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Commissaires de Justice

Jérôme LEGRAIN
Commissaire de Justice

Anthony CESCA
Commissaire de Justice

Anne LESAGE
Commissaire de Justice Salariée

27 rue de Lisbonne
75008 Paris

Siret N°89133615800011
TVA Intra : FR77 891336158

Tél. : 01 55 74 69 60
Fax : 01 84 25 48 23

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Références à rappeler
Avec votre règlement :

Dossier N° 72139 - DV
ALTRAD Mohed/PROTOPAPAS
Peter D.

Monsieur Peter D. PROTOPAPAS
2110 N Beltline Boulevard
SC 29204 COLUMBIA
ETATS UNIS D'AMERIQUE

PARIS, le 03/12/2025

Lettre recommandée AR

Dear Sir/Madam,

I am writing to inform you that I have sent to the appropriate authority a summons for enforcement before the Montpellier Judicial Court for its hearing on Thursday, March 12, 2026 at 2 p.m along with its translation and the judgment and orders issued on September 30, 2025, by the High Courts of Justice of England and Wales (English version), at the request of Mr. Mohed Altrad, Altrad Investment Authority (AIA), Altrad UK Limited, Cape UK Holdings Newco Limited, Cape Industrial Services Group Limited, Cape Holdco Limited, and Altrad Services Limited. This summons will be served on you by the relevant authorities.

Therefore, and in accordance with Article 686 of the Code of Civil Procedure, please find enclosed a certified copy of the summons and the attached documents.

Yours faithfully

Anthony CESCA

SARL LEGRAIN CESCA et Associés
Huissiers de Justice

LEGRAIN CESCA

Commissaires de Justice

Jérôme LEGRAIN
Commissaire de Justice

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Commissaire de Justice Salariée

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Peter D.

Monsieur Peter D. PROTOPAPAS
2110 N Beltline Boulevard
SC 29204 COLUMBIA
ETATS UNIS D'AMERIQUE

PARIS, le 03/12/2025

Monsieur,

Je vous informe avoir transmis à l'entité compétente requise ***un acte d'assignation aux fins d'exequatur devant le Tribunal judiciaire de MONTPELLIER*** pour son audience du jeudi 12 mars 2026 à 14h accompagnée de sa traduction et du jugement et de l'ordonnances rendus le 30/9/2025 par la HIGH COURTS OF JUSTICE OF ENGLAND AND WALES version anglaise à la demande de Monsieur Mohed ALTRAD, ALTRAD INVESTMENT AUTHORITY (AIA) , ALTRAD UK LIMITED , CAPE UK HOLDINGS NEWCO LIMITED, Cape INDUSTRIAL SERVICES GROUP LIMITED ,CAPE HOLDCO LIMITED ET ALTRAD SERVICES LIMITED et qui va vous être signifié par les autorités du pays

En conséquence et conformément à l'article 686 du Code de Procédure Civile, je vous prie de trouver ci-joint une copie certifiée conforme de l'acte et des pièces jointes .

Anthony CESCA

SARL LEGRAIN CESCA et Associés
Huissiers de Justice

SCP SVA
Avocats à la Cour d'Appel
1, Place Alexandre Laissac
34000 - MONTPELLIER
Tél. : 04.67.58.75.00
Fax : 04.67.92.23.11
cabinet@sv-avocats.com

SUMMONS FOR THE PURPOSES OF ENFORCEMENT BEFORE THE MONTPELLIER CIVIL

IN THE YEAR TWO THOUSAND AND TWENTY-FIVE AND ON

AT THE REQUEST OF :

Mr. Mohed Altrad, company director, of French nationality, born on March 9, 1948 and domiciled at 150 rue Le Pérugin, Montpellier (34000),

Altrad Investment Authority (AIA), a société par actions simplifiée (simplified joint stock company), whose registered office is at 16 avenue de la Gardie, Florensac (34510), registered in the Béziers Trade and Companies Register under number 529 222 879, represented by its legal representative, domiciled in that capacity at the said registered office,

Altrad UK Limited, a private limited company incorporated under English law, whose registered office is at 6-7 Lyncastle Way Barleycastle Lane, Appleton Thorn Trading Estate, Warrington, England, WA4 4ST, United Kingdom, registered at UK Companies House under number 10799083, represented by its legal representative, residing in this capacity at the said registered office,

Cape UK Holdings Newco Limited, a private limited company incorporated under English law, whose registered office is at 6-7 Lyncastle Way Barleycastle Lane, Appleton Thorn Trading Estate, Warrington, England, WA4 4ST, United Kingdom, registered at UK Companies House under number 07754192, in the person of its legal representative, residing in that capacity at the said registered office,

Cape Industrial Services Group Limited, a private limited company incorporated under English law, whose registered office is at 6-7 Lyncastle Way Barleycastle Lane, Appleton Thorn Trading Estate, Warrington, England, WA4 4ST, United Kingdom, registered at UK Companies House under number 03299544, in the person of its legal representative, domiciled in that capacity at the said registered office,

Cape Holdco Limited, a private limited company incorporated under English law, whose registered office is at 6-7 Lyncastle Way Barleycastle Lane, Appleton Thorn Trading Estate, Warrington, England, WA4 4ST, United Kingdom, registered at UK Companies House under number 09092125, in the person of its legal representative, domiciled in that capacity at the said registered office,

Altrad Services Limited, a private limited company governed by English law, whose registered office is at 6-7 Lyncastle Way Barleycastle Lane, Appleton Thorn Trading Estate, Warrington, England, WA4 4ST, United Kingdom, registered at UK Companies House under number 03337119, in the person of its legal representative, domiciled in that capacity at the said registered office,

Having as litigating Counsel:	Signature Litigation AARPI represented by Maîtres Thomas Rouhette & Ela Barda Members of the Paris Bar residing at 21/23 rue Balzac, 75008 Paris Tel: 01 70 75 58 00 - Toque: K0151 thomas.rouhette@signaturelitigation.com ela.barda@signaturelitigation.com
And as local Counsel:	SVA Avocats represented by Nathalie Monsarrat Member of the Montpellier Bar residing at 1 place Alexandre Laissac BP41114 – 34000 Montpellier Cdx 1 34170 Castelnau Le Lez Tel: 04 67 58 75 00 cabinet@sv-avocats.com

I,

THE UNDERSIGNED COMMISSIONER OF JUSTICE

HAVE THE HONOUR TO INFORM:

Mr. Peter D. Protopapas, a lawyer, of US nationality, domiciled at 2110 N Beltline Blvd, Columbia SC 29204, United States of America, claiming to be receiver of Cape Intermediate Holdings Limited,

IN THE PRESENCE OF:

Cape Intermediate Holdings Limited, a private limited company incorporated under English law, whose registered office is at 6-7 Lyncastle Way Barleycastle Lane, Appleton, Warrington, WA4 4ST, United Kingdom, registered at UK Companies House under number 00040203, represented by its legal representative, domiciled in this capacity at the said registered office,

Cape Plc, a Jersey company, having its registered office at 1st Floor Osprey House, 5-6 Old Street, St. Helier, JE2 3RG, Jersey, in the person of its legal representative, domiciled in that capacity at the said office,

BY SEPARATE SERVICE

That suit has been filed against him for the reasons set out below before the **MONTPELLIER CIVIL COURT located** place Pierre Flottes, 34040 Montpellier, for its hearing to be held on:

Thursday 12 March 2026 at 02:00 PM

(Thursday twelve March two thousand and twenty-six at two PM)

VERY IMPORTANT

Within 15 days of the date of these summons, you are required to appoint a lawyer to represent you before this court. Failure to do so may result in a judgment being rendered against you based solely on the evidence provided by your opponent.

In accordance with Article 643 of the Code of Civil Procedure, when the application is brought before a court with jurisdiction in mainland France, the time limits for appearing in court, appealing, opposing, third-party opposition in the case provided for in Article 586, paragraph 3, appeals for review and appeals to the Court of Cassation are extended by two months for persons residing abroad.

You are reminded of the following provisions, taken from law no. 71-1130 of December 31, 1971 on the reform of certain judicial and legal professions, which are applicable here:

Article 5: "*Lawyers shall provide their services and may appear in court with no geographic restriction before all courts and judicial or disciplinary bodies, subject to the conditions set out in Article 4. They may file proceedings in all the courts of justice within the jurisdiction of the Court of Appeal in which they have established their professional residence and to the said Court of Appeal.*

As an exception to paragraph two, lawyers may not file proceedings before a court other than that with which their address for professional purposes has been registered in the context of procedures for the seizure, division and sale at public auction of real estate assets or on the basis of legal aid or in cases in which they are not responsible for the matter and also tasked with appearing in court".

Article 5-1: "*As an exception to Article 5-2, lawyers registered with the bar of one of the Courts of Justice of Paris, Bobigny, Créteil or Nanterre may file proceedings before each of these courts. They may file proceedings before the Court of Appeal of Paris when they have first filed proceedings before the Courts of Justice of Paris, Bobigny or Créteil, or before the Court of Appeal of Versailles when they have first filed proceedings before the Civil Court of Justice of Nanterre. The exception set out in the final paragraph of Article 5 is applicable to such lawyers.*"

You are also reminded of the following articles of the French Code of Civil Procedure:

Article 641: "*Where a period is expressed in days, the day of the service of deed, event, decision or service of process marking the start point of this period is not taken into account. Where a period is expressed in months or years, it will expire on the day of the final month or year bearing the same date as the day of the deed, event, decision or service of process marking the start point of the period. If there is no identical date, the period expires on the last day of the month. If a period is expressed in months and days, the months are counted first and then the days*".

Article 642: "*All periods expire on the final day at midnight. Any fixed period that would normally end on a Saturday, a Sunday or a public holiday or non-working day will be extended until the following working day*".

Article 642-1: "*The provisions of Articles 640 and 642 apply likewise to periods within which registration and other formalities of publication must be made*".

Article 643: "*Where the application is filed with a court in mainland France, the periods for appearance, lodging an appeal, lodging an objection, third party-proceedings provided for in article 586 (3), appeal for review or appeal to the French Supreme Court will be extended by: 1. One month for those residing in Guadeloupe, French Guiana, Martinique, Réunion, Mayotte, Saint-Barthélémy, Saint Martin, Saint Pierre and Miquelon, French Polynesia, Wallis and Futuna Islands, New Caledonia and the French Southern and Antarctic Territories; 2. Two months for those residing abroad.*"

Lastly, it is hereby indicated, in application of Article 752 of the French Code of Civil Procedure, that the plaintiff does not consent to the proceedings taking place without a hearing, in application of Article L. 212-5-1 of the French Code of Judicial Organization.

The documents on which the claim is based are listed at the end of the document, in accordance with the attached schedule.

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PURPOSE OF THE CLAIM

1. These proceedings have been brought by Altrad Investment Authority ("**AIA**"), Altrad UK Limited, Cape UK Holdings Newco Limited, Cape Industrial Services Group Limited, Cape Holdco Limited, Altrad Services Limited and Mr. Mohed Altrad (hereinafter together referred to as the "**Plaintiffs**"), in the presence of Cape Intermediate Holdings Limited ("**CIHL**") and Cape Plc (hereinafter together referred to as the "**Cape Parties**"), for the purpose of obtaining enforcement of a decision of the *High Court of Justice of England and Wales* (the "***High Court***") on September 30, 2025, rendered by Marcus Smith J (the "**Smith Decision**").

   The Smith Decision is composed of a 35-page Approved Judgment containing detailed reasons (hereinafter the "***Smith Judgment***", **Exhibit no. 1**)[1] and an *Order* containing the operative part of the Decision (hereinafter *the* "***Smith Order***", **Exhibit no. 2**)[2]

   In the Smith Decision, the *High Court*:

   (i) approved the settlement agreement entered into on April 11, 2025 (the "**Protocol**", **Exhibit no. 3**)[3] by the Plaintiffs, the Cape Parties and three other companies: Sparrows Offshore, LLC, Hawk Bidco US, Inc. and Arranco US, LLC (together the "**Sparrows Group**") (hereinafter collectively referred to as the "**Parties to the Protocol**"),

   (ii) declared that the court administration order appointing Mr. Protopapas as receiver of CIHL is ineffective in the United Kingdom and internationally, and in particular that he has no authority to act for and on behalf of CIHL in the proceedings pending against the Plaintiffs in South Carolina,

   (iii) ordered Mr. Protopapas to definitively terminate the proceedings brought on behalf of CIHL against the Plaintiffs in South Carolina, within 14 days of the issuance of the Smith Order.

2. The Plaintiffs have in fact been improperly summoned by Mr. Protopapas, claiming to be acting in the name and on behalf of CIHL, in the context of American proceedings in South Carolina, even though they have no connection whatsoever with the facts in dispute.

3. Mr. Protopapas' actions were the subject of a first *High Court* decision, handed down on November 22, 2024 by Mr. Justice Mann (the "**Mann Decision**"), which held that Mr. Protopapas' appointment as CIHL's receiver was irregular and consequently ordered him to cease acting or purporting to act in that capacity, and in particular to cease his actions against the Plaintiffs in South Carolina.

   The Mann Decision is recognized and enforceable in France, pursuant to the judgment rendered by this court on April 8, 2025 (the "**Enforcement Judgment**"), now final.

4. Mr. Protopapas is currently pursuing his actions on behalf of CIHL against the Plaintiffs in South Carolina, despite the terms of the injunctions issued by the Mann Decision (enforceable in France) and the Smith Decision.

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[1] **Exhibit no. 1**: Judgment of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation)

[2] **Exhibit no. 2**: Order of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation)

[3] **Exhibit no. 3**: Settlement Agreement dated April 11, 2025 (with translation for information purposes)

5. **Therefore, the Plaintiffs now seek the enforcement in France of the Smith Decision in order to protect themselves against the potentially very negative effects of a decision to be taken in the coming weeks in South Carolina in the context of an abusive procedure.**

6. After a reminder of the facts and the proceedings at the origin of this action (**1**), the Plaintiffs will demonstrate that the conditions laid down by the case law for enforcement in France of the Smith Decision are met (**2**).

1. FACTS AND PROCEEDINGS

1.1 Presentation of the parties

1.1.1 The Altrad Group

7. The Altrad Group was founded in 1985 in Montpellier by Mr. Mohed Altrad.

Mr. Altrad is the majority shareholder and chairman of Altrad Investment Authority ("**AIA**"), the parent company of the Altrad Group, registered in Béziers since 2010 (**Exhibit no. 4**)[4].

A world leader in the provision of services to industry, the Altrad Group designs and deploys high value-added solutions in the petrochemical, energy, power generation and construction sectors. For the 2023-2024 fiscal year, it had consolidated sales of almost €5.5 billion and had approximately 65,000 employees worldwide, including 7,500 in France.

In September 2017, the Altrad Group acquired the Cape Group.

1.1.2 The Cape Group

8. The Cape Group was formed in 1893 from the English company "*The Cape Asbestos Company Ltd*", now known as Cape Intermediate Holdings Limited ("**CIHL**"). Its head office was located in Appleton, Warrington, England (**Exhibit no. 5.1**)[5]. Over the course of its existence, CIHL has changed its name several times, as follows:

- The Cape Asbestos Company Ltd (1893-1974)
- Cape Industries Ltd (1974-1981)
- Cape Industries Plc (1981-1989)
- Cape Plc (1989-2011)
- Cape Intermediate Holding Plc (2011-2013)
- Cape Intermediate Holdings Limited (since 2013).

"Cape Plc" is the current holding company of the Cape Group. It has been registered in Jersey since 2011 (**Exhibit no. 5.2**)[6].

Nowadays, the Cape Group is a major provider of services and equipment to industry in the petrochemical and energy sectors. Its main customers operate in the oil and gas industries.

As part of its activities, the Cape Group distributed asbestos fibers until the 1970s, notably through a US subsidiary, North American Asbestos Corporation ("**NAAC**"), which was dissolved in 1978.

In the United States, and more particularly in South Carolina, plaintiffs brought actions against Cape Group companies, claiming that Cape Plc / CIHL was liable for the activities of the former NAAC subsidiary prior to 1978.

1.1.3 The Defendant to the Enforcement

9. Mr. Peter Protopapas is an American lawyer practicing in South Carolina. He is particularly active in asbestos litigation.

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[4] **Exhibit no. 4** : Certificate of incorporation of Altrad Investment Authority
[5] **Exhibit no. 5.1**: Certificate of registration of CIHL (with translation for information purposes)
[6] **Exhibit no. 5.2**: Certificate of registration of Cape Plc (with translation for information purposes)

For several years now, in the context of legal proceedings initiated by asbestos victims, he has been regularly appointed by a South Carolina judge, Ms. Jean Hoefer Toal ("**Judge Toal**"), as receiver of the defendant companies.

10. By order dated March 16, 2023 (see §15 below), Mr. Protopapas was appointed by Judge Toal as receiver of "Cape Plc" (**Exhibit no. 6**)[7].

This appointment is contrary to the Mann Decision and the Enforcement Judgment.

1.2 The contentious context: proceedings improperly initiated in South Carolina by Mr. Protopapas

11. Mr. Protopapas was appointed as receiver of "Cape Plc" in a case brought in South Carolina in 2021 by the Park couple (the "**Park Case**"). Granting himself full powers on the basis of the appointment order (**Exhibit no. 6**)[8], issued under manifestly irregular conditions, then, Mr. Protopapas involved the Plaintiffs on behalf of Cape Plc (a subsidiary of the Altrad Group), in proceedings separate from the Park Case, for asbestos exposure in the 1960s. The Plaintiffs have thus been improperly involved in proceedings abroad, even though they have no connection whatsoever with the contentious facts.

1.2.1 Particularity of asbestos litigation in South Carolina

12. In South Carolina, a local practice in asbestos-related litigation is to reactivate companies that have long been devoid of legal existence, by appointing a receiver.

In this state, this entire litigation is heard by Judge Toal. Mr. Protopapas is regularly appointed by Judge Toal as receiver of long dissolved companies or other entities affiliated to these companies, allegedly responsible for asbestos-related activities, in order to call in the relevant insurance policies, realize the assets of these companies and, thus, compensate the plaintiffs.

Mr. Protopapas recovers a significant portion of the amounts awarded to the plaintiffs by the South Carolina courts as success fees.

13. The methods of Mr. Protopapas and Judge Toal have been criticized in the trade press:

> "*Armed with subpoena power and a contingency-fee agreement awarding him a third of whatever he recovers, Peter Protopapas has used the receiver power granted to him by Toal to take control of more than 20 dissolved companies and sue their former insurers over old policies that he claims cover asbestos claims, scoring millions of dollars as the leader of these zombies*" (**Exhibit no. 7.1**)[9].
>
> "*Judge Toal has often referred to Protopapas as an arm of the court, although he is a personal injury lawyer whom she has authorized to keep a third of any money he recovers*" (**Exhibit no. 7.2**)[10].
>
> *"A South Carolina personal-injury attorney with a court-ordered commission to keep a third of whatever he recovers has placed tens of millions of dollars in Delaware*

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[7] **Exhibit no. 6**: Order of March 16, 2023 of Judge Toal appointing Mr. Protopapas as receiver of Cape Plc / CIHL (with translation for information purposes)

[8] **Exhibit no. 6**: Order of March 16, 2023 of Judge Toal appointing Mr. Protopapas as receiver of Cape Plc / CIHL (with translation for information purposes)

[9] **Exhibit no. 7.1**: D. Fisher and J. O'Brien, *Zombies are on the loose in a Carolina courtroom. Can anyone stop them?*, September 23, 2024, Legal Newsline (with translation for information purposes)

[10] **Exhibit no. 7.2**: D. Fisher, 'Slammed the door in my face': Key cog in South Carolina's asbestos court not at U.K. showdown, October 15, 2024. (with translation for information purposes)

partnerships that he controls, out of sight of the public and even the judge who allowed them to be established" (**Exhibit no. 7.3**)[11].

1.2.2 The Park Case

14. In 2021, the Cape Parties were sued as defendants before the Richland County *Court of Common Pleas* by Mrs. Isabella Park. The case was heard by Judge Toal.

15. On March 16, 2023, an order issued by Judge Toal, at the request of counsel for Ms. Park's rights-holders, appointed Mr. Protopapas as receiver of "*Cape PLC*", "*as the successor in interest to Cape Industries Ltd. (f/k/a Cape Asbestos Company Ltd.)* (...)(**Exhibit no. 6**)[12].

The order of March 16, 2023 does not specify the entity concerned by the appointment of Mr. Protopapas, and therefore seems to confuse (i) Cape Plc, the only entity of the group currently referred to as "Cape Plc", and (ii) CIHL, formerly referred to as "Cape plc" from 1989 to 2011.

As per this order, extensive powers were conferred on Mr. Protopapas, including "*the power and authority [to] fully administer all assets of Cape, accept service on behalf of Cape, engage counsel on behalf of Cap* ***and take any and all steps necessary to protect the interests of Cape whatever they may be***" (**Exhibit no. 6**, bold added)[13].

However, its scope was circumscribed to the Park case, the proceeding registered under number 2021-CP-40-02727:

> "*this Court hereby appoints Peter Protopapas be and hereby is appointed Receiver* ***in this case*** *pursuant to the South Carolina Law*"" (**Exhibit no. 6**)[14].

16. Several irregularities appear to affect this one-pager order, which was issued without any adversarial debate, just 10 days after the submit of the request to that effect[15].

17. In particular, Judge Toal's appointment of a receiver to head Cape Plc / CIHL (companies respectively established in Jersey and England under the laws of those States) appears to have been justified on the grounds that:

- Cape Plc / CIHL would establish a "presence" in South Carolina through NAAC, a former subsidiary of the Cape Group dissolved in 1978 (cf. *supra*, §8).
- Cape Plc / CIHL is said to have been dissolved (**Exhibit no. 6**)[16]. A provision of the South Carolina Code allows a South Carolina court to appoint a receiver for a bankrupt company[17].

However :

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[11] **Exhibit no. 7.3**: D. Fisher, Secrecy shrouds asbestos money in South Carolina, but insurer makes play for records, October 23, 2024 (with translation for information purposes)
[12] **Exhibit no. 6**: Order of March 16, 2023 of Judge Toal appointing Mr. Protopapas as receiver of Cape Plc / CIHL (with translation for information purposes)
[13] **Exhibit no. 6**: Order of March 16, 2023 of Judge Toal appointing Mr. Protopapas as receiver of Cape Plc / CIHL (with translation for information purposes)
[14] **Exhibit no. 6**: Order of March 16, 2023 of Judge Toal appointing Mr. Protopapas as receiver of Cape Plc / CIHL (with translation for information purposes)
[15] **Exhibit no. 12**: Judgment of the High Court of Justice of England and Wales dated November 22, 2024 (certified copy with sworn translation), §48
[16] **Exhibit no. 6**: Order of March 16, 2023 of Judge Toal appointing Mr. Protopapas as receiver of Cape Plc / CIHL (with translation for information purposes)
[17] Under South Carolina Code of Laws Section 15-65-10: "*A receiver may be appointed by a judge of the circuit court, either in or out of court: (...)*
(4) When a corporation has been dissolved, is insolvent or in imminent danger of insolvency or has forfeited its corporate rights, and, in like cases, of the property within this State of foreign corporations" (with translation for information purposes)

- Neither Cape Plc nor CIHL has ever operated, directly or indirectly, in South Carolina or elsewhere in the United States. The Cape Group has no establishment or assets in this territory. This was confirmed by a final decision handed down by an English judge in 1989 (*Adams v. Cape Industries Plc* of July 27, 1989)[18], which is the subject of a request for enforcement pending before this court: in particular, the English Court of Appeal recognized the autonomous legal personality of CIHL and the economic independence of its former subsidiary NAAC, so that no presence of CIHL on American territory could be established through NAAC. Above all, as noted by the High Court in the Smith Decision, the effect of the Adams v. Cape decision is that "*liability for US claims for asbestos related disease begins and ends with NAAC*"[19].

- The Cape Parties are fully operational and in good standing, with governing bodies appointed in accordance with their articles of association (**Exhibit no. 5.1 and Exhibit no. 5.2**)[20]. They are not subject to any insolvency proceedings, neither in South Carolina, nor in England , nor in Jersey.

1.2.3 The Tibbs Case

18. On April 5, 2023, a new liability action was brought against "Cape Plc" by the Tibbs couple. CIHL was not named as a defendant. This case is also being heard by Judge Toal.

19. In this second case, separate from the Park case, Judge Toal has never issued an order appointing Mr. Protopapas as receiver of "Cape Plc" or any other company in the Cape Group.

    However, Mr. Protopapas has intervened in these proceedings in this capacity.

20. On June 12, 2023, as per an agreement between Mr. and Mrs. Tibbs and Mr. Protopapas, Mr. and Mrs. Tibbs withdrew their claim against Cape Plc[21]. The Richland County Court of Common Pleas was therefore in principle removed from the main action against Cape Plc.

21. However, on June 30, 2023, the Plaintiffs were summoned in the Tibbs case as "*third party defendants*" by Mr. Protopapas, in his purported capacity as receiver of "Cape Plc".

    As per the summons dated June 30, 2023, Mr. Protopapas requested that the third-party defendants, including the Plaintiffs, be declared liable for all the obligations of Cape Plc and CIHL, for alleged unjust enrichment and a liability avoidance scheme in connection with NACC's distribution of asbestos fibers[22] in the 1960s-70s.

22. The hearing on the merits to rule on the third-party defendants' liability was initially scheduled for the week of February 3 to 7, 2025 (**Exhibit no. 8**)[23], but was finally postponed to October 20, 2025 (**Exhibit no. 9**)[24].

