

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Appeal from Richland County

Court of Common Pleas

The Honorable Jean H. Toal, Circuit Court Judge

Civil Action No. 2023-CP-40-01759

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

PECW Holding Company; Pfizer Inc.; Piedmont Insulation, Inc.; Plastics Engineering Company; Presnell Insulation Co., Inc.; Redco Corporation; Riley Power Inc.; Rockwell Automation, Inc.; RSCC Wire & Cable LLC; Schneider Electric USA, Inc.; Sequoia Ventures Inc.; Spirax Sarco, Inc.; 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; Zurn Industries, LLC.....DEFENDANTS,

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., De Beers PLC, individually and as successor in interest to De Beers S.A., De Beers Centenary AG, De Beers Consolidated Mines Ltd., n/k/a De Beers Consolidated Mines Proprietary Ltd., 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., Altrad Investment Authority S.A.S., Sparrows Offshore Group Ltd., Hawk Bidco US Inc., Arran Co US, LLC, Sparrows Offshore, LLC, and The Sparrows Group, LLC
..... THIRD-PARTY DEFENDANTS,

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

BEATTIE B. ASHMORE, P.A.’S *AMICUS CURIAE* BRIEF

(signature on following page)

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STATEMENT OF ISSUES

- I. A Receiver acting only in the case in which he or she was appointed, and only securing specified assets needed to pay the claim of the party responsible for seeking the appointment, is unworkable in practice.
- II. Appointing a Receiver via a prejudgment order is necessary and proper in light of pre-litigation moral fraud and to prevent assets from further dissipation.

TABLE OF AUTHORITIES

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U.S.A., et al. v. Chemical Trust, et al., 6:00-cv-00236-GRA-WMC (D.S.C.)1, 5

Welch v. Advance Auto Parts, Inc., 445 S.C. 640, 659, 916 S.E.2d 320, 330 (2025)4, 7

STATEMENT OF INTEREST OF AMICUS CURIAE

This matter addresses issues of significant concern to this law firm, whose sole owner Beattie B. Ashmore has served as a Receiver to four different Federal Judges in South Carolina. In his first three Receiverships, he disbursed over 55 million dollars to 8,000 victims. His fourth Receivership will make a disbursement to 1,000 additional victims in the coming months. He has served as the Receiver for the Honorable G. Ross Anderson, Jr. (deceased), the Honorable Margaret B. Seymour, the Honorable J. Michelle Childs, and the Honorable Bruce H. Hendricks. His Receiverships include (1) *U.S.A. v. Virgil Womack, et al. (U.S.A., et al. v. Chemical Trust, et al., 6:00-cv-00236-GRA-WMC)*; (2) *U.S.A. v. Three Hebrew Boys (In Re Receiver, 3:10-cv-03141-MGL)*; (3) *U.S.A. v. Ron Wilson d/b/a Atlantic Bullion and Coin (In re: Receiver for Ronnie Gene Wilson and Atlantic Bullion & Coin, Inc., 8:12-cv-02078-TMC)*; and (4) *U.S.A. v. Scott Kohn d/b/a Future Income Payments (In re Receiver for Scott A. Kohn and Future Income Payments, LLC, 6:19-cv-01112-BHH)*. Through his extensive work as a Receiver, the undersigned is uniquely positioned to attest that if the Court were to require a Receiver to act only in the case in which he or she was appointed, and to only secure specified assets needed to pay the claim of the party responsible for seeking the appointment, it would be unworkable. Appointing a Receiver via a prejudgment order is necessary and proper in light of pre-litigation moral fraud and to prevent further dissipation of assets.

INTRODUCTION

It would unworkable in practice if this Court were to limit a Receiver's authority to acts only within the specific case in which the Receiver was appointed, and only to securing identified assets sufficient to satisfy the claim of the party who sought the appointment. A Receiver is not a private collection agent for an individual litigant, but an officer of the Court. In cases involving complex corporate structures, multiple related entities, and efforts to obscure asset ownership, effective receivership administration necessarily extends beyond a single proceeding. Imposing such limitations would materially impede a Receiver's ability to carry out Court-ordered duties, create uncertainty for third parties who must rely on the Receiver's authority, and frustrate the Court's ability to protect assets pending resolution of the underlying claims. Appointing a Receiver via a prejudgment order is necessary and proper in light of pre-litigation moral fraud to prevent irreparable harm.

