

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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APPEAL FROM RICHLAND COUNTY

S.C. SUPREME COURT

In the Court of Common Pleas
For the Fifth Judicial Circuit
The Honorable Jean H. Toal,
Acting Circuit Court Judge

Civil Action No. 2023-CP-40-01759

Appellate Case No. 2025-002104

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.; Lowserve Corporation; Flowserve US Inc.; Fluor Constructors International; Fluor Constructors International, Inc.; Fluor Daniel Services Corporation; Fluor Enterprises, Inc.; FMC Corporation; Foster Wheeler Energy Corporation; Gardner Denver Nash, LLC; General Boiler Casing Company, Inc.; General Cable Corporation; General Cable Industries, Inc.; General Electric Company; Gould Electronics Inc.; Goulds Pumps, Incorporated; Goulds Pumps LLC; Great Barrier Insulation Co.; Grinnell LLC; Hajoca Corporation; Howden North America Inc.; HPC Industrial Services, LLC; IMO Industries Inc.; ITT LLC; Joy Global Underground Mining LLC; K-Mac Services Incorporated; Metropolitan Life Insurance Company; Mine Safety Appliances Company, LLC; MP Supply, Inc.; The Nash Engineering Company; Occidental Chemical Corporation; Paramount Global; Patterson Pump Company; PECW Holding Company; Pfizer Inc.; Piedmont Insulation, Inc.; Plastics Engineering Company; Presnell Insulation Co., Inc.;

Redco Corporation; Riley Power Inc.; Rockwell Automation, Inc.; RSCC Wire & Cable LLC; Schneider Electric USA, Inc.; Sequoia Ventures Inc.; Spirax Sarco, Inc.; SPX Corporation; ii 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,

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

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

Appellants.

**RESPONDENT'S DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

Respondent Cape PLC, individually and as successor in interest to Cape Asbestos Company Limited, n/k/a Cape Intermediate Holdings Ltd. by and through its duly appointed Receiver Peter D. Protopapas, designates the following material for inclusion in the Record on Appeal. Undersigned counsel certifies that this designation contains no matter which is irrelevant to this appeal.

Orders

1. Order Appointing Receiver, *Park v. Armstrong International, Inc., et al.*, No. 2021-CP-40-02727 (S.C. Ct. Com. Pl. Richland Cnty. March 17, 2023)
2. Order Granting the Receiver's Motions to Compel Discovery Responses of Third-Party Defendants and 30(b)(6) Depositions of Arranco US, LLC & Central Mining & Investment Corp. Ltd., *Tibbs v. 3M Co., et al.*, No. 2023-CP-40-01759 (S.C. Ct. Com. Pleas, Richland Cnty. March 12, 2024)
3. Order Granting the Receiver for Cape PLC's Motion for Sanctions and Motion for Adverse Inference as to the Altrad & Charter Third-Party Defendants, *Tibbs v. 3M Co., et al.*, No. 2023-CP-40-01759 (S.C. Ct. Com. Pleas, Richland Cnty. May 23, 2024)
4. Order, *Tibbs v. 3M Co., at al.*, Appellate Case No. 2025-002104 (S.C. November 26, 2025)

Motions, Memoranda, and Other Filings

5. Plaintiffs' Motion to Appoint Receiver, *Park v. Armstrong International, Inc., et al.*, No. 2021-CP-40-02727 (S.C. Ct. Com. Pl. Richland Cnty. March 6, 2023)
6. Appellants Mohed Altrad and Altrad Investment Authority SAS's Motion for Protective Order and to Dissolve Receivership, *Tibbs v. 3M Co., et al.*, No. 2023-

CP-40-01759 (S.C. Ct. Com. Pl. Richland Cnty. September 20, 2023)

7. Appellants Mohed Altrad and Altrad Investment Authority SAS's Legal and Procedural Opposition to the Purported Receiver's Motion for Summary Judgment, *Tibbs v. 3M Co., et al.*, No. 2023-CP-40-01759 (S.C. Ct. Com. Pl. Richland Cnty. November 22, 2024)
8. Appellants Charter Consolidated Ltd.'s and ESAB Corporation's Memorandum in Opposition to Receiver's Motion for Summary Judgment, *Tibbs v. 3M Co., et al.*, No. 2023-CP-40-01759 (S.C. Ct. Com. Pl. Richland Cnty. November 22, 2024)
9. Notice of Release of Claims, *Tibbs v. 3M Co., et al.*, No. 2023-CP-40-01759 (S.C. Ct. Com. Pleas, Richland Cnty. June 4, 2025)
10. Report of the Receiver Relating to the Factual Predicate Underlying the Cape Appointment Order, *Tibbs v. 3M Co., et al.*, No. 2023-CP-40-01759 (S.C. Ct. Com. Pleas, Richland Cnty. July 11, 2025)
11. Exhibits 1–81, including all subparts, to Report of the Receiver Relating to the Factual Predicate Underlying the Cape Appointment Order, *Tibbs v. 3M Co., et al.*, No. 2023-CP-40-01759 (S.C. Ct. Com. Pleas, Richland Cnty. July 11, 2025)
12. Bench Brief to the Court on the Status of the *Park* Case, *Tibbs v. 3M Co., et al.*, No. 2023-CP-40-01759 (S.C. Ct. Com. Pl. Richland Cnty. August 4, 2025) and *Park v. Armstrong International, Inc., et al.*, No. 2021-CP-40-02727 (S.C. Ct. Com. Pl. Richland Cnty. August 4, 2025)
13. Notice of Filing Supplemental Exhibit to Bench Brief to the Court on the Status of the *Park* Case, *Tibbs v. 3M Co., et al.*, No. 2023-CP-40-01759 (S.C. Ct. Com. Pl. Richland Cnty. August 6, 2025) and *Park v. Armstrong International, Inc., et al.*,

