry than its statutory definition of a parent company and its subsidiaries . . . . The mining finance houses in South Africa have traditionally operated 'the group system', whereby the parent house not only administers companies that are not necessarily subsidiaries, but provides them with a full range of administrative and technical services and is able, by virtue of its financial strength and standing, to assure them of capital for expansion and development. Thus the Anglo American Corporation Group comprises a large number of companies that are closely linked to [Anglo] but which are not generally subsidiaries or controlled companies as defined in the statutes." Anglo 1974 Annual Report, at 3 (Apr. 28, 1975).

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South African mining economy during the twentieth century. Innes (1984) at 271, 283 (listing Cape among other Anglo subsidiaries in a published history about Anglo and its importance in South Africa); *see also, e.g.*, Schmeisser Article (reporting that the Oppenheimer family "has dominated the South African economy for nearly half of [the twentieth] century" and that "Anglo American, which accounts for more than 50 percent of the stocks traded on the Johannesburg stock exchange, permeates every conceivable corner of the South African marketplace").

72. A Profitable Mid-Century Business. In turn, Cape reflected the Oppenheimer empire's shared commercial interest[14] in the high-growth, highly profitable asbestos industry after World War II. *See, e.g.*, Jock McCulloch & Geoffrey Tweedale, *Defending the Indefensible: The Global Asbestos Industry and Its Fight for Survival* 37 (Oxford Univ. Press 2008) [hereinafter, "McCulloch & Tweedale (2008)"] (observing that "the major [asbestos] companies derived the bulk of their profits from" asbestos mines); Charter 1970 Annual Report, at 12, 16 (June 18, 1970) (reporting a "substantial jump in trading profits for the year . . . due to the inclusion of earnings from Cape Asbestos").[15]

73. Goal of Corporate Complexity. Although the precise "connection between Cape, Charter, Central Mining and Anglo American is complex," McCulloch (2002) at 51–52, that complexity reflects an intentional scheme to obfuscate corporate relationships and ownership interests while minimizing the amalgamated business empire's liability risks, including for

[14] *See, e.g.*, Anglo 1976 Annual Report, at 7 (Mar 25, 1977) (reporting that Anglo had "important interests in the production of . . . asbestos" through Charter); De Beers 1978 Annual Report, at 48– 49, 52 (Mar. 30, 1979) (referencing "strengthening [of] De Beers' earnings base," which through Anglo and Charter, "the London-based mining finance house," included interests in "asbestos . . . and other minerals, and in industrial enterprises in the United Kingdom"); Charter 1972 Annual Report, at 39 (May 30, 1972) ("In mining, the Anglo American Corporation group and its close associate De Beers Consolidated Mines Limited have important interests in the production of . . . asbestos.").

[15] *See also, e.g.*, Charter 1970 Annual Report, at 31 (June 18, 1970) (reporting that the sale of asbestos fibre contributed the most to the company's trading profit); Charter 1972 Annual Report, at 3 (May 30, 1972) (noting among top "[f]eatures of the year" that Cape's "profits increased from £2,528,000 to £3,098,000"); Charter 1977 Annual Report, at 47 (June 9, 1977) (noting £9,831,000 pre-tax trading profit from mining and sale of asbestos fibre and 28.2% profit margin from the same, *i.e.*, the highest among Charter's manufacturing subsidiaries).

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asbestos (as well as taxes).[16]

74. The Point of Charter. Specifically, Charter was designed to serve as a corporate cushion—a products-liability patsy—for Anglo that could (i) promptly purge itself of substantial cash (through dividends based on new profits, or by otherwise reallocating assets among holding companies through more complex transactions) to Oppenheimer-affiliated entities, and (ii) add a "formal" degree of separation between Anglo and Cape, *i.e.*, a profitable asbestos business, but one they knew would injure tens of thousands and thus created a substantial risk of liability in the future. *See infra* ¶¶ 81–88 (detailing working conditions and known disease in South Africa and England); *see also cf.* Jock McCulloch & Pavla Miller, *Mining Gold and Manufacturing Innocence: Occupational Lung Disease and the Buying and Selling of Labour in Southern Africa* 390–91 (2023) (noting "Charter's controlling share in Cape gave Anglo American a commercial interest in the asbestos industry" and "Anglo American's board reason to monitor" alleged liabilities of Cape).

75. Infamous Recognition for Success. Through these corporate maneuvers, Cape, as "part of the great South African conglomerates of De Beers and Anglo-American Corporation, provides a classic example of . . . tactics" centered on hiding behind a corporate-veil fiction, *i.e.*, "us[ing] complex and confusing corporate structures to distance themselves from liability." McCulloch & Tweedale (2008) at 181 (also describing recognition by judicial tribunals that "Cape

[16] As described later, *infra* ¶¶ 89–105, when the victims of this scheme began to sue and win verdicts, Anglo implemented additional—but still wholly superficial—corporate changes to further distance itself from its asbestos business and mitigate its U.S. liability risk, with Cape Asbestos (i) dropping *Asbestos* from its name, (ii) ceasing to appoint Cape officials to the board of its American subsidiary (NAAC) as a "sensible precaution," (iii) interjecting another entity (Cape Industries Overseas Ltd.) between NAAC and Cape, to add yet *another* degree of superficial separation between Anglo and its U.S. asbestos business, and (iv) purporting to close NAAC and sell its South African asbestos mines, for the purpose of evading creditors, while Anglo continued to profit from the sale of asbestos through other entities.

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operated worldwide as a single economic unit" and provided "false testimony" about its organization).

76. Control as the Key to Success. The Oppenheimer "family's control [of these enterprises] and its personal wealth" was consistently the "key" to coordinating the management of their businesses, including Charter and Cape. *See* Pallister (1988) at 41 (noting that apart from Oppenheimer kin, the "powerful inner cabinet that [took] the most sensitive and important decisions" for the global empire was limited to (i) two individuals who had each served as Chairmen of Charter, and (ii) former personal assistants who were "considered to be part of the 'family'").

77. Domination of the South African Mining Economy. In the end, the amalgamated Oppenheimer empire, as effectuated by De Beers, Anglo, and Charter primarily, was astonishingly successful in its domination of the South African mining economy—making up 10% of South Africa's GDP and 30% of its exports in 1973, while controlling or producing 40% of South Africa's gold, 80% of the world's diamonds, a sixth of the world's copper, and most of South Africa's coal. Tweedale & Flynn (2007) at 274; *see also, e.g.*, Charter 1972 Annual Report, at 39 (May 30, 1972) (reporting Anglo's dominance of gold, coal, and uranium mining in South Africa).

78. Control of Asbestos Supply. In fact, Cape controlled 90% of the global supply of amosite[17] asbestos and dominated the distribution of other types of asbestos as well—effectively enjoying a monopoly over a then-highly sought industrial resource. *See Hammond v. N. Am. Asbestos Corp.*, 454 N.E. 2d 210, 217 (Ill. 1983); *see also* McCulloch & Tweedale (2008) at 28 (describing industrial preference for amosite "in the construction and repair of ships").

[17] The name for this unique form of asbestos is derived from its association with a Cape business division in South Africa—*i.e.*, AMOSA, Asbestos Mines of South Africa. Flynn (1992) at 192.

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II. Cape Created NAAC to Facilitate Its Asbestos Scheme.

79. A U.S. Subsidiary to Fuel Growth. As part of the Oppenheimer empire's global expansion, on October 14, 1953, Cape established the North American Asbestos Corporation ("NAAC") as a direct subsidiary domiciled in Illinois. *See, e.g.*, CAPE001511. Although Cape had been profitable for years, including "return[ing] a strong dividend" for shareholders (*i.e.*, Oppenheimer-affiliated interests) from 1936 to 1951, "the company's most bountiful years were the two decades until 1976"—the period when Cape operated NAAC to provide raw asbestos fiber to customers in the United States, the company's most important market. McCulloch (2002) at 68.

80. U.S. Industry Connections. Previously, Cape had already been marketing its asbestos to numerous U.S.-based customers, including having an important business relationship with, among other companies, Union Asbestos & Rubber Co. (UNARCO) since the 1930s to create "Unibestos" insulation. For the sake of continuity, and to leverage established client connections, Cape Chairman Ronald Dent selected UNARCO Vice President, Bob Cryor, to be NAAC's first President—a role that Cryor filled until his death from mesothelioma in 1970. *See, e.g.*, *Cameron v. Owens-Corning Fiberglas, Corp.*, 695 N.E.2d 572, 578 (1998).[18]

81. NAAC's Role at Cape. Cape designed NAAC to operate as Cape's wholly controlled instrumentality for the "purpose of expediting and facilitating the movement" of asbestos from South African mines into the United States (including South Carolina).[19] To facilitate this, NAAC had both marketing and distribution roles: (i) serving as Cape's sales agency in the

[18] Important to Cape, Cryor also had established relationships with executives at Johns-Manville Corp. (one of Cape's most important customers). Indeed, Johns-Manville Corp. trusted Cryor so much as to admit to him a company policy of not telling employees about their asbestos disease— out of fear that they would stop working and file claims, and instead choosing to withhold the information and let workers die to "save a lot of money." Paul Brodeur, *Outrageous Misconduct: The Asbestos Industry on Trial* 276–77 (1985).

[19] *See* CAPE000110–12 (1982 court filing describing NAAC's history); CAPE000177 (identifying NAAC as the sole U.S.-based entity of the Cape mining division); CAPE000869 (1973 letter describing NAAC as "a division of Cape Asbestos Co. Ltd., with corporate offices in London").

United States, with sole authority to offer Cape products and responsibility for transmitting information about customer needs to Cape mines, and (ii) ensuring the proper distribution of asbestos products from Africa "all the way through to the customer's plant," including to locations in South Carolina or through South Carolina ports.[20] NAAC "effect[ively] . . . put the Mines at every U.S. port." CAPE000988–89. By 1970, NAAC was the "largest U.S. importer of Amphibole Fibres," which were "re-distributed from . . . warehouse locations in East Coast, Gulf Coast and West Coast Ports." CAPE000878–79.