STANDARD OF REVIEW

“[T]he matter of ordering a receivership is very much within the discretion of the circuit judge.” *In re Citizens' Exch. Bank of Denmark*, 140 S.C. 471, 139 S.E. 135, 142 (1927) (citing *Chisolm v. Carolina Agency Co.*, 88 S.C. 438, 70 S.E. 1035 (1911); *Jackson v. S. C. Colored State Fair Ass'n*, 109 S.C. 283, 96 S. E. 116 (1918); *Thompson v. Thompson*, 120 S.C. 230, 112 S.E. 925 9 (1922)). “The turning point here, then, is whether or not the circuit judge, on the related facts which were before him, committed such an abuse of the discretion placed in him by the law as would justify this court in reversing his discretion.” *Id.*

ARGUMENT

I. Appointing a Receiver to act only in the case in which he or she was appointed, and only securing specified assets needed to pay the claim of the party responsible for seeking the appointment, is unworkable.

“A Receiver is an officer of the court, appointed to marshal and collect—to receive—the assets of the corporation. In that sense, the Receiver stands in the corporation’s shoes.” *Welch v. Advance Auto Parts, Inc.*, 445 S.C. 640, 659, 916 S.E.2d 320, 330 (2025), *cert. denied sub nom. Atlas Turner, Inc. v. Welch*, No. 25-213, 2026 WL 79875 (U.S.S.C. Jan. 12, 2026) (citing *In re Am. Slicing Mach. Co.*, 125 S.C. 214, 218, 118 S.E. 303, 304 (1923)); *Kirven v. Lawrence*, 244 S.C. 572, 580, 137 S.E.2d 764, 768 (1964) (“A receiver represents the Court appointing him; he is an officer of the Court and is the agency through which the Court acts.”).

As set forth extensively in the circuit court’s October 13, 2025 Order, Cape employed a decades-long litigation avoidance scheme while continuing to sell asbestos fibers to the United States. R. pp. 9-38. Cape’s conduct goes further than that of Atlas Turner, the defendant in *Welch*: Cape has initiated proceedings in the United Kingdom against the South Carolina court-appointed Receiver personally to enjoin him from continuing his work, used United Kingdom proceedings to intimidate the Receiver, and threatened insurers to deter compliance with subpoenas seeking relevant insurance information. R. pp. 30-34. Recovery would be further thwarted if the Court were to require the Receiver to act only in the case in which he was appointed, and only securing specified assets needed to pay the claim of the party responsible for seeking the appointment.

In complex cases involving asset concealment and layered corporate shells, a Receiver’s duties often extend for years and require action across hundreds or thousands of matters. As a Receiver, the undersigned established and controlled receivership accounts; directed banks to freeze, transfer, and disclose assets; obtained financial records from accountants, trustees, and

custodians; and secured the turnover of cash, gold, silver, artwork, real property, securities, and contractual payment rights. These tasks require prompt execution pursuant to the Court's appointment Order. Judicial oversight, not categorical restrictions, provides the appropriate mechanism for defining and supervising the Receiver's authority while assets remain at risk of concealment or dissipation.

At the beginning of every Receivership, the bad actors are light years ahead of the Receiver. No Judge can foresee the thousands of issues a Receiver will face on the day of appointment. The statute that allows for the appointment of a Receiver, S.C. Code Ann. § 15-65-10, contains five sentences. While the statute gives little, if any, guidance and authority to the Receiver, the Judge sets forth the authority and duties of the Receiver in the Order of appointment which, as in this case, can be tailored over time based upon ever changing developments in the case.

Imagine standing in the shoes of a multi-national corporation with the stroke of a Judge's pen. Where does the Receiver start? Who is a friend? Who is a foe? What assets exist and where? The Receiver must be granted expansive powers at the beginning of every Receivership to complete the Ordered task. For instance, in the *Ron Wilson* case, *In re: Receiver for Ronnie Gene Wilson and Atlantic Bullion & Coin, Inc.*, 8:12-cv-02078-TMC, a Receiver's worst nightmare was realized – the immediate seizure of all assets to include the seizure of something that eats, namely cows, pigs, and sheep. Should a Receiver ask for permission from the Judge and the parties to obtain three competitive bids to feed the livestock? A Receiver must act quickly and, using sound judgement, take action. In the *Three Hebrew Boys* case, *In Re Receiver*, 3:10-cv-03141-MGL, the Receiver met with the Attorney General of the Bahamas and helped shut down a bank in Nassau that was controlled by bad actors. In the *Womack* case, *U.S.A., et al. v. Chemical Trust, et al.*, 6:00-cv-00236-GRA-WMC, the Receiver recovered sixteen million dollars from an account in London.

