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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

IN THE SUPREME COURT’S ORIGINAL JURISDICTION  
CONCERNING AN APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

The Honorable Jean H. Toal  
Acting Circuit Court Judge

Appellate Case Nos. 2024-001423 and 2024-001499

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,

And

Cape PLC, individually and as successor in interest to Cape Asbestos Company Limited, by and through its duly appointed Receiver Peter D. Protopapas,..... Third-Party Plaintiff/ Respondent,

v.

Anglo American PLC, individually and as successor in interest to Anglo American Corporation of South Africa Ltd.; DeBeers PLC; DeBeers Centenary AG; DeBeers Consolidated Mines Ltd.; DeBeers S.A.; DeBeers UK Ltd.; DeBeers Jewelers US, Inc.; Angle American US Holdings Inc.; Element Six US Corp.; Element Six Technologies US Corp.; Element Six Technologies (OR) Corp.; First Mode Holdings, Inc.; Platinum Guild International (USA) Jewelry Inc.; Forevermark US Inc.; Anglo American Crop Nutrients (USA), LLC; Charter Consolidated Ltd.; ESAB Corporation; Central Mining & Investment Corporation Ltd.; Cape Holdco Ltd.; The Law Debenture Corporation PLC; Cape Industrial Services Group Ltd.; Mohed Altrad; Altrad UK Ltd.; Cape UK Holdings Newco Ltd.; Altrad Services Ltd., f/k/a Cape Industrial Services Ltd.; Altrad Investment Authority SAS; Sparrows Offshore Group Ltd.; Hawk Bidco US Inc.; Arranco US, LLC; Sparrows Offshore, LLC; The Sparrows Group, LLC, ..... Third-Party Defendants,

of which

Mohed Altrad and Altrad Investment Authority SAS, are the..... Petitioners.

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**MOHED ALTRAD AND ALTRAD INVESTMENT AUTHORITY S.A.S.’S RESPONSE  
TO THE PUTATIVE RECEIVER’S THIRD MOTION TO SUPPLEMENT THE  
RECORD**

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The putative Receiver’s Third Motion to Supplement is not an evidentiary submission. It is the latest escalation in a documented, multi-year pattern of attempting to intimidate and discredit lawyers who oppose him in litigation arising from the South Carolina Asbestos Docket.

Shortly after the below-signed counsel first appeared in litigation adverse to the Receiver, the Receiver began repeatedly seeking sanctions against undersigned counsel, their clients, and numerous other lawyers and law firms across multiple proceedings. (Ex. A, Aff. Carroll ¶¶ 13–18.) Those efforts have spanned trial courts and appellate courts and have been directed not only at parties, but at counsel personally.

The present motion fits that same pattern. It attempts to portray routine, unconsummated exploratory communications by a lawyer who is not even involved in this appeal as a “comprehensive surveillance plan” targeting the South Carolina judiciary in the weeks leading up to and during trial.

***That allegation is categorically false.***

The sworn affidavit of Tim Finley—a former senior official of the United States Department of Justice and current partner at Baker & McKenzie LLP—confirms that he independently explored, and then declined, the possibility of retaining a legal investigator to conduct preliminary research regarding potential federal claims relating to the Receiver’s conduct. (Ex. D, Aff. Finley ¶¶ 4–7.) No engagement occurred. No investigator was retained. No work was performed. No instructions were given. Mr. Finley expressly informed the investigator that further

discussions were “in limbo”—in essence, declining the potential engagement—and he has had no contact with the investigator since. (*Id.* ¶ 5.)

Mr. Finley further confirms that, prior to the Receiver’s subpoenas and the pending motion, he had no contact with any attorneys at Womble Bond Dickinson regarding anything associated with this litigation. (*Id.* ¶ 7.)