82. Cape's Business in South Carolina. In coordination with, and at the direction of, the amalgamated global Cape/Oppenheimer network, NAAC sold millions and millions of dollars of asbestos mined from South Africa to numerous U.S.-based clients, which used or distributed asbestos products in South Carolina. *See, e.g.*, CAPE000994–95 (NAAC letter identifying certain clients). NAAC's own records show that Cape sold asbestos to companies in South Carolina, including to Raybestos Manhattan, Inc. in North Charleston and Westinghouse Electric Corp. in Hampton, as well as to facilities on the South Carolina–Georgia border (*e.g.*, Babcock & Wilcox in Augusta, GA and Dow Chemical in Savannah, GA). *See also, e.g.*, S. Purrington Tr. 9–10, 64 (Aug. 25, 1986) (NAAC clerical worker from 1961 to 1978 identifying Dow Chemical as one of NAAC's three primary customers).

83. The Disastrous Impact on South Carolinians. In turn, those Cape products caused individuals (including residents of South Carolina) to be exposed to asbestos and suffer bodily injury, which has resulted in myriad suits against Cape ("Asbestos Suits").

84. Goal of National Distribution. In addition, Cape and NAAC implemented a

[20] *See* CAPE000263–66 (describing intended business of NAAC); CAPE000333 (1975 Cape cover letter of NAAC director resignations); CAPE000729 (appointment announcement describing NAAC as "specialize[d] in marketing and distribution of Blue and Amosite asbestos in the United States, Canada, Mexico and the Caribbean"); CAPE000988–89 (1969 NAAC memorandum describing customer services).

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"conscious pattern of product distribution [of asbestos] nationally"—particularly, amosite, over which Cape had a monopoly. *See In re: Asbestosis Cases*, Case No. 78-CP-06-105, Order, at 3 (S.C. Common Pleas Apr. 7, 1980) [hereinafter, "S.C. 1980 Order"] (rejecting objection to the exercise of personal jurisdiction over NAAC in South Carolina); *see also* Flynn (1992) at 188 ("What Cape did [in the United States of America] is not dissimilar to the situation where someone fires a gun into a crowd of people. You may not know which of them will be killed but you know for certain that some of them will be killed.").

85. Prevalence of Cape's Asbestos. Cape's amosite (along with Cape's other types of mined asbestos) was an ingredient in the most popular and dominant asbestos products in the market, which were used in virtually every state, including products "used in [South Carolina]." *See* S.C. 1980 Order, at 3; *see also, e.g.*, Raybestos-Manhattan 1963 Annual Report, at 2 (Mar. 13, 1964) (Cape's major customer in South Carolina touting: "Whoever you are, whatever your business, a [Raybestos-Manhattan] product touches your life."); *Parker v. Bell Asbestos Mines, Ltd.*, 607 F. Supp. 1397, 1403–04 (E.D. Pa. 1985) (rejecting argument that Charter was entitled to dismissal, given possibility that plaintiff could "prove that Charter controls Cape, and that Cape has deliberately avoided liability to American plaintiffs, [such that] it will be fair to ask Charter to stay and defend Cape's position"). In short, Cape deliberately and purposefully availed itself of the entirety of the United States market for asbestos fiber, including the South Carolina market.

86. Management at NAAC. The volume of Cape's asbestos supply to the United States was breathtaking given the ostensibly small footprint of NAAC, "which was essentially a one-man operation" consisting of an operational lead supported by four office clerical personnel.[21] All key decisions, however, including with respect to the fulfillment of specific purchase orders,

[21] *See* CAPE000110–12 (describing NAAC's lean staffing); CAPE001514 ("Despite the volume of sales and profits of NAAC, our operation is a very small one, with only a total of 5 employees.").

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were closely coordinated with and directed by other Cape entities, or made by a board comprised of Cape executives and lawyers (until Cape executives resigned in 1975, in what they described at the time as a "sensible precaution" against U.S. litigation). *E.g.*, CAPE000333.[22]

87. A Pawn in the Oppenheimer Empire. In selecting directors to participate in this worldwide scheme, Cape Chairman Ronald Dent—also a director for Charter and several other Charter-owned companies, apart from NAAC and Cape—valued "the type of man who would fit into our scheme of things . . . without causing embarrassment all around." CAPE000261–62; *see also* Charter 1972 Annual Report, at 33 (May 30, 1972) (noting Dent's role as a Charter director and ownership of Cape shares, which were also directly owned by other Charter directors).

88. Domination of American Subsidiary. NAAC's operations and decision-making were wholly dominated by Cape and its owners, including Charter and other affiliated mining/investment interests in South Africa. How dominated was NAAC? The company could not "borrow one dollar without [Cape's] approval" and was routinely forced to withdraw cash to pay dividends to Cape, thereby minimizing NAAC's available assets that could be reached by American creditors.[23] Astoundingly, NAAC's then-President Bob Cryor admitted that NAAC relegated its interests to Cape as "part of a coordinated group with responsibilities to the whole" group. CAPE000931–32.

89. NAAC's Failure to Purchase Adequate Insurance. Cape's domination also influenced and controlled NAAC's risk management decision-making, including its purchase of insurance. Officially, Cape had a company-wide policy to purchase insurance "at minimum cost consistent with adequate cover." CAPE0001465. But in reality, NAAC felt "pressure from [its]

[22] *See also, e.g.*, CAPE001528 (listing six directors in 1970).
[23] *See, e.g.*, CAPE001507 (1976 letter noting borrowing limit); CAPE000816 (1976 board minutes showing payment of $250,000 dividend).

Home Office in London [that] forced [it] to seek lower rates" and choose carriers and policy terms based solely on short-term cost. *See* NAAC Letter to J. Kirk of Talbot Bird & Co. (Nov. 17, 1959). Because of Cape's domination of NAAC, and as a part of the liability-avoidance scheme, Cape directed NAAC to buy wholly inadequate insurance coverage to address its massive future products- liability exposure.

III. Cape Led Efforts in the U.S. and Internationally to Hide the Risks of Asbestos.

90. Known History of Illness in South Africa. Early in its history—even before setting up operations in the United States—Cape's management and ownership knew of the serious health hazards posed by their South African asbestos, as illness was endemic among Cape's own employees. For example, because child labor was extensively used in the South African asbestos mining industry and Cape lacked basic industrial hygiene measures, Cape was responsible for causing "radiologic asbestosis with cor pulmonale [*i.e.*, heart failure]" in Black children "before the age of 12." Dr. Gerrit Schepers, "Discussion," *Ann. N.Y. Acad. Sci.*, 132:246 (1965).[24]

91. Infamy for South African Conditions. Indeed, Cape's operations in South Africa were so infamous that they became a case study—literally—in corporate irresponsibility. *See* Patricia Werhane et al., *Case Study: South African Mining and Asbestos-Related Diseases*, Univ. of Va. Darden School of Bus., at 7 (Apr. 11, 2006) ("[L]ong after the hazards of asbestos were well known to the company as well as the mining community in general, Cape took advantage of lax labor legislation . . . [and also] benefited from cheap labor. Whole families, including children as

[24] Years later, Dr. Schepers provided a detailed account of his time at a Cape mine in Penge, South Africa, including seeing (i) "a big strong man with a sjambok whip," whose apparent job was "to hit a hessian sack on the ground below the end of a chute," and (ii) inside the battered sack, a "boy of ten or twelve," whose job was "to get inside the bag and trample down the fluffy asbestos. He was cheaper than machinery or safe sacks. He was covered from top to toe in asbestos dust so I grabbed him and took him off to the X-ray machine. The X-ray showed he was already suffering from asbestosis. I was told that Cape employed a lot more children and I gave instructions to my technician that he was to round up all the children in the village with the little Cape Asbestos copper identification bands riveted around their wrists – identification tags, just like slaves, so they couldn't run off. A number of the other children had asbestosis too. The conditions were unbelievable." Flynn (1992) at 192–93.

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young as 12 years, were involved in the mining and milling operations at Cape's facilities, and workers handled asbestos with their bare hands. Not only Cape workers, but also those who lived in the communities around Cape mines were exposed to high levels of asbestos that were sometimes 30 times higher than the legal limit in Britain. One of Cape's asbestos mills at Prieska was in the center of town, close to a church and school. One medical doctor stated that he diagnosed 900 mesothelioma victims, including his own son."). Cape allowed these "work practices" to continue because they "were profitable for employers and Cape's management readily acknowledged the importance of the mines to its success." McCulloch & Tweedale (2008) at 44–45.

92. Known History of Illness in England. Likewise, Cape's operations in England were infamous for lacking basic hygiene measures, such that a medical examination of 80 workers in 1928 "showed that nearly all had 'definite evidences' of asbestosis." Geoffrey Tweedale, *Magic Mineral to Killer Dust: Turner & Newall and the Asbestos Hazard* 20 (Oxford Univ. Press 2000) [hereinafter, "Tweedale (2000)"]; *see also, e.g.*, Flynn (1992) at 180 ("[Cape's] British factories had been shown to be so negligently run that they brought death, disease and injury to the communities around them"). Among Cape's managers and owners, the danger of asbestos exposure was well known, with scientific studies repeatedly re-establishing a link between exposure to asbestos and illness.[25]

[25] *See, e.g.*, R. Gaze Tr. 2, 111 (June 5, 1975) (Cape official admitting knowledge of asbestosis risk "since the first day [he] was employed" there in 1943); J. Christopher Wagner et al., *Diffuse Pleural Mesothelioma and Asbestos Exposure in the North Western Cape Province*, 17 Brit. J. Indus. Med. 260, 261–62 (1960) (study published by South African researchers linking mesothelioma with occupational and non-occupational exposure to Cape asbestos); Richard Doll, *Mortality from Lung Cancer in Asbestos Workers*, 12 Brit. J. Indus. Med. 81, 86 (1955) (concluding from data that "lung cancer was a specific industrial hazard of certain asbestos workers"); *see also* McCulloch & Tweedale (2008) at 8–9, 119–20 (listing various studies of, or laws concerning, asbestos disease from 1898 to 1964, and noting that "[f]ew medical authors ever expressed doubt about the relationship between malignant mesotheliomas and asbestos exposure, and by 1953, the issue seemed to be fairly well resolved").