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[18] **Exhibit no. 12**: Judgment of the High Court of Justice of England and Wales dated November 22, 2024 (certified copy with sworn translation)
[19] **Exhibit no. 1**: Judgment of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation)
[20] **Exhibit no. 5.1**: Certificate of registration of CIHL (with translation for information purposes) and **Exhibit no. 5.2**: Certificate of registration of Cape Plc (with translation for information purposes)
[21] **Exhibit no. 12**: Judgment of the High Court of Justice of England and Wales dated November 22, 2024 (certified copy with sworn translation), §52
[22] **Exhibit no. 12**: Judgment of the High Court of Justice of England and Wales dated November 22, 2024 (certified copy with sworn translation), §57
[23] **Exhibit no. 8**: Judge Toal's order of October 1, 2024 setting a procedural timetable (with translation for information purposes)
[24] **Exhibit no. 9**: Note from Judge Toal informing the parties of the hearing set for October 20, 2025

23. These proceedings are therefore taking place although, in particular:

- **the appointment of Mr. Protopapas as receiver of "Cape Plc", which appears irregular in view of the place of establishment and the law applicable to Cape Plc / CIHL, was circumscribed to the Park case;**
- **the principal plaintiffs had withdrawn their claim and action against Cape Plc / CIHL, under the terms of an agreement concluded by Mr. Protopapas himself;**
- **The Plaintiffs are totally unrelated to the facts at the origin of the litigation, insofar as they stem from the activities of NAAC, which was liquidated in 1978, i.e. almost 40 years before the acquisition of the Cape Group by the Altrad Group.**

1.2.4 The Plaintiffs' defenses in the U.S. proceedings

24. The Plaintiffs have taken significant steps to defend their interests in the Tibbs proceedings.

25. They first filed a motion with Judge Toal seeking to (i) dismiss Mr. Protopapas's claims on the grounds that there was no personal jurisdiction over them and (ii) to set aside the receivership over Cape Plc.

On December 6, 2023, under the terms of an order drafted in full by Mr. Protopapas[25], adopted 24 hours after submitting the draft without any modification by the court, Judge Toal dismissed all the Plaintiffs' motions (**Exhibit no. 10**)[26].

In this order, it is stated that the entity covered by the judicial administration measure of March 16, 2023 is in fact CIHL and not Cape Plc, this confusion stemming from a simple naming error (**Exhibit no. 10**, paragraphs 19 and 23)[27].

The Plaintiffs have appealed this order.

26. The Plaintiffs also strongly objected to the numerous requests for the production of documents covering a period of 40 years (*Discovery*), as well as to Mr. Protopapas' requests for examinations and the appearance of witnesses.

27. On May 23, 2024, to sanction the challenges thus raised by the Plaintiffs, Judge Toal ordered them to pay Mr. Protopapas' fees (in excess of $2 million). She also recognized the existence of *adverse inference*. In other words, the decision on the merits could be based solely on Mr. Protopapas' statements and documents, without allowing for an adversarial debate (**Exhibit no. 11**)[28].

The Plaintiffs also appealed this order.

28. However, the South Carolina Court of Appeal ruled that AIA's and Mr. Altrad's appeals were inadmissible, considering that the merits of Judge Toal's orders could not be examined independently of the decision on the merits. Mr. Altrad and AIA appealed to the South Carolina

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[25] **Exhibit no. 12** : Judgment of the High Court of Justice of England and Wales dated November 22, 2024 (certified copy with sworn translation), §65

[26] **Exhibit no. 10**: Order of December 6, 2023 of Judge Toal dismissing the motions to set aside the appointment of Mr. Protopapas (with translation for information purposes)

[27] **Exhibit no. 10**: Order of December 6, 2023 of Judge Toal dismissing the motions to set aside the appointment of Mr. Protopapas (with translation for information purposes)

[28] **Exhibit no. 11**: Order of May 23, 2024 of Judge Toal imposing sanctions on the third-party defendants (with translation for information purposes)

Supreme Court. These appeals were also rejected by the Supreme Court in its decision of June 26, 2025 (see §47 *below*).

1.3 The Mann decision on the lack of standing of Mr Protopapas

29. On September 9, 2024, the Cape Parties, represented by their true legal representatives in office, applied to their natural judge, the English court, to find the lack of standing of Mr Protopapas.

30. In the Mann Decision of November 22, 2024, consisting of a judgment including the English judge's 73-page reasoning (**Exhibit no. 12**)[29] and an order of the same day including the operative part (**Exhibit no. 13**)[30], the *High Court* ruled that :

- The US order of March 16, 2023 pursuant to which Mr Protopapas was appointed as a receiver over CIHL "*is not recognised and has no legal effect in England and Wales and worldwide*";
- Mr Protopapas has "*no power or authority to act on behalf of CIHL in England and Wales or worldwide* ";
- The rights and obligations of the directors of CIHL remain unaffected by the appointment of Mr Protopapas as receiver of CIHL pursuant to Justice Toal's order of March 16, 2023;
- Mr Protopapas has no power or authority to act on behalf of CIHL in the South Carolina Court in the Park and Tibbs cases and to bring or pursue actions to sue third parties, including in the Tibbs case, 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*" (**Exhibit no. 13**)[31].

Accordingly, the *High Court* ordered Mr. Protopapas to :

- cease to act or purport to act as a receiver of CIHL in England, Wales and the world;
- cease "*claiming, interfering with or usurping (in any way whatsoever) the lawful exercise of the rights and duties of the directors of CIHL*" in England, Wales and worldwide;
- cease to act or purport to act as a receiver of CIHL in relation to the Park and Tibbs cases in England, Wales and worldwide;
- stop continuing the action aimed at involving the Plaintiffs in particular as third-party defendants in the Tibbs proceedings;
- cease to "*purport to act for CIHL in the claim brought before the South Carolina Court by a summons dated 11 November 2024 with claim number C/A No. 2024-CP-40-06639 or in any other legal proceedings brought against CIHL in the South Carolina Court or worldwide*" (**Exhibit no. 13**)[32].

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[29] **Exhibit no. 12**: Judgment of the High Court of Justice of England and Wales dated November 22, 2024 (certified copy with sworn translation)

[30] **Exhibit no. 13**: Order of the High Court of Justice of England and Wales dated November 22, 2024 (certified copy with sworn translation)

[31] **Exhibit no. 13**: Order of the High Court of Justice of England and Wales dated November 22, 2024 (certified copy with sworn translation), §§6-10

[32] **Exhibit no. 13**: Order of the High Court of Justice of England and Wales dated November 22, 2024 (certified copy with sworn translation), §§6-10

31. The High Court considered in the Mann Decision that Mr Protopapas' actions described as abusive constituted a serious threat, justifying the issuance of such global injunctions:

> "*The powers given to the receiver are apparently very long-arm and would be capable of being exercised worldwide, including this jurisdiction. He has not disavowed any intention so to use them. They are oppressive and have already been used to the disadvantage of CIHL*" (**Exhibit no. 12**)[33].

32. **The lack of power and capacity of Mr Protopapas to act in the name and on behalf of CIHL was therefore judicially recognized by the High Court.**

The English Decision was accompanied by a *Penal Notice* under which Mr. Protopapas and any other person acting in breach of the order made by the English judge would be guilty of *contempt of* court and liable to criminal sanctions, including imprisonment (**Exhibit no. 14**)[34].

33. The Mann Decision was served on Mr. Protopapas on November 22, 2024 (**Exhibit no. 15**)[35]. It is now **enforceable and final**.

1.4 Enforcement of the Mann Decision in France

34. In order to protect themselves against the effects of a decision to be handed down in South Carolina, in the context of proceedings abusively pursued against them by Mr. Protopapas, Mr. Altrad and AIA were forced to initiate proceedings to have the Mann Decision recognized as enforceable on French territory.

35. By order dated December 20, 2024 (**Exhibit no. 16**)[36], in view of the urgency inherent in the case, Cape Plc, CIHL, AIA and Mr. Altrad were authorized to summon Mr. Protopapas on a fixed date for a hearing on February 11, 2025 before the Montpellier Civil Court, with a view to having the English Decision of November 22, 2024 declared enforceable in Franc.

36. **In a judgment dated April 8, 2025, the Montpelier Court, considering that all the conditions had been met, declared the Mann Decision handed down by the *High Court* on November 22, 2024 to be enforceable in France (Exhibit no. 17)[37].**

37. The Enforcement Judgment was served on Mr. Protopapas on May 20, 2025 (**Exhibit no. 18**)[38]. The time limit for appeal expired on August 20, 2025, so this decision is now final.

38. **However, Mr. Protopapas has continued his proceedings on behalf of Cape Plc / CIHL against the Plaintiffs in South Carolina, in breach of the terms of the injunction issued by a decision enforceable in both England and France.**

1.5 The repercussions in South Carolina of the English and French proceedings

39. In view of the proceedings initiated against him across the Atlantic, Mr. Protopapas made several attempts to intimidate and accelerate the course of the proceedings in South Carolina.

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[33] **Exhibit no. 12**: Judgment of the High Court of Justice of England and Wales dated November 22, 2024 (certified copy with sworn translation), §134
[34] **Exhibit no. 14**: Penal Notice of the High Court of Justice of England and Wales dated November 22, 2024 (with translation for information purposes)
[35] **Exhibit no. 15**: Service on Mr. Protopapas of the Judgment of the High Court of Justice of England and Wales dated November 22, 2024 (with translation for information purposes)
[36] **Exhibit no. 16**: Order of December 20, 2024 granting permission to summon by fixed date
[37] **Exhibit no. 17**: Enforcement judgment of the Montpellier Civil Court dated April 8, 2025
[38] **Exhibit no. 18**: Notification of the enforceable judgment of the Montpellier Civil Court dated April 8, 2025 on Mr. Protopapas dated May 20, 2025

40. As soon as he was informed of the Cape Parties' intention to apply to the English judge for recognition of his lack of authority as receiver, Mr. Protopapas threatened the Cape Parties' counsel (the firm Winston & Strawn) with legal action against them personally in South Carolina (**Exhibit no. 19** and **Exhibit no. 20**)[39]:

> *"Your letter solicits me to violate South Carolina law and is akin to extortion. (...) As a result, I am left with no choice but to sue your firm. Attached you will find a recently filed declaratory judgement action against Winston & Strawn LLP. (...) A sensible solution to this issue is for you to withdraw the Letter and undertake to not seek any relief in the English Courts or any other court than that seized of the jurisdiction in South Carolina and I will withdraw the Complaint and Rule to Show Cause"* (**Exhibit no. 20**, p. 5, emphasis added)[40].

Winston & Strawn withdrew from the case following this letter, and the Cape Parties had to instruct new counsel as a matter of urgency[41].

41. Mr. Protopapas subsequently attempted to intimidate an expert ("Judge Wilkins"), commissioned by Cape Plc and CIHL in the English proceedings to give a legal opinion on issues of South Carolina law, by threatening to bring proceedings against him in South Carolina if he did not amend his report before the English courts. Judge Wilkins was forced to comply **(Exhibit no. 12)**[42].

42. Mr. Protopapas also filed a motion before Judge Toal asking her to enjoin the "Altrad Defendants" *"to terminate their improper action pending before the High Court of Justice of England and Wales seeking to enjoin the Receiver from ending his Court-ordered duties."*. However, Judge Toal refused to grant this request (**Exhibit no. 12**)[43].

43. On November 8, 2024, Mr. Protopapas filed a motion for summary judgment against AIA and Mr. Altrad in the Tibbs third-party defendant proceedings, although the hearing was scheduled less than three months later - on February 3, 2025 (**Exhibit no. 21**)[44]. In the end, the trial on the merits was postponed to October 20, 2025 (**Exhibit no. 9**)[45] in view of the numerous constatations raised (quite rightly) by the third-party defendants.

44. On December 13, 2024, notably in reaction to the Mann Decision and the notice of penalty attached to it[46], Mr. Protopapas filed an "Emergency Motion for Supersedeas of Execution and Temporary Restraining Order" before the South Carolina Supreme Court (**Exhibit no. 22**)[47].

In it, Mr. Protopapas claims that the actions taken by the Cape Parties in the United Kingdom, on the one hand, and the defenses raised by the Plaintiffs in South Carolina, on the other, with the

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[39] **Exhibit no. 19**: Letter from Winston & Strawn to Mr. Protopapas dated August 30, 2024 (with translation for information purposes); **Exhibit no. 20**: Letter from Mr. Protopapas to Winston & Strawn dated September 5, 2024 (with translation for information purposes)

[40] **Exhibit no. 20**: Letter from Mr. Protopapas to Winston & Strawn dated September 5, 2024 (with translation for information purposes)

[41] **Exhibit no. 12**: Judgment of the High Court of Justice of England and Wales dated November 22, 2024 (certified copy with sworn translation), §84

[42] **Exhibit no. 12:** Judgment of the High Court of Justice of England and Wales dated November 22, 2024 (certified copy with sworn translation), §84

[43] **Exhibit no. 12**: Judgment of the High Court of Justice of England and Wales dated November 22, 2024 (certified copy with sworn translation), §84

[44] **Exhibit no. 21**: Motion for summary judgment against AIA and Mr. Altrad in the third-party defendant proceedings in the Tibbs case, November 8, 2024 (with translation for information purposes)

[45] **Exhibit no. 9**: Note from Judge Toal informing the parties of the hearing set for October 20, 2025

[46] The content of which Mr. Protopapas was reminded several times in letters sent by Cape Plc / CIHL's English counsel, asking him to cease his actions in breach of the English Decision.

[47] **Exhibit no. 22**: Emergency motion by Mr. Protopapas for a stay of execution and temporary restraining order of December 13, 2024 (with translation for information purposes)

legitimate aim of asserting their rights, is equivalent to threats and harassment (**Exhibit no. 22**, pp. 5-7)[48].

45. In a motion dated January 9, 2025 (**Exhibit no. 23**)[49], in view of the Enforcement proceedings initiated in France, Mr. Protopapas asked the South Carolina Supreme Court to stay all procedural deadlines, pending the court's consideration of his emergency motion. Mr. Protopapas again claims in his motion that he has been "threatened" by AIA and Mr. Altrad, and that the latter have filed criminal proceedings against him, which is untrue (**Exhibit no. 23**, p. 3)[50].

    The motion to stay deadlines was rejected by the South Carolina Supreme Court in a decision dated January 16, 2025 (**Exhibit no. 24**)[51].

46. On June 3, 2025, in reaction to the Enforcement Judgment served on him on May 20, 2025, Mr. Protopapas sought further sanctions against AIA and Mr. Altrad before the South Carolina Supreme Court (**Exhibit no. 25**)[52], again claiming to be threatened and *"relentlessly attacked"*.

47. In an order dated June 26, 2025 (**Exhibit no. 26**)[53], the South Carolina Supreme Court partially responded to the numerous appeals and motions brought before it by the various parties involved in this case. On this occasion, it ruled on the powers of the receiver:

    - The Supreme Court first referred to a decision handed down by its own court a few weeks earlier in a separate case, *Welch v. Advance Auto Parts, Inc.* (**Exhibit no. 27**)[54], of May 21, 2025, in which Mr. Protopapas had also been appointed receiver. In the *Welch* decision, the Supreme Court reiterated that the powers of the receiver are not unlimited in that (i) they are limited to marshalling the assets expressly designated in the order placing the company under receivership, and (ii) they do not in any way constitute authorization for the receiver to 'enter the boardroom' of a company and/or take control of its operations. s (**Exhibit no. 27**, p. 30)[55].

    - Accordingly, in the Tibbs case, the Supreme Court reiterated that a receiver may **only** exercise his functions **on the basis of an order issued specifically in the context of the case in which he is supposed to intervene**, and that the receiver's powers must be limited by this order. The Supreme Court therefore instructed Judge Toal to ensure compliance with these requirements in the Tibbs case.

48. On July 11, 2025, Mr. Protopapas filed several sets of pleadings with Judge Toal to justify his actions as CIHL's receiver and to request that Judge Toal confirms his appointment in the Tibbs case (**Exhibit no. 28.1 to 28.3**)[56].

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[48] **Exhibit no. 22**: Emergency motion by Mr. Protopapas for a stay of execution and temporary restraining order of December 13, 2024 (with translation for information purposes)

[49] **Exhibit no. 23**: Motion by Mr. Protopapas for a stay of proceedings dated January 9, 2025 (with translation for information purposes)

[50] **Exhibit no. 23**: Motion by Mr. Protopapas for a stay of proceedings dated January 9, 2025 (with translation for information purposes), p.3

[51] **Exhibit no. 24**: South Carolina Supreme Court decision of January 16, 2025 (with translation for information purposes)

[52] **Exhibit no. 25**: Petition by Mr. Protopapas to the Supreme Court of South Carolina, June 3, 2025 (with translation for information purposes)

[53] **Exhibit no. 26**: Order of the Supreme Court of South Carolina dated June 26, 2025 (with translation for information purposes)

[54] **Exhibit no. 27**: South Carolina Supreme Court decision Welch v. Advance Auto Parts, Inc. of May 21, 2025 (with translation for information purposes)

[55] **Exhibit no. 27**: South Carolina Supreme Court decision Welch v. Advance Auto Parts, Inc. of May 21, 2025 (with translation for information purposes)

[56] **Exhibit no. 28.1**: Report by Mr. Protopapas on receivership measures falling within Judge Toal's jurisdiction; **Exhibit no. 28.2**: Motion by Mr. Protopapas seeking confirmation of his appointment as receiver of Cape Plc / CIHL in the Tibbs case; **Exhibit no. 28.3**: Report by Mr. Protopapas on the factual findings on which his appointment as receiver of "Cape" is based

49. In a letter sent to the parties on August 13, 2025 (**Exhibit no. 29**)[57], Judge Toal indicated that she intended to grant Mr. Protopapas' request and confirm his appointment as CIHL's receiver in the Tibbs case. However, Judge Toal did not issue any order to this effect, nor did she specify the scope of the judicial administration measure, in violation of the South Carolina Supreme Court's decision of June 26, 2025.

50. **As a result, Mr. Protopapas continued his proceedings on behalf of CIHL against Mr. Altrad and AIA, in South Carolina, in violation of (i) the terms of the injunction issued by the Mann decision, enforceable in France, but also (ii) a decision of the South Carolina Supreme Court.**

1.6 The Settlement Agreement of April 11, 2025

51. In view of Mr. Protopapas's persistence in pursuing his actions in South Carolina, in breach of the Mann Decision, the Cape Parties, the Plaintiffs and the Sparrows Group undertook **to have the absence of a dispute** between them **judicially acknowledged,** in order to render inoperative the claim artificially formed in South Carolina by Mr. Protopapas against the third-party defendants (including the Plaintiffs and the Sparrows Group) on behalf of Cape Plc / CIHL. The Parties to the Protocol thus entered into an agreement on April 11, 2025[58], the purpose of which is described as follows in the preamble to the Protocol:

> "*(M) The Parties now wish to settle and resolve their outstanding differences, disputes, and claims, known or unknown, against one another in respect of or arising out of the Park claim, the Tibbs claim, or any existing asbestos-related personal injury claims (whether known or unknown) relating to the USA that may be made on the terms set out in this Agreement..*
>
> *(N) In this regard, the Cape Parties wish to compromise and release the Altrad Parties and Sparrows Parties from any actual or potential claims that might be made in the Park claim, the Tibbs claim, or in any existing asbestos-related personal injury claims relating to the USA (whether known or unknown) that has been or may be made by the Cape Parties against the Altrad Parties and Sparrows Parties and this release includes compromising any judgments in the Tibbs claim obtained in the name of the Cape Parties made against the Altrad Parties or Sparrows Parties (whether such judgments were validly obtained or not).*
>
> *(O) The Altrad Parties and the Sparrows Parties wish to compromise and release any actual or potential claims they may have against the Cape Parties, including but not limited to claims for contribution or indemnity, relating to liabilities in the Park claim, the Tibbs claim, or any asbestos-related personal injury claims relating to or arising in the USA (whether known or unknown) that may be made by the Altrad Parties an Sparrows Parties against the Cape Parties*" (**Exhibit no. 3**, pp. 2-3).

Thus, under the terms of the Protocol:

- The Cape Parties (i) have undertaken to cease any current proceedings and to refrain from taking any future action against the Plaintiffs and the Sparrows Group, in respect of any claim which relates to the "Allegations", (ii) acknowledge that the Plaintiffs and the Sparrows Group are not and have never been liable to the Cape Parties in respect of these "Allegations" (**Exhibit no. 3**, section 2.1)[59].

  The "Allegations" are defined as follows in the Protocol:

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[57] **Exhibit no. 29**: Letter addressed to the parties by Judge Toal on August 13, 2025 (with translation for information purposes)
[58] **Exhibit no. 3**: Settlement Agreement dated April 11, 2025 (with translation for information purposes), pp.2-3
[59] **Exhibit no. 3**: Settlement Agreement dated April 11, 2025 (with translation for information purposes), article 2.1

" (i) the claims asserted in the Tibbs claim (including in the Third-Party Complaint made within it), and (ii) any claims made in the future in any asbestos-related personal injury claims that may be asserted in the USA based in part or in whole upon alleged liability for the acts of CIHL, and in either case including but not limited to the claim that each of the Parties is, or is a successor in interest to an entity that was, the alter ego of or part of a single business enterprise with CIHL and any claim based on the right to pierce the corporate veil of CIHL" (**Exhibit no. 3**, Item 1)[60].

- The Plaintiffs and the Sparrows Group agreed not to pursue any action against the Cape Parties for their alleged liability in connection with the sale or distribution of asbestos products in the United States, including any action based on the Allegations (**Exhibit no. 3**, section 2.2)[61].

52. The Parties have agreed that the Protocol is subject to English law and have designated the English courts as having exclusive jurisdiction to hear any dispute arising therefrom, including any question concerning the binding force of the Protocol, its interpretation, conditions and effects (**Exhibit no. 3**, article 9)[62].

1.7 The Smith Decision

53. The Plaintiffs applied to the English courts, which have exclusive jurisdiction under the terms of the Protocol, to obtain its homologation and reinforce the injunctions issued against Mr. Protopapas by Judge Mann, in order to protect all Altrad Group and Cape Group companies from the consequences of Mr. Protopapas' abusive actions.

1.7.1 Referral to the *High Court* by the Parties to the Protocol and the English procedure

54. On June 24, 2025, the Plaintiffs applied to the *High Court* for, inter alia, (i) a declaration that the Protocol is valid and enforceable, (ii) a declaration that the order appointing Mr. Protopapas as receiver is ineffective and does not affect the powers of CIHL's governing bodies and legal representatives in office, and (iii) an order that Mr. Protopapas permanently terminate his actions on behalf of CIHL, including in connection with the Tibbs case.

55. The writ of summons as well as the submissions and exhibits of the plaintiffs were served on Mr. Protopapas on July 2, 2025 (**Exhibit no. 30**)[63].

Mr. Protopapas has not filed any pleadings or exhibits in these proceedings.

56. A first procedural hearing was held before the *High Court* on July 25, 2025. Protopapas neither appeared nor was represented, although he had been informed of the date of the hearing by the plaintiffs (**Exhibit no. 31**)[64]. The *High Court* granted the Plaintiffs' request to use the accelerated procedure. The transcript of this hearing, the order from July 25, 2025 as well as the submissions and additional exhibits were notified to Mr. Protopapas on July 28, 2025 (**Exhibit no. 32 and Exhibit no. 33**)[65].

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[60] **Exhibit no. 3**: Settlement Agreement dated April 11, 2025 (with translation for information purposes), article 1
[61] **Exhibit no. 3**: Settlement Agreement dated April 11, 2025 (with translation for information purposes), article 2.2
[62] **Exhibit no. 3**: Settlement Agreement dated April 11, 2025 (with translation for information purposes), article 9
[63] **Exhibit no. 30**: Affidavit of service of originating documents on Mr. Protopapas on July 2, 2025 (with translation for information purposes)
[64] **Exhibit no. 31**: Confirmation of notification of process on Mr. Protopapas on July 18, 2025 (with translation for information purposes)
[65] **Exhibit no. 32**: Note from Mr. Protopapas to Judge Toal dated July 29, 2025 (with translation for information purposes); **Exhibit no. 33**: High Court order of July 25, 2025 and confirmation of notification on Mr. Protopapas

57. The oral hearing was held on September 23 and 24, 2025. Mr. Protopapas did not appear or was not represented.

1.7.2 Approval of the Protocol and confirmation of Mr. Protopapas' lack of authority to act in the name and on behalf of CIHL

58. In the Smith Decision, comprising the Judgment of September 30, 2025 (**Exhibit no. 1**)[66], including Judge Smith's 35-page reasoning, and the Order of the same day, including the operative part (**Exhibit no. 2**)[67], the *High Court* declared, *inter alia*, that:

- The Protocol has been entered into by the legally authorized representatives of the Plaintiffs and the Cape Parties and is binding between the parties.
- The Protocol settles and releases the parties from all claims (known or unknown) that the Cape Parties may have against the Plaintiffs with respect to (i) any allegations made in the Tibbs Proceedings (including in the third-party defendants' summons) and (ii) any other claims made after the date of the Protocol in connection with any asbestos-related personal injury claims that may be asserted in the United States, based in whole or in part on Plaintiffs' alleged liability for CIHL's acts and/or omissions.
- The powers and legal authority of CIHL's officers are not affected by the court administration order appointing Mr. Protopapas in South Carolina (which is not recognized and has no legal effect in England and Wales or anywhere else in the world).
- Mr. Protopapas has and had no legal power or authority to take any action or act in the name of or on behalf of CIHL, including in the Tibbs case.

Accordingly, the *High Court* ordered Mr. Protopapas to :

- refrain "*from taking any further step in the Third-Party Complaint*" or in relation to any other proceedings,
- "*forthwith take all and any steps to effect a final and with prejudice dismissal of [*Plaintiffs'] *with immediate effect and, in any event,* (...) *within 14 days of the date of this order*".

59. The *High Court* justified the extent and scope of its decision in the following terms:

> "*Proceedings and procedural steps based upon the Receivership Order continue in the US. The adverse effects of these steps as described by Mann J (Mann J Judgment/[113] ff) thus continue, notwithstanding the Mann J Order (which has been disregarded by Mr Protopapas)*" (**Exhibit no. 1**, § 54)[68].
>
> *"The progression of the Third Party Claim is doing real harm to the Claimants. They are faced with a claim – the Third Party Claim – which overtly threatens their financial standing, makes reputationally damaging (and unfounded) allegations, and threatens the Cape Scheme by which a class of victims of asbestosis related disease are being compensated. This is a case where there is a real and present dispute which the proposed declarations will assist to resolve* (...).