- No. 2021-CP-40-02727 (S.C. Ct. Com. Pl. Richland Cnty. August 6, 2025), including exhibit to the same.
14. The Receiver for Cape's Pre-Trial Memorandum, *Tibbs v. 3M Co., et al.*, No. 2023-CP-40-01759 (S.C. Ct. Com. Pl. Richland Cnty. October 16, 2025)
 15. Appellants Mohed Altrad and Altrad Investment Authority SAS's Omnibus Response to the Receiver's Numerous Filings, *Tibbs v. 3M Co., et al.*, No. 2023-CP-40-01759 (S.C. Ct. Com. Pleas, Richland Cnty. October 19, 2025)
 16. Notice of Filing, France Summons for Hearing, *Tibbs v. 3M Co., et al.*, No. 2023-CP-40-01759 (S.C. Ct. Com. Pleas, Richland Cnty. December 22, 2025), including exhibit to the same

Transcripts

17. Trial Transcript, Volume I, *Tibbs v. 3M Co., et al.*, No. 2023-CP-40-01759 (S.C. Ct. Com. Pl. Richland Cnty. October 20, 2025)
18. Trial Transcript, Volume II, *Tibbs v. 3M Co., et al.*, No. 2023-CP-40-01759 (S.C. Ct. Com. Pl. Richland Cnty. October 21, 2025)
19. Trial Transcript, Volume III, *Tibbs v. 3M Co., et al.*, No. 2023-CP-40-01759 (S.C. Ct. Com. Pl. Richland Cnty. October 22, 2025)

Other

20. *McDaniels v. Carey Canada*, No. 83-1412 (D.N.J. Nov. 11, 1985) (unpublished)
21. *Brown v. Lac D'Amiante Du Quebec, Ltd.*, No. 84-357 (E.D. Pa. June 12, 1985) (unpublished)
22. *Figueroa v. Charter Consolidated P.L.C.*, No. 4351 (2123) (Ct. Comm. Pl. Phil. Cnty. June 24, 1985) (unpublished)

Trial Exhibits in *Tibbs v. 3M Co., et al.*, No. 2023-CP-40-01759 (S.C. Ct. Com. Pl. Richland Cnty. October 20-22, 2025)

23. The Receiver for Cape’s Fourth Amended Trial Exhibit List, *Tibbs v. 3M Co., et al.*, No. 2023-CP-40-01759 (S.C. Ct. Com. Pl. Richland Cnty. November 18, 2025)
24. Trial Exhibit 43, Telex from A. Penna to S. Milwid (July 4, 1977)
25. Trial Exhibit 52, NAAC Sales List (undated)
26. Trial Exhibit 63, Trial Testimony of Anthony John Penna, *Adams v. Cape Indus. plc*, [1990] Ch. 433 (Q.B. Mar. 14, 1988)
27. Trial Exhibit 68, Deposition of Charles G. Morgan, *Barber v. Pittsburgh Corning Corp.*, No. GD 79-21544 (Ct. Com. Pl. Allegheny Cnty., Pa. Oct. 31, 1980)
28. Trial Exhibit 102, 2023 Altrad Annual Report
29. Trial Exhibit 107, Altrad Website, *Our History* (2024)
30. Trial Exhibit 117, Correspondence from Winston & Strawn London LLP to Peter D. Protopapas (Aug. 30, 2024)
31. Trial Exhibit 138, Letter from R. Oren to Lloyd’s (May 7, 2025)
32. Trial Exhibit 207, North America: Contact Us, Altrad RMD Kwikform Website, <https://www.rmdkwikform.com/us/contact-us/> (last accessed Nov. 17, 2025)
33. Trial Exhibit 208, United States, Altrad RMD Kwikform Website, <https://www.rmdkwikform.com/us/> (last accessed Nov. 17, 2025)
34. Trial Exhibit 209, ESAB US – Sales Terms & Conditions, ESAB Website, https://esab.com/us/nam_en/terms-and-conditions-of-sales/ (last accessed Nov. 17, 2025)
35. Trial Exhibit 218, RMD Kwikform North America Inc., South Carolina Secretary

of State Business Entities Online Report (last accessed Oct. 20, 2025)

36. Trial Exhibit 225, South Carolina Secretary of State Search Business Entries Online Search, ESAB Corporation (last accessed Nov. 6, 2025)
37. Trial Exhibit 242, Deposition of Richard Gaze, *Yandle v. PPG Indus., Inc.*, Civil Action Nos. TY-74-3-CA & TY-74-13-CA (E.D. Tex. June 4-5, 1975)
38. Trial Exhibit 250, ESAB Corporation, Workers Compensation Coverage Verification, South Carolina Workers Compensation Commission

Respectfully submitted,

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Holdings Ltd. by and through its duly appointed
Receiver Peter D. Protopapas*

December 30, 2025