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93. Apathy to Personal Suffering. Nevertheless, the dangers of asbestos were hidden from Cape employees (and the general public) and atrocious conditions at Cape facilities continued for decades—causing widespread disease and later becoming focal points of damning exposés on the asbestos industry. *See* Tweedale (2000) at 238, 251, 255–56 (noting various documentaries showing, among other things, a Cape manager who "always kept a black tie in his desk for funerals").

94. Lobbying and Perpetuating Misinformation in the United States. Yet, while having knowledge of these health hazards, and while peddling a toxic product throughout the United States (including in South Carolina), Cape used misinformation to influence public and corporate opinions about asbestos—working with government officials to protect South African (*i.e.*, Oppenheimer) business interests.[26] Cape acted as head cheerleader for the continuation of the asbestos trade, taking a keen interest in organizing efforts to downplay knowledge of the health hazards posed.[27]

95. Examples of U.S. Misinformation Efforts. For example, in 1954, the year after NAAC's establishment, Cape became a member of the U.S.-based Asbestos Textile Institute, which organized regular meetings to discuss developments in the asbestos industry, including the prospect of governmental regulation. Above all other companies, Cape was especially keen to suppress knowledge about the risks of asbestos. Thus, when Johns-Manville proposed labeling on bags of asbestos in 1968, Cape had a "bitter" response, suggesting that such a step should never be taken unilaterally by one producer. *Dring v. Cape: Key Points from Documents Obtained by*

[26] *See, e.g.*, CAPE000955 (official of South African mining holding company, Cape Asbestos South Africa (Pty.) Ltd., writing to NAAC as a fellow member "of the Cape Asbestos Group and the Charter Consolidated Group," and introducing as a resource the Commercial Counsellor at the South African Embassy in Washington, DC).
[27] *See, e.g.*, CAPE000130 (Cape Asbestos Fibres Limited prioritizing efforts to "organize a body of medical opinion that is prepared to stand up" to critical opinions).

the Asbestos Victims Support Groups Forum UK, at 23 (*available at* https://asbestosforum.org.uk/cape-documents/) [hereinafter, "Dring Documents"]. And once Johns-Manville finally decided to adopt a warning label, Cape proposed use of an inaccurate warning that inhalation of only "substantial quantities" of asbestos could be harmful. *Id.* at 21.

96. Lobbying and Perpetuating Misinformation in England. In England in the 1950s and 1960s, Cape joined forces with other companies in the British asbestos industry to establish the Asbestosis Research Council and the Asbestos Information Committee, which worked to "publish several reassuring booklets on the use of asbestos." Tweedale (2000) at 174, 191. In addition, in or around 1966–68, Cape lobbied the British Occupational Hygiene Society to weaken protections for workers from a "no dust policy" to a "maximum allowable concentration approach," while continuing its misinformation campaign in the public and its strong-arm tactics designed to deter other manufacturers from introducing warning labels. Dring Documents, at 1.

97. Hiding the Truth to Profit. A linchpin of these schemes was Cape's role in providing misleading reassurances to the government and public about the dangers of asbestos, which conflicted with Cape's own internal data on the health risks of asbestos. Ultimately, when faced with a decision of shutting down the business (particularly, its South African mines) or "suppress[ing] knowledge of disease," Cape "chose[] the latter" and "worked hard to keep information about mesothelioma secret." McCulloch & Tweedale (2008) at 120.

IV. Cape Implemented a Strategy to Evade Liability in the United States

98. Initial Maneuvers to Evade Liability Risk. In the early 1970s, after the onset of asbestos- related products-liability litigation, *see, e.g.*, *Borel v. Fibreboard Paper Prods. Corp.*, 493 F.2d 1076 (5th Cir. 1973) (successful suit by insulation worker, widely acknowledged to have precipitated a wave of asbestos litigation in the 1970s), Cape and its affiliated entities undertook

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numerous actions in a deliberate effort to escape responsibility for the harm caused by Cape asbestos products.[28] For example, Cape went through tortured machinations to make it *appear* it was reducing oversight over NAAC, but in reality, NAAC continued to operate as a controlled instrumentality under Cape's domination.[29] And these changes were the result of careful assessments by Cape officials—with the help of its lawyers and other advisors—regarding how to minimize the liability exposure of not only Cape, but Cape's parent (Charter) and its other South African affiliates. *See* CAPE000141 (NAAC counsel advising Cape on risk of judgments attaching to Charter assets).

99. Public Downplaying of Responsibility. At first, at least in their public statements, Charter and Cape "strenuously contested" their liability and concluded that "no material liability is likely to arise as a result of the actions," because "[i]n the opinion of American legal advisers, the amounts claimed are highly speculative and conjectural and have only a tenuous basis in law or in fact." Charter 1975 Annual Report, at 30 (June 3, 1975).

100. Implementing Liability-Avoidance Strategy. In parallel, and central to that claim and their plan to avoid liability, Cape directed a campaign of litigation avoidance by refusing to accept process or appear in any U.S. proceedings. That campaign continues unabated today, as

[28] *See, e.g.*, CAPE000351–56 (1975 lawyer letter referring to "attempt to limit NAAC's and Cape's exposure to future United States litigation").

[29] *See* CAPE000123 (NAAC discouraging Cape visits to the U.S. in 1978 or else negate "maneuvers" related to "continued problems with product liability litigation"); CAPE000152 (1975 letter suggesting to "disassociate the Parent Company as fully as possible from the operating companies"); CAPE000154 (1975 letter raising whether to "do something to change the identity of NAAC in order to avoid exposing the company unnecessarily," while doing "everything possible to maintain a successful selling operation in the United States"); CAPE000166–67 (1974 lawyer letter suggesting that "no one from Cape be an officer of NAAC since we want it to be as independent as possible in order to avoid any contention that it is the alter ego of Cape and that Cape is doing business in the United States"); CAPE000333 (1975 Cape Asbestos letter stating "that it would be a sensible precaution against Cape's involvement in any future proceedings for [Cape personnel] to resign from the N.A.A.C. Board," and enclosing resignation letters).

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evidenced by Cape's failure to respond to the Second Amended Summons in this action, which was served pursuant to Article 10 of the Hague Convention on March 8, 2022.[30]

101. Opinion of Moral Irresponsibility. More broadly, according to Cape executives, this strategy was warranted because they "really cannot be said to have a moral responsibility [to respond to the suits] and are simply victims of the US product liability cult." Tweedale & Flynn (2007) at 283; CAPE000486.

102. Financials Based on Immoral Opinion. In addition, despite knowing the liability risk, Cape and its affiliates—including its parent company, Charter—refused to make any provision for or reserve of cash to address that liability. *See* CAPE000781 (1971 correspondence regarding Charter's annual report). Indeed, for most of NAAC's existence under Charter, Charter refused to even acknowledge NAAC, despite listing various other Cape subsidiaries in England, South Africa, and other countries as among Cape's subsidiaries. *See, e.g.*, Charter 1970 Annual Report, at 10 (June 18, 1970) (listing Cape entities in South Africa, England, and Ireland).

103. Cape Liquidates NAAC as Part of Its Liability-Avoidance Scheme. Ultimately, to avoid liability to the tens of thousands of people injured or killed by its asbestos, Cape decided to liquidate NAAC, effective January 31, 1978 (though articles of dissolution were filed later, on or around May 19, 1978). *See, e.g.*, CAPE001035 (April 1978 letter noting liquidation and requesting, "for safety's sake," that Cape officials stop sending accounting memoranda to former NAAC officials). Existing commercial debts of NAAC were paid, with any remaining assets transferred upstream to NAAC's direct parent company at the time, Cape Industries Overseas

[30] *See* CAPE000550–51 (NAAC personnel opining in 1978 "that it is most unlikely that any plaintiff would bother to pursue collection of any default judgments against Cape"); CAPE000702 (NAAC counsel in 1979 confirming receipt of correspondence stating that "U.K. and South African lawyers confirm that any resulting judgments will not be enforceable against Cape's U.K. and South African assets" and that "the potential loss of all NAAC's outstanding assets is not material in the Cape Group context").

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Ltd.—a U.K. entity wholly owned by Cape Industries Ltd. (formed in 1975 to create the *appearance* of separation). *See* CAPE000593 (noting conveyance of assets); CAPE000149 (noting new entity).

104. Liquidation Despite Continued Profitability. The decision to liquidate NAAC occurred notwithstanding consistent years of record profits from Cape's sale of asbestos fiber in the United States. *See, e.g.*, Charter 1976 Annual Report, at 7, 38–39 (June 8, 1976) (reporting £10.2 million of operating profit "in spite of difficult trading conditions," with the "greatest increase" in improved profit "arising in the mining division, which raised total tonnage both mined and sold," even despite "substantial price increases"); Charter 1977 Annual Report, at 7, 11, 13 (June 9, 1977) (reporting another "record year" from Cape with pre-tax profit of £14.2 million, with the "mining division again perform[ing] exceptionally well").

105. NAAC's Minimal Assets at Liquidation. As part of its overall scheme, and in light of Cape's funneling of cash from NAAC to overseas entities over many years, NAAC's assets at liquidation were minimal, as an absolute matter, and especially when compared to the total wealth of Cape and the broader Oppenheimer empire.[31]

106. Accepting Defaults to Perpetuate the Liability-Avoidance Scheme. NAAC's liquidation was central to Cape's liability-avoidance strategy, and was predicated on legal advice that no British or South African court would enforce a judgment against a Cape entity if it never appeared again in the United States.[32] That strategy, more broadly, was taken right out of the

[31] *See, e.g.*, CAPE000701 (Cape counsel writing in 1979 with respect to whether the remaining assets in the NAAC liquidating trust should be written off, soon after its creation); CAPE000702 (1979 correspondence noting that NAAC's auditor "agree[d] that the potential loss of all NAAC's outstanding assets is not material in the Cape Group context" (capitalization altered)); CAPE000722 (1978 correspondence noting judgment non-enforceability and "[auditor] advice to [Cape] that the loss of NAAC's outstanding assets is not material in the Cape Group context").

[32] *See, e.g.*, CAPE000141–43 (1975 legal letter advising Cape on default-judgment risk); CAPE000566 (1978 memorandum agreeing that it would be in the "best interests of Cape companies other than NAAC" to make "no response" to litigation); CAPE000617–19 (summarizing 1984 deposition testimony regarding litigation strategy).