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[66] **Exhibit no. 1**: Judgment of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation)

[67] **Exhibit no. 2**: Order of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation)

[68] **Exhibit no. 1**: Judgment of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation), §54

I consider the declarations sought to be an extremely effective way of controlling the conduct of Mr Protopapas: for the declarations, if made, will have the effect of extinguishing the very claims Mr Protopapas seeks to advance by way of the Third Party Claim. I bear in mind that – as yet – the Claimants have received no protection from the English court. I consider that if the declarations can properly be made, they should for this reason alone be made. Although the Second and Third Defendants have the benefit of the Mann J Order, I consider that the declarations, if made, will confer substantial and necessary additional protection on these parties.

For these reasons, I conclude that if they can appropriately be made, I should exercise my discretion to give the declarations sought, notwithstanding the interference with the South Carolina proceedings that those declarations would give rise to" (**Exhibit no. 1**, §§ 78-79)[69].

Indeed, the Smith Decision follows on from and reinforces the Mann Decision of November 22, 2024, insofar as the latter had no effect in South Carolina. Thus:

- Unlike the Mann Decision, which was rendered solely in favor of the Cape Parties, the Smith Decision constitutes a direct protective measure for the Plaintiffs, including Mr. Altrad and AIA (French nationals), who are plaintiffs in the proceedings before Judge Smith.

- Beyond noting Mr. Protopapas' lack of power to represent CIHL and issue new injunctions against it, the Smith Decision recognizes that the Cape Parties cannot take action against the Plaintiffs and hold them liable for alleged asbestos exposure in South Carolina in the Tibbs Proceedings. The Smith Decision thus confirms the absence of any dispute between the Cape Parties and the Plaintiffs regarding asbestos exposure in South Carolina and thereby renders Mr. Protopapas' actions against the Plaintiffs in the Tibbs proceedings completely without merit.

60. **The extinction of all litigation between the Parties to the Protocol was thus judicially recognized by the High Court, and Mr. Protopapas' lack of authority and capacity to act in the name and on behalf of CIHL was reaffirmed.**

61. The Smith Decision was served on Mr. Protopapas on September 30, 2025 (**Exhibit no. 34.1**[70] **and Exhibit no. 35**[71]). It is now **enforceable and final** (see §§67 to 69 *below*).

62. **However, Mr. Protopapas is currently pursuing proceedings on behalf of CIHL against the Plaintiffs in South Carolina, in violation of the terms of the injunctions issued by the Mann Decision (enforceable in France) and by the Smith Decision.**

1.8 The latest developments in the South Carolina proceedings

63. On October 9, 2025, Mr. Protopapas filed new submissions and exhibits to supplement his June 3, 2025 motion for sanctions before the South Carolina Supreme Court (Exhibit no. 36)[72]. He claims that the Plaintiffs "*continued pursuit of foreign litigation to intimidate parties properly before South*

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[69] **Exhibit no. 1**: Judgment of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation), §§78-79

[70] **Exhibit no. 34.1**: Notification by e-mail on September 30, 2025 to Mr. Protopapas of the Smith Decision (with translation for information purposes)

[71] **Exhibit no. 35**: Service by an authorized agent of the Judgment and Order of the High Court of Justice of England and Wales of September 30, 2025 on Mr. Protopapas at his business address (with translation for information purposes)

[72] **Exhibit no. 36**: Writings regularized on October 9, 2025 by Mr. Protopapas before the Supreme Court of South Carolina (with translation for information purposes)

Carolina courts and prevent the South Carolina Receiver from settling South Carolina claims and establishing a Qualified Settlement Fund to benefit injured South Carolinians" (Exhibit no. 36, paragraphs 2-3).

64. On October 10, 2025, Judge Toal granted Mr. Protopapas' request to confirm his appointment as CIHL's court-appointed receiver in the Tibbs proceedings (Exhibit no. 37)[73]. Judge Toal stated in her order that all "*Receiver's litigation activity to date has been conducted within the scope of the Appointment Order*," even though no order appointing Mr. Protopapas had been issued in the Tibbs case. Judge Toal also failed to specify the scope of the receivership, in violation of the South Carolina Supreme Court's decision of June 26, 2025 (Exhibit no. 26)[74]. The Plaintiffs have appealed this decision.

65. The South Carolina Court of Appeals summarily dismissed the Plaintiffs' appeal on October 20, 2025 (**Exhibit no. 38**)[75].

1.9 The present enforcement proceedings

66. Insofar as Mr. Altrad and AIA, the ultimate shareholders of the Cape Group, are established in France and continue to be sued abusively by Mr. Protopapas in South Carolina, it appears necessary that the Smith Decision of September 30, 2025 be enforced on French territory. Recognition of this decision will strengthen the protection of Mr. Altrad's and AIA's assets located in France against any attempt to enforce a possible conviction in South Carolina.

It is in this context that the present summons are issued.

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[73] **Exhibit no. 37**: Order of Judge Toal dated October 10, 2025 (with translation for information purposes)
[74] **Exhibit no. 26**: Order of the Supreme Court of South Carolina dated June 26, 2025 (with translation for information purposes)
[75] **Exhibit no. 38**: Decision of the South Carolina Court of Appeals dated October 20, 2025 (with translation for information purposes)

2. DISCUSSION

67. The Plaintiffs will demonstrate below that the conditions laid down by the case law for enforcement in France of the Smith Decision are met. Indeed, the latter is, on the one hand, enforceable in its State of origin (**2.1**). It also meets the international procedural requirements laid down by French law (**2.2**). The Claimants will also submit a claim for irrecoverable costs (**2.3**).

2.1 The enforceability of the Smith Decision of September 30, 2025

68. Under the principle that the enforcement cannot confer on the enforcement decision more effects in France than it has in its country of origin, the enforcement procedure implies that this decision is enforceable in the State where it was rendered.

Enforceability must be examined in accordance with the procedural law of the State of origin of the judgment.

However, under English law, a decision is enforceable upon delivery to the parties of a copy of the judgment containing the judge's reasons as well as the order (equivalent of the operative part) bearing the seal of the court.

69. **In the present case**, in accordance with the Order of September 30, 2025 (**Exhibit no. 2**)[76], the Smith Decision (therefore including the reasoned Judgment and the Order) was submitted to the English counsel for the plaintiffs on September 30, 2025.

This decision was served on the same day to the defendants, to Mr. Protopapas, by e-mail (**Exhibit no. 34.1**)[77], as well as to CIHL and Cape Plc (**Exhibit no. 34.2**)[78].

On September 30, 2025, the notification of the Smith Decision by email was doubled by the notification of a copy of the Judgment and Order of September 30, 2025 sent by an authorized agent to the professional address of Mr Protopapas at 2110N Beltline Blvd, Columbia, South Carolina 29204, USA (**Exhibit no. 35**)[79].

70. In addition, The Smith Decision is now **final**.

Indeed, under English procedural law, the unsuccessful party has a period of 21 days from the date of delivery of the decision to the parties to request permission to file an appeal.

In the present case, Mr. Protopapas had 21 days from the notification of the Smith Decision by counsel for the plaintiffs to file an appeal permission request**, i.e. until October 21, 2025**.

To date, no request for appeal has been made by Mr Protopapas. The time limit having now expired, the Smith Decision is no longer subject to appeal.

In any event, an appeal has no suspensive effect under English procedural law, unless the defendant so requests and the court expressly orders. Mr Protopapas has made no such request.

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[76] **Exhibit no. 2**: Order of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation), §11

[77] **Exhibit no. 34.1**: Notification by e-mail on September 30, 2025 to Mr. Protopapas of the Smith Decision (with translation for information purposes)

[78] **Exhibit no. 34.2**: Notification by e-mail on September 30, 2025 to counsel for CIHL and Cape Plc of the Smith Decision (with translation for information purposes)

[79] **Exhibit no. 35**: Service by an authorized agent of the Judgment and Order of the High Court of Justice of England and Wales of September 30, 2025 on Mr. Protopapas at his business address (with translation for information purposes)

71. **As a result, the Smith Decision is indeed enforceable in England under English procedural law.**

2.2 The international procedural requirements of the Smith Decision of September 30, 2025

72. To be recognized in France, the foreign decision must comply with the "procedural requirements" worldwide. The international procedural requirements of the foreign judgment are those laid down by the Court of Cassation in the *Cornelissen* principle judgment of February 20, 2007[80].

Under this judgment, in order to grant enforcement outside any international convention, the French judge must ensure that three conditions are met, namely:

(i) the indirect jurisdiction of the foreign court, based on the connection of the dispute to the court seized;

(ii) compliance with substantive and procedural international public policy; and

(iii) the absence of fraudulent evasion of the law.

This solution has since been regularly reiterated and applied, and more particularly in recent cases concerning applications for enforcement of decisions handed down by English courts[81].

73. The Plaintiffs will demonstrate below that these three criteria are perfectly met by the Smith Decision of September 30, 2025.

After having established the indirect jurisdiction of the English judge (**2.2.1**), the Plaintiffs will provide this court with all the information enabling it to ensure the compliance of the Smith Decision with substantive and procedural international public policy (**2.2.2**) and the absence of fraudulent evasion of the law (**2.2.3**).

2.2.1 The indirect jurisdiction of the *High Court* is established

74. The Court must first verify that the Smith Decision was indeed rendered by a foreign court with jurisdiction.

In this regard, a distinction must be made between domestic jurisdiction (i.e. the court's determination of its own jurisdiction) and the "indirect" international jurisdiction of the foreign court (i.e., for the recognition of a foreign judgment, verifying that the jurisdiction of the foreign judge was not exorbitant).

This review of the so-called "indirect" jurisdiction aims exclusively, for the French court, to verify that the dispute presented a sufficient link with the foreign court.

This solution was enshrined by the Court of Cassation in the "*Simitch*" judgment of February 6, 1985 in the following terms:

> *"whenever the French rule on the resolution of conflicts of jurisdiction does not confer exclusive jurisdiction on the French courts, the foreign court must be recognized as having*

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[80] Cass. Civ. 1ère, February 20, 2007, pourvoi n° 05-14082, Bull. civ. I, n° 68, p. 60.

[81] **Exhibit no. J-1**: Paris Civil Court, Enforcement, March 13, 2024, no. 23/05699; **Exhibit no. J-2**: TJ Paris, Enforcement, September 11, 2024, no. 23/11042; **Exhibit no. 17**: Enforcement judgment of the Montpellier Civil Court dated April 8, 2025

jurisdiction, if the dispute is clearly linked to the country of the court where the matter was referred to and if the choice of jurisdiction does not appear to be fraudulent"[82].

This principle, which has since been regularly reaffirmed by the French Court of Cassation[83], therefore requires French courts to examine, according to all the circumstances of the case, whether the case has serious links with the foreign court which settled the dispute.

75. Les deux conditions posées par l'arrêt *Simitch* sont vérifiées en l'espèce : le litige se rattache de manière caractérisée à l'Angleterre (**a**) et le choix de la *High Court* n'est pas frauduleux (**b**).

a) The dispute is manifestly connected to England

76. To determine the existence of a "strong connection" of the dispute with the State of origin of the judgment, the courts of the merits usually resort to the body of evidence method and to the examination of the nature of the dispute.

Although the criteria of indirect jurisdiction are distinct from the French rules of jurisdiction applicable in domestic law, it is established that the indirect jurisdiction of a foreign court must be recognized if one of the grounds of jurisdiction enshrined in a rule of domestic jurisdiction was fulfilled in the country of origin of the judgment invoked in France.

However, the connection of the dispute to the territory of the foreign court may quite well be established even though no head of jurisdiction used by a French rule of direct jurisdiction exists in this country[84], since a sufficient connection is established between the dispute and the territory of the foreign court.

77. **In the present case,** the proceedings before the *High Court* were initiated by the Plaintiffs against Mr. Protopapas, appointed as CIHL's receiver by a decision of Judge Toal in South Carolina, and the companies CIHL and Cape Plc. in order that the English court :

(i) acknowledge the validity and binding force of the Protocol subject to English law and designating the exclusive jurisdiction of the English courts, entered into between the Cape Parties and the Plaintiffs,

(i) acknowledge the powers of CIHL's current legal representatives and the ineffectiveness of the appointment of Mr. Protopapas as CIHL's receiver in South Carolina, in relation to the claims which have been the subject of a settlement agreement between the parties,

(ii) order Mr. Protopapas to cease and desist from acting on behalf of CIHL in any and all proceedings, and in particular in connection with the summons of the Plaintiffs as third-party defendants in the Tibbs Case.

This dispute is manifestly connected to England.

78. **On the one hand**, the main purpose of the English court's jurisdiction is the homologation of a settlement agreement between the Plaintiffs and the Cape Parties, subject to English law and designating the English courts as having exclusive jurisdiction to rule on any dispute relating to the Protocol (**Exhibit no. 3**, articles 9.1 and 9.2 of the Protocol)[85].

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[82] Cass. Civ. 1ère, February 6, 1985, pourvoi n° 83-11241, Bull. civ. I, n° 55, p. 54.
[83] See for example: Court of Cassation, First Civil Division, 28 March 2006, appeal no. 03-18934, Bull. no. 177 or Court of Cassation, First Civil Division, 20 September 2006, appeal no. 04-16534, Bull. no. 407.
[84] **Exhibit no. J-3**: *JCl. Procédure civile - Encyclopédies - Fasc. 2000-75: Effets en France des jugements étrangers subordonnés à leur régularité internationale. - Subject of review: conditions of international legality*
[85] **Exhibit no. 3**: Settlement Agreement dated April 11, 2025 (with translation for information purposes), articles 9.1 and 9.2

The clause in the Protocol designating the jurisdiction of the English courts is clearly a sufficient connecting factor.

79. **On** the **other hand**, the connection of the dispute to the jurisdiction of the High Court is also established with regard to ruling on the powers of a receiver to represent a company established in England as well as on a request for an order against him to cease to act in that capacity.

Indeed, this is exactly the reasoning adopted by this court in its Enforcement Judgment, to recognize the indirect international jurisdiction of the English judge in the dispute which gave rise to the Mann Decision:

> "[the Cape Parties] *are two companies incorporated under English law, respectively registered in Jersey, a British island, in the case of the former, and in Appleton, Warrington, England, in the case of the latter.*
> *To defend their interests in the dispute with Mr. Peter Protopapas, appointed in South Carolina in the United States as receiver, in defiance of English law and the applicable rules of jurisdiction, they have turned to the English courts on the grounds that their principal place of business, their assets and their governing bodies are located in England.*
> ***The dispute thus has a clear connection with England**: the indirect jurisdiction of the English courts must be recognized* (**Exhibit no. 17**, p. 6)[86].

In view of the contempt shown by Mr. Protopapas towards the Mann Decision, the Plaintiffs in turn referred the matter to the English judge:

- **on the one hand**, to have him acknowledge their agreement with the Cape Parties on the non-existence of any dispute between them as to the facts of exposure to asbestos in South Carolina, and

- **secondly**, to reiterate Judge Mann's decision on Mr. Protopapas' lack of powers in respect of CIHL and the injunction issued against him to cease acting as a receiver of that company, notably in the Tibbs proceedings involving the Plaintiffs in South Carolina.

Thus, insofar as Judge Mann's indirect international jurisdiction was established on the second point, the same necessarily applies to Judge Smith's jurisdiction with regard to his Decision of September 30, 2025.

80. **The dispute in which the parties are seeking (i) homologation of a Protocol governed by English law and designating the exclusive jurisdiction of the English courts, and (ii) measures to put a stop to the actions of an receiver purporting to act in the name and on behalf of a company incorporated in England, with its principal place of business, assets and governing bodies located in England, in defiance of English law and a court decision handed down by the English courts, is clearly connected in a marked way to the English territory.**

b) The choice of the *High Court* is not fraudulent

81. Court fraud involves the combination of two factors: a material factor (attempts or actions on the elements of the dispute so as to artificially create the conditions of jurisdiction for the court whose jurisdiction is sought) and an intentional factor (desire to prevent the normally competent court from hearing the dispute).

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[86] **Exhibit no. 17**: Enforcement judgment of the Montpellier Civil Court dated April 8, 2025, p. 6

82. **In the present case**, it cannot be considered that the choice of the English court was fraudulent in view of:

- the purpose of the action was to have the validity and enforceability of the Protocol recognized as subject to English law and the exclusive jurisdiction of English courts,

- the subject matter of the dispute, to stop the actions of a receiver appointed by a foreign court, granting himself full powers to act on behalf of CIHL, in disregard of the English law applicable to it, of the powers of its governing bodies established in England, and in breach of the injunctions issued by the *High Court* on November 22, 2024 in the Mann Decision.

83. It follows that the English courts had full jurisdiction to judge the action brought by the Plaintiffs and that the choice of this court was made in the absence of any fraudulent evasion.

2.2.2 The compliance of the Smith Decision of September 30, 2025 with substantive and procedural international public policy

84. In a ruling of 4 October 1967, the Court of Cassation stated that "*[if] the enforcement judge must verify whether the conduct of the trial before the foreign court was regular, this condition of regularity must be assessed solely in relation to French international public policy and respect for the rights of the defence*"[87].

This duality between international public policy and procedural public policy was recalled by the *Cornelissen* judgment which calls for a distinction to be made between the examination of the conformity of substantive (**a**) and procedural (**b**) international public policy.

a) Compliance of the Smith Decision of September 30, 2025 with substantive international public policy

85. The French court must ensure that the foreign judgment was rendered "*in accordance with international public order*". The French conception of substantive international public order refers to the fundamental substantive values of French society or, as indicated by the French Court of Cassation, to the "*essential principles of French law*"[88].

It is also accepted that, in terms of granting effect in France to rights obtained abroad (purpose of the enforcement procedure), public policy will have a "*diminished*" effect. The French Court of Cassation considers that when it comes to "*giving effect in France to rights regularly obtained abroad* [...] *public order, which only comes into play by its diminished effect, is less demanding than when it* concerns *the obtaining of the same rights in France*"[89].

In its *Cornelissen* judgment, the French Court of Cassation added that "*to grant enforcement outside any international convention* (...) *the enforcement court does not have* (...) *to verify that the law applied by the foreign court is that designated by the French conflict of laws rule*"[90]. Therefore, it is a question of verifying the compliance of the foreign judgment with public policy and not with the law it applies.

Lastly, the power of review of the French enforcement court has been expressly abolished, since 1964, by the *Munzer* judgment (cited above) of the Court of Cassation which enshrined the principle

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[87] Cass. Civ. 1ère, October 4, 1967, pourvoi n° 66-10294, Bull. civ. n° 277, Bachir.
[88] Cass. Civ. 1ère, July 8, 2010, pourvoi n° 08-21.740, Bull. civ. n° 162.
[89] Cass. civ. 1ère, January 7, 1964, Bull. civ. n° 15, Munzer.
[90] Court of Cassation, First Civil Division, 20 February 2007, appeal no. 05-14082, Bull. civ. I, no. 68, p. 60, Cornelissen.

that the French court must review the foreign decision "*without having to review the merits of the decision*"[91].

Thus, regardless of the nature of the foreign decision, the enforcement court may not, without misunderstanding and exceeding its powers, address the merits of the dispute already decided abroad by seeking a possible groundlessness of the foreign decision[92].

For example, the French Court of Cassation recognized that a US decision ordering a French company to stop pursuing proceedings before the French courts was not contrary to international public policy[93].

86. **In the present case**, the merits of the case decided by the High Court concern:

- the homologation of the Protocol by which the Plaintiffs and the Cape Parties mutually agreed not to hold each other liable and to refrain from pursuing or initiating any action related to the claims which are the subject of the litigation involving them for asbestos exposure in South Carolina. It is hereby specified that each of the parties to the Protocol is capable of contracting and has been validly represented by its legal representatives in office for the conclusion of this agreement, in accordance with applicable English law,

- the lack of effect of the appointment of Mr. Protopapas as CIHL's receiver to act on its behalf in the Tibbs case in South Carolina,

- the orders issued to Mr. Protopapas to cease acting or purporting to act as CIHL's receiver, in particular in connection with the Tibbs case in South Carolina.

The scope of this decision is therefore limited to (i) the homologation of a settlement agreement, which renders enforceable reciprocal obligations freely consented to by the parties to this agreement, and (ii) the powers of representation of a receiver in respect of a company incorporated under English law.

87. In its Enforcement Judgment, the present court recognized the conformity with international public policy of the Mann Decision, which had already ruled on Mr. Protopapas' lack of powers to represent CIHL and consequently issued global injunctions against him:

> *"The aforementioned order does not involve any breach of French international public policy: it is therefore in all respects consistent with international public policy*" **Exhibit no. 17**, p. 6)[94].

88. In the Smith Decision of September 30, 2025, which is the subject of the present application for Enforcement, the *High Court* takes stock of the consequences of the Mann Decision of November 22, 2024 (**Exhibit no. 1**)[95] and finds that the measures ordered against Mr. Protopapas have not been complied with, either by him or by the court in South Carolina. It concludes that the serious threats which had justified the global nature of the injunctions issued by Judge Mann remain and justify in the present case the scope of the declarations and injunctions issued in the Smith Order of September 30, 2025:

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[91] Court of Cassation, First Civil Division, 7 January 1964, Bull. civ. no. 15.
[92] Court of Cassation, First Civil Division, 14 January 2009, appeal no. 07-17194, Bull. civ. no. 3.
[93] Cass. civ. 1re, october 14, 2009, pourvoi n° 08-16.369, Bull. 2009, I, n° 207.
[94] **Exhibit no. 17**: Enforcement judgment of the Montpellier Civil Court dated April 8, 2025
[95] **Exhibit no. 1**: Judgment of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation)

"77. The Mann J Order has not been respected in South Carolina: instead, it has been characterised as a brutum fulmen, an empty noise: see [68]. Thus, it is no surprise that Mr Protopapas is pressing on with the Third Party Claim and that the courts in South Carolina are indulging him in this regard.. (...)

78. The progression of the Third Party Claim is doing real harm to the Claimants. They are faced with a claim – the Third Party Claim – which overtly threatens their financial standing, makes reputationally damaging (and unfounded) allegations, and threatens the Cape Scheme by which a class of victims asbestosis related disease are being compensated. (...)

79. I consider the declarations sought to be an extremely effective way of controlling the conduct of Mr Protopapas: for the declarations, if made, will have the effect of extinguishing the very claims Mr Protopapas seeks to advance by way of the Third Party Claim. I bear in mind that – as yet – the Claimants have received no protection from the English court. I consider that if the declarations can properly be made, they should for this reason alone be made. Although the Second and Third Defendants have the benefit of the Mann J Order, I consider that the declarations, if made, will confer substantial and necessary additional protection on these parties." (**Exhibit no. 1**)[96].

Under the terms of this reasoned decision, Judge Smith has therefore granted the parties' requests and issued the requested order, which in no way contravenes substantive international public policy.

89. **The Smith decision, which merely:**

(i) homologates an agreement validly concluded between parties perfectly capable of contracting under the applicable English law, and to recognize the enforceability of obligations freely entered into by these parties,

(ii) reinforces measures to protect the rights of the parties involved, whose conformity with international public policy has already been recognized by the French courts,

does not contravene any rule of French substantive international public policy.

b) Compliance of the Smith Decision of September 30, 2025 with international procedural public policy

90. The French Court of Cassation stated that *"the inconsistency with the international procedural public policy of a foreign decision can only be admitted if it is demonstrated that the interests of a party have been objectively compromised by a violation of the fundamental principles of the procedure"*[97].

The international procedural public order and respect for the rights of the defence require that the foreign judgment meets requirements which are essentially relating to the institution of the proceedings, the drafting of the judgment as well as its notification and the remedies available against it[98].

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[96] **Exhibit no. 1**: Judgment of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation), §§77-79

[97] Cass. Civ. 1ère, September 19, 2007, appeal no. 06-17096, Bull. civ. I, no. 279

[98] **Exhibit no. J-4**: *Répertoire de procédure civile Dalloz - Jugement étranger : matières civile et commerciale - Régularité internationale du jugement étranger - Pascal de Vareilles-Sommières - Section 2, Régularité de la procédure suivie*

i) The Smith Decision was rendered by an impartial and independent court

91. A foreign judgment can only be granted enforcement under French law if it has been rendered by an independent and impartial court.

In accordance with the applicable case law, it is for the defendant to an application for enforcement to demonstrate by tangible evidence that in the case in question, he would have been the victim of a partial and/or non-independent court. The bias or lack of independence of a foreign jurisdiction cannot be presumed.

92. **In this case, the Smith Decision was rendered by an impartial and independent court.**

ii) Mr Protopapas was duly notified of the English proceedings against him and his rights of defence were respected

93. For the requirement of compliance with procedural public policy to be met, the judgment for which enforcement is sought must have been rendered under a procedure that, from its initiation, allowed the defendant to enforce his rights.

For the requirement of compliance with procedural public policy to be met, the judgment for which enforcement is sought must have been rendered under a procedure that, from its initiation, allowed the defendant to enforce his rights.

According to the Court of Cassation, **the statements of the foreign judge are valid**.

Thus, the Court of Cassation dismissed an appeal which criticised a court of appeal for not having verified the diligence performed by the foreign judge beyond the terms of the decision whose enforcement was sought, after having observed that:

> *"Whereas the judgment holds that the two decisions rendered by the Supreme Court concern the disqualification order, the notification of the inclusion of the case on the list of the public hearing, the summons to the parties and their representatives as well as their default*; whereas the Court of Appeal *has correctly deduced therefrom, without reversing the burden of proof or disregarding its duties, that the statements* [of the] *decisions were authentic and that their regularity under the Moroccan Code of Civil Procedure could not be called into question so that the judgment rendered* [...] *by the Court of Appeal of Casablanca had the authority of res judicata and was enforceable*"[99].

94. **In this particular case**, Mr. Protopapas was regularly informed of the proceedings brought against him and put in a position to organize his defense.