The Receiver has filed over 150 lawsuits in the *Kohn* case alone. See *In re Receiver for Scott A. Kohn and Future Income Payments, LLC*, 6:19-cv-01112-BHH. The journey a Receiver must take can never be predicted.

While the low hanging fruit can be dealt with in short order, it takes time and knowledge for the Receiver to look under every rock. The Receiver is thrust head first into an enormously complicated whirlwind of running the day-to-day affairs of a company or companies with no working knowledge on day one. Assets must be seized and managed immediately. The Receiver must engage forensic accountants and information technology vendors to preserve, value, and liquidate assets. The Receiver must assess possible lawsuits and engage attorneys. These engagements are typically authorized under the Receiver's general powers and later reviewed by the Court through status reports. No Judge can predict the issues a Receiver will face in the initial Order of appointment. Requiring separate, case-specific orders before a Receiver would be authorized to act would impose an impossible burden. It would create uncertainty for third parties who must rely on the Receiver's authority, and it would materially obstruct recovery to the injured parties in South Carolina. The protection against abuse by the Receiver is, of course, the Judge. The Receiver is an arm of the Court and must always answer to the very Judge that appointed him or her as the Receiver.

II. Appointing a Receiver via a prejudgment order is necessary and proper in light of pre-litigation moral fraud and to prevent assets from further dissipation.

A Receivership is predicated on the circuit court's ability to act swiftly and decisively to protect assets from imminent dissipation. Waiting is not an option. A restrictive ruling would not only undermine the receivership in this specific case, but it would also cripple the circuit court's ability to protect assets in future cases and encourage bad actors to engage in precisely the kind of destructive conduct that the law is designed to prevent.

The existence of pre-litigation moral fraud presents the most compelling and urgent justification of a prejudgment Receiver. Bad actors who engage “in a campaign of litigation avoidance” before a claim is even filed are committing the most pernicious form of fraud upon the court and prospective creditors. *See* R. p. 13, *et seq.* (circuit court’s Order describing Cape); *see also Welch*, 445 S.C. at 657, 916 S.E.2d at 329 (“Anyone entering and profiting from a business market in South Carolina that our laws and courts helped foster has fair warning that any wrongs he commits here will be subject to the remedies of those same courts. He also has notice that should he create harm to the citizens of this state, it would be reasonable and fair that our citizens could sue him here, rather than having to travel to pursue him elsewhere. Due process, at least as far as personal jurisdiction is concerned, has always considered this exchange fair, the balance true”).

The integrity of the receivership process itself depends on the Court affirming its authority to intervene in these circumstances. This Court has long recognized the inherent power of equity to prevent a wrong from becoming irreparable. *See, e.g., Hooper v. Ebenezer Sr. Servs. & Rehab. Ctr.*, 386 S.C. 108, 116–17, 687 S.E.2d 29, 33 (2009) (“The equitable power of a court is not bound by cast-iron rules but exists to do fairness and is flexible and adaptable to particular exigencies so that relief will be granted when, in view of all the circumstances, to deny it would permit one party to suffer a gross wrong at the hands of the other”) (equitable tolling); *Robinson v. Est. of Harris*, 389 S.C. 360, 371, 698 S.E.2d 801, 807 (2010) (“Courts have the inherent power to do all things reasonably necessary to ensure that just results are reached to the fullest extent possible”) (laches); *see also* S.C. Code Ann. 15-65-10(5) (“A receiver may be appointed by a judge of the circuit court ... [i]n such other cases as are provided by law or may be in accordance with existing practice ...”). The pre-judgment appointment of a Receiver due to pre-litigation moral fraud is essential in

order to prevent irreparable harm and ensure that calculated efforts to evade accountability do not succeed by virtue of obfuscation or jurisdictional gamesmanship.

CONCLUSION

Limiting a Receiver's authority to a specific case would impose an impossible burden. A Receiver is an officer of the Court, not a private collection agent, and effective administration in cases involving complex corporate structures and concealed asset ownership necessarily extend beyond one proceeding. Prejudgment appointment of a Receiver in light of pre-litigation moral fraud is necessary and proper to prevent irreparable harm.

This 11th day of February, 2026

Respectfully Submitted,

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