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Oppenheimer empire's operational playbook in the United States: (i) profit greatly from a business (including for the sale of asbestos), (ii) extract those profits from the United States to foreign entities, across an ever-changing, byzantine corporate structure, (iii) undercapitalize the United States operating entity, (iv) liquidate ownership interests when they sensed liability was imminent, while otherwise maintaining that there was no physical presence in the United States, and (v) retain overseas the massive financial fruits of their unlawful schemes, which, as to asbestos sales, were at the expense of dead and dying Americans, including South Carolinians. *See, e.g.*, Kanfer (1995) at 317–18 (describing De Beers' abrupt sale of equity in an American company to avoid antitrust liability, which had previously been hidden by "the usual thicket of [European] registrations," such that "financial facts were buried in the records of some 300 interlocking corporations").

107. Continuation of the Asbestos Business. Even before NAAC's dissolution, Cape contemplated ways to continue the flow of asbestos to U.S. customers and asbestos profits out of the United States, despite the formality of liquidating NAAC.[33]

108. Creation of New American and Foreign Entities. To facilitate this ruse, Gerry Morgan (NAAC's final President) formed Continental Products Corporation ("CPC") to act as a commission agent for the future sales of asbestos from South Africa in the United States. Conveniently, CPC used the same NAAC address in Chicago, Illinois, and received funding from Cape in London. And CPC acted with South African mines to sell through a Lichtenstein-based entity named Associated Mines Company ("AMC") associated with Cape or other Oppenheimer-affiliated business interests. *See, e.g.*, CAPE000386; CAPE000531 (announcement of CPC as "Agent to handle the North American requirements for Amosite and Crocidolite asbestos fibre").

[33] *See, e.g.,* CAPE000728 (1977 meeting memorandum involving Cape officials "to discuss liquidation of NAAC and formation of new off-shore company to service North American market").

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109. Transfer of IP Rights to New Entities. Brazenly, Cape even directed the transfer of certain intellectual property owned by NAAC for future use by CPC and AMC. *See, e.g.,* M. Meyer Tr. 14–18 (May 18, 1982) (describing the assignment of the "Noramite" trademark for certain asbestos mats and plastics).

110. Objective of New Entities. Ultimately, the "purpose of this corporate arrangement [was] to eliminate or reduce as much as possible the exposure in the United States of [South African mining companies] to lawsuits brought against it under theories of strict liability concerning products liability on the sale of asbestos in the United States." CAPE000377–79.

111. Selling Mines as Part of the Liability-Avoidance Scheme. Outside of the United States, Cape took additional steps to disassociate itself from asbestos generally, despite its long-held role "as a major world producer of asbestos fibre" and "the Cape name [being] synonymous with asbestos." Cape 1980 Review, at 2. On June 29, 1979, Cape sold "the whole of [its] asbestos mining interest in South Africa" to Transvaal Consolidated Land and Exploration Company Ltd. ("Transvaal"), *id.*, earning proceeds of £15.1 million to "finance the group's expansion in other areas of its business," Charter 1979 Annual Report, at 12 (July 4, 1979).

112. Anglo's Continued Interest in Asbestos. Although Charter asserted that "mining subsidiaries in South Africa were sold *outside* the group," *id.* at 35 (emphasis added), its own annual reports from prior years establish that Charter had previously owned the purchasing entity, Transvaal, and still had a financial interest in Transvaal, including through either another Anglo entity or Charter's interest in Barlow Rand Ltd. *See* Charter 1965 Annual Report, at 3, 5 (May 19, 1965) (listing Transvaal as a "principal interest[]," along with Rand Mines Ltd.); Charter 1972 Annual Report, at 12 (May 30, 1972) (referencing merger between Rand Mines Ltd. and Thos Barlow & Sons Ltd. in June 1971, resulting in Charter acquiring a 3.86% interest in the

merged company, Barlow Rand Ltd., in exchange for its previous 15.9% interest in Rand Mines Ltd.); Charter 1973 Annual Report, at 8 (June 21, 1973) (reporting that Charter sold its interest in Transvaal in April 1972 "to companies in the Anglo American Corporation group").[34]

113. Cape's Business Pivot. In 1982, Cape purported to cease all manufacturing of asbestos products.[35] Unfathomably, even for a collective of companies as devious as these, Cape refocused its business on—wait for it—asbestos removal. This is not fiction; it has been proudly touted by Cape.[36]

114. The Scheme Was Contemptibly Successful. Within years of executing the liability-avoidance scheme, business historians recognized that "Cape Industries"—as part of Charter, *i.e.*, Anglo's international/industrial investment arm—was "astonishingly adept at extricating itself from the [asbestos] business without paying huge compensation." Pallister (1988) at 345.

V. The Oppenheimers Implemented a Strategy to Further Evade Responsibility.

115. Empire Restructuring to Mitigate Risk. Tellingly, while Cape implemented its liability- avoidance strategy, the Oppenheimer family similarly made changes to its investments to remove power and assets from Charter and relegate it to the periphery of the empire. On information and belief, these changes were motivated because the Oppenheimers and their partners

[34] *See also, e.g.*, Joseph Lelyveld, *The Many Faces of Barlow Rand Ltd.*, N.Y. Times, Apr. 11, 1982 (noting Barlow Rand was "the second-biggest industrial and mining group in South Africa," after "the vast Anglo-American Corporation and its chairman, Harry F. Oppenheimer, whose place in the moneyed portion of [South African] society makes him a one-man aristocracy"); Flynn (1992) at 194 ("In the end the company became so worried about the extent of Anglo American's liabilities for deaths and injuries that they sold the mines, including Penge, to Barlow Rand, another company with strong connections to Harry Oppenheimer.").

[35] *Cape Website: Our History* (May 17, 2013), https://web.archive.org/web/20130517130040/http:/www.capeplc.com/about-cape/our-history.aspx.

[36] *Cape Website: Our Services, Insulation* (Oct. 20, 2012), https://web.archive.org/web/20121020173812/http://www.capeplc.com/services-and-markets/our-services/insulation.aspx.

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(i) understood that Charter, like Cape, faced substantial financial exposure for asbestos-related liabilities in the United States, and (ii) were concerned those liabilities would also attach to Anglo and De Beers. *See, e.g.*, Charter 1980 Annual Report, at 34 (June 24, 1980) (reporting that Charter had been named a defendant in U.S. asbestos litigation "in its capacity as the holding company of" Cape and had been told that certain U.S. corporations would seek to hold Charter liable for their own liability).

116. The Oppenheimers' Transfer of Shares. For example, beginning in the late 1970s, the Oppenheimer family began to substantially sell or otherwise divest their direct financial interests in Charter. *See, e.g.*, Charter 1977 Annual Report, at 47 (June 9, 1977) (indicating decrease in direct interest of Harry Oppenheimer); Charter 1983 Annual Report, at 41 (June 21, 1983) (indicating "nil" interest of the two listed Oppenheimers by April 1982).

117. Minorco's Rise. Around 1980—*i.e.*, soon after Cape's sale of asbestos mines—the Minerals and Resources Corporation ("Minorco") "over[took] Charter as the group's overseas flagship." Pallister (1988) at 122; *see also* Donald G. McNeil Jr., *A Diamond Cartel May Be Forever; The Hereditary Leader of De Beers Pursues Post-Apartheid Growth*, N.Y. Times, Jan. 12, 1999 [hereinafter, "McNeil Article"] (reporting that Minorco had been created previously to evade anti-Apartheid sanctions).[37]

118. Charter's Fall. As part of that pivot to Minorco, there was a "divestiture by Charter of its strategic holdings in Anglo American, De Beers and Anglo American Investment Trust," which was a "very major step" in reorganizing the amalgamated Oppenheimer business empire and reducing (but not eliminating) Anglo's "interference" with Charter. *See* A.J.W. Owston Tr. 67

[37] *Available at* https://www.nytimes.com/1999/01/12/business/international-business-diamond-cartel-may-be-forever-hereditary-leader-de-beers.html.

(Aug. 22, 1984). As part of this divestiture, Charter "disposed of nearly all [its] investments in South Africa and adjoining territories," which involved a "major restructuring" that Charter acknowledged "substantially changed" its "assets and business interests." Charter 1980 Annual Report, at 5, 9 (June 24, 1980). Although Charter was purported to have received "a substantial amount of cash" from that sale, proceeds were used to repay debt and acquire Minorco shares. *See id.* at 5–6.

119. Charter's Exile. Due to these restructurings, Anglo stopped acknowledging Charter as a material part of the Oppenheimer business empire—as it had been effectively replaced by Minorco. *Compare* Anglo 1977 Annual Report, at 3 (Mar. 25, 1977) (organizational chart portraying Charter on equal footing to Anglo and De Beers), *with* Anglo 1983 Annual Report, at 5 (June 28, 1983) (updated organizational chart making no reference to Charter at all). By the end of the 1980s, the Oppenheimers had stopped serving on the Charter board of directors all together, after unwinding themselves from Charter's assets and associated liabilities. *See* Charter 1989 Annual Report, at 46 (June 10, 1989) (no Oppenheimer listed for the Charter board of directors).

120. A Weakened Charter. For its part, after disposing of its South African investments, Charter touted a renewed focused on its operating subsidiaries in the United Kingdom, rather than acting primarily as a holding company for Oppenheimer business interests. *See, e.g.*, Charter 1986 Annual Report, at 2 (July 3, 1986) ("Charter has undergone a major change in recent years. The business has been extensively reshaped and much of the capital employed is now in operating companies."). However, without the backing of Anglo as a corporate patron, and with Cape no longer directly engaged with its main historical business—*i.e.,* mining and selling asbestos—both Charter and Cape were unable to achieve growth and profitability comparable to what they enjoyed in decades earlier as part of the Oppenheimer business empire.