Mr. Protopapas was duly served with the document instituting the proceedings and with the Plaintiffs' pleadings and exhibits on July 2, 2025 (**Exhibit no. 30**)[100],

This is indeed what emerges from the Smith Decision of September 30, 2025, whose enforcement is sought:

> *"The Part 8 Claim initiating these proceedings was issued on 24 June 2025, permission for service out of the jurisdiction on Mr Protopapas was granted by Master*

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[99] Cass. Civ. 1ère, January 17, 2006, pourvoi n° 04-11.894, Bull.civ. n° 18.

[100] **Exhibit no. 30**: Affidavit of service of originating documents on Mr. Protopapas on July 2, 2025 (with translation for information purposes)

Pester on an expedited basis by orders dated 25 June 2025 and 2 July 2025, and service was duly effected on Mr Protopapas on 2 July 2025" (**Exhibit no. 1**, §21)[101].

All the procedural documents and related exhibits subsequently communicated were duly notified to Mr Protopapas, as well as the procedural timetable set by the English court (**Exhibit no. 30, Exhibit no. 31 and Exhibit no. 33**[102]).

Mr Protopapas did not wish to file any submissions or documents in the context of this procedure. Furthermore, he did not attend the hearings on September 23 and 24, 2025.

However, although Mr Protopapas refused to participate in the proceedings, he was duly notified and was well able to prepare his defence effectively. A note sent by Mr. Protopapas to Judge Toal on July 29, 2025 shows that he was informed of the proceedings against him in England and was duly notified of the plaintiffs' pleadings and exhibits (**Exhibit no. 32**)[103].

95. The *High Court* also took into account any arguments that might have been put forward by Mr. Protopapas, of which it was able to take cognizance in view of the communication by the Plaintiffs of all relevant documents in this regard. Indeed, the Smith Judgment states in this regard that:

> *" 65. The fact that Mr Protopapas failed to appear before me is a relevant factor against the granting of declarations, but one of limited weight. As I have described (see Section H), Mr Protopapas is properly before the court (i.e. this court has personal jurisdiction over him). Mr Protopapas has not sought to challenge this court's jurisdiction.*
>
> *66. Of course, I have not had the benefit of argument from Mr Protopapas, but* ***I have a very good sense of the points that Mr Protopapas would make if he were before me from my consideration of the papers in the South Carolina proceedings****, in particular (but not limited to) the Receivership Motion, the Receivership Order and the Third Party Claim.* ***The Claimants and the Second and Third Defendants have been assiduous in putting before me the sort of points that Mr Protopapas might be inclined to take. I am satisfied (see Rolls Royce Principle (vi)) that all sides of the argument have been fully and properly put in the written and oral submissions that I have received***" (**Exhibit no. 1**, emphasis added)[104].

96. **The Smith Decision is therefore deemed to have been issued in the presence of both parties.**

97. **Consequently, it is established that Mr Protopapas did receive the documents instituting the proceedings and the summonses to the corresponding hearings in England and was able to effectively prepare his defence.**

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[101] **Exhibit no. 1**: Judgment of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation), §21

[102] **Exhibit no. 30**: Affidavit of service of originating documents on Mr. Protopapas on July 2, 2025 (with translation for information purposes); **Exhibit no. 31**: Confirmation of notification of process on Mr. Protopapas on July 18, 2025 (with translation for information purposes) and **Exhibit no. 33**: High Court order of July 25, 2025 and confirmation of notification on Mr. Protopapas

[103] **Exhibit no. 1**: Judgment of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation), §§65-66

[104] **Exhibit no. 1** : Judgment of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation), §§65-66

iii) The Smith Decision of September 30, 2025 is reasoned

98. The French international procedural public order imposes certain requirements in terms of reasons for the foreign judgment for which enforcement is sought, which must appear in the judgment or be replaced by equivalent documents[105].

The Court of Cassation considers in this regard that the enforcement is refused only in the case of foreign judgments which do not contain any reasons, and not supported by documents likely to serve as an equivalent to such a faulty reasoning.

The enforcement court is only required to verify the existence of a statement of reasons, and not the relevance of the latter, unless it makes a prohibited review of the foreign judgment.

99. In the present case, the examination of the Smith Decision reveals that the High Court carried out a careful examination of the arguments and documents submitted by the parties.

The Smith Decision, comprising 33 pages in its English version, significantly develops the legal and factual elements taken into account by the High Court and details its reasoning, meeting the obligation to state the reasons for the decision. It is therefore fully in line with international procedural public policy.

iv) *Mr Protopapas was notified of the Smith Decision and was able to appeal against it.*

100. Mr. Protopapas was duly served with the Smith Decision issued by the *High Court*, and was not only able to take cognizance of it, but also to exercise all the remedies available under English law to contest the decision.

101. Indeed, according to the Smith Order of September 30, 2025:

> *"The Claimants may serve the Order and Judgment on Mr Protopapas by email to pdp@rplegalgroup.com or otherwise in accordance with the service orders of Master Pester dated 25 June 2025 and 2 July 2025, and service by any of these methods shall be regarded as valid and sufficient service for all matters of English law and procedure*" (**Exhibit no. 2**, §11)[106].

Thus, the Smith Decision (thus including the Reasoned Judgment and the Order) was notified on the same day to Mr. Protopapas, by e-mail to pdp@rplegalgroup.com (**Exhibit no. 34.1**)[107].

On September 30, 2025, the notification of the Smith Decision by email was doubled by the notification of the copy of the Judgment and Order of September 30, 2025 by an authorized agent to Mr. Protopapas' business address at 2110N Beltline Blvd, Columbia, South Carolina 29204, USA (**Exhibit no. 35**)[108].

102. Furthermore, under English procedural law, Mr Protopapas had a period of 21 days from the date of notification of the Smith Decision to file an appeal against it.

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[105] **Exhibit no. J-4**: *Répertoire de procédure civile Dalloz - Jugement étranger : matières civile et commerciale - Régularité internationale du jugement étranger - Pascal de Vareilles-Sommières - Section 2, Régularité de la procédure suivie*

[106] **Exhibit no. 2**: Order of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation), §11

[107] **Exhibit no. 34.1**: Notification by e-mail on September 30, 2025 to Mr. Protopapas of the Smith Decision (with translation for information purposes)

[108] **Exhibit no. 35**: Service by an authorized agent of the Judgment and Order of the High Court of Justice of England and Wales of September 30, 2025 on Mr. Protopapas at his business address (with translation for information purposes)

No request for permission to appeal was made by Mr Protopapas following the regular notification on September 30, 2025.

As this period has expired since October 21, 2025, the Smith Decision is now **final**.

103. The English Decision was duly notified to Mr Protopapas, who was able to bring an action in accordance with English procedural law.

2.2.3 Absence of fraudulent evasion

104. Since the *Munzer* judgment of the Court of Cassation, the French judge must verify the *"absence of any fraudulent evasion"* before declaring the foreign judgment internationally regular[109]. This requirement is also recalled by the 2007 *Cornelissen* judgment and has been maintained since then[110].

Three elements must be met in order for the fraudulent evasion to exist:

- a legal element (a normally applicable law or an exclusive jurisdiction from which one seeks to evade);
- a material element (an attempt tending to trigger the applicability of a law other than the normally applicable law or to prevent the court which normally has jurisdiction from hearing the dispute); and
- a moral element (the intention of the author of the attempt to deviate the legal relationship from the normally applicable law or the normally competent judge).

105. **In the present case**, none of the three constituent elements of fraudulent evasion to the law are established: the parties have not evaded a law normally applicable or a judge with exclusive jurisdiction, they have not had any attempt tending to trigger the applicability of a law other than the law normally applicable or to divert the dispute from the court with normal jurisdiction and no fraudulent intention can be demonstrated.

In particular, it has been previously established that the Plaintiffs applied to the *High Court* on the basis that the latter was the court with exclusive jurisdiction to (i) rule on any dispute relating to the Protocol, subject to English law, (ii) rule on the effects of a measure of judicial administration and on the powers of representation of the governing bodies of a company incorporated under English law - CIHL.

106. Moreover, the Smith Decision of September 30, 2025 is intrinsically linked to the decision previously handed down on November 22, 2024 by Judge Mann (**Exhibit no. 1**)[111]. Indeed, the Smith Decision of September 30, 2025 states:

> *"The matters before me are closely related to a Part 8 Claim heard by and disposed of by Mann J (sitting in retirement) in Cape Intermediate Holdings Ltd v. Protopapas*

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[109] Court of Cassation, First Civil Division, 7 January 1964, appeal no. 62-12438, Bull. civ., no. 15.
[110] See for example Cass. Civ. 1ère, January 30, 2013, pourvoi n° 11-10.588, Bull. civ. I, n° 9, *Société Gazprombank contre Jean Lionet*, concerning an application for Enforcement of a Russian judgment in France.
[111] **Exhibit no. 1**: Judgment of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation)

[2024] EWHC 2999 (Ch) in a judgment dated 22 November 2024, which I shall refer to as the "Mann J Judgment" (**Exhibit no. 1**, §2)[112].

However, with regard to the Mann Decision, this court recognized in its Enforcement Judgment of April 8, 2025 that:

"With regard to the absence of fraud, it must be ensured that the English court was not seized by Cape Pic and CIHL, even though the dispute did not fall within its jurisdiction, with a view to circumventing the rules applicable in France, particularly with regard to the economic loss caused to these companies. It has to be said that, in the case in point, no fraud has been perpetrated" (**Exhibit no. 17**, p. 6)[113].

107. **Therefore, no fraudulent evasion precludes the enforcement of the Smith Decision of September 30, 2025.**

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108. **It follows from the foregoing that nothing can prevent the enforcement in France of the Smith Decision of September 30, 2025, since it has been established, on the one hand, that the Decision is indeed enforceable in its country of origin and, on the other hand, that the three criteria of international procedural requirements are indeed met in the present case.**

The Court is therefore asked to order the enforcement of the Smith Decision of September 30, 2025.

2.3 Claim for irrecoverable costs

109. In addition, in view of the foregoing, it would be particularly unfair to have the Plaintiffs bear the irrecoverable costs of these proceedings.

Indeed, Mr Protopapas is fully informed of the High Court's Decision as well as the enforceability of this decision. However, Mr Protopapas refuses to comply with the Smith Decision and continues the proceedings in progress on behalf of Cape Plc / CIHL against the Plaintiffs in South Carolina. This attitude forces the Plaintiffs to seek the enforcement of this decision on French territory.

Moreover, Mr. Protopapas is improperly pursuing his actions in South Carolina in violation of a decision previously handed down by the English courts, enforceable in England since November 22, 2024 and in France since April 8, 2025, which makes it all the more necessary to award compensation to the Plaintiffs for the substantial legal costs they are forced to incur.

In addition to the costs of legal representation, the Plaintiffs thus incurred substantial translation costs (to or from the English language).

For these reasons, the Court is asked to order Mr Protopapas to pay compensation of €50,000 on the basis of Article 700 of the French Code of Civil Procedure.

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[112] **Exhibit no. 1**: Judgment of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation), §2

[113] **Exhibit no. 17** : Enforcement judgment of the Montpellier Civil Court dated April 8, 2025, p.6

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FOR THESE REASONS

Having regard to Articles 31 and 122 of the French Code of Civil Procedure;

Having regard to Article 509 of the French Code of Civil Procedure,

Having regard to the exhibits submitted in these proceedings,

Having regard to the procedural requirements of a foreign judgment in France;

The Montpellier Civil Court is hereby asked to :

- **FIND admissible** the action brought by Mr Mohed Altrad, Altrad Investment Authority (AIA), Altrad UK Limited, Cape UK Holdings Newco Limited, Cape Industrial Services Group Limited, Cape Holdco Limited, and Altrad Services Limited;

- **ORDER** the enforcement against Mr Protopapas of the Smith Decision of December 30,2025 by the *High Court of Justice of England and Wales,* the operative part is reproduced as follows:

"IT IS DECLARED THAT

1. *The Settlement Agreement has been entered into by lawfully authorised officers of the Claimants and of the Cape Parties and is lawfully binding on the parties to it.*

2. *The terms and legal effect of the Settlement Agreement are such that it releases and settles any claims (whether known or unknown) that the Cape Parties have against the Claimants related to or arising (i) from the claims and allegations made in the Tibbs Claim (including in the Third-Party Complaint made within it) and (ii) from any other claims made after the date of the Settlement Agreement in any asbestos-related personal injury claims that may be asserted in the USA based in part or in whole upon the Claimants' alleged liability for the acts and/or omissions of CIHL (all such claims together, being "**Settled Claims**") (and for the avoidance of doubt it also releases and settles any judgments (and any claims based on or related to any judgments) obtained pursuant to the making of any such claims).*

3. *Pursuant to the terms of the Settlement Agreement, the Claimants have no liability to the Cape Parties for any Settled Claims and the Cape Parties have no lawful claims against any of the Claimants arising out of or in relation to any Settled Claims*

AND IT IS DECLARED THAT

4. *The powers and lawful authority of the directors of CIHL are unaffected by the Receivership Order (which is not recognised and has no legal effect in England and Wales and worldwide).*

5. *Mr Protopapas has and had no power or lawful authority to take any steps or acts for, on behalf of, or in the name of CIHL, including (but without prejudice to the generality of the foregoing) in any Settled Claims.*

AND IT IS ORDERED THAT

6. *Mr Protopapas be restrained from taking any further step in the Third-Party Complaint (or in relation to any proceedings, including but not limited to any Settled Claims against the Claimants in the name of or on behalf of CIHL.*

7. *Mr Protopapas shall forthwith take all and any steps to effect a final and with prejudice dismissal of the Third-Party Complaint against the Claimants with immediate effect and, in any event, Mr Protopapas is to have effected such a dismissal of the Third-Party Complaint against the Claimants within 14 days of the date of this order.*

Liberty to apply

8. *The parties shall have liberty to apply for further or related relief if necessary.*

Costs

9. *The Claimants, Mr Protopapas and the Cape Parties shall (if so advised) file and serve written submissions on the issue of costs by 4pm on Tuesday 7 October 2025"*

- **REJECT** all of Mr Protopapas' pleas, claims and arguments to the contrary;
- **ORDER** Mr Protopapas to pay full court costs, including the fee of Maître Thierry Vernhet, lawyer at the Montpellier Bar, in accordance with the provisions of Article 699 of the French Code of Civil Procedure;
- **ORDER** Mr Protopapas to pay the Plaintiffs seeking enforcement, together, a compensation of 50,000 euros under Article 700 of the French Code of Civil Procedure.

LIST OF EXHIBITS PRODUCED IN SUPPORT OF THE SUMMONS

Exhibits mentioned under reference "Exhibit no. X" :

Exhibit no. 1 Judgment of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation)

Exhibit no. 2 Order of the High Court of Justice of England and Wales dated September 30, 2025 (certified copy with sworn translation)

Exhibit no. 3 Settlement Agreement dated April 11, 2025 (with translation for information purposes)

Exhibit no. 4 Certificate of incorporation of Altrad Investment Authority

Exhibit no. 5 Registration certificates of foreign plaintiff companies:

- **Exhibit 5.1** Certificate of registration of CIHL (with translation for information purposes)
- **Exhibit 5.2** Certificate of registration of Cape Plc (with translation for information purposes)
- **Exhibit 5.3** Altrad UK Limited Certificate of Registration
- **Exhibit 5.4** Certificate of Registration of Cape UK Holdings Newco Limited
- **Exhibit 5.5** Certificate of Registration for Cape Industrial Services Group Limited
- **Exhibit 5.6** Certificate of Registration Cape Holdco Limited
- **Exhibit 5.7** Certificate of Registration for Altrad Services Limited

Exhibit no. 6 Order of March 16, 2023 of Judge Toal appointing Mr. Protopapas as receiver of Cape Plc / CIHL (with translation for information purposes)

Exhibit no. 7 Press articles from the American newspaper Legal Newsline :

- **Exhibit 7.1** D. Fisher and J. O'Brien, *Zombies are on the loose in a Carolina courtroom. Can anyone stop them?,* September 23, 2024, Legal Newsline (with translation for information purposes)
- **Exhibit 7.2** D. Fisher, *'Slammed the door in my face': Key cog in South Carolina's asbestos court not at U.K. showdown*, October 15, 2024. (with translation for information purposes)
- **Exhibit 7.3** D. Fisher, *Secrecy shrouds asbestos money in South Carolina, but insurer makes play for records*, October 23, 2024 (with translation for information purposes)

Exhibit no. 8 Judge Toal's order of October 1, 2024 setting a procedural timetable (with translation for information purposes)

Exhibit no. 9 Note from Judge Toal informing the parties of the hearing set for October 20, 2025

Exhibit no. 10	Order of December 6, 2023 of Judge Toal dismissing the motions to set aside the appointment of Mr. Protopapas (with translation for information purposes)
Exhibit no. 11	Order of May 23, 2024 of Judge Toal imposing sanctions on the third-party defendants (with translation for information purposes)
Exhibit no. 12	Judgment of the High Court of Justice of England and Wales dated November 22, 2024 (certified copy with sworn translation)
Exhibit no. 13	Order of the High Court of Justice of England and Wales dated November 22, 2024 (certified copy with sworn translation)
Exhibit no. 14	Penal Notice of the High Court of Justice of England and Wales dated November 22, 2024 (with translation for information purposes)
Exhibit no. 15	Service on Mr. Protopapas of the Judgment of the High Court of Justice of England and Wales dated November 22, 2024 (with translation for information purposes)
Exhibit no. 16	Order of December 20, 2024 granting permission to summon by fixed date
Exhibit no. 17	Enforcement judgment of the Montpellier Civil Court dated April 8, 2025
Exhibit no. 18	Notification of the enforceable judgment of the Montpellier Civil Court dated April 8, 2025 on Mr. Protopapas dated May 20, 2025
Exhibit no. 19	Letter from Winston & Strawn to Mr. Protopapas dated August 30, 2024 (with translation for information purposes)
Exhibit no. 20	Letter from Mr. Protopapas to Winston & Strawn dated September 5, 2024 (with translation for information purposes)
Exhibit no. 21	Motion for summary judgment against AIA and Mr. Altrad in the third-party defendant proceedings in the Tibbs case, November 8, 2024 (with translation for information purposes)
Exhibit no. 22	Emergency motion by Mr. Protopapas for a stay of execution and temporary restraining order of December 13, 2024 (with translation for information purposes)
Exhibit no. 23	Motion by Mr. Protopapas for a stay of proceedings dated January 9, 2025 (with translation for information purposes)
Exhibit no. 24	South Carolina Supreme Court decision of January 16, 2025 (with translation for information purposes)
Exhibit no. 25	Petition by Mr. Protopapas to the Supreme Court of South Carolina, June 3, 2025 (with translation for information purposes)
Exhibit no. 26	Order of the Supreme Court of South Carolina dated June 26, 2025 (with translation for information purposes)
Exhibit no. 27	South Carolina Supreme Court decision Welch v. Advance Auto Parts, Inc. of May 21, 2025 (with translation for information purposes)

Exhibit no. 28 Writings sent by Mr. Protopapas before Judge Toal on July 11, 2025 :

Exhibit 28.1 Report by Mr. Protopapas on receivership measures falling within Judge Toal's jurisdiction

Exhibit 28.2 Motion by Mr. Protopapas seeking confirmation of his appointment as receiver of Cape Plc / CIHL in the Tibbs case

Exhibit 28.3 Report by Mr. Protopapas on the factual findings on which his appointment as receiver of "Cape" is based

Exhibit no. 29 Letter addressed to the parties by Judge Toal on August 13, 2025 (with translation for information purposes)

Exhibit no. 30 Affidavit of service of originating documents on Mr. Protopapas on July 2, 2025 (with translation for information purposes)

Exhibit no. 31 Confirmation of notification of process on Mr. Protopapas on July 18, 2025 (with translation for information purposes)

Exhibit no. 32 Note from Mr. Protopapas to Judge Toal dated July 29, 2025 (with translation for information purposes)

Exhibit no. 33 High Court order of July 25, 2025 and confirmation of notification on Mr. Protopapas

Exhibit no. 34 Electronic notification on September 30, 2025 of the Judgment and Order of the *High Court of Justice of England and Wales* of September 30, 2025:

Exhibit no. 34.1 Notification by e-mail on September 30, 2025 to Mr. Protopapas of the Smith Decision (with translation for information purposes)

Exhibit no. 34.2 Notification by e-mail on September 30, 2025 to counsel for CIHL and Cape Plc of the Smith Decision (with translation for information purposes)

Exhibit no. 35 Service by an authorized agent of the Judgment and Order of the High Court of Justice of England and Wales of September 30, 2025 on Mr. Protopapas at his business address (with translation for information purposes)

Exhibit no. 36 Writings regularized on October 9, 2025 by Mr. Protopapas before the Supreme Court of South Carolina (with translation for information purposes)

Exhibit no. 37 Order of Judge Toal dated October 10, 2025 (with translation for information purposes)

Exhibit no. 38 Decision of the South Carolina Court of Appeals dated October 20, 2025 (with translation for information purposes)

Exhibits mentioned under reference "Exhibit no. J-X":

Exhibit no. J-1	Paris Civil Court, Enforcement, March 13, 2024, no. 23/05699
Exhibit no. J-2	TJ Paris, Enforcement, September 11, 2024, no. 23/11042
Exhibit no. J-3	*JCl. Procédure civile - Encyclopédies - Fasc. 2000-75: Effets en France des jugements étrangers subordonnés à leur régularité internationale. - Subject of review: conditions of international legality*
Exhibit no. J-4	*Répertoire de procédure civile Dalloz - Jugement étranger : matières civile et commerciale - Régularité internationale du jugement étranger - Pascal de Vareilles-Sommières - Section 2, Régularité de la procédure suivie*

SCP SVA
Avocats à la Cour d'Appel
1, Place Alexandre Laissac
34000 - MONTPELLIER
Tél. : 04.67.58.75.00
Fax : 04.67.92.23.11
cabinet@sv-avocats.com

ASSIGNATION AUX FINS D'EXEQUATUR
DEVANT LE TRIBUNAL JUDICIAIRE DE MONTPELLIER

L'AN DEUX MILLE VINGT-CINQ ET LE

A LA DEMANDE DE :

M. Mohed Altrad, dirigeant de sociétés, de nationalité française, né le 9 mars 1948 et domicilié au 150 rue Le Pérugin à Montpellier (34000),

La société Altrad Investment Authority (AIA), société par actions simplifiée, dont le siège social est situé au 16 avenue de la Gardie, Florensac (34510), immatriculée au RCS de Béziers sous le numéro 529 222 879, prise en la personne de son représentant légal, domicilié en cette qualité audit siège,

La société Altrad UK Limited, private limited company de droit anglais, dont le siège social est situé au 6-7 Lyncastle Way Barleycastle Lane, Appleton Thorn Trading Estate, Warrington, England, WA4 4ST, Royaume-Uni, immatriculée à la UK Companies House sous le numéro 10799083, prise en la personne de son représentant légal, domicilié en cette qualité audit siège,

La société Cape UK Holdings Newco Limited, private limited company de droit anglais, dont le siège social est situé au 6-7 Lyncastle Way Barleycastle Lane, Appleton Thorn Trading Estate, Warrington, England, WA4 4ST, Royaume-Uni, immatriculée à la UK Companies House sous le numéro 07754192, prise en la personne de son représentant légal, domicilié en cette qualité audit siège,

La société Cape Industrial Services Group Limited, private limited company de droit anglais, dont le siège social est situé au 6-7 Lyncastle Way Barleycastle Lane, Appleton Thorn Trading Estate, Warrington, England, WA4 4ST, Royaume-Uni, immatriculée à la UK Companies House sous le numéro 03299544, prise en la personne de son représentant légal, domicilié en cette qualité audit siège,

La société Cape Holdco Limited, private limited company de droit anglais, dont le siège social est situé au 6-7 Lyncastle Way Barleycastle Lane, Appleton Thorn Trading Estate, Warrington, England, WA4 4ST, Royaume-Uni, immatriculée à la UK Companies House sous le numéro 09092125, prise en la personne de son représentant légal, domicilié en cette qualité audit siège,

La société Altrad Services Limited, private limited company de droit anglais, dont le siège social est situé au 6-7 Lyncastle Way Barleycastle Lane, Appleton Thorn Trading Estate, Warrington, England, WA4 4ST, Royaume-Uni, immatriculée à la UK Companies House sous le numéro 03337119, prise en la personne de son représentant légal, domicilié en cette qualité audit siège,

Ayant pour Avocat plaidant :	Le cabinet Signature Litigation AARPI représenté par Maîtres Thomas Rouhette & Ela Barda Avocats au Barreau de Paris demeurant 21/23 rue Balzac, 75008 Paris Tél. : 01 70 75 58 00 - Toque : K0151 thomas.rouhette@signaturelitigation.com ela.barda@signaturelitigation.com
Et pour Avocat constitué :	Le cabinet SVA Avocats représenté par Maître Nathalie Monsarrat Avocat au Barreau de Montpellier demeurant 1 place Alexandre Laissac, BP 41114 – 34000 Montpellier Cedex 1 Tél. : 04 67 58 75 00 cabinet@sv-avocats.com

J'AI

COMMISSAIRE DE JUSTICE SOUSSIGNE

A L'HONNEUR D'INFORMER :

M. Peter D. Protopapas, avocat, de nationalité américaine, domicilié au 2110 N Beltline Blvd, Columbia SC 29204, Etats-Unis d'Amérique, se revendiquant administrateur judiciaire de la société Cape Intermediate Holdings Limited,

EN PRESENCE DE :

La société Cape Intermediate Holdings Limited, private limited company de droit anglais, dont le siège social est situé 6-7 Lyncastle Way Barleycastle Lane, Appleton, Warrington, WA4 4ST, Royaume-Uni, immatriculée à la UK Companies House sous le numéro 00040203, prise en la personne de son représentant légal, domicilié en cette qualité audit siège,

La société Cape Plc., société de droit jersiais, dont le siège social est situé 1st Floor Osprey House, 5-6 Old Street, St. Helier, JE2 3RG, Jersey, prise en la personne de son représentant légal, domicilié en cette qualité audit siège,

PAR EXPLOIT SEPARE

Qu'un procès lui est intenté pour les raisons ci-après exposées devant le **TRIBUNAL JUDICIAIRE DE MONTPELLIER** sis place Pierre Flottes, 34040 Montpellier, pour son audience qui se tiendra le :

Jeudi 12 mars 2026 à 14h00

(jeudi douze mars deux mille vingt six à quatorze heures)

TRÈS IMPORTANT

Dans un délai de 15 jours à compter de la date du présent acte, vous êtes tenu de constituer avocat pour être représenté devant ce tribunal. A défaut vous vous exposez à ce qu'un jugement soit rendu contre vous sur les seuls éléments fournis par votre adversaire.