The sworn affidavits of below-signed counsel likewise confirm that undersigned counsel had no knowledge of, involvement in, or participation in those communications prior to the Receiver’s subpoenas. (Ex. A, Aff. Carroll ¶¶ 22–29; Ex. B, Aff. Hall ¶¶ 3–10; Ex. C, Aff. O’Neill ¶¶ 3–10.) Neither Messrs. Carroll or Hall or Ms. O’Neill were involved in, aware of, or directed any contact with an investigator. (*Id.*)

Thus, stripped of rhetoric, the “supplement” amounts to this: a lawyer not involved in this appeal briefly considered hiring an investigator to explore whether any information might support potential federal claims concerning alleged *ultra vires* conduct by the Receiver; he declined to do so; and no action followed.

That is not sanctionable. It is not improper. And it does not justify inflammatory accusations of “surveillance” directed at members of this Bar.

**I. The motion is part of a documented pattern of retaliatory sanctions filings.**

The Court is aware that litigation surrounding the various receiverships in the Asbestos Docket has been contentious. What distinguishes this litigation, however, is the putative Receiver’s recurring resort to personal sanctions motions and collateral attacks against counsel who oppose him.

As detailed in the Carroll Affidavit, the Receiver has filed repeated motions for sanctions against undersigned counsel and their clients in multiple matters since early 2020. (Ex. A, Aff.

Carroll ¶¶ 13–19.) Numerous other law firms have been sued or targeted in sanctions proceedings within the Asbestos Docket. (*Id.* ¶¶ 19–21.) The present filing—asserting without evidence that opposing counsel were engaged in a “comprehensive surveillance plan” directed at the judiciary—fits squarely within that pattern.

## **II. The “surveillance plan” allegation is objectively false.**

The Receiver’s motion relies on language contained in subpoenas *he* drafted and served upon third-party investigators. That language—asserting a “comprehensive surveillance plan”—appears nowhere in any communication from Mr. Finley, from undersigned counsel, or from any investigator. The actual evidence shows:

- Mr. Finley explored the possibility of engaging an investigator for preliminary research regarding potential federal claims relating to the Receiver’s conduct. (Ex. D, Aff. Finley ¶ 4.)
- Mr. Finley declined to proceed. (*Id.* ¶¶ 5–6.)
- No engagement agreement was executed.
- No investigative work occurred.
- No investigator was retained.
- No communication occurred with undersigned counsel before the Receiver’s subpoenas. (*Id.* ¶ 7; Aff. Carroll ¶¶ 23–25, 28; Aff. Hall ¶¶ 4–6, 9; Aff. O’Neill ¶¶ 4–6, 9.)

The trial in this matter had been suspended pending proceedings before this Court. The communications at issue occurred in November–December 2025. The Receiver presents no evidence—because there is none—that any investigative activity occurred “during trial,” “targeting the judiciary,” or otherwise. The Receiver’s characterization is therefore unsupported by the sworn record.

**III. Even hypothetically, the exploration of investigative services is lawful and routine.**

Even if an engagement had occurred—which it did not—retaining licensed investigative services in connection with potential litigation is lawful and commonplace. South Carolina law expressly licenses and regulates private investigative services. See S.C. Code Ann. §§ 40-18-20(A), 40-18-70. Attorneys routinely retain investigators for witness location, asset tracing, background research, and other lawful litigation-related purposes.

The mere exploration of such services—particularly in evaluating whether potential federal claims might exist—would not be improper. Here, however, the exploration did not even proceed to engagement. Thus, the Receiver’s motion attempts to transform a declined inquiry into a narrative of judicial surveillance. The record does not support that transformation.

**IV. The motion is designed to inflame rather than inform.**

The Court has previously instructed the parties to cease personal attacks. This filing does the opposite. It advances a serious allegation—surveillance of the judiciary—unsupported by facts and contradicted by sworn affidavits.

Rather than addressing the legal issues pending before this Court, the motion injects inflammatory language that risks distracting from the substantive appellate questions. The pattern is familiar: when litigation scrutiny intensifies, sanctions motions and personal allegations follow. The Court should decline to entertain that tactic here.

**CONCLUSION**

The Receiver’s Third Motion to Supplement presents no evidence of misconduct. It presents no investigative engagement. It presents no “surveillance.” It presents only a declined exploratory communication by a lawyer not involved in this appeal, followed by rhetoric unsupported by the sworn record. The sanctions request should be denied.

Respectfully submitted,

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