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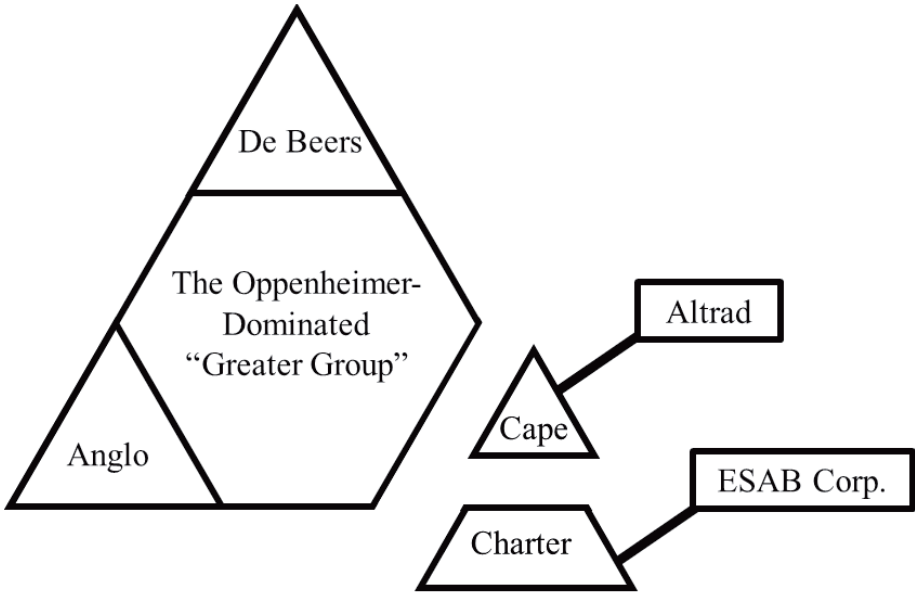
VI. In Subsequent Years, There Have Been Changes to Third-Party Defendants.

121. Changes to the Former Asbestos-Mining Empire. Following Cape's escape from the United States, it changed its name and organization, and so did its affiliated companies and other actors that were part of the Cape liability-avoidance scheme. Certain of those entities and persons are named as Third-Party Defendants in this action, including as successors in interest and beneficiaries of Cape's liability-avoidance scheme, co-responsible for Cape's tortious conduct.



122. Changes to Cape. Since the 1970s, Cape Asbestos Company Ltd. has undergone several changes to its organization, including (i) changing its name to Cape Industries Ltd. in 1974 (*i.e.*, removing "Asbestos" from its name, soon after the onset of asbestos products-liability litigation); (ii) re-registering as a public company and changing its name to Cape Industries PLC in 1981; (iii) shortening its name to Cape PLC in 1989; (iv) changing its name to Cape Intermediate Holdings PLC in 2011; and (v) re-registering as a private company to become Cape Intermediate Holdings Ltd. in 2013. And as of 2016, Cape Holdco Ltd. (controlled by Cape Industrial Services Group Ltd.) and The Law Debenture Corporation PLC were registered as Persons with Significant Control of Cape.

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123. Unmet Responsibilities. Although Cape in the prior decades had entered into certain agreements to compensate for illness and death resulting overseas from its products (such as entering into a "Scheme of Arrangement" with former employees in 2006), Cape has done **nothing** about its massive unpaid responsibility for the death and illness caused by its asbestos products in South Carolina and elsewhere in the United States.

124. Altrad's Acquisition and Subsequent Ownership of Cape. On or around October 9, 2017, Altrad Investment Authority S.A.S. (a French company), through Altrad UK Ltd. (controlling Cape UK Holdings Newco Ltd.), acquired and has since controlled Cape. Those entities are owned and controlled by the multinational Altrad Group, which has renamed certain Cape entities as well, including Altrad Services Ltd. (f/k/a Cape Industrial Services Ltd.).

125. Altrad's U.S. Subsidiaries. In addition, the Altrad Group acquired Sparrows Offshore Group Ltd. in 2022, which established the Altrad Group's presence in the United States through its (i) operations in the southern United States, and (ii) ownership of U.S.-registered entities, including Hawk BidCo US Inc., Arranco US, LLC, Sparrows Offshore, LLC, and the Sparrows Group, LLC.[38]

126. Altrad's Owner. The Altrad Group—and thus Cape—is controlled by its French–Syrian President and Founder, Mohed Altrad, a/k/a the "Scaffolding King." *See* Altrad 2022 Annual Report, at 36 (Feb. 9, 2023);[39] *see also* Gaspard Sebag & Tara Patel, *Billionaire Scaffolding 'King' Guilty of Bribing Rugby Boss*, Bloomberg (Dec. 13, 2022) (reporting Mr. Altrad's recent corruption conviction, punished with an 18-month suspended jail term and €50,000 fine).[40]

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[38] *See, e.g.*, *Altrad Completes Acquisition of Engineering and Maintenance Specialist Sparrows Group*, Altrad (July 12, 2022), https://www.altrad.com/en/newsreader/altrad-completes-acquisition-of-engineering-and-maintenance-specialist-sparrows-group.html; *Sparrows Website: Global Locations*,

[39] *Available at* https://newsmanager.altrad.com/files/altrad-group/news/2023/02/09_annual- report-2022/annual-report_2022_en_double_br-min.pdf.

[40] *Available at* https://www.bloomberg.com/news/articles/2022-12-13/scaffolding-billionaire- convicted-of-corruption-over-sponsorship#xj4y7vzkg.

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127. Altrad Defendants. Ultimately, each of the entities identified herein along with Mohed Altrad, are either successors in interest to Cape and its numerous subsidiary and affiliated entities, or beneficiaries from Cape's liability-avoidance scheme, or both, and are collectively referred to as the "Altrad Defendants."

ALTRAD AND CAPE-AFFILIATED ENTITIES ("ALTRAD DEFENDANTS")	
Cape Subsidiaries / Control: • Cape Holdco Ltd. • The Law Debenture Corp. PLC • Cape UK Holdings NewCo Ltd. • Cape Indus. Servs. Grp. Ltd. • Altrad Servs. Ltd. (f/k/a Cape Indus. Servs. Ltd.)	Altrad Ownership: • Mohed Altrad • Altrad Inv. Auth. S.A.S • Altrad UK Ltd.

128. Involvement of Affiliated Oppenheimer Businesses. At all times relevant to Cape's business in the United States and its perpetuation of the liability-avoidance scheme, Cape was owned, controlled, operated by, and dominated in furtherance of and in concert with Oppenheimer business interests in South Africa, the United Kingdom, and elsewhere—to those entities' substantial financial benefit.

129. Oppenheimer Defendants. Those dominating, conspiring, facilitating, or otherwise financially benefiting entities include Anglo American Corporation of South Africa Ltd. (as predecessor in interest to Anglo American PLC) and De Beers PLC, De Beers Centenary AG, De Beers Consolidated Mines Ltd., De Beers S.A., De Beers UK Ltd., and De Beers Jewellers Ltd. Those entities currently have presence, operations, and business in the United States, including in South Carolina, through De Beers Jewellers (US), Inc., Anglo American US Holdings Inc., Element Six U.S. Corporation, Element Six Technologies US Corporation, Element Six Technologies (OR) Corp., First Mode Holdings, Inc., Platinum Guild International (U.S.A.) Jewelry, Inc., Lightbox Jewelry Inc., Forevermark US, Inc., and Anglo American Crop Nutrients (USA), LLC. All of these

companies are collectively referred to as the "Oppenheimer Defendants," with Anglo American PLC acting as ultimate parent company for each. *See, e.g.*, Anglo 2022 Annual Report, at 283 (Feb. 22, 2023).[41]

130. Increased U.S. Activities. Since closing NAAC and implementing their liability-avoidance scheme, the Oppenheimer Defendants have increased their business activities in the United States, with certain of them using courts in the United States to enforce trademarks or other valuable rights, including under the De Beers name.[42]

ANGLO AMERICAN PLC ("OPPENHEIMER DEFENDANTS")	
"De Beers Group" Subsidiaries: • De Beers PLC • De Beers Centenary AG • De Beers Consol. Mines Ltd. • De Beers S.A. • De Beers UK Ltd. • De Beers Jewellers Ltd.	United States Subsidiaries: • De Beers Jewellers (US), Inc. • Anglo Am. US Holdings Inc. • Element Six U.S. Corporation • Element Six Techs. US Corp. • Element Six Techs. (OR) Corp. • First Mode Holdings, Inc. • Platinum Guild Int'l (U.S.A.) Jewelry, Inc. • Lightbox Jewelry Inc. • Forevermark US, Inc. • Anglo Am. Crop Nutrients (USA), LLC

131. Changes to Charter. In 1993, after the broader Oppenheimer empire had demoted Charter's role in the business, Charter re-registered as a public company, becoming Charter PLC.

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[41] *Available at* https://www.angloamerican.com/~/media/Files/A/Anglo-American-Group-v5/PLC/investors/annual-reporting/2022/aa-annual-report-full-2022.pdf. In 1998, Anglo American Corporation of South Africa Ltd. moved its headquarters to London and re-registered as Anglo American PLC, which involved complex changes to its corporate structure that included absorbing Minorco and moving assets out of South Africa (thereby mitigating the risk of post- Apartheid nationalization). *See* McNeil Article. In November 2011, moreover, the Oppenheimer family sold its direct stake in the De Beers Group to Anglo American PLC for $5.1 billion, while (on information and belief) retaining indirect ownership through other entities. *See, e.g.*, Mark Scott, *Anglo American in Deal to Take Control of De Beers*, N.Y. Times, Nov. 4, 2011.

[42] *See, e.g.*, *De Beers UK Ltd. v. Adwar Casting, Co., Ltd.*, No. 4:10-cv-00843, ECF No. 3 (W.D. Mo. Sept. 15, 2010) (corporate disclosure statement of plaintiff identifying De Beers UK Ltd. as a wholly owned subsidiary of De Beers Centenary AG); *De Beers Centenary AG v. John- Robert:Hasson*, No. 1:10-cv-23024, ECF No. 1 (S.D. Fla. Aug. 23, 2010) (action initiated by De Beers entity).

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In 1996, Charter sold its interest in Cape for approximately £48 million. In 2008, a new holding company, Charter International PLC, took over Charter PLC,[43] and then, effective January 13, 2012, Colfax Corporation ("Colfax") acquired Charter at a $2.4 billion valuation, with Charter enjoying minimal debt on its balance sheet. *See* Colfax Corp. Form 8-K (Jan. 17, 2022);[44] Colfax Corp. Schedule 14A (Dec. 19, 2011).[45] In making that acquisition, Colfax disclosed Charter's exposure to asbestos-related lawsuits in the United States, but the companies (i) assessed it as not having "a material effect on Charter's financial position," (ii) dismissed any associated expenses as "negligible," and (iii) ultimately made no provision for Charter's asbestos liability. Colfax Corp. Schedule 14A (Dec. 19, 2011).