Conformément à l'article 643 du Code de procédure civile, lorsque la demande est portée devant une juridiction qui a son siège en France métropolitaine, les délais de comparution, d'appel, d'opposition, de tierce opposition dans l'hypothèse prévue à l'article 586 alinéa 3, de recours en

révision et de pourvoi en cassation sont augmentés de deux mois pour les personnes qui demeurent à l'étranger.

Il vous est rappelé les dispositions suivantes, tirées de la loi n° 71-1130 du 31 décembre 1971 portant réforme de certaines professions judiciaires et juridiques, et qui sont ici applicables :

> Art. 5 : « *Les avocats exercent leur ministère et peuvent plaider sans limitation territoriale devant toutes les juridictions et organismes juridictionnels ou disciplinaires, sous les réserves prévues à l'article 4. Ils peuvent postuler devant l'ensemble des tribunaux judiciaires du ressort de la cour d'appel dans lequel ils ont établi leur résidence professionnelle et devant ladite cour d'appel.*
>
> *Par dérogation au deuxième alinéa, les avocats ne peuvent postuler devant un autre tribunal que celui auprès duquel est établie leur résidence professionnelle ni dans le cadre des procédures de saisie immobilière, de partage et de licitation, ni au titre de l'aide juridictionnelle, ni dans des instances dans lesquelles ils ne seraient pas maîtres de l'affaire chargés également d'assurer la plaidoirie* ».
>
> Art. 5-1 : « *Par dérogation au deuxième alinéa de l'article 5, les avocats inscrits au barreau de l'un des tribunaux judiciaires de Paris, Bobigny, Créteil et Nanterre peuvent postuler auprès de chacune de ces juridictions. Ils peuvent postuler auprès de la cour d'appel de Paris quand ils ont postulé devant l'un des tribunaux judiciaires de Paris, Bobigny et Créteil, et auprès de la cour d'appel de Versailles quand ils ont postulé devant le tribunal judiciaire de Nanterre. La dérogation prévue au dernier alinéa du même article 5 leur est applicable* ».

Il vous est par ailleurs rappelé les articles suivants du Code de procédure civile :

> Art. 641 : « *Lorsqu'un délai est exprimé en jours, celui de l'acte, de l'événement, de la décision ou de la notification qui le fait courir ne compte pas. Lorsqu'un délai est exprimé en mois ou en années, ce délai expire le jour du dernier mois ou de la dernière année qui porte le même quantième que le jour de l'acte, de l'événement, de la décision ou de la notification qui fait courir le délai. A défaut d'un quantième identique, le délai expire le dernier jour du mois. Lorsqu'un délai est exprimé en mois et en jours, les mois sont d'abord décomptés, puis les jours* ».
>
> Art. 642 : « *Tout délai expire le dernier jour à vingt-quatre heures. Le délai qui expirerait normalement un samedi, un dimanche ou un jour férié ou chômé est prorogé jusqu'au premier jour ouvrable suivant* ».
>
> Art. 642-1 : « *Les dispositions des articles 640 à 642 sont également applicables aux délais dans lesquels les inscriptions et autres formalités de publicité doivent être opérées* ».
>
> Art. 643 : « *Lorsque la demande est portée devant une juridiction qui a son siège en France métropolitaine, les délais de comparution, d'appel, d'opposition, de tierce opposition dans l'hypothèse prévue à l'article 586 alinéa 3, de recours en révision et de pourvoi en cassation sont augmentés de : 1. Un mois pour les personnes qui demeurent en Guadeloupe, en Guyane, à la Martinique, à La Réunion, à Mayotte, à Saint-Barthélemy, à Saint-Martin, à Saint-Pierre-et-Miquelon, en Polynésie française, dans les îles Wallis et Futuna, en Nouvelle-Calédonie et dans les Terres australes et antarctiques françaises ; 2. Deux mois pour celles qui demeurent à l'étranger* ».

Il est enfin indiqué, en application de l'article 752 du Code de procédure civile, que les parties demanderesses ne sont pas d'accord pour que la procédure se déroule sans audience, en application de l'article L. 212-5-1 du Code de l'organisation judiciaire.

Les pièces sur lesquelles la demande est fondée sont indiquées en fin d'acte selon bordereau annexé.

TABLE DES MATIERES

OBJET DE LA DEMANDE

1. La présente procédure a été engagée par Altrad Investment Authority (« **AIA** »), Altrad UK Limited, Cape UK Holdings Newco Limited, Cape Industrial Services Group Limited, Cape Holdco Limited, Altrad Services Limited et M. Mohed Altrad (ci-après désignés ensemble les « **Demandeurs** »), en présence des sociétés Cape Intermediate Holdings Limited (« **CIHL** ») et Cape Plc (ci-après désignées ensemble les « **Parties Cape** »), aux fins d'obtenir l'*exequatur* d'une décision de la *High Court of Justice of England and Wales* (la « ***High Court*** ») le 30 septembre 2025, rendue par le Juge Marcus Smith (la « **Décision Smith** »).

   La Décision Smith est composée d'un jugement (*Approved Judgment)* de 35 pages contenant la motivation détaillée (ci-après le *« **Jugement Smith** »,* **Pièce n° 1**)[1] et d'une ordonnance (*Order*) contenant le dispositif de la Décision (ci-après *l' « **Ordonnance Smith** »,* **Pièce n° 2**)[2].

   Par la Décision Smith, la *High Court* a :

   (i) homologué le protocole d'accord transactionnel conclu le 11 avril 2025 (le « **Protocole** », **Pièce n° 3**)[3] par les Demandeurs, les Parties Cape et trois autres sociétés : Sparrows Offshore, LLC, Hawk Bidco US, Inc. et Arranco US, LLC (ensemble le « **Groupe Sparrows** ») (ci-après collectivement désignées les « **Parties au Protocole** »),

   (ii) déclaré que la mesure d'administration judiciaire désignant M. Protopapas en qualité d'administrateur de CIHL est sans effet au Royaume-Uni et dans le monde et notamment en ce qu'il n'a pas le pouvoir d'agir au nom et pour le compte de CIHL dans les procédures en cours contre les Demandeurs en Caroline du Sud,

   (iii) ordonné à M. Protopapas de mettre un terme définitif aux procédures engagées au nom de CIHL contre les Demandeurs en Caroline du Sud, dans les 14 jours du prononcé de l'Ordonnance Smith.

2. Les Demandeurs ont en effet été attraits abusivement par M. Protopapas, prétendant agir au nom et pour le compte de CIHL, dans le cadre d'une procédure américaine en Caroline du Sud, alors même qu'ils n'ont strictement aucun lien avec les faits litigieux.

3. Les agissements de M. Protopapas ont fait l'objet d'une première décision de la *High Court*, rendue le 22 novembre 2024 par le juge Mann (la « **Décision Mann** »), qui a considéré que la désignation de M. Protopapas en qualité d'administrateur judiciaire de CIHL est irrégulière et lui a par conséquent fait injonction de cesser d'agir ou de prétendre agir en cette qualité, et notamment de cesser ses actions à l'encontre des Demandeurs en Caroline du Sud.

   La Décision Mann est reconnue et exécutoire en France, conformément au jugement rendu par la présente juridiction le 8 avril 2025 (le « **Jugement d'Exequatur** »), aujourd'hui définitif.

4. M. Protopapas poursuit actuellement ses actions au nom de CIHL à l'encontre des Demandeurs en Caroline du Sud, malgré les termes des injonctions prononcées par la Décision Mann (exécutoire en France) et la Décision Smith.

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[1] **Pièce n° 1** : Jugement de la *High Court of Justice of England and Wales* du 30 septembre 2025 (copie certifiée avec sa traduction assermentée)

[2] **Pièce n° 2** : Ordonnance de la *High Court of Justice of England and Wales* du 30 septembre 2025 (copie certifiée avec sa traduction assermentée)

[3] **Pièce n° 3** : Protocole Transactionnel du 11 avril 2025 (avec une traduction libre)

5. **Dès lors, les Demandeurs sollicitent à présent l'exequatur en France de la Décision Smith, afin de se prémunir contre les effets potentiellement très négatifs d'une décision à intervenir dans les semaines qui viennent en Caroline du Sud dans le cadre d'une procédure abusive.**

6. Après un rappel des faits et de la procédure à l'origine de la présente (**1**), les Demandeurs démontreront que les conditions posées par la jurisprudence pour accorder l'*exequatur* en France de la Décision Smith sont réunies (**2**).

1. RAPPEL DES FAITS ET DES PROCEDURES

1.1 Présentation des parties

1.1.1 Le Groupe Altrad

7. Le Groupe Altrad a été fondé en 1985 à Montpellier par M. Mohed Altrad.

M. Altrad est l'actionnaire majoritaire et le président de la société Altrad Investment Authority (« **AIA** »), société mère du Groupe Altrad immatriculée à Béziers depuis 2010 (**Pièce n° 4**)[4].

Leader mondial dans la prestation de services à l'industrie, le Groupe Altrad conçoit et déploie des solutions à haute valeur ajoutée dans les secteurs de la pétrochimie, de l'énergie, de la production d'électricité et de la construction. Pour l'exercice 2023-2024, il a réalisé un chiffre d'affaires consolidé de près de 5,5 milliards d'euros et compte environ 65.000 employés dans le monde, dont 7.500 en France.

En septembre 2017, le Groupe Altrad a fait l'acquisition du Groupe Cape.

1.1.2 Le Groupe Cape

8. Le Groupe Cape est issu de la création, en 1893, de la société de droit anglais « *The Cape Asbestos Company Ltd* », aujourd'hui dénommée Cape Intermediate Holdings Limited (« **CIHL** »). Son siège social se situe à Appleton, Warrington en Angleterre (**Pièce n° 5.1**)[5]. Au cours de son existence, CIHL a changé de dénomination à plusieurs reprises comme suit :

- The Cape Asbestos Company Ltd (1893-1974)
- Cape Industries Ltd. (1974-1981)
- Cape Industries Plc (1981-1989)
- Cape Plc (1989-2011)
- Cape Intermediate Holding Plc (2011-2013)
- Cape Intermediate Holdings Limited (depuis 2013).

La société "**Cape Plc**" est l'actuelle holding du Groupe Cape. Elle est immatriculée à Jersey depuis 2011 (**Pièce n° 5.2**)[6].

Le Groupe Cape est aujourd'hui un important fournisseur de services et d'équipements à l'industrie dans les secteurs de la pétrochimie et de l'énergie. Ses principaux clients opèrent dans l'industrie pétrolière et gazière.

Dans le cadre de ses activités, le Groupe Cape a distribué des fibres d'amiante jusque dans les années 70, notamment par le biais d'une filiale américaine dissoute en 1978, North American Asbestos Corporation (« **NAAC** »).

Aux Etats-Unis, et plus particulièrement en Caroline du Sud, des demandeurs ont intenté des actions à l'encontre de sociétés du Groupe Cape, en se prévalant d'une prétendue responsabilité de Cape Plc / CIHL pour les activités de l'ancienne filiale NAAC antérieures à 1978.

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[4] **Pièce n° 4** : Kbis de la société Altrad Investment Authority
[5] **Pièce n° 5.1** : Certificat d'enregistrement de CIHL (avec une traduction libre)
[6] **Pièce n° 5.2** : Certificat d'enregistrement de Cape Plc (avec une traduction libre)

1.1.3 Le Défendeur à l'exequatur

9. M. Peter Protopapas est un avocat américain exerçant en Caroline du Sud. Il y est particulièrement actif dans le domaine du contentieux de l'amiante.

Depuis plusieurs années, dans le cadre de procédures judiciaires initiées par des victimes de l'amiante, il est régulièrement désigné par une juge de Caroline du Sud, Mme Jean Hoefer Toal (la « **Juge Toal** »), en qualité d'administrateur judiciaire des sociétés défenderesses.

10. Par ordonnance du 16 mars 2023 (cf. *infra*, §15), M. Protopapas a été désigné par la juge Toal en qualité d'administrateur judiciaire de « Cape Plc » (**Pièce n° 6**)[7].

Cette désignation est contraire à la Décision Mann et au Jugement d'Exequatur.

1.2 Le contexte litigieux : les procédures engagées abusivement en Caroline du Sud par M. Protopapas

11. M. Protopapas a été désigné en qualité d'administrateur judiciaire de la société « Cape Plc » dans le cadre d'une affaire intentée en Caroline du Sud en 2021 par les époux Park (l'« **Affaire Park** »). S'octroyant tous pouvoirs sur la base de l'ordonnance de désignation (**Pièce n° 6**)[8], rendue dans des conditions manifestement irrégulières, M. Protopapas a ensuite attrait les Demandeurs au nom de Cape Plc (filiale du Groupe Altrad), dans une procédure distincte de l'Affaire Park, pour des faits d'exposition à l'amiante dans les années 1960. Les Demandeurs ont ainsi été impliqués abusivement dans une procédure à l'étranger, alors même qu'ils n'ont strictement aucun lien avec les faits litigieux.

1.2.1 Particularité du contentieux de l'amiante en Caroline du Sud

12. En Caroline du Sud, dans le cadre de contentieux liés à l'amiante, une pratique locale consiste à réactiver des sociétés dépourvues d'existence juridique de longue date par la désignation d'un administrateur judiciaire.

Dans cet Etat, l'ensemble de ce contentieux est instruit par la Juge Toal. M. Protopapas est régulièrement désigné par la Juge Toal en qualité d'administrateur judiciaire de sociétés dissoutes depuis longtemps ou d'autres entités affiliées à ces sociétés prétendument responsables d'activités liées à l'amiante, afin d'appeler les polices d'assurance concernées, réaliser les actifs de ces sociétés et, ainsi, indemniser les demandeurs.

M. Protopapas récupère une partie significative des montants alloués aux demandeurs par les tribunaux de Caroline du Sud à titre d'honoraires de résultat.

13. Les méthodes de M. Protopapas et de la Juge Toal ont pu être critiquées dans la presse spécialisée :

> « *Armé d'un pouvoir d'assignation et d'un accord d'honoraires conditionnels lui accordant un tiers de tout ce qu'il récupère, Peter Protopapas a utilisé le pouvoir d'administrateur judiciaire qui lui a été accordé par Toal pour prendre le contrôle de plus de 20 sociétés dissoutes et poursuivre leurs anciens assureurs au titre d'anciennes polices qui, selon lui, couvrent les réclamations liées à l'amiante,*

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[7] **Pièce n° 6** : Ordonnance du 16 mars 2023 de la Juge Toal désignant M. Protopapas en tant qu'administrateur judiciaire (*receiver*) de Cape Plc / CIHL (avec une traduction libre)

[8] **Pièce n° 6** : Ordonnance du 16 mars 2023 de la Juge Toal désignant M. Protopapas en tant qu'administrateur judiciaire (*receiver*) de Cape Plc / CIHL (avec une traduction libre)

gagnant ainsi des millions de dollars en tant que chef de ces zombies » (**Pièce n° 7.1**)[9].

« *La juge Toal a souvent qualifié Protopapas de bras droit du tribunal, bien qu'il s'agisse d'un avocat spécialisé dans les dommages corporels qu'elle a autorisé à conserver un tiers de toute somme qu'il récupère* » (**Pièce n° 7.2**)[10].

« *Un avocat de Caroline du Sud spécialisé dans les dommages corporels, qui a reçu l'ordre du tribunal de conserver un tiers de tout ce qu'il récupère, a placé des dizaines de millions de dollars dans des sociétés de personnes du Delaware qu'il contrôle, à l'abri des regards du public et même du juge qui a autorisé leur création* » (**Pièce n° 7.3**) [11].

1.2.2 L'Affaire Park

14. En 2021, les Parties Cape ont été attraits en qualité de défendeurs devant le Tribunal de première instance (*Court of Common Pleas)* du comté de Richland par Mme Isabella Park. L'affaire a été instruite par la Juge Toal.

15. Le 16 mars 2023, une ordonnance rendue par la Juge Toal, à la requête du conseil des ayants droit de Mme Park, a désigné M. Protopapas en qualité d'administrateur judiciaire (*receiver*) de « *Cape PLC* », « *en tant qu'ayant droit de Cape Industries Ltd. (anciennement dénommée Cape Asbestos Company Ltd.)* (...) » (**Pièce n° 6**)[12].

L'ordonnance du 16 mars 2023 est imprécise quant à l'entité concernée par la nomination de M. Protopapas tant elle semble opérer une confusion entre (i) Cape Plc, seule entité du groupe actuellement dénommée « Cape Plc », et (ii) CIHL, anciennement dénommée « Cape plc » de 1989 à 2011.

Aux termes de cette ordonnance, des pouvoirs étendus ont été conféré à M. Protopapas, notamment « *le pouvoir et l'autorité* [d']*administrer pleinement tous les actifs de Cape, d'accepter des significations au nom de Cape, d'engager des avocats au nom de Cape et de* ***prendre toutes les mesures nécessaires pour protéger les intérêts de Cape, quels qu'ils soient*** » (**Pièce n° 6**, gras ajouté)[13].

Toutefois, sa portée était circonscrite à l'affaire Park, soit l'instance enrôlée sous le numéro 2021-CP-40-02727 :

« *Le Tribunal nomme Peter Protopapas ès qualité d'administrateur judiciaire* ***dans cette affaire,*** *conformément au droit de Caroline du Sud* » (**Pièce n° 6**)[14].

16. Plusieurs irrégularités semblent affecter cette ordonnance, qui tient sur une page et qui a été rendue sans débat contradictoire, 10 jours seulement après le dépôt de la requête en ce sens[15].

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[9] **Pièce n° 7.2** : D. Fisher et J. O'Brien, *Zombies are on the loose in a Carolina courtroom. Can anyone stop them?*, 23 septembre 2024, Legal Newsline (avec une traduction libre)

[10] **Pièce n° 7.2** : D. Fisher, *Slammed the door in my face': Key cog in South Carolina's asbestos court not at U.K. showdown*,15 octobre 2024 (avec une traduction libre)

[11] **Pièce n° 7.3** : D. Fisher, *Secrecy shrouds asbestos money in South Carolina, but insurer makes play for records*, 23 octobre 2024 (avec une traduction libre)

[12] **Pièce n° 6** : Ordonnance du 16 mars 2023 de la Juge Toal désignant M. Protopapas en tant qu'administrateur judiciaire (*receiver*) de Cape Plc / CIHL (avec une traduction libre)

[13] **Pièce n° 6** : Ordonnance du 16 mars 2023 de la Juge Toal désignant M. Protopapas en tant qu'administrateur judiciaire (*receiver*) de Cape Plc / CIHL (avec une traduction libre)

[14] **Pièce n° 6** : Ordonnance du 16 mars 2023 de la Juge Toal désignant M. Protopapas en tant qu'administrateur judiciaire (*receiver*) de Cape Plc / CIHL (avec une traduction libre)

[15] **Pièce n° 12** :Jugement de la *High Court of Justice of England and Wales* du 22 novembre 2024 (copie certifiée avec sa traduction assermentée), §48

17. En particulier, la désignation par la Juge Toal d'un administrateur judiciaire à la tête de Cape Plc / CIHL (sociétés respectivement établies à Jersey et en Angleterre selon les droits de ces Etats) semble avoir été justifiée aux motifs que :

- Cape Plc / CIHL établirait une "présence" en Caroline du Sud par l'intermédiaire de NAAC, ancienne filiale du Groupe Cape dissoute en 1978 (cf. *supra*, §8).

- Cape Plc / CIHL aurait été dissoute (**Pièce n° 6**)[16]. Une disposition du Code de Caroline du Sud permet en effet à un tribunal de cet Etat de nommer un administrateur judiciaire pour une société en faillite[17].

Or :

- Ni Cape Plc ni CIHL n'ont jamais exercé, directement ou indirectement, d'activités en Caroline du Sud ou ailleurs aux Etats-Unis. Le Groupe Cape n'a aucun établissement ni aucun actif sur ce territoire. Il en a été jugé ainsi par une décision définitive rendue par le juge anglais en 1989 (*Adams v. Cape Industries Plc* du 27 juillet 1989)[18], qui fait l'objet d'une requête en exequatur pendante devant la présente juridiction : en particulier, la Cour d'appel anglaise a reconnu l'autonomie de la personnalité morale de CIHL et l'indépendance économique de son ancienne filiale NAAC, de sorte qu'aucune présence de CIHL sur le territoire américain ne pouvait être établie par l'intermédiaire de NAAC. Surtout, tel que l'a relevé la *High Court* dans la Décision Smith, l'effet de la décision « *Adams v. Cape est que la responsabilité pour les réclamations américaines concernant les maladies liées à l'amiante commence et se termine avec la NAAC* »[19].

- Les Parties Cape sont des sociétés parfaitement opérationnelles et *in bonis*, dotées d'organes de gouvernance désignés conformément à leurs statuts (**Pièce n° 5.1 et Pièce n° 5.2**)[20]. Elles ne font l'objet d'aucune procédure d'insolvabilité, ni en Caroline du Sud, ni en Angleterre, ni à Jersey.

1.2.3 L'affaire Tibbs

18. Le 5 avril 2023, une nouvelle action en responsabilité a été engagée contre « Cape Plc » par les époux Tibbs. CIHL, pour sa part, n'était pas citée en tant que défenderesse. Cette instance est également instruite par la Juge Toal.

19. Dans cette deuxième affaire distincte de l'affaire Park, la Juge Toal n'a jamais rendu d'ordonnance nommant M. Protopapas en qualité d'administrateur judiciaire de « Cape Plc » ou d'une autre société du Groupe Cape.

M. Protopapas est pourtant intervenu dans cette procédure en cette qualité.

20. Le 12 juin 2023, aux termes d'un accord conclu entre les époux Tibbs et M. Protopapas, les époux Tibbs se sont désistés de leurs instance et action contre Cape Plc[21]. Le tribunal de première

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[16] **Pièce n° 6** : Ordonnance du 16 mars 2023 de la Juge Toal désignant M. Protopapas en tant qu'administrateur judiciaire (*receiver*) de Cape Plc / CIHL (avec une traduction libre)

[17] Aux termes de la Section 15-65-10 du *South Carolina Code of Laws* : « *Un administrateur judiciaire peut être nommé par un juge du tribunal de première instance, soit dans le cadre ou en dehors de l'instance* : (...)
(4) lorsqu'une société a été dissoute, est insolvable ou en danger imminent d'insolvabilité ou a perdu ses droits sociaux, et, dans des cas similaires, pour les biens situés dans cet État de sociétés étrangères (traduction libre).

[18] **Pièce n° 12** :Jugement de la *High Court of Justice of England and Wales* du 22 novembre 2024 (copie certifiée avec sa traduction assermentée), §§18 et s.

[19] **Pièce n° 1** : Jugement de la *High Court of Justice of England and Wales* du 30 septembre 2025 (copie certifiée avec sa traduction assermentée), §84

[20] **Pièce n° 5.1** : Certificat d'enregistrement de CIHL (avec une traduction libre) et **Pièce n° 5.2** Certificat d'enregistrement de Cape Plc (avec une traduction libre)

[21] **Pièce n° 12** :Jugement de la *High Court of Justice of England and Wales* du 22 novembre 2024 (copie certifiée avec sa traduction assermentée), §52

instance du comté de Richland a donc en principe été dessaisi de l'action principale dirigée contre Cape Plc.

21. Pourtant, le 30 juin 2023, les Demandeurs ont été attraits dans l'affaire Tibbs en tant que « tiers-défendeurs » (*third party defendants*) par M. Protopapas, en sa prétendue qualité d'administrateur judiciaire de « Cape Plc ».

Aux termes de l'assignation du 30 juin 2023, M. Protopapas demande que les tiers-défendeurs, dont les Demandeurs, soient déclarés responsables de toutes les obligations de Cape Plc et CIHL, au titre d'un prétendu enrichissement injustifié (*unjust enrichment*) et d'un concert frauduleux destiné à échapper à toute condamnation aux Etats-Unis (*liability avoidance scheme)* en lien avec la distribution de fibres d'amiante[22] par NACC dans les années 1960-70.

22. L'audience au fond pour statuer sur la responsabilité des tiers-défendeurs était initialement prévue pour la semaine du 3 au 7 février 2025 (**Pièce n° 8**)[23], mais a finalement été reportée au 20 octobre 2025 (**Pièce n° 9**)[24]

23. **Cette instance intervient donc alors même que, notamment :**

- **la désignation de M. Protopapas en qualité d'administrateur judiciaire de « Cape Plc », qui apparaît au demeurant irrégulière au regard du lieu d'établissement et du droit applicable à Cape Plc / CIHL, était circonscrite à l'affaire Park ;**
- **les demandeurs principaux s'étaient désistés d'instance et d'action à l'égard de Cape Plc / CIHL, aux termes d'un accord conclu par M. Protopapas lui-même ;**
- **Les Demandeurs sont totalement étrangers aux faits à l'origine du litige, dans la mesure où ceux-ci découlent des activités de la société NAAC liquidée en 1978, soit près de 40 ans avant l'acquisition du Groupe Cape par le Groupe Altrad.**

1.2.4 Les moyens de défense des Demandeurs dans la procédure américaine

24. Les Demandeurs ont engagé des moyens importants pour défendre leurs intérêts dans la procédure Tibbs.

25. Ils ont tout d'abord saisi la Juge Toal d'une requête visant à (i) débouter M. Protopapas de ses demandes en raison du défaut de compétence *ratione personae* du tribunal à leur égard et (ii) annuler la mesure d'administration judiciaire sur Cape Plc.

Le 6 décembre 2023, aux termes d'une ordonnance intégralement rédigée par M. Protopapas[25], adoptée 24h après le dépôt du projet sans aucune modification apportée par la juridiction, la Juge Toal a rejeté toutes les requêtes des Demandeurs (**Pièce n° 10**)[26].

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[22] **Pièce n° 12** :Jugement de la *High Court of Justice of England and Wales* du 22 novembre 2024 (copie certifiée avec sa traduction assermentée), §57

[23] **Pièce n° 8** : Ordonnance du 1er octobre 2024 de la Juge Toal fixant un calendrier procédural (avec une traduction libre)

[24] **Pièce n° 9** : Note de la Juge Toal informant les parties de l'audience fixée au 20 octobre 2025

[25] **Pièce n° 12** :Jugement de la *High Court of Justice of England and Wales* du 22 novembre 2024 (copie certifiée avec sa traduction assermentée), §65

[26] **Pièce n° 10 :** Ordonnance du 6 décembre 2023 de la Juge Toal rejetant les requêtes en annulation de la désignation de M. Protopapas (avec une traduction libre)

Dans cette ordonnance il est notamment indiqué que l'entité visée par la mesure d'administration judiciaire du 16 mars 2023 est en réalité CIHL et non Cape Plc, cette confusion procédant d'une simple erreur de dénomination (**Pièce n° 10**, pp. 19 et 23)[27].

Les Demandeurs ont interjeté appel de cette ordonnance.

26. Les Demandeurs se sont par ailleurs fermement opposés aux très nombreuses demandes de production de documents couvrant une période de 40 ans (*Discovery*), ainsi qu'aux demandes d'interrogatoires et de comparution de témoins formées par M. Protopapas.

27. Le 23 mai 2024, pour sanctionner les contestations ainsi élevées par les Demandeurs, la Juge Toal les a condamnés au paiement des honoraires de M. Protopapas (à hauteur de plus de 2 millions de dollars). Elle a également reconnu l'existence d'une *adverse inference.* En d'autres termes, la décision au fond pourra être fondée sur les seules déclarations et pièces de M. Protopapas, sans permettre un débat contradictoire (**Pièce n° 11**)[28].

Les Demandeurs ont également interjeté appel de cette ordonnance.

28. La Cour d'appel de Caroline du Sud a toutefois jugé irrecevables les différents appels d'AIA et de M. Altrad, considérant que le bien-fondé des ordonnances de la Juge Toal ne pouvait être examiné indépendamment de la décision au fond à intervenir. M. Altrad et AIA ont à ce titre formé des recours devant la Cour Suprême de Caroline du Sud. Ces recours ont également été rejetés par la Cour Suprême dans sa décision du 26 juin 2025 (cf. *infra* §47).

1.3 La Décision Mann sur le défaut de pouvoir de M. Protopapas

29. Le 9 septembre 2024, les Parties Cape, représentés par leurs véritables représentants légaux en exercice, ont saisi leur juge naturel, le juge anglais, pour faire constater le défaut de pouvoir de M. Protopapas.

30. Dans la Décision Mann du 22 novembre 2024, composée d'un jugement comprenant la motivation du juge anglais sur 73 pages (**Pièce n° 12**)[29] et d'une ordonnance du même jour comprenant le dispositif (**Pièce n° 13**)[30], la *High Court* a jugé que :

- L'ordonnance américaine du 16 mars 2023 en vertu de laquelle M. Protopapas a été désigné en qualité d'administrateur judiciaire de CIHL « *n'est pas reconnue et n'a aucun effet juridique en Angleterre et au Pays de Galles et dans le monde entier* » ;

- M. Protopapas n'a « *aucun pouvoir ou capacité pour agir au nom de CIHL en Angleterre et au Pays de Galles ou dans le monde entier* » ;

- Les droits et obligations des administrateurs de CIHL ne sont pas affectés par la nomination de M. Protopapas en tant qu'administrateur judiciaire de CIHL aux termes de l'ordonnance de la Juge Toal de 16 mars 2023 ;

- M. Protopapas n'a aucun pouvoir ou capacité à agir au nom de CIHL devant le tribunal de Caroline du Sud dans le cadre des affaires Park et Tibbs et de former ou de poursuivre des actions visant à attraire des parties tierces, notamment dans l'affaire Tibbs, contre l'un des

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[27] **Pièce n° 10** : Ordonnance du 6 décembre 2023 de la Juge Toal rejetant les requêtes en annulation de la désignation de M. Protopapas (avec une traduction libre)

[28] **Pièce n° 11** : Ordonnance de la Juge Toal du 23 mai 2024 prononçant des sanctions à l'encontre des tiers-défendeurs (avec une traduction libre)

[29] **Pièce n° 12** : Jugement de la *High Court of Justice of England and Wales* du 22 novembre 2024 (copie certifiée avec sa traduction assermentée)

[30] **Pièce n° 13** : Ordonnance de la *High Court of Justice of England and Wales* du 22 novembre 2024 (copie certifiée avec sa traduction assermentée)

tiers défendeurs dans cette procédure, « *y compris (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* » (**Pièce n° 13**)[31].

En conséquence, la *High Court* a fait injonction à M. Protopapas de :

- cesser d'agir ou de prétendre agir en qualité d'administrateur judiciaire de CIHL en Angleterre, au Pays de Galles et dans le monde ;
- cesser « *de s'approprier, d'interférer avec ou d'usurper (de quelque manière que ce soit) l'exercice licite des droits et devoirs des administrateurs de CIHL* » en Angleterre, au Pays de Galles et dans le monde ;
- cesser d'agir ou de prétendre agir en qualité d'administrateur judiciaire de CIHL dans le cadre des affaires Park et Tibbs en Angleterre, au Pays de Galles et dans le monde ;
- cesser de poursuivre l'action visant à attraire les Demandeurs notamment en tant que tiers-défendeurs à l'instance Tibbs ;
- cesser de « *prétendre agir pour CIHL dans la réclamation introduite devant le Tribunal de Caroline du Sud par une assignation en date du 11 novembre 2024 portant le numéro de demande C/A NO. 2024-CP-40-06639 ou dans toute autre procédure judiciaire engagée contre CIHL devant le Tribunal de Caroline du Sud ou dans le monde entier* » (**Pièce n° 13**)[32].

31. La *High Court* a en effet considéré dans la Décision Mann que les agissements qualifiés d'abusifs de M. Protopapas constituaient une menace sérieuse, justifiant le prononcé de telles injonctions globales :

> « *Les pouvoirs conférés à l'administrateur judiciaire sont en apparence très étendus et pourraient être exercés dans le monde entier, y compris dans cette juridiction. Il n'a pas nié avoir l'intention de les utiliser. Ils sont abusifs et ont déjà été utilisés au détriment de CIHL* » (**Pièce n° 12**)[33].

32. **Le défaut de pouvoir et de capacité de M. Protopapas à agir au nom et pour le compte de CIHL a donc été judiciairement reconnu par la *High Court*.**

La Décision Anglaise a d'ailleurs été assortie d'un avis de sanction (*Penal Notice*) en vertu duquel M. Protopapas et toute personne agissant en violation de l'ordonnance prononcée par le juge anglais se rend coupable d'outrage au tribunal (*contempt of court*) et s'expose à des sanctions pénales, notamment des peines d'emprisonnement (**Pièce n° 14**)[34].

33. La Décision Mann a été signifiée le 22 novembre 2024 à M. Protopapas (**Pièce n° 15**)[35]. Elle est aujourd'hui **exécutoire et définitive**.

1.4 L'exequatur en France de la Décision Mann

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[31] **Pièce n° 13** : Ordonnance de la *High Court of Justice of England and Wales* du 22 novembre 2024 (copie certifiée avec sa traduction assermentée), §§6-10

[32] **Pièce n° 13 :** Ordonnance de la *High Court of Justice of England and Wales* du 22 novembre 2024 (copie certifiée avec sa traduction assermentée), §§6-10

[33] **Pièce n° 12 :** Jugement de la *High Court of Justice of England and Wales* du 22 novembre 2024 (copie certifiée avec sa traduction assermentée), §134

[34] **Pièce n° 14** : Notice pénale de la *High Court of Justice of England and Wales* du 22 novembre 2024 (avec une traduction libre)

[35] **Pièce n° 15 :** Signification du 22 novembre 2024 à M. Protopapas du Jugement de la *High Court of Justice of England and Wales* du 22 novembre 2024 (avec une traduction libre)

34. Afin de se prémunir contre les effets d'une décision à intervenir en Caroline du Sud, dans le cadre de la procédure poursuivie abusivement à leur encontre par M. Protopapas, M. Altrad et AIA ont été contraints d'engager une procédure afin que la Décision Mann soit reconnue exécutoire sur le territoire français.

35. Par ordonnance du 20 décembre 2024 (**Pièce n° 16**)[36], au regard de l'urgence inhérente à cette affaire, Cape Plc, CIHL, AIA et M. Altrad ont été autorisés à assigner M. Protopapas à jour fixe à l'audience du 11 février 2025 devant le Tribunal judiciaire de Montpellier, aux fins d'exequatur en France de la Décision Mann du 22 novembre 2024.

36. **Par jugement du 8 avril 2025, le Tribunal Judiciaire de Montpelier, considérant que l'ensemble des conditions étaient satisfaites, a prononcé l'exéquatur de la Décision Mann rendue par la *High Court* le 22 novembre 2024 (Pièce n° 17)[37].**

37. Le Jugement d'Exequatur a été signifié à la personne de M. Protopapas le 20 mai 2025 (**Pièce n° 18**)[38]. Le délai d'appel a expiré le 20 août 2025, si bien que cette décision est désormais définitive.

38. **Toutefois, M. Protopapas a poursuivi ses procédures au nom de Cape Plc / CIHL à l'encontre des Demandeurs en Caroline du Sud, en violation des termes de l'injonction prononcée par une décision exécutoire en Angleterre comme en France.**

1.5 Les répercussions en Caroline du Sud des procédures anglaise et française

39. Compte tenu des procédures initiées à son encontre outre-Atlantique, M. Protopapas s'est livré à plusieurs tentatives d'intimidation et a tenté d'accélérer le cours de la procédure en Caroline du Sud.

40. Dès qu'il a été informé de l'intention des Parties Cape de saisir le juge anglais afin de faire reconnaître son absence de pouvoir en qualité d'administrateur judiciaire, M. Protopapas a menacé les conseils des Parties Cape (le cabinet Winston & Strawn) d'engager des poursuites à leur encontre personnelle en Caroline du Sud (**Pièce n° 19** et **Pièce n° 20**)[39] :

> « *Votre lettre me demande de violer le droit de Caroline du Sud et s'apparente à de l'extorsion.* (...) *En conséquence, je n'ai d'autre choix que de poursuivre votre cabinet en justice. Vous trouverez ci-joint une action en jugement déclaratoire récemment déposée contre Winston & Strawn, LLP.* (...) *Une solution raisonnable à cela serait que vous retiriez la Lettre et que vous vous engagiez à ne demander aucune décision devant les Tribunaux anglais ou tout autre tribunal que celui saisi de la juridiction de Caroline du Sud et je retirerai la plainte et la Règle de comparution et d'exposé des motifs* » (**Pièce n° 20**, p. 5, soulignements ajoutés)[40].

Le cabinet Winston & Strawn s'est désisté de son mandat à la suite de ce courrier et les Parties Cape ont dû instruire de nouveaux conseils en urgence[41].

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[36] **Pièce n° 16** : Ordonnance d'autorisation d'assigner à jour fixe du 20 décembre 2024
[37] **Pièce n° 17** : Jugement d'exequatur du Tribunal Judiciaire de Montpellier du 8 avril 2025
[38] **Pièce n° 18** : Signification du jugement d'exequatur du Tribunal Judiciaire de Montpellier du 8 avril 2025 à M. Protopapas du 20 mai 2025
[39] **Pièce n° 19** : Lettre du cabinet Winston & Strawn à M. Protopapas du 30 août 2024 (avec une traduction libre) ; **Pièce n° 20** : Lettre en réponse de M. Protopapas au cabinet Winston & Strawn du 5 septembre 2024 (avec une traduction libre)
[40] **Pièce n° 20** : Lettre en réponse de M. Protopapas au cabinet Winston & Strawn du 5 septembre 2024 (avec une traduction libre)
[41] **Pièce n° 12** : Jugement de la *High Court of Justice of England and Wales* du 22 novembre 2024 (copie certifiée avec sa traduction assermentée), §84

41. M. Protopapas a par la suite tenté d'intimider un expert (le "Juge Wilkins"), mandaté par Cape Plc et CIHL dans le cadre de la procédure anglaise pour donner un avis juridique sur des questions de droit de Caroline du Sud, en le menaçant d'engager des poursuites contre lui en Caroline du Sud s'il ne modifiait pas son rapport devant les juridictions anglaises. Le Juge Wilkins a été contraint de s'exécuter (**Pièce n° 12**)[42].

42. M. Protopapas a également déposé une requête auprès de la Juge Toal lui demandant d'enjoindre aux "défendeurs Altrad" *« de mettre fin à leur action irrégulière en instance devant la Haute Cour de justice d'Angleterre et du Pays de Galles visant à enjoindre à l'administrateur judiciaire de mettre un terme à ses fonctions ordonnées par la Cour »*. La Juge Toal a toutefois refusé de faire droit à cette demande (**Pièce n° 12**)[43].

43. Le 8 novembre 2024, M. Protopapas a déposé une demande de jugement sommaire contre AIA et M. Altrad dans la procédure relative aux tiers-défendeurs de l'affaire Tibbs, bien que l'audience ait été prévue moins de trois mois plus tard – le 3 février 2025 (**Pièce n° 21**)[44]. Le procès sur le fond a finalement été reporté au 20 octobre 2025 (**Pièce n° 9**)[45] compte tenu des nombreuses contestations soulevées (à juste titre) par les tiers-défendeurs.

44. Le 13 décembre 2024, en réaction notamment à la Décision Mann et à l'avis de sanction dont elle est assortie[46], M. Protopapas a déposé une "requête d'urgence sollicitant une suspension d'exécution et une ordonnance de restriction temporaire" devant la Cour Suprême de Caroline du Sud (**Pièce n° 22**)[47].

    M. Protopapas y prétend que les actions engagées par les Parties Cape au Royaume-Uni, d'une part, et les moyens de défense soulevés par les Demandeurs en Caroline du Sud, d'autre part, dans le but légitime de faire valoir leurs droits, s'apparenteraient à des menaces et à du harcèlement (**Pièce n° 22**, pp. 5 à 7)[48].

45. Dans une requête du 9 janvier 2025 (**Pièce n° 23**)[49], compte tenu de la procédure d'exequatur initiée en France, M. Protopapas a sollicité auprès de la Cour Suprême de Caroline du Sud la suspension de tous les délais de procédure, dans l'attente de l'examen de sa requête d'urgence par la juridiction. M. Protopapas prétend à nouveau dans sa requête qu'il ferait l'objet de « menaces » de la part d'AIA et de M. Altrad et que ces derniers auraient engagé des poursuites pénales à son encontre, ce qui est erroné (**Pièce n° 23**, p. 3)[50]

    La requête sollicitant la suspension des délais de procédure a été rejetée par la Cour Suprême de Caroline du Sud dans une décision du 16 janvier 2025 (**Pièce n° 24**)[51].

46. Le 3 juin 2025, en réaction au Jugement d'Exequatur qui lui a été signifié le 20 mai 2025, M. Protopapas a sollicité de nouvelles sanctions à l'encontre d'AIA et de M. Altrad devant la Cour

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[42] **Pièce n° 12** : Jugement de la *High Court of Justice of England and Wales* du 22 novembre 2024 (copie certifiée avec sa traduction assermentée), §84

[43] **Pièce n° 12** : Jugement de la *High Court of Justice of England and Wales* du 22 novembre 2024 (copie certifiée avec sa traduction assermentée), §84

[44] **Pièce n° 21** : Demande de jugement sommaire contre AIA et M. Altrad dans la procédure relative aux tiers-défendeurs de l'affaire Tibbs du 8 novembre 2024 (avec une traduction libre)

[45] **Pièce n° 9** : Note de la Juge Toal informant les parties de l'audience fixée au 20 octobre 2025

[46] Dont la teneur a été rappelée plusieurs fois à M. Protopapas, dans le cadre de lettres adressées par les conseils anglais de Cape Plc / CIHL, lui demandant de cesser ses actions en violation de la Décision Anglaise.

[47] **Pièce n° 22** : Requête d'urgence de M. Protopapas sollicitant une suspension d'exécution et une ordonnance de restriction temporaire du 13 décembre 2024 (avec une traduction libre)

[48] **Pièce n° 22** : Requête d'urgence de M. Protopapas sollicitant une suspension d'exécution et une ordonnance de restriction temporaire du 13 décembre 2024 (avec une traduction libre)

[49] **Pièce n° 23** : Requête de M. Protopapas sollicitant la suspension des délais de procédure du 9 janvier 2025 (avec une traduction libre)

[50] **Pièce n° 23** : Requête de M. Protopapas sollicitant la suspension des délais de procédure du 9 janvier 2025 (avec une traduction libre), p. 3

[51] **Pièce n° 24** : Décision de la Cour Suprême de Caroline du Sud du 16 janvier 2025 (avec une traduction libre)

Suprême de Caroline du Sud (**Pièce n° 25**)[52], affirmant à nouveau être menacé et « *attaqué sans relâche* ».

47. Dans une ordonnance du 26 juin 2025 (**Pièce n° 26**)[53], la Cour Suprême de Caroline du Sud a partiellement répondu aux nombreux recours et requêtes dont elle a été saisie par les différentes parties en cause dans cette affaire. A cette occasion, elle s'est prononcée sur les pouvoirs de l'administrateur judiciaire :

- La Cour Suprême fait tout d'abord référence à une décision rendue par sa propre juridiction quelques semaines auparavant dans une affaire distincte, *Welch v. Advance Auto Parts* (**Pièce n° 27**)[54], *Inc.*, du 21 mai 2025, dans laquelle M. Protopapas avait également été désigné en qualité d'administrateur judiciaire. Dans la décision *Welch* la Cour Suprême a en effet rappelé que les pouvoirs de l'administrateur judiciaire **ne sont pas illimités** en ce qu'ils (i) sont circonscrits à la réalisation des actifs expressément désignés dans l'ordonnance de mise sous administrateur judiciaire, et (ii) ne constituent en aucun cas une autorisation pour l'administrateur judiciaire de siéger au conseil d'administration d'une société et/ou de prendre le contrôle de ses opérations (**Pièce n° 27**, p. 30)[55].

- En conséquence, la Cour Suprême rappelle notamment, s'agissant de l'affaire Tibbs, que l'administrateur judiciaire ne peut exercer ses fonctions **que sur la base d'une ordonnance rendue spécifiquement dans le cadre de l'affaire pour laquelle il est supposé intervenir**, et que les pouvoirs de l'administrateur judiciaire doivent être limités par cette ordonnance. La Cour Suprême a par conséquent enjoint à la Juge Toal de s'assurer du respect de ces exigences dans le cadre de l'affaire Tibbs.

48. Le 11 juillet 2025, M. Protopapas a régularisé plusieurs jeux d'écritures devant la Juge Toal pour justifier ses agissements en qualité d'administrateur judiciaire de CIHL et solliciter de la Juge Toal qu'elle confirme sa désignation dans le cadre de l'affaire Tibbs (**Pièces n° 28.1 à 28.3**)[56].

49. Dans une lettre adressée aux parties le 13 août 2025 (**Pièce n° 29**)[57], la Juge Toal a fait savoir qu'elle entendait faire droit à la demande de M. Protopapas et confirmer sa désignation en qualité d'administrateur judiciaire de CIHL dans le cadre de l'affaire Tibbs. La Juge Toal n'a toutefois émis aucune ordonnance en ce sens ni précisé le périmètre de la mesure d'administration judiciaire, en violation de la décision de la Cour Suprême de Caroline du Sud du 26 juin 2025.

50. **Ainsi, M. Protopapas a poursuivi ses procédures au nom de CIHL à l'encontre de M. Altrad et AIA, en Caroline du Sud, en violation (i) des termes de l'injonction prononcée par la Décision Mann, exécutoire en France, mais également (ii) d'une décision de la Cour Suprême de Caroline du Sud.**

1.6 Le Protocole Transactionnel du 11 avril 2025

51. Compte tenu de la persistance de M. Protopapas à poursuivre ses actions en Caroline du Sud, en violation de la Décision Mann, les Demandeurs, les Parties Cape et le Groupe Sparrows ont entrepris de **faire reconnaître judiciairement l'absence de litige** entre eux, afin de rendre

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[52] **Pièce n° 25** : Requête de M. Protopapas devant la Cour Suprême de Caroline du Sud du 3 juin 2025 (avec une traduction libre)
[53] **Pièce n° 26** : Ordonnance de la Cour Suprême de Caroline du Sud du 26 juin 2025 (avec une traduction libre)
[54] **Pièce n° 27** : Décision de la Cour Suprême de Caroline du Sud *Welch v. Advance Auto Parts, Inc.*, du 21 mai 2025 (avec une traduction libre)
[55] **Pièce n° 27** : Décision de la Cour Suprême de Caroline du Sud *Welch v. Advance Auto Parts, Inc.*, du 21 mai 2025 (avec une traduction libre)
[56] **Pièce n° 28.1** : Rapport de de M. Protopapas sur les mesures d'administration judiciaire relevant de la compétence de la Juge Toal ; **Pièce n° 28.2** : Requête de M. Protopapas sollicitant la confirmation de sa désignation en qualité d'administrateur judiciaire de Cape Plc / CIHL dans l'affaire Tibbs; **Pièce n° 28.3** : Rapport de M. Protopapas sur les constatations factuelles fondant sa désignation en qualité d'administrateur judiciaire de « Cape ». 41
[57] **Pièce n° 29** : Lettre adressée aux parties par la Juge Toal le 13 août 2025 (avec une traduction libre)

inopérante la mise en cause artificiellement formée en Caroline du Sud par M. Protopapas à l'encontre des tiers-défendeurs (dont les Demandeurs et le Groupe Sparrows) au nom de Cape Plc / CIHL. Les Parties au Protocole ont ainsi conclu un accord le 11 avril 2025[58], dont l'objet est décrit comme suit dans le préambule du Protocole :

> « *M) Les parties souhaitent désormais régler et résoudre leurs différends, litiges et réclamations en suspens, connus ou inconnus, les uns à l'égard des autres, concernant ou découlant de la procédure Park, de la procédure Tibbs ou toutes réclamations existantes liées à des dommages corporels causés par l'amiante (connues ou inconnues) aux États-Unis qui pourraient être présentées selon les termes énoncés dans le présent accord.*
>
> *N) À cet égard, les Parties Cape souhaitent transiger et libérer les Parties Altrad et les Parties Sparrows de toute réclamation réelle ou potentielle qui pourrait être formulée dans le cadre de la procédure Park, la procédure Tibbs ou de toutes réclamations existantes liées à des dommages corporels causés par l'amiante aux États-Unis (connues ou inconnues) qui ont été ou pourraient être présentées par les parties Cape contre les parties Altrad et Sparrows, et cette renonciation inclut de renoncer à tout jugement rendu dans le cadre de la procédure Tibbs au nom des parties Cape contre les parties Altrad ou Sparrows (que ce jugement ait été valablement obtenu ou non).*
>
> *(O) Les Parties Altrad et les Parties Sparrows souhaitent transiger et renoncer à toute réclamation réelle ou potentielle qu'elles pourraient avoir à l'encontre des Parties Cape, y compris, mais sans s'y limiter, les demandes de contribution ou d'indemnisation, relatives aux responsabilités dans le cadre de la procédure Park, de la procédure Tibbs ou de toutes réclamations existantes liées à des dommages corporels causés par l'amiante relatives ou ayant été initiées aux États-Unis (connues ou inconnues) qui pourraient être introduites par les Parties Altrad et les Parties Sparrows à l'encontre des Parties Cape* » (**Pièce n° 3**, pp. 2-3).

Ainsi, aux termes du Protocole :

- Les Parties Cape se sont (i) engagés à cesser toute procédure actuelle et à s'abstenir d'engager toute action future à l'encontre des Demandeurs et du Groupe Sparrows, pour toute demande qui concernerait les « Allégations », (ii) reconnaissent que les Demandeurs et le Groupe Sparrows ne sont pas et n'ont jamais été responsables envers les Parties Cape au titre de ces « Allégations » (**Pièce n° 3**, article 2.1)[59].

  Les « Allégations » sont définies comme suit dans le Protocole :

  « *(i) les demandes formulées dans la Procédure Tibbs (y compris dans l'Assignation des Tiers-défendeurs déposée dans le cadre de cette procédure), et (ii) toute demande formulée à l'avenir dans le cadre d'une réclamation pour préjudice corporel lié à l'amiante qui pourrait être déposée aux États-Unis et qui serait fondée en partie ou en totalité sur une responsabilité alléguée pour les actes de CIHL, et dans chacun de ces deux cas, y compris, mais sans s'y limiter, la prétention selon laquelle chacune des parties est, ou est un ayant-droit d'une entité qui l'était, l'alter ego ou une partie d'une entreprise commerciale unique avec CIHL, et toute réclamation fondée sur le droit de lever le voile social de CIHL* » (**Pièce n° 3**, article 1)[60]

- Les Demandeurs et le Groupe Sparrows se sont engagés à ne poursuivre aucune action à l'encontre des Parties Cape quant à leur prétendue responsabilité liée à la vente ou la

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[58] **Pièce n° 3** : Protocole Transactionnel du 11 avril 2025 (avec une traduction libre), pp. 2-3
[59] **Pièce n° 3** : Protocole Transactionnel du 11 avril 2025 (avec une traduction libre), article 2.1
[60] **Pièce n° 3** : Protocole Transactionnel du 11 avril 2025 (avec une traduction libre), article 1

distribution de produits à base d'amiante aux Etats-Unis, en ce compris toute action portant sur les Allégations (**Pièce n° 3**, article 2.2)[61].