132. Charter Defendants. By 2022, Colfax sold its interests in Charter's businesses, including, on information and belief, those associated with Cape-related liabilities—namely, ESAB Corporation. *See Enovis (Formerly Colfax) Completes Spin-Off of ESAB Corporation* (Apr. 5, 2022).[46] On information and belief, ESAB Corporation is currently the parent company of, as well as a successor in interest to, Charter Consolidated Ltd., along with Charter's subsidiary Central Mining & Investment Corporation Ltd., and each is collectively referred to as "Charter Defendants."

CLAIMS OF THE PLAINTIFFS

133. Plaintiffs, collectively listed on Exhibit A, individually and as Personal Representatives of various Estates, bring this action for monetary damages because of Plaintiffs contracting an asbestos-related diseases.

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[43] *See Charter Website: History* (Dec. 12, 2008), https://web.archive.org/web/20081212114613/http://www.charter.ie/chtr_int/about/history/.
[44] *Available at* https://www.sec.gov/Archives/edgar/data/1420800/000134100412000060/cfx_8k.htm.
[45] *Available at* https://www.sec.gov/Archives/edgar/data/1420800/000114420411070464/v242942defm14a.htm.
[46] *Available at* https://ir.enovis.com/news-releases/news-release-details/enovis-formerly-colfax-completes-spin-esab-corporation.

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134. Plaintiffs were each diagnosed with asbestos related disease, including but not limited to, mesothelioma and lung cancer, and in some cases, died from these same diseases.

135. Plaintiffs' asbestos related diseases were each caused by exposure to asbestos during the course of their employment, work careers, and/or through take home exposures to asbestos as a result of their family members' work.

136. Exposures relevant to Defendants, Cape PLC, as successor-in-interest to Cape Industries Ltd. (f/k/a Cape Asbestos Company Ltd.) and as a result, to each of the entities named herein, are detailed on Exhibit A. These exposures involve direct and/or take-home exposure to airborne asbestos fibers released through activities, including but not limited to, the sale, distribution, installation, removal, manipulation, disturbance, and other activates of Defendants at jobsites where Cape PLC, as successor-in-interest to Cape Industries Ltd. (f/k/a Cape Asbestos Company Ltd.) and its subsidiaries and global affiliates, supplied, removed, installed, or contracted for the use of asbestos fibers South Carolina and throughout the United States.

137. Plaintiffs' cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products and materials, individually and together, was a substantial factor in causing Plaintiffs' asbestos related diseases, and therefore under South Carolina law, is the legal cause of Plaintiffs' injuries and damages.

138. Plaintiffs nor their family members, were aware at the time of exposure, that asbestos or asbestos-containing products presented any risk of injury and/or disease.

139. Plaintiffs have been informed and believe, and thereon allege, that progressive lung diseases, including mesothelioma and other serious diseases, are caused by inhalation of asbestos fibers and that said diseases result from exposure to asbestos and asbestos-containing products over a period of time.

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140. As a direct and proximate result of the conduct as alleged within, Plaintiffs suffered permanent injuries, including, but not limited to, mesothelioma, lung cancer, and other lung damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to their damages in the sums of the amounts as the trier of fact determines are proper.

141. As a direct and proximate result of the conduct as hereinafter alleged, Plaintiffs incurred liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to Plaintiffs at this time. Plaintiffs request leave to supplement this Court and all parties accordingly when the true and exact cost of Plaintiffs' medical treatments are ascertained.

142. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiffs incurred loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiffs. Plaintiffs request leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

FOR A FIRST CAUSE OF ACTION
(Product Liability: Negligence)

Plaintiffs Complain of Defendants for a Cause of Action for Negligence Alleging as Follows:

143. Plaintiffs incorporate herein by reference, as though fully set forth herein, each and every paragraph of the General Allegations above.

144. At all times herein mentioned, the named Defendants was an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as "alternate entities," engaged in the

business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable use with asbestos products.

145. At all times herein mentioned, Defendants, and/or its "alternate entities" singularly and jointly, negligently and carelessly researched, manufactured, fabricated, designed, modified, tested or failed to test, abated or failed to abate, inadequately warned or failed to warn of the health hazards, failed to provide adequate use instructions for eliminating the health risks inherent in the use of the products, labeled, assembled, distributed, leased, bought, offered for sale, supplied, sold, inspected, serviced, installed, contracted for installation, repaired, marketed, warranted, rebranded, manufactured for others, packaged and advertised, a certain product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable use with asbestos products, in that said products caused personal injuries to Plaintiffs and others similarly situated, (hereinafter collectively called "exposed persons"), while being used for their intended purpose and in a manner that was reasonably foreseeable.

146. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants' asbestos and asbestos-containing products from causing Plaintiffs' asbestos related disease and in some circumstances, subsequent death, due to an inability of any asbestos-alternative to penetrate the pleural lining of Plaintiffs'

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lungs, even if inhaled. Said alternatives came at a comparable cost to Defendants and/or its "alternate entities." Said alternatives were of comparable utility to the asbestos or asbestos-containing products of Defendants and/or its "alternate entities." The gravity of the potential harm resulting from the use of Defendants' asbestos or asbestos-containing products, and the likelihood such harm would occur to users of its products, far outweighed any additional cost or marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use by Plaintiffs and/or their family members. Defendants and/or its "alternate entities" had a duty to exercise due care in the pursuance of the activities mentioned above and Defendants breached said duty of due care.

147. Defendants and/or its "alternate entities" knew or should have known, and intended that the aforementioned asbestos and asbestos-containing products would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other applications, including, but not limited to grinding sawing, chipping, hammering, scraping, sanding, breaking, removal, "rip-out," and other manipulation, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling by exposed persons, including Plaintiffs and/or their family members, would use or be in proximity to and exposed to said asbestos fibers.

148. At all times relevant, Defendants and/or its "alternate entities" were aware of its asbestos and asbestos-containing products' defect but failed to adequately warn Plaintiffs or their

family members, or others in their vicinity, as well as failed to adequately warn others of the known hazards associated with their products and/or failed to recall or retrofit its products. A reasonable manufacturer, distributor, or seller of Defendants' products would have, under the same or similar circumstances, adequately warned of the hazards associated with their products.

149. Plaintiffs, their family members, and others in their vicinity used, handled or were otherwise exposed to asbestos and asbestos-containing products referred to herein in a manner that was reasonably foreseeable. Plaintiffs' exposures to asbestos and asbestos-containing products occurred at various locations as set forth in this Complaint.

150. Plaintiffs suffer/suffered from asbestos related disease, including but not limited to mesothelioma and lung cancers which are related to exposures to asbestos and asbestos-containing products. Plaintiffs, not their exposed family members, were not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury or disease.

151. Defendants' conduct and defective products as described in this cause of action were a direct cause of Plaintiffs' injuries, and all damages thereby sustained by Plaintiffs. Therefore, Plaintiffs seek all compensatory damages in order to make them whole, according to proof.

152. Furthermore, the conduct of Defendants and/or its "alternate entities" in continuing to market and sell products which they knew were dangerous to Plaintiffs, their family members, and the public without adequate warnings or proper use instructions was done in a conscious disregard and indifference to the safety and health of Plaintiffs and others similarly situated.

153. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, failing to recall or retrofit, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing,

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contracting for installation, repairing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, Defendants and/or its "alternate entities" did so with conscious disregard for the safety of "exposed persons" who came in contact with asbestos and asbestos-containing products, in that Defendants and/or its "alternate entities" had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos, asbestos-containing products or products manufactured for foreseeable use with asbestos products, including, but not limited to, asbestosis, mesothelioma, lung cancer, and other lung damages. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or its "alternate entities."

154. Defendants and its "alternate entities" were aware that members of the general public and other "exposed persons," who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products, could cause injury, and Defendants, and its "alternate entities," each of them, knew that members of the general public and other "exposed persons," who came in contact with asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, would assume, and in fact did assume, that exposure to asbestos and asbestos-containing products was safe, when in fact said exposure was extremely hazardous to health and human life.

155. The above-referenced conduct of Defendants, and its "alternate entities," was motivated by the financial interest of Defendants, its "alternate entities," and each of them, in the continuing, uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection,

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installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing products and products manufactured for foreseeable use with asbestos products. Defendants, its "alternate entities," and each of them consciously disregarded the safety of "exposed persons" in pursuit of profit. Defendants was consciously willing and intended to permit asbestos and asbestos-containing products to cause injury to "exposed persons" without warning them of the potential hazards and further induced persons to work with and be exposed thereto, including Plaintiffs.

156. Plaintiffs and other exposed persons did not know of the substantial danger of using Defendants' asbestos, asbestos containing-products, and products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Plaintiffs, their family members, or other exposed persons. Defendants and/or its "alternate entities" further failed to adequately warn of the risks to which Plaintiffs and others similarly situated were exposed.

157. Defendants and/or its "alternate entities" are liable for the fraudulent, oppressive, and malicious acts of its "alternate entities," and each Defendants' officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and had full knowledge of, or should have known of, the acts of each of its "alternate entities" as set forth herein.

158. The herein-described conduct of Defendants, and its "alternate entities," was and is willful, malicious, fraudulent, and outrageous and in conscious disregard and indifference to the safety and health of persons foreseeably exposed. Plaintiffs, for the sake of example and by way of punishing said Defendants, seek punitive damages according to proof against all defendants.

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FOR A SECOND CAUSE OF ACTION
(Product Liability: Strict Liability - S.C. Code Ann. § 15-73-10, et seq.)

As a Second and Distinct Cause of Action for Strict Liability, Plaintiffs Complain of Defendants, and Allege as Follows:

159. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

160. Plaintiffs suffered from asbestos related disease, including, mesothelioma and lung cancer, related to exposure to asbestos, asbestos-containing products and products manufactured for foreseeable use with asbestos products. Plaintiffs, nor their family members, were aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

161. The Defendants' conduct and defective products as described above were a direct cause of Plaintiffs' injuries, and the injuries and damages thereby sustained by Plaintiffs.