52. Les Parties ont convenu que le Protocole était soumis au droit anglais et ont désigné les juridictions anglaises comme exclusivement compétente pour connaître de tout litige en découlant, en ce compris toute question concernant la force obligatoire du Protocole, son interprétation, ses conditions et ses effets (**Pièce n° 3**, article 9)[62].

1.7 La Décision Smith

53. Les Demandeurs ont saisi les juridictions anglaises, exclusivement compétentes aux termes du Protocole, pour obtenir son homologation et renforcer les injonctions prononcées à l'encontre de M. Protopapas par le Juge Mann, afin de protéger l'ensemble des sociétés du Groupe Altrad et du Groupe Cape contre les conséquences des actions abusives de M. Protopapas.

1.7.1 La saisine de la *High Court* par les Parties au Protocole et la procédure anglaise

54. Le 24 juin 2025, les Demandeurs ont saisi la *High Court* afin, notamment, (i) qu'elle déclare le Protocole valable et opposable, (ii) déclare que l'ordonnance de désignation de M. Protopapas en qualité d'administrateur judiciaire est sans effet et n'affecte pas les pouvoir des organes de gouvernance et représentants légaux en exercice de CIHL et (iii) ordonne à M. Protopapas de mettre un terme définitif à ses actions au nom de CIHL, notamment dans le cadre de l'affaire Tibbs.

55. L'acte introductif d'instance ainsi que les écritures et pièces des demandeurs ont été signifiés à M. Protopapas le 2 juillet 2025 (**Pièce n° 30**[63]).

M. Protopapas n'a pas régularisé d'écritures ni de pièces dans le cadre cette procédure.

56. Une première audience de procédure s'est tenue devant la *High Court* le 25 juillet 2025, à laquelle M. Protopapas n'a pas comparu ni été représenté, bien qu'il ait été informé de la date de cette audience par les demandeurs (**Pièce n° 31**)[64]. La *High Court* a fait droit à la demande des Demandeurs de recourir à la procédure accélérée. La transcription de cette audience, l'ordonnance du 25 juillet 2025 ainsi que des écritures et pièces supplémentaires ont été notifiés à M. Protopapas le 28 juillet 2025 (**Pièce n° 32** et **Pièce n° 33**)[65].

57. L'audience de plaidoiries s'est tenue les 23 et 24 septembre 2025. M. Protopapas n'a pas comparu ni été représenté.

1.7.2 L'homologation du Protocole et la confirmation de l'absence de pouvoirs de M. Protopapas pour agir au nom et pour le compte de CIHL

58. Dans la Décision Smith, composée du Jugement du 30 septembre 2025 (**Pièce n° 1**)[66] comprenant la motivation du Juge Smith sur 35 pages et de l'Ordonnance du même jour comprenant le dispositif (**Pièce n° 2**)[67], la *High Court* a déclaré notamment que :

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[61] **Pièce n° 3** : Protocole Transactionnel du 11 avril 2025 (avec une traduction libre), article 2.2
[62] **Pièce n° 3** : Protocole Transactionnel du 11 avril 2025 (avec une traduction libre), article 9
[63] **Pièce n° 30** : Déclaration sous serment de la signification des actes introductifs d'instance à M. Protopapas le 2 juillet 2025 (avec une traduction libre)
[64] **Pièce n° 31** : Confirmation de signification d'actes de procédure à M. Protopapas du 18 juillet 2025 (avec une traduction libre)
[65] **Pièce n° 32** : Note adressée par M. Protopapas à la Juge Toal le 29 juillet 2025 (avec une traduction libre) ; **Pièce n° 33** : Ordonnance de la *High Court* du 25 juillet 2025 et confirmation de sa signification à M. Protopapas
[66] **Pièce n° 1** : Jugement de la *High Court of Justice of England and Wales* du 30 septembre 2025 (copie certifiée avec sa traduction assermentée)
[67] **Pièce n° 2** : Ordonnance de la *High Court of Justice of England and Wales* du 30 septembre 2025 (copie certifiée avec sa traduction assermentée)

- Le Protocole a été conclu par les représentants légalement autorisés des Demandeurs et des Parties Cape et a force obligatoire entre les parties.

- Le Protocole règle et libère les parties de toutes les réclamations (connues ou inconnues) que les Parties Cape pourraient avoir à l'encontre des Demandeurs concernant (i) toutes allégations formulées dans la Procédure Tibbs (y compris dans l'assignation des tiers-défendeurs) et (ii) toute autre demande formulée après la date du Protocole dans le cadre de toute réclamation pour des dommages corporels liés à l'amiante qui pourraient être invoquées aux États-Unis, fondées en tout ou en partie sur la responsabilité présumée des Demandeurs pour les actes et/ou omissions de CIHL.

- Les pouvoirs et l'autorité légale des dirigeants de CIHL ne sont pas affectés par l'ordonnance d'administration judiciaire désignant M. Protopapas en Caroline du Sud (qui n'est pas reconnue et n'a aucun effet juridique ni en Angleterre et au Pays de Galles, ni dans le monde).

- M. Protopapas n'a et n'avait aucun pouvoir ou autorité légale pour prendre des mesures ou agir au nom ou pour le compte de CIHL, y compris dans le cadre de l'affaire Tibbs.

En conséquence, la *High Court* a fait injonction à M. Protopapas de :

- s'abstenir « *prendre toute autre mesure dans le cadre de l'Assignation de Tiers-défendeurs* » ou dans le cadre de toute autre procédure,

- « *prendre immédiatement toutes les mesures nécessaires pour obtenir le rejet définitif et sans réserve de l'Assignation de Tiers-défendeurs contre les Demandeurs, avec effet immédiat, et, en tout état de cause* (...) *dans les 14 jours suivant la date de la présente ordonnance* ».

59. La *High Court* a justifié l'étendue et la portée de sa décision dans les termes suivants :

> « *Les procédures et les étapes procédurales basées sur l'Ordonnance de mise sous administration judiciaire se poursuivent aux Etats-Unis. Les effets négatifs de ces étapes tels que décrits par M. le Juge Mann (Jugement Mann J/[113] ff) continuent donc, nonobstant l'Ordonnance Mann J (qui a été ignorée par M. Protopapas)* » (**Pièce n° 1**, § 54)[68].
>
> « *La progression de la procédure à l'encontre des tiers-défendeurs engendre un réel préjudice aux Demandeurs. Ils sont confrontés à une réclamation - l'Assignation des Tiers-défendeurs - qui menace ouvertement leur situation financière, fait des allégations préjudiciables à leur réputation (et non fondées) et menace le Plan d'Indemnisation Cape par lequel une catégorie de victimes de maladies liées à l'amiante est indemnisée. Il s'agit d'une affaire dans laquelle il existe un litige réel et actuel que le Jugement déclaratoire proposé contribuera à résoudre* (...).
>
> *Je considère que les déclarations demandées constituent un moyen extrêmement efficace de contrôler la conduite de M. Protopapas : en effet, les déclarations, si elles sont prononcées, auront pour effet d'éteindre les revendications mêmes que M. Protopapas cherche à faire valoir par le biais de l'Assignation des Tiers-défendeurs. Je garde à l'esprit que, jusqu'à présent, les Demandeurs n'ont bénéficié d'aucune protection de la part des tribunaux anglais. Je considère que, pour cette seule raison, si le Jugement déclaratoire peut être prononcé de manière appropriée, alors il devrait*

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[68] **Pièce n° 1** : Jugement de la *High Court of Justice of England and Wales* du 30 septembre 2025 (copie certifiée avec sa traduction assermentée), §54.

l'être. Bien que les Deuxième et Troisième Défendeurs bénéficient de l'Ordonnance Mann J, je considère que le Jugement déclaratoire, s'il est prononcé, conférera à ces parties une protection supplémentaire substantielle et nécessaire.

80.Pour ces raisons, je conclus que si elles peuvent être prononcées de manière appropriée, je devrais exercer mon pouvoir discrétionnaire pour accorder les déclarations demandées, nonobstant l'interférence avec la procédure en Caroline du Sud que ce Jugement déclaratoire entraînerait » (**Pièce n° 1**, §§ 78-79)[69].

En effet, la Décision Smith intervient dans le prolongement et pour renforcer la Décision Mann du 22 novembre 2024, dans la mesure où celle-ci n'a été suivie d'aucun effet en Caroline du Sud. Ainsi :

- Contrairement à la Décision Mann qui a été rendue au profit des Parties Cape uniquement, la Décision Smith constitue une mesure de protection directe pour les Demandeurs, dont M. Altrad et AIA (ressortissants français), demandeurs à l'instance devant le Juge Smith.

- Au-delà de constater l'absence de pouvoirs de M. Protopapas pour représenter CIHL et prononcer de nouvelles injonctions à son encontre, la Décision Smith reconnaît que les Parties Cape ne peuvent agir à l'encontre des Demandeurs et les tenir responsables de prétendus faits d'exposition à l'amiante en Caroline du Sud, dans le cadre de la Procédure Tibbs. La Décision Smith entérine ainsi l'absence de tout litige entre les Parties Cape et les Demandeurs quant à des faits d'exposition à l'amiante en Caroline du Sud et prive ainsi de tout fondement les actions de M. Protopapas à l'encontre des Demandeurs dans la procédure Tibbs.

60. **L'extinction de tout litige entre les Parties au Protocole a donc été judiciairement reconnue par la *High Court* et le défaut de pouvoir et de capacité de M. Protopapas à agir au nom et pour le compte de CIHL a été réaffirmé.**

61. La Décision Smith a été signifiée le 30 septembre 2025 à M. Protopapas (**Pièce n° 34.1**[70] et **Pièce n° 35**[71]). Elle est aujourd'hui **exécutoire et définitive** (cf. *infra*, §§68 à 70).

62. **Toutefois, M. Protopapas poursuit actuellement ses procédures au nom de CIHL à l'encontre des Demandeurs en Caroline du Sud, en violation des termes des injonctions prononcées par la Décision Mann (exécutoires en France) et par la Décision Smith.**

1.8 Les derniers développements de la procédure en Caroline du Sud

63. Le 9 octobre 2025, M. Protopapas a régularisé de nouvelles écritures et pièces pour compléter sa demande de sanctions du 3 juin 2025 devant la Cour Suprême de Caroline du Sud (**Pièce n° 36**)[72]. Il prétend que les Demandeurs « *ont poursuivi leurs actions en justice à l'étranger afin d'intimider les parties devant les tribunaux de Caroline du Sud et d'empêcher l'administrateur judiciaire de Caroline du Sud de régler les réclamations de Caroline du Sud et de créer un fonds d'indemnisation au profit des habitants de Caroline du Sud lésés* » (**Pièce n° 36**, pp. 2-3).

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[69] **Pièce n° 1** : Jugement de la *High Court of Justice of England and Wales* du 30 septembre 2025 (copie certifiée avec sa traduction assermentée), §§ 78-79.

[70] **Pièce n° 34.1** : Notification par courrier électronique le 30 septembre 2025 à M. Protopapas de la Décision Smith (avec une traduction libre)

[71] **Pièce n° 35** : Signification par un agent habilité du Jugement et de l'Ordonnance de la *High Court of Justice of England and Wales* du 30 septembre 2025 à M. Protopapas à son adresse professionnelle (avec une traduction libre)

[72] **Pièce n° 25** : Ecritures régularisées le 9 octobre 2025 par M. Protopapas devant la Cour Suprême de Caroline du Sud (avec une traduction libre)

64. Le 10 octobre 2025, la Juge Toal a fait droit à la demande de M. Protopapas de confirmer sa désignation en tant qu'administrateur judiciaire de CIHL dans la procédure Tibbs (**Pièce n° 37**)[73]. La Juge Toal a indiqué dans son ordonnance que toutes « *les actions en justice intentées à ce jour par l'administrateur judiciaire ont été menées dans le cadre de l'Ordonnance de Désignation* », alors même qu'aucune ordonnance de désignation de M. Protopapas n'a été émise dans le cadre de l'Affaire Tibbs. La Juge Toal n'a pas non plus précisé le périmètre de la mesure d'administration judiciaire, en violation de la décision de la Cour Suprême de Caroline du Sud du 26 juin 2025 (**Pièce n° 26**)[74]. Les Demandeurs ont formé appel de cette décision.

65. La Cour d'Appel de Caroline du Sud a très sommairement rejeté l'appel des Demandeurs dès le 20 octobre 2025 (**Pièce n° 38**)[75].

1.9 La présente procédure en exequatur

66. Dans la mesure où M. Altrad et AIA, actionnaires ultimes du Groupe Cape, sont établis en France et continuent d'être poursuivis abusivement par M. Protopapas en Caroline du Sud, il apparaît nécessaire que la Décision Smith du 30 septembre 2025 soit exequaturée sur le territoire français. La reconnaissance de cette décision permettra de renforcer la protection des actifs de M. Altrad et d'AIA localisés en France contre toute tentative d'exécution d'une éventuelle décision de condamnation à intervenir en Caroline du Sud.

C'est dans ce contexte qu'intervient la présente assignation.

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[73] **Pièce n° 37** : Ordonnance de la Juge Toal du 10 octobre 2025 (avec une traduction libre)
[74] **Pièce n° 26** : Ordonnance de la Cour Suprême de Caroline du Sud du 26 juin 2025 (avec une traduction libre)
[75] **Pièce n° 38** : Décision de la Cour d'Appel de Caroline du Sud du 20 octobre 2025 (avec une traduction libre)

2. DISCUSSION

67. Les Demandeurs démontreront ci-après que les conditions posées par la jurisprudence pour accorder l'exequatur en France de la Décision Smith sont réunies. En effet, cette dernière a d'une part force exécutoire dans son État d'origine (**2.1**). Elle remplit d'autre part aux conditions de régularité internationale posée par le droit français (**2.2**). Les Demandeurs formuleront par ailleurs une demande au titre des frais irrépétibles (**2.3**).

2.1 Le caractère exécutoire de la Décision Smith du 30 septembre 2025

68. En vertu du principe selon lequel l'exequatur ne peut conférer à la décision exequaturée plus d'effets en France qu'elle n'en a dans son pays d'origine, la procédure d'exequatur implique que cette décision soit exécutoire dans l'État où elle a été rendue.

Le contrôle de la force exécutoire doit s'opérer selon la loi de procédure de l'État d'origine du jugement.

Or, en vertu du droit anglais, une décision est assortie de la force exécutoire dès la remise aux parties d'un exemplaire du jugement contenant la motivation du juge ainsi que de l'ordonnance (équivalent du dispositif) revêtue du sceau de la juridiction.

69. **En l'espèce**, conformément à l'Ordonnance du 30 septembre 2025 (**Pièce n° 2**)[76], la Décision Smith (comprenant donc le Jugement motivé et l'Ordonnance) a été remise aux conseils anglais des demandeurs le 30 septembre 2025.

Cette décision a été notifiée le même jour aux défendeurs, à M. Protopapas, par courrier électronique (**Pièce n° 34.1**)[77], ainsi qu'à CIHL et Cape Plc (**Pièce n° 34.2**)[78].

Le 30 septembre 2025, la notification de la Décision Smith par e-mail a été doublée de la signification d'un exemplaire du Jugement et de l'Ordonnance du 30 septembre 2025 par un agent habilité à l'adresse professionnelle de M. Protopapas au 2110N Beltline Blvd, Columbia, South Carolina 29204, USA (**Pièce n° 35**)[79].

70. Par ailleurs, la Décision Smith est désormais **définitive**.

En effet, en vertu du droit procédural anglais, la partie qui succombe dispose d'un délai de 21 jours à compter de la date de la remise de la décision aux parties pour demander l'autorisation d'interjeter appel.

En l'espèce, M. Protopapas disposait de 21 jours à compter de la notification de la Décision Smith par les conseils des demandeurs pour déposer une autorisation d'interjeter appel, **soit jusqu'au 21 octobre 2025**.

À ce jour, aucune demande d'interjeter appel n'a été formulée par M. Protopapas. Le délai étant désormais expiré, la Décision Smith n'est plus susceptible de recours.

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[76] **Pièce n° 2** : Ordonnance de la *High Court of Justice of England and Wales* du 30 septembre 2025 (copie certifiée avec sa traduction assermentée), §11.

[77] **Pièce n° 34.1** : Signification par voie électronique à M. Protopapas de la Décision Smith (avec une traduction libre)

[78] **Pièce n° 34.2** : Notification par courrier électronique le 30 septembre 2025 aux conseils de CIHL et Cape Plc de la Décision Smith (avec une traduction libre)

[79] **Pièce n° 35** : Signification par un agent habilité du Jugement et de l'Ordonnance de la *High Court of Justice of England and Wales* du 30 septembre 2025 à M. Protopapas à son adresse professionnelle (avec une traduction libre)

En tout état de cause, un appel n'a pas d'effet suspensif en vertu du droit procédural anglais, à moins que le défendeur n'en fasse la demande et que la juridiction l'ordonne expressément. M. Protopapas n'a pas présenté de demande en ce sens.

71. **Ainsi, la Décision Smith est bien dotée de la force exécutoire en Angleterre au regard de la loi procédurale anglaise.**

2.2 La régularité internationale de la Décision Smith du 30 septembre 2025

72. Pour être reconnue en France, la décision étrangère doit être "régulière" sur le plan international. Les conditions de la régularité internationale du jugement étranger sont celles posées par la Cour de cassation dans l'arrêt de principe *Cornelissen* du 20 février 2007[80].

En vertu de cet arrêt, pour accorder l'exequatur en dehors de toute convention internationale, le juge français doit s'assurer que trois conditions sont remplies, à savoir :

(i) la compétence indirecte du juge étranger, fondée sur le rattachement du litige au juge saisi ;

(ii) la conformité à l'ordre public international de fond et de procédure ; et

(iii) l'absence de fraude à la loi.

Cette solution a depuis été régulièrement réitérée et appliquée, et plus particulièrement dans des affaires récentes concernant des demandes d'exequatur de décisions rendues par des juridictions anglaises[81].

73. Les Demandeurs démontreront ci-après que ces trois critères sont parfaitement remplis par la Décision Smith du 30 septembre 2025.

Ainsi, après avoir établi la compétence indirecte du juge anglais (**2.2.1**), les Demandeurs apporteront à la présente juridiction toutes les informations lui permettant de s'assurer de la conformité de la Décision Smith à l'ordre public international de fond et de procédure (**2.2.2**) et de l'absence de fraude à la loi (**2.2.3**).

2.2.1 La compétence indirecte de la *High Court* est établie

74. Le Tribunal doit tout d'abord vérifier que le Décision Smith a bien été rendue par un juge étranger compétent.

Il faut à cet égard distinguer la compétence interne (c'est-à-dire la détermination par le juge de sa propre compétence) et la compétence internationale "indirecte" du tribunal étranger (c'est-à-dire, au stade de la reconnaissance d'un jugement étranger, vérifier que la compétence du juge étranger n'était pas exorbitante).

Ainsi, ce contrôle de la compétence dite "indirecte" vise exclusivement, pour le juge français, à vérifier que le litige présentait un lien suffisant avec le for étranger.

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[80] Cass. Civ. 1ère, 20 février 2007, pourvoi n° 05-14082, Bull. civ. I, n° 68, p. 60.

[81] **Pièce n° J-1** : TJ Paris, exequatur, 13 mars 2024, n° 23/05699 ; **Pièce n° J-2** : TJ Paris, exequatur, 11 septembre 2024, n° 23/11042 ; **Pièce n° 17** : Jugement d'exequatur du Tribunal Judiciaire de Montpellier du 8 avril 2025.

Cette solution a été consacrée par la Cour de cassation dans l'arrêt "*Simitch*" du 6 février 1985 en ces termes :

> « *toutes les fois que la règle française de solution de conflits de juridictions n'attribue pas de compétence exclusive aux tribunaux français, le tribunal étranger doit être reconnu compétent, si le litige se rattache de manière caractérisée au pays dont le juge a été saisi et si le choix de la juridiction n'apparaît pas frauduleux* »[82].

Ce principe, qui a depuis été régulièrement réaffirmé par la Cour de cassation[83], impose donc aux juges du fond français de rechercher, en fonction de l'ensemble des circonstances de l'espèce, si l'affaire entretient des liens sérieux avec le tribunal étranger qui a tranché le litige.

75. Les deux conditions posées par l'arrêt *Simitch* sont vérifiées en l'espèce : le litige se rattache de manière caractérisée à l'Angleterre (**a**) et le choix de la *High Court* n'est pas frauduleux (**b**).

a) Le litige se rattache de manière caractérisée à l'Angleterre

76. Pour déterminer l'existence d'un "lien caractérisé" du litige avec l'État d'origine du jugement, les juridictions du fond ont habituellement recours à la méthode du faisceau d'indices et à l'examen de la nature du litige.

Bien que les critères de compétence indirecte soient distincts des règles françaises de compétence applicables en droit interne, il est établi que la compétence indirecte d'un tribunal étranger doit être reconnue si l'un des chefs de compétence consacrés par une règle de compétence interne s'est réalisé dans le pays d'origine du jugement invoqué en France.

Toutefois, le rattachement du litige au territoire du tribunal étranger peut tout à fait être établi alors même qu'aucun chef de compétence retenu par une règle française de compétence directe n'existe dans ce pays[84], dès lors qu'un lien suffisant est établi entre le litige et le territoire du juge étranger.

77. **En l'espèce**, la procédure devant la *High Court* a été initiée par les Demandeurs à l'encontre de M. Protopapas, désigné en tant qu'administrateur judiciaire de CIHL par une décision de la Juge Toal en Caroline du Sud, ainsi que des sociétés CIHL et Cape Plc afin que la juridiction anglaise :

(i) reconnaisse la validité et la force obligatoire du Protocole soumis au droit anglais et désignant la compétence exclusive des juridictions anglaises, conclu entre les Parties Cape et les Demandeurs,

(i) reconnaisse les pouvoirs des représentants légaux en exercice de CIHL et l'absence d'effets de la désignation de M. Protopapas en qualité d'administrateur judiciaire de CIHL en Caroline du Sud, dans le cadre des réclamations qui ont fait l'objet d'un accord transactionnel entre les parties,

(ii) fasse injonction à M. Protopapas de cesser toute action au nom de CIHL dans le cadre de toute procédure, et notamment dans le cadre de l'assignation des Demandeurs en qualité de tiers-défendeurs dans l'Affaire Tibbs.

Ce litige se rattache de manière caractérisée à l'Angleterre.

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[82] Cass. Civ. 1ère, 6 février 1985, pourvoi n° 83-11241, Bull. civ. I, n° 55, p. 54.

[83] Voir par exemple : Cass. Civ. 1ère, 28 mars 2006, pourvoi n° 03-18934, Bull. n° 177 ou Cass. Civ. 1ère, 20 septembre 2006, pourvoi n° 04-16534, Bull. n° 407.

[84] **Pièce n° J-3** JCl. Procédure civile - Encyclopédies - Fasc. 2000-75 : Effets en France des jugements étrangers subordonnés à leur régularité internationale. – Objet du contrôle : les conditions de la régularité internationale, §25

78. **En effet, <u>d'une part</u>**, l'objet principal de la saisine du juge anglais est l'homologation d'un accord transactionnel conclu entre les Demandeurs et les Parties Cape, soumis au droit anglais et désignant les juridictions anglaises comme exclusivement compétentes pour statuer sur tout litige relatif au Protocole (**Pièce n° 3,** articles 9.1 et 9.2 du Protocole)[85].

La clause du Protocole désignant la compétence des juridictions anglaises est de toute évidence un critère de rattachement suffisant.

79. **<u>D'autre part</u>**, le rattachement du litige à la compétence de la *High Court* est également établi s'agissant de statuer sur les pouvoirs d'un administrateur judiciaire pour représenter une société établie en Angleterre, ainsi que sur une demande d'injonction à son encontre de cesser d'agir en cette qualité.

C'est en effet la motivation exactement retenue par la présente juridiction dans son Jugement d'Exequatur, pour reconnaître la compétence internationale indirecte du juge anglais dans le litige qui a donné lieu à la Décision Mann :

> « [les Parties Cape] *sont deux sociétés de droit anglais, respectivement enregistrées à Jersey, île britannique, pour la première, et pour la seconde à Appleton, Warrington en Angleterre.*
> *Pour la défense de leurs intérêts dans le litige qui les oppose à M. Peter Protopapas, -désigné en Caroline du Sud aux Etats-Unis en qualité d'administrateur judiciaire, et ce au mépris du droit anglais et des règles de compétence applicables - <u>elles se sont adressées au juge anglais au motif que leur principal établissement, leurs actifs et leurs organes de gouvernance sont localisés en Angleterre</u>.*
> ***Le litige se rattache ainsi de manière caractérisée à l'Angleterre** : il convient de constater la compétence indirecte du juge anglais* (**Pièce n° 17**, p. 6)[86]

Compte tenu du mépris affiché par M. Protopapas envers la Décision Mann, les Demandeurs ont à leur tour saisi le juge anglais :

- **d'une part**, afin qu'il reconnaisse leur accord avec les Parties Cape sur l'inexistence d'un quelconque litige entre eux quant à des faits d'exposition à l'amiante en Caroline du Sud, et

- **d'autre part**, afin qu'il réitère la décision du juge Mann sur l'absence de pouvoirs de M. Protopapas à l'égard de CIHL et l'injonction qui lui a été faite de cesser d'agir en qualité d'administrateur judiciaire de cette société, notamment dans la procédure Tibbs impliquant les Demandeurs en Caroline du Sud.

Ainsi, dans la mesure où la compétence internationale indirecte du juge Mann était établie sur le second point, il en va nécessairement de même de la compétence du Juge Smith en ce qui concerne sa Décision du 30 septembre 2025.

80. **Le litige dans le cadre duquel des parties sollicitent (i) l'homologation d'un Protocole soumis au droit anglais et désignant la compétence exclusive des juridictions anglaises, ainsi que (ii) des mesures visant à faire cesser les agissements d'un administrateur judiciaire prétendant agir au nom et pour le compte d'une société de droit anglais, ayant son principal établissement, ses actifs et ses organes de gouvernance localisés en**

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[85] **Pièce n° 3** : Protocole Transactionnel du 11 avril 2025 (avec une traduction libre), articles 9.1 et 9.2.
[86] **Pièce n° 17** : Jugement d'exequatur du Tribunal Judiciaire de Montpellier du 8 avril 2025, p. 6.