162. Furthermore, the Defendants' conduct and that of its "alternate entities" in continuing to market and sell products which they knew were dangerous to Plaintiffs and the public without adequate warnings or proper use instructions, was done in a conscious disregard and indifference to the safety and health of Plaintiffs and others similarly situated.

163. Defendants and/or its "alternate entities" knew or should have known, and intended that the aforementioned asbestos and products containing asbestos would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other applications, including, but not limited to grinding, sawing, chipping, hammering, scraping, sanding, breaking, removal, "rip-out," and other manipulation, resulting in the release of airborne

asbestos fibers, and that through such foreseeable use and/or handling, "exposed persons," including Plaintiffs, would use or be in proximity to and exposed to said asbestos fibers.

164. Plaintiffs, their family members, and others in their vicinity used, handled or were otherwise exposed to asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, referred to herein in a manner that was reasonably foreseeable. Plaintiffs' exposures to asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products occurred at various locations as set forth in this Complaint.

165. Defendants and/or its "alternate entities" knew and intended that the above-referenced asbestos and asbestos-containing products would be used by the purchaser or user without inspection for defects therein or in any of their component parts and without knowledge of the hazards involved in such use.

166. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants' asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products from causing Plaintiffs' asbestos related diseases and in some circumstances, subsequent death, due to an inability of any asbestos-alternative to penetrate the pleural lining of the lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or its "alternate entities." Said alternatives were of comparable utility to the asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products of Defendants and/or its "alternate entities." The gravity of the potential harm resulting from the use of Defendants'

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asbestos or asbestos-containing products, and the likelihood such harm would occur, far outweighed any additional cost or marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use.

167. The defect existed in the said products at the time they left the possession of Defendants, and/or its "alternate entities," and each of them. Said products were intended to reach the ultimate consumer in the same condition as it left defendants. Said products did, in fact, cause personal injuries, including mesothelioma, asbestosis, other lung damage, and cancer to "exposed persons," including Plaintiffs herein, while being used in a reasonably foreseeable manner, thereby rendering the same defective, unsafe and dangerous for use.

168. Plaintiffs and other exposed persons did not know of the substantial danger of using Defendants' asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Plaintiffs or other exposed persons. Said Defendants and/or its "alternate entities" further failed to adequately warn of the risks to which Plaintiffs and others similarly situated were exposed.

169. Defendants' defective products as described above were a direct cause of Plaintiffs' injuries, and the damages thereby sustained.

170. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising

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asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, Defendants, and/or its "alternate entities," and each of them, did so with conscious disregard for the safety of Plaintiffs and other exposed persons who came in contact with the asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, in that Defendants and/or its "alternate entities" had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products, including, but not limited to, mesothelioma, asbestosis, other lung damages and cancers. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or its "alternate entities."

171. Defendants and/or its "alternate entities" were aware that members of the public and other exposed persons, who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products could cause injury. Defendants and/or its "alternate entities" further knew that members of the general public and other exposed persons, who came in contact with asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products would assume, and in fact did assume, that exposure to asbestos and asbestos- containing products was safe, when in fact exposure was extremely hazardous to health and human life.

172. The above-referenced conduct of Defendants and/or its "alternate entities" motivated by the financial interest of Defendants, its "alternate entities," and each of them, in the continuing and uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection,

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installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products. Defendants and/or its "alternate entities" consciously disregarded the safety of "exposed persons" in their pursuit of profit and in fact consciously intended to cause injury to Plaintiffs and other exposed persons and induced persons to work with, be exposed to, and thereby injured by asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products.

173. Defendants are liable for the fraudulent, oppressive, and malicious acts of its "alternate entities," and each Defendants' officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and knew, or should have known of, the acts of each of its "alternate entities" as set forth herein.

174. The conduct of said Defendants, its "alternate entities," and each of them as set forth in this Complaint, was and is willful, malicious, fraudulent, outrageous and in conscious disregard and indifference to the safety and health of exposed persons. Plaintiffs, for the sake of example and by way of punishing said Defendants, seeks punitive damages according to proof against Defendants.

175. At all times herein mentioned, each of the named Defendants was an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as "alternate entities," engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing,

marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain product, namely asbestos, other products containing asbestos and products manufactured for foreseeable use with asbestos products.

FOR A THIRD CAUSE OF ACTION
(Negligence *Per Se*)

As a Third Distinct Cause of Action for Negligence *Per Se*, Plaintiffs Complain of Defendants, and Allege as Follows:

176. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

177. The actions and/or inactions of Defendants also constituted negligence *per se*.

178. Defendants violated federal and state regulations relating to asbestos exposure. Such violations constitute negligence per se or negligence as a matter of law. Further, each such violation resulted in dangerous and unlawful exposures to asbestos for Plaintiffs. Plaintiffs are not making any claims under federal law; instead, Plaintiffs are simply using the violation of federal standards as proof of liability on state-law theories. Further, the reference to Federal regulations does not create a federal question. *See Merrell Dow Pharms., Inc. v. Thompson*, 478 U.S. 804 (1986). Any removal on this basis will be met with an immediate motion for remand and for sanctions.

179. The negligence per se of Defendants was a proximate cause of Plaintiffs' injuries.

FOR A FOURTH CAUSE OF ACTION
(Product Liability: Breach of Implied Warranties - S.C. Code Ann. § 36-2-314)

As a Fourth Distinct Cause of Action for Breach of Implied Warranties, Plaintiffs Complain of Defendants and Allege as Follows:

180. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs.

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181. Defendants and/or their "alternate entities" impliedly warranted that its asbestos materials or asbestos-containing products were of good and merchantable quality and fit for their intended use.

182. The implied warranty made by the Defendants and/or their "alternate entities" that the asbestos and asbestos-containing products were of good and merchantable quality and fit for the particular intended use, was breached. As a result of that breach, asbestos was given off into the atmosphere where Plaintiffs and/or their family members carried out duties and was inhaled by Plaintiffs.

183. As a direct and proximate result of the breach of the implied warranty of good and merchantable quality and fitness for the particular intended use, Plaintiffs were exposed to Defendants' asbestos, asbestos-containing products, and/or products manufactured for foreseeable use with asbestos products and consequently developed mesothelioma, causing Plaintiffs to suffer all damages attendant thereto.

FOR A FIFTH CAUSE OF ACTION
(Fraudulent Misrepresentation)

For a Fifth Distinct Cause of Action for Fraudulent Misrepresentation, Plaintiffs Complain of Defendants, and Allege as Follows:

184. Plaintiffs repeat and re-alleges the portions of the above paragraphs where relevant.

185. That during, before and after Plaintiffs' exposures to asbestos products manufactured by Defendants and/or their "alternate entities", the Defendants and/or their "alternate entities" falsely represented facts, including the dangers of asbestos exposure to Plaintiffs in the particulars alleged in the paragraphs above, while Defendants had actual knowledge of said dangers of asbestos exposure to persons such as Plaintiffs. At the same time of

these misrepresentations, Defendants knew of the falsity of its representations and/or made the representations in reckless disregard of their truth or falsity.

186. The foregoing representations were material conditions precedent to Plaintiffs' continued exposure to asbestos-containing products. Defendants and/or its "alternate entities" each intended that Plaintiffs act upon the representations by continuing his work around, and thereby exposure to, the asbestos products. Plaintiffs and their family members were ignorant of the falsity of Defendants' representations and rightfully relied upon the representations.

187. As a direct and proximate result Plaintiffs' reliance upon Defendants' false representations, Plaintiffs suffered injury and damages as described herein.

FOR A SIXTH CAUSE OF ACTION
(Loss of Consortium)

For a Sixth Distinct Cause of Action for Loss of Consortium, Plaintiffs Complain of Defendants, and Allege as Follows:

188. Plaintiffs incorporate by reference, the preceding paragraphs, where relevant.

189. Deceased Plaintiffs', as identified on Exhibit A, were married and/or otherwise left surviving spouses, family members and heirs at the time of their passing.

190. Prior to their injuries as alleged, Deceased Plaintiffs were able and did perform spousal and parental duties. As a proximate result thereof, subsequent to the injuries, Deceased Plaintiffs' were unable to perform spousal and parental duties and the work and service usually performed in the care, maintenance and management of the family home. As a proximate result thereof, Plaintiffs were deprived of the consortium of their spouses and family members including the performance of duties, all to Deceased Plaintiffs' damages, in an amount presently unknown to Plaintiffs but which will be proven at time of trial.

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191. As a direct and proximate result of the acts of Defendants and/or their "alternate entities" and the severe injuries caused to Plaintiffs as set forth herein, Deceased Plaintiffs' spouses and family members suffered loss of consortium, including but not by way of limitation, loss of services, marital relations, parental relations, society, comfort, companionship, love, and affection of their spouses, and suffered severe mental and emotional distress and general nervousness. Plaintiffs pray judgment against Defendants, their "alternate entities" and each of them, as hereinafter set forth.

FOR A SEVENTH CAUSE OF ACTION
(Wrongful Death Action, S.C. Code Ann. § 15-51-10, et seq.)

For a Seventh Distinct Cause of Action for Wrongful Death, Plaintiffs Complain of Defendants, and Allege as Follows:

192. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs, where relevant.

193. Plaintiffs bring this cause of action for Deceased Plaintiffs' wrongful death pursuant to S.C. Code Ann. § 15-51-10, for the benefit of the Estates of each Deceased Plaintiff, and on behalf of the heirs of Deceased Plaintiffs, as defined by S.C. Code § 15-51-20.

194. As a direct and proximate result of the negligence, recklessness, carelessness, and intentional actions of Defendants as described above, Deceased Plaintiffs' died on the dates indicated on Exhibit A, and their surviving spouses and/or heirs have and will endure pecuniary loss, mental shock and suffering, wounded feelings, grief, sorrow, loss of love, loss of society with the Deceased Plaintiffs, loss of guidance, loss of companionship and deprivation of the use and comfort of the Deceased Plaintiffs' experience, knowledge and judgment in managing the affairs of himself and his beneficiaries, and they have been otherwise seriously damaged. Moreover, reasonable funeral expenses were incurred, and

Plaintiffs pray for judgment against Defendants in such amount of actual and punitive damages as the trier of fact may determine.

FOR AN EIGHTH CAUSE OF ACTION
(Survival Action, S.C. Code Ann. § 15-5-90)

For an Eighth Distinct Cause of Action, known statutorily as a Survival Action, Plaintiffs Complains of Defendants, and Allege as Follows:

195. Plaintiffs incorporate herein by reference, as though fully set forth herein, each of the preceding paragraphs, where relevant.

196. Plaintiffs, as identified on Exhibit A hereto, are represented by their duly appointed Personal Representatives of the Deceased Plaintiffs' Estates, bring this survival action as allowed under S.C. Code Ann. § 15-5-90.

197. Personal Representatives of the Plaintiffs bring this cause of action for Deceased Plaintiffs' medical, surgical and hospital bills, as well as for Deceased Plaintiffs' conscious pain and suffering prior to his untimely death, as well as for the mental distress of Deceased Plaintiffs due to knowledge of their impending death from these incurable diseases.

198. As a direct and proximate result of the negligence, recklessness, carelessness, and in some cases intentional actions of Defendants as described, Deceased Plaintiffs endured conscious pain, suffering, mental anguish and distress until his untimely death, and Plaintiffs pray for judgment against Defendants in such amount of actual and punitive damages as the trier of fact may determine is just.

FOR A NINTH CAUSE OF ACTION
(Alter Ego and Veil Piercing Liability)
(Against the Altrad Defendants, Charter Defendants and Oppenheimer Defendants)

For a Ninth Distinct Cause of Action for Alter Ego and Veil Piercing Liability, Plaintiffs Complain of Altrad, Charter and Oppenheimer Defendants, and Allege as Follows:

199. Plaintiff incorporates by reference the preceding paragraphs as though fully set forth herein.

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200. South Carolina recognizes the imposition of liability under an "alter ego" theory based on a factual assessment of several factors, including: (i) common ownership; (ii) financial dependence; (iii) the degree of selection of executive personnel and failure to observe corporate formalities; and (iv) the degree of control over marketing and operational policies.

201. Likewise, under a veil-piercing theory, South Carolina recognizes attaching liability to a shareholder through a two-part test involving, first, an eight-factor analysis of the shareholder's relationship to the corporation and, second, proof of an element of injustice or fundamental unfairness if the acts of the corporation are not regarded as the acts of the equity owners. As part of the first step, the eight factors are: (i) whether the corporation was grossly undercapitalized; (ii) failure to observe corporate formalities; (iii) non-payment of dividends; (iv) insolvency of the debtor corporation at the time; (v) siphoning of funds of the corporation by the dominant stockholder; (vi) non-functioning of other officers, directors, or stockholders; (vii) absence of corporate records; and (viii) the fact that the corporation was merely a façade for the operations of the dominant stockholder. In turn, to prove fundamental unfairness, the plaintiff must establish that: (i) the defendant was aware of the plaintiff's claim against the corporation, and (ii) thereafter, the defendant acted in a self-serving manner with regard to the property of the corporation and in disregard of the plaintiff's claim in the property.

202. Numerous facts support the conclusion that, in furtherance of the ends of justice, the Court may exercise personal jurisdiction over the Altrad Defendants, the Charter Defendants and the Oppenheimer Defendants (collectively the "Alter-Ego Defendants") and impose liability on them for acts of Cape, which Alter-Ego Defendants are responsible for having dominated, controlled, facilitated, or benefited from, including, without limitation:

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(a) The sale and distribution of asbestos in the United States, including to facilities in South Carolina or in asbestos-containing products used in South Carolina;

(b) The failure to follow corporate formalities between Cape and each of the Alter-Ego Defendants;

(c) The common and intentionally obfuscated ownership interests of the Alter-Ego Defendants;

(d) The financial, marketing, and operational dependence of Cape on those Alter-Ego Defendants;

(e) The domination and control of Alter-Ego Defendants over Cape's and NAAC's executive personnel and boards of directors, which caused, among other things, NAAC to fail to safeguard the interests of personal-injury claimants by placing adequate products-liability insurance;

(f) The funneling of assets out of the United States to escape attachment by personal- injury claimants, and the resulting gross undercapitalization of NAAC in the United States;

(g) The absence of, and intentional destruction of, corporate records related to the events described herein;

(h) The establishment or use of Cape and NAAC as sham entities and a façade for the operations of Oppenheimer interests in South Africa and elsewhere, thereby misrepresenting the true origin of Cape's products (including Cape's use of child laborers), the grave health hazards associated with those products, and the ownership of Cape's business (including ownership by African oligarchs); and

(i) The self-serving actions of Alter-Ego Defendants, despite their having knowledge that Cape's asbestos and asbestos-containing products would cause bodily injury to tens of thousands of individuals in the United States, including in South Carolina, and result in claims for reimbursement.

203. The damages alleged against Cape in the Asbestos Suits resulted from the actions of Alter-Ego Defendants or their predecessors in interest, which dominated, controlled, facilitated, or benefited from Cape's successful asbestos business and liability-avoidance scheme. Accordingly, the proper and appropriate remedy under the circumstances here is for the Court to declare that

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the Alter-Ego Defendants are alter egos of Cape and thereby liable to Cape and/or the Receiver for Cape for Asbestos Suits.

FOR A TENTH CAUSE OF ACTION
(Amalgamation of Interests and Single Business Enterprise Liability)
(Against the Defendants Anglo American PLC, De Beers PLC, De Beers Centenary AG, De Beers Consolidated Mines Ltd., De Beers UK Ltd., Charter Consolidated Ltd., ESAB Corporation, Central Mining & Investment Corporation Ltd., Altrad Investment Authority S.A.S.)

For a Tenth Distinct Cause of Action for Amalgamation of Interests and Single Business Enterprise Liability, Plaintiffs Complain of Defendants, and Allege as Follows:

204. Plaintiff incorporates by reference the preceding paragraphs as though fully set forth herein.

205. Cape had or has unified, integrated, and intertwined business operations and resources with Anglo American PLC, De Beers PLC, De Beers Centenary AG, De Beers Consolidated Mines Ltd., De Beers UK Ltd., Charter Consolidated Ltd., ESAB Corporation, Central Mining & Investment Corporation Ltd., and Altrad Investment Authority S.A.S.(collectively the "Amalgamation Defendants") to achieve a common business purpose.

206. In turn, Amalgamation Defendants acted or continue to act with Cape and its affiliated entities as part of an amalgamation of interests and single business enterprise, which gives rise to the claims against them, including through (i) longstanding business activities directed at the United States, including South Carolina, including with respect to the mining, marketing, and distribution of asbestos and other minerals, and/or (ii) implementing or perpetuating an ongoing scheme to evade responsibility for harm caused to South Carolinians, as well as other Americans, by Cape's asbestos, while also financially benefiting from that scheme.

207. Because the Amalgamation Defendants were or are intertwined with Cape and acting with a common business purpose, there has been bad faith, abuse, fraud, wrongdoing, or injustice resulting from the blurring of the entities' legal distinctions with Cape, including their

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continuing to benefit from Cape's historical sale of asbestos and evasion of its associated liabilities to tort victims within the United States, including South Carolina, by avoiding answering to U.S. creditors and other injured parties for their asbestos-related injuries and harm.

208. Thus, each Amalgamation Defendants (including predecessors in interest) was or is part of an amalgamated, single business enterprise with respect to the mining, production, manufacture, and distribution of asbestos fiber and/or the perpetuation of Cape's liability-avoidance scheme.

209. As a result of these relationships, persons have allegedly been harmed, with the damages alleged against Cape in the Asbestos Suits resulting from the actions of the Amalgamation Defendants (including their predecessors in interest).

210. Accordingly, the proper and appropriate remedy under the circumstances here is for the Court to declare that the Amalgamation Defendants were or are part of an amalgamation of interests and common business enterprise with Cape, and thereby liable to Cape and/or the Receiver for Asbestos Suits.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray judgment, joint and several, against Defendants and/or its "alternate entities" in an amount to be proved at trial, as follows:

1. For Plaintiffs' actual damages according to proof, including pain and suffering, mental distress, as well as medical, surgical and hospital bills;

2. For loss of income or earnings according to proof;

3. For loss of care, comfort and society;

4. For the Deceased Plaintiffs, or pecuniary loss of the beneficiaries/heirs including but not limited to funeral and burial costs, for mental shock and suffering of the beneficiaries/heirs,

for wounded feelings of the beneficiaries/heirs, for grief and sorrow of the beneficiaries/heirs, loss of his companionship and deprivation of the use and comfort of the Decedents' experience, knowledge and judgment in managing the affairs of their beneficiaries;

5. For punitive damages according to proof;

6. For Plaintiffs' cost of suit herein;

7. For damages for breach of implied warranty according to proof;

8. For damages for fraudulent misrepresentation according to proof;

9. All economic and non-economic damages allowed pursuant to the Survival and Wrongful Death Act;

10. For a declaration that the Alter-Ego Defendants are the Alter Ego of Cape;

11. For a declaration that the Amalgamation Defendants were or are part of an amalgamation of interests and common business enterprise with Cape, and thereby liable to Cape and/or the Receiver for Asbestos Suits; and

10. For such other and further relief as the Court may deem just and proper, including costs and prejudgment interest as provided by South Carolina law.

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A JURY IS RESPECTFULLY DEMANDED TO TRY THESE ISSUES.

Respectfully submitted,

/s/ Charles W. Branham, III
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ATTORNEYS FOR PLAINTIFFS

November 11, 2024
Columbia, South Carolina.

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STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	
COUNTY OF RICHLAND	)	**FOR THE FIFTH JUDICIAL CIRCUIT**
AUGUSTUS A. ADAMS, *et al.*,	)	**C/A No.:** 2024CP4006639
	)	
Plaintiffs,	)	
	)	
v.	)	**ACCEPTANCE OF SERVICE**
	)	
CAPE PLC, *etc., et al.,*	)	
	)	
Defendants.	)	

I, Peter Protopapas, as attorney for above-named Defendant CAPE PLC, do hereby accept service on their behalf of the **SUMMONS and COMPLAINT,** along with the Exhibit in the above-entitled matter, on this 12 day of November 2024.

Peter Protopapas
Rikard & Protopapas
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Columbia, South Carolina.

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