Angleterre, au mépris du droit anglais et d'une décision de justice rendue par les juridictions anglaises, est manifestement rattaché de manière caractérisée au territoire anglais.

b) Le choix de la *High Court* n'est pas frauduleux

81. La fraude à la juridiction suppose la réunion de deux éléments : un élément matériel (manœuvres ou agissements sur les éléments du litige de façon à créer artificiellement les conditions de la compétence du juge recherché) et un élément intentionnel (volonté de soustraire le litige au juge normalement compétent).

82. **En l'espèce**, il ne peut être considéré que le choix de la juridiction anglaise soit frauduleux compte tenu :

- de l'objet de l'action visant à faire reconnaitre la validité et l'opposabilité du Protocole soumis au droit anglais et à la compétence exclusive des juridictions anglaises,

- de l'objet du litige visant à faire cesser les agissements d'un administrateur judiciaire désigné par un tribunal étranger, s'octroyant tous pouvoirs pour agir au nom de CIHL, au mépris du droit anglais qui lui est applicable, des pouvoirs de ses organes de gouvernances établis en Angleterre, et en violation des injonctions prononcées par la *High Court* le 22 novembre 2024 dans la Décision Mann.

83. **Il en résulte que les juridictions anglaises étaient bien compétentes pour juger de l'action engagée par les Demandeurs et que le choix de cette juridiction s'est effectué sans aucune fraude.**

2.2.2 La conformité de la Décision Smith du 30 septembre 2025 à l'ordre public international de fond et de procédure

84. Dans un arrêt du 4 octobre 1967, la Cour de cassation a affirmé que « [s]*i le juge de l'exequatur doit vérifier si le déroulement du procès devant la juridiction étrangère a été régulier, cette condition de régularité doit s'apprécier uniquement par rapport à l'ordre public international français et au respect des droits de la défense* »[87].

Cette dualité entre ordre public international et ordre public procédural a été rappelé par l'arrêt *Cornelissen* qui invite à distinguer l'examen de la conformité de l'ordre public international de fond (**a**) et de procédure (**b**).

a) La conformité de la Décision Smith du 30 septembre 2025 à l'ordre public international de fond

85. Le juge français doit s'assurer que le jugement étranger a été rendu « *en conformité à l'ordre public international* ». La conception française de l'ordre public international de fond renvoie aux valeurs substantielles fondamentales de la société française ou, comme l'a indiqué la Cour de cassation, aux « *principes essentiels du droit français* »[88].

Il est également acquis que, s'agissant d'accorder effet en France à des droits acquis à l'étranger (objectif de la procédure d'exequatur), l'ordre public aura un effet « *atténué* ». La Cour de cassation considère en effet que lorsqu'il s'agit « *de donner effet en France à des droits régulièrement acquis*

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[87] Cass. Civ. 1ère, 4 octobre 1967, pourvoi n° 66-10294, Bull. civ. n° 277, *Bachir*.
[88] Cass. Civ. 1ère, 8 juil. 2010, pourvoi n° 08-21.740, Bull. civ. n° 162.

à l'étranger [...] *l'ordre public, qui n'interv*[ient] *que par son effet atténué, se trouv*[e] *moins exigeant que s'il* [s'agit] *de l'acquisition des mêmes droits en France* »[89].

Dans son arrêt *Cornelissen,* la Cour de cassation a ajouté que, « *pour accorder l'exequatur hors de toute convention internationale* (...) *le juge de l'exequatur n'a* (...) *pas à vérifier que la loi appliquée par le juge étranger est celle désignée par la règle de conflit de lois française* »[90]. Ainsi, il s'agit de vérifier la conformité du jugement étranger à l'ordre public et non pas à la loi qu'il applique.

Enfin, le pouvoir de révision du juge de l'exequatur français a été expressément supprimé, depuis 1964, par l'arrêt *Munzer* (précité) de la Cour de cassation qui a consacré le principe selon lequel le juge français doit contrôler la décision étrangère « *sans [qu'il] doive procéder à une révision au fond de la décision* »[91].

Ainsi, quelle que soit la nature de la décision étrangère, le juge de l'exequatur ne peut pas, sans méconnaitre et excéder ses pouvoirs, aborder le fond du litige déjà tranché à l'étranger en recherchant un éventuel mal-fondé de la décision étrangère[92].

La Cour de cassation a par exemple pu reconnaître qu'une décision américaine faisant injonction à une société française de cesser de poursuivre une procédure engagée devant les juridicions françaises n'était pas contraire à l'ordre public international[93].

86. **En l'espèce**, le fond du dossier tranché par la *High Court* concerne :

- l'homologation du Protocole par lequel les Demandeurs et les Parties Cape se sont engagés réciproquement à ne pas se tenir responsables et à s'abstenir de poursuivre ou d'engager toute action liée aux réclamations qui font l'objet du contentieux les impliquant pour des faits d'exposition à l'amiante en Caroline du Sud. Il est précisé à ce titre que chacune des parties au Protocole est en capacité de contracter et a été valablement représentée par ses représentants légaux en exercice pour la conclusion de cet accord, conformément au droit anglais applicable,

- l'absence d'effets de la désignation de M. Protopapas en qualité d'administrateur judiciaire de CIHL pour agir en son nom dans le cadre de l'affaire Tibbs en Caroline du Sud,

- les injonctions faites à M. Protopapas de cesser d'agir ou de prétendre d'agir en qualité d'administrateur judiciaire de CIHL, en particulier dans le cadre de l'affaire Tibbs en Caroline du Sud.

La portée de cette décision est donc circonscrite (i) à l'homologation d'un accord transactionnel qui rend opposable des obligations réciproques librement consenties par les parties à cet accord, et (ii) aux pouvoirs de représentation d'un administrateur judiciaire à l'égard d'une société de droit anglais.

87. Dans son Jugement d'Exequatur, la présente juridiction a reconnu la conformité à l'ordre public international de la Décision Mann, qui avait d'ores-et-déjà statué sur le défaut de pouvoirs de

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[89] Cass. Civ. 1ère, 7 janvier 1964, Bull. civ. n° 15, Munzer.
[90] Cass. Civ. 1ère, 20 février 2007, pourvoi n° 05-14082, Bull. civ. I, n° 68, p. 60, Cornelissen.
[91] Cass. Civ. 1ère, 7 janvier 1964, Bull. civ. n° 15.
[92] Cass. Civ. 1ère, 14 janvier 2009, pourvoi n° 07-17194, Bull. civ. n° 3.
[93] Cass. Civ. 1re, 14 octobre 2009, pourvoi n° 08-16.369, Bull. 2009, I, n° 207.

M. Protopapas pour représenter CIHL et prononcé en conséquence des injonctions globales à son encontre :

> « *L'ordonnance précitée ne comporte aucune violation de l'ordre public international français : elle est en conséquence en tous points conforme à l'ordre public international* » (**Pièce n° 17**, p. 6)[94].

88. Dans la Décision Smith du 30 septembre 2025, objet de la présente demande d'exéquatur, la *High Court* dresse le bilan des suites de la Décision Mann du 22 novembre 2024 (**Pièce n° 1**)[95] et constate que les mesures ordonnées à l'encontre de M. Protopapas n'ont pas été respectées, ni par ce dernier, ni par la juridiction en Caroline du Sud. Elle en conclue que les menaces sérieuses qui avaient justifié le caractère global des injonctions prononcées par le juge Mann subsistent et justifient en l'espèce l'étendue des déclarations et injonctions prononcées dans l'Ordonnance Smith du 30 septembre 2025 :

> «77. *L'Ordonnance Mann J n'a pas été respectée en Caroline du Sud : au contraire, elle a été qualifiée de « brutum fulmen », une décision vide de conséquences : voir [68]. Il n'est donc pas surprenant que M. Protopapas poursuive l'Assignation des Tiers-défendeurs et que les tribunaux de Caroline du Sud l'y autorisent.* (...)
>
> *78. La progression de la procédure à l'encontre des tiers-défendeurs engendre un réel préjudice aux Demandeurs. Ils sont confrontés à une réclamation - l'Assignation des Tiers-défendeurs - qui menace ouvertement leur situation financière, fait des allégations préjudiciables à leur réputation (et non fondées) et menace le Plan d'Indemnisation Cape par lequel une catégorie de victimes de maladies liées à l'amiante est indemnisée.* (...)
>
> *79. Je considère que les déclarations demandées constituent un moyen extrêmement efficace de contrôler la conduite de M. Protopapas : en effet, les déclarations, si elles sont prononcées, auront pour effet d'éteindre les revendications mêmes que M. Protopapas cherche à faire valoir par le biais de l'Assignation des Tiers-défendeurs. Je garde à l'esprit que, jusqu'à présent, les Demandeurs n'ont bénéficié d'aucune protection de la part des tribunaux anglais. Je considère que, pour cette seule raison, si le Jugement déclaratoire peut être prononcé de manière appropriée, alors il devrait l'être. Bien que les Deuxième et Troisième Défendeurs bénéficient de l'Ordonnance Mann J, je considère que le Jugement déclaratoire, s'il est prononcé, conférera à ces parties une protection supplémentaire substantielle et nécessaire* » (**Pièce n° 1**)[96].

Aux termes de cette décision motivée, le Juge Smith a par conséquent fait droit aux demandes des parties et prononcé l'ordonnance sollicitée, qui ne contrevient en aucun cas à l'ordre public international de fond.

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[94] **Pièce n° 17** : Jugement d'exequatur du Tribunal Judiciaire de Montpellier du 8 avril 2025, p. 6.
[95] **Pièce n° 1** : Jugement de la High Court of Justice of England and Wales du 30 septembre 2025 (copie certifiée avec sa traduction assermentée)
[96] **Pièce n° 1** : Jugement de la High Court of Justice of England and Wales du 30 septembre 2025 (copie certifiée avec sa traduction assermentée), §§77 à 79.

89. **La Décision Smith, qui se contente :**

(i) d'homologuer une transaction valablement conclue entre des parties parfaitement en capacité de contracter en vertu du droit anglais applicable, et de reconnaître l'opposabilité des obligations librement consenties par ces parties,

(ii) de renforcer des mesures de protection des droits des parties en cause, dont la conformité à l'ordre public international a d'ores-et-déjà été reconnu par les juridictions françaises,

ne contrevient à aucune règle de l'ordre public international de fond français.

b) La conformité de la Décision Smith du 30 septembre 2025 à l'ordre public international de procédure

90. La Cour de cassation a affirmé que "*la contrariété à l'ordre public international de procédure d'une décision étrangère ne peut être admise que s'il est démontré que les intérêts d'une partie ont été objectivement compromis par une violation des principes fondamentaux de la procédure*"[97].

L'ordre public international de procédure et le respect des droits de la défense imposent que le jugement étranger réponde à des exigences qui sont essentiellement relatives à l'introduction de l'instance, à l'élaboration du jugement ainsi qu'à sa notification et aux voies de recours ouvertes contre lui[98].

i) La Décision Smith a été rendue par une juridiction impartiale et indépendante

91. Un jugement étranger ne peut se voir accorder l'exequatur en droit français que s'il a été rendu par une juridiction indépendante et impartiale.

Conformément à la jurisprudence applicable, il incombe à la partie défenderesse à une demande d'exequatur de démontrer par des preuves tangibles qu'au cas d'espèce, elle aurait été victime d'une juridiction partiale et/ou non indépendante. La partialité ou le manque d'indépendance d'une juridiction étrangère ne sauraient être présumés.

92. **En l'espèce, la Décision Smith a été rendue par une juridiction impartiale et indépendante.**

ii) M. Protopapas a été régulièrement notifié de la procédure anglaise engagée contre lui et ses droits de la défense ont été respectés

93. Pour que l'exigence relative à la conformité à l'ordre public de procédure soit satisfaite, le jugement dont l'exequatur est sollicité doit avoir été rendu aux termes d'une procédure ayant, dès son origine, permis au défendeur de faire valoir ses droits.

Plus particulièrement, il résulte de la jurisprudence que le défendeur ne doit pas avoir été condamné sans avoir pu préalablement se défendre. Cela suppose qu'il doit avoir été informé par un acte introductif d'instance, ou par un acte équivalent, de la procédure engagée contre lui et mis à même d'organiser utilement sa défense.

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[97] Cass. Civ. 1ère, 19 septembre 2007, pourvoi n° 06-17096, Bull. civ. I, n° 279

[98] **Pièce n° J-4** Répertoire de procédure civile Dalloz - Jugement étranger : matières civile et commerciale – Régularité internationale du jugement étranger – Pascal de Vareilles-Sommières – Section 2, Régularité de la procédure suivie

Selon la Cour de cassation, **les énonciations du juge étranger font foi**.

Ainsi, la Cour de cassation a rejeté un pourvoi qui reprochait à une cour d'appel de ne pas avoir vérifié les diligences accomplies par le juge étranger au-delà des termes de la décision dont l'exequatur était recherché, après avoir observé que :

> « *Mais attendu que l'arrêt retient que les deux décisions rendues par la Cour Suprême visent l'ordonnance de dessaisissement, la notification de l'inscription de l'affaire dans le rôle de l'audience publique, la convocation des parties et de leurs représentants ainsi que leur défaut* ; que la cour d'appel en *a exactement déduit, sans inverser la charge de la preuve ni méconnaître son office, que les énonciations [des] décisions faisaient foi et que leur régularité au regard du code de procédure civile marocain ne pouvait être remise en cause de sorte que l'arrêt rendu* [...] *par la cour d'appel de Casablanca avait l'autorité de la chose jugée et était susceptible d'exécution* »[99].

94. **Au cas particulier**, M. Protopapas a été régulièrement informé de l'instance engagée contre lui et mis en position d'organiser sa défense.

L'acte introductif d'instance ainsi que les écritures et pièces des Demandeurs ont été régulièrement signifiés à M. Protopapas le 2 juillet 2025 (**Pièce n° 30**)[100].

C'est en effet ce qui ressort de la Décision Smith du 30 septembre 2025 dont l'*exequatur* est sollicitée :

> « *La Demande au titre de la « Partie 8 », acte introductif d'instance, a été émise le 24 juin 2025 ; l'autorisation de signification à M. Protopapas en dehors de la juridiction a été accordée par Maître Pester sur une base accélérée par des ordonnances datées du 25 juin 2025 et du 2 juillet 2025, et la signification a été dûment effectuée à M. Protopapas le 2 juillet 2025* » (**Pièce n° 1**, §21)[101].

Tous les documents procéduraux et pièces y afférentes communiqués par la suite ont été dûment notifiés à M. Protopapas, ainsi que le calendrier procédural fixé par la juridiction anglaise (**Pièce n° 30**, **Pièce n° 31** et **Pièce n° 33**[102]).

M. Protopapas n'a pas souhaité régulariser d'écritures ni de pièces dans le cadre cette procédure. Par ailleurs, il n'a pas comparu aux audiences des 23 et 24 septembre 2025.

Toutefois, bien que M. Protopapas ait refusé de participer à la procédure, il a été régulièrement notifié et a bien été en mesure de préparer utilement sa défense. Une note adressée par M. Protopapas à la Juge Toal le 29 juillet 2025 démontre qu'il a bien été informé de la procédure à son encontre en Angleterre et a été régulièrement notifié des écritures et pièces des demandeurs (**Pièce n° 32**)[103].

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[99] Cass. Civ. 1ère, 17 janvier 2006, pourvoi n° 04-11.894, Bull.civ. n° 18.

[100] **Pièce n° 30** : Déclaration sous serment de la signification des actes introductifs d'instance à M. Protopapas le 2 juillet 2025 (avec une traduction libre)

[101] **Pièce n° 1** :Jugement de la *High Court of Justice of England and Wales* du 30 septembre 2025 (copie certifiée avec sa traduction assermentée), §21.

[102] **Pièce n° 30** : Déclaration sous serment de la signification des actes introductifs d'instance à M. Protopapas le 2 juillet 2025 (avec une traduction libre) ; **Pièce n° 31** ; : Confirmation de signification d'actes de procédure à M. Protopapas du 18 juillet 2025 (avec une traduction libre) et **Pièce n° 33** : Ordonnance de la *High Court* du 25 juillet 2025 et confirmation de sa signification à M. Protopapas

[103] **Pièce n° 32** : Note adressée par M. Protopapas à la Juge Toal le 29 juillet 2025 (avec une traduction libre)

95. La *High Court* a par ailleurs statué en tenant compte des arguments qui auraient pu être invoqués par M. Protopapas, dont elle a pu avoir connaissance compte tenu de la communication par les Demandeurs de tous les documents pertinents à cet égard. Le Jugement Smith indique en effet à ce titre que :

> « *65. Le fait que M. Protopapas n'ait pas comparu est un facteur pertinent qui pourrait s'opposer à l'octroi d'un Jugement déclaratoire, mais qui n'a qu'un poids limité. Comme je l'ai décrit (voir section H), M. Protopapas est valablement considéré comme partie à la présente procédure dont le tribunal a à connaître (c'est-à-dire que tribunal de céans a compétence personnelle à son égard). M. Protopapas n'a pas cherché à contester la compétence de ce tribunal.*
>
> *66. Bien entendu, je n'ai pas eu l'occasion d'entendre les arguments de M. Protopapas, mais* ***j'ai une très bonne idée des arguments que M. Protopapas soulèverait s'il avait comparu devant moi, après avoir examiné les documents de la procédure de Caroline du Sud****, en particulier (mais sans s'y limiter) la Requête de mise sous Administration Judiciaire, l'Ordonnance d'Administration Judiciaire et l'Assignation des Tiers-défendeurs.* ***Les Demandeurs et les Deuxième et Troisième Défendeurs ont été méticuleux dans leurs présentations des types d'arguments que M. Protopapas pourrait être enclin à défendre. Je suis convaincu (voir le Principe Rolls Royce (vi)) que tous les aspects de l'argumentation ont été pleinement et correctement présentés dans les observations écrites et orales que j'ai reçues*** » (**Pièce n° 1**, gras ajouté) [104].

96. **La Décision Smith est donc réputée contradictoire.**

97. **Par conséquent, il est établi que M. Protopapas a bien reçu les actes introductifs d'instance et les convocations aux audiences correspondantes en Angleterre et a été en mesure de préparer utilement sa défense.**

iii) La Décision Smith du 30 septembre 2025 est motivée

98. L'ordre international public de procédure français impose certaines exigences en matière de motivation du jugement étranger dont l'exequatur est sollicité, qui doit apparaître dans le jugement ou être suppléé par des documents équivalents[105].

La Cour de cassation considère à cet égard que l'exequatur n'est refusée que s'agissant des jugements étrangers dénués de toute motivation, et non accompagnés de documents de nature à servir d'équivalent à une telle motivation défaillante.

Le juge de l'exequatur n'est tenu que de vérifier l'existence d'une motivation, et non la pertinence de cette dernière, sauf à procéder à une révision interdite du jugement étranger.

99. Au cas d'espèce, l'examen de la Décision Smith révèle que la *High Court* a procédé à un examen minutieux des arguments et des pièces présentés par les parties.

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[104] **Pièce n° 1** : Jugement de la *High Court of Justice of England and Wales* du 30 septembre 2025 (copie certifiée avec sa traduction assermentée), §65-66.

[105] **Pièce n° J-4** : Répertoire de procédure civile Dalloz - Jugement étranger : matières civile et commerciale – Régularité internationale du jugement étranger – Pascal de Vareilles-Sommières – Section 2, Régularité de la procédure suivie

La Décision Smith, comportant 33 pages dans sa version anglaise, développe significativement les éléments de droit et de fait pris en compte par la *High Court* et détaille son raisonnement, satisfaisant à l'obligation de motivation de la décision. Elle est ainsi pleinement conforme à l'ordre public international de procédure.

iv) *M. Protopapas a reçu notification de la Décision Smith et a été en mesure d'exercer des voies de recours contre celle-ci*

100. La Décision Smith rendue par la *High Court* a été régulièrement signifiée à M. Protopapas, qui a non seulement pu en prendre connaissance mais a été de surcroit été en mesure d'exercer toutes les voies de recours ouvertes en droit anglais pour contester cette décision.

101. En effet, conformément à l'Ordonnance Smith du 30 septembre 2025 :

> « *Les Demandeurs peuvent signifier l'Ordonnance et le Jugement à M. Protopapas par courrier électronique à l'adresse pdp@rplegalgroup.com ou par tout autre moyen conforme aux ordonnances de signification de Maître Pester datées du 25 juin 2025 et du 2 juillet 2025, et la signification par l'un de ces moyens sera considérée comme valide et suffisante pour toutes les questions relevant du droit et de la procédure anglais* » (**Pièce n° 2**, §11)[106].

Ainsi, la Décision Smith (comprenant donc le Jugement motivé et l'Ordonnance) a été notifiée le même jour à M. Protopapas, par courrier électronique à l'adresse pdp@rplegalgroup.com (**Pièce n° 34.1**)[107].

Le 30 septembre 2025, la notification de la Décision Smith par e-mail a été doublée de la signification d'un exemplaire du Jugement et de l'Ordonnance du 30 septembre 2025 par un agent habilité à l'adresse professionnelle de M. Protopapas au 2110N Beltline Blvd, Columbia, South Carolina 29204, USA (**Pièce n° 35**)[108].

102. Par ailleurs, en vertu du droit procédural anglais, M. Protopapas disposait d'un délai de 21 jours à compter de la notification de la Décision Smith pour former un recours contre celle-ci.

Aucune demande d'autorisation d'interjeter appel n'a été formulée par M. Protopapas à la suite de la notification intervenue régulièrement le 30 septembre 2025.

Ce délai étant expiré depuis le 21 octobre 2025, la Décision Smith est désormais **définitive**.

103. **La Décision Smith a été régulièrement notifiée à M. Protopapas, qui a été en mesure d'exercer un recours conformément au droit procédural anglais.**

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[106] **Pièce n° 2** : Ordonnance de la *High Court of Justice of England and Wales* du 30 septembre 2025 (copie certifiée avec sa traduction assermentée), §11.

[107] **Pièce n° 34.1** : Signification par voie électronique à M. Protopapas de la Décision Smith (avec une traduction libre)

[108] **Pièce n° 35** : Signification par un agent habilité du Jugement et de l'Ordonnance de la *High Court of Justice of England and Wales* du 30 septembre 2025 à M. Protopapas à son adresse professionnelle (avec une traduction libre)

2.2.3 L'absence de fraude

104. Depuis l'arrêt *Munzer* de la Cour de cassation, le juge français doit s'assurer de "*l'absence de toute fraude*" avant de déclarer le jugement étranger internationalement régulier[109]. Cette exigence est d'ailleurs rappelée par l'arrêt *Cornelissen* de 2007 et demeure maintenue depuis lors[110].

Trois éléments doivent être réunis pour que la fraude soit constituée :

- un élément légal (une loi normalement applicable ou une compétence juridictionnelle exclusive à laquelle on cherche à se soustraire) ;

- un élément matériel (une manœuvre tendant à déclencher l'applicabilité d'une loi autre que la loi normalement applicable ou à faire échapper le litige à la juridiction normalement compétente) ; et

- un élément moral (l'intention de l'auteur de la manœuvre de soustraire le rapport de droit à la loi normalement applicable ou au juge normalement compétent).

105. **En l'espèce**, aucun des trois éléments constitutifs de la fraude à la loi n'est constitué : les parties ne se sont pas soustraites à une loi normalement applicable ou à un juge exclusivement compétent, elles n'ont effectué aucune manœuvre tendant à déclencher l'applicabilité d'une loi autre que la loi normalement applicable ou à faire échapper le litige à la juridiction normalement compétente et aucune intention frauduleuse ne peut être démontrée.

En particulier, il a été précédemment établi que les Demandeurs se sont adressés à la *High Court* au motif que cette dernière était la juridiction exclusivement compétente pour (i) statuer sur tout litige relatif au Protocole, soumis au droit anglais, (ii) statuer sur les effets d'une mesure d'administration judiciaire et sur les pouvoirs de représentation des organes de gouvernance d'une société de droit anglais - CIHL.

106. Au surplus, la Décision Smith du 30 septembre 2025 est intrinsèquement liée à la décision précédemment rendue le 22 novembre 2024 par le juge Mann (**Pièce n° 1**)[111]. C'est en effet ce qui ressort de la Décision Smith du 30 septembre 2025 :

> « *Les questions dont je suis saisi sont étroitement liées à une demande en vertu de la « Partie 8 » entendue et tranchée par M. le Juge Mann (...) dans l'affaire Cape Intermediate Holdings Ltd v. Protopapas [2024] EWHC 2999 (Ch) dans un Jugement daté du 22 novembre 2024, que je désignerai sous le nom de « Jugement Mann J »* » (**Pièce n° 1**, §2)[112].

Or, s'agissant de la Décision Mann, la présente juridiction a reconnu dans son Jugement d'Exequatur du 8 avril 2025 que :

> « *Au visa de l'absence de fraude à la loi, il convient de s'assurer que la juridiction anglaise n'a pas été saisie par la société Cape Pic et la société CIHL, alors que le litige ne relevait pas de celle-ci, en vue de contourner les règles applicables en France, en matière notamment de préjudice économique causé à ces sociétés. Force*

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[109] Cass. Civ. 1ère, 7 janvier 1964, pourvoi n° 62-12438, Bull. civ., n° 15.

[110] Voir par exemple Cass. Civ. 1ère, 30 janvier 2013, pourvoi n° 11-10.588, Bull. civ. I, n° 9, *Société Gazprombank contre Jean Lionet*, s'agissant d'une demande d'exequatur d'un jugement russe en France.

[111] **Pièce n° 1** : Jugement de la *High Court of Justice of England and Wales* du 30 septembre 2025 (copie certifiée avec sa traduction assermentée)

[112] **Pièce n° 1** :Jugement de la *High Court of Justice of England and Wales* du 30 septembre 2025 (copie certifiée avec sa traduction assermentée), §2.

est de constater que dans le cas d'espèce, aucune fraude n'est caractérisée » (**Pièce n° 17**, p. 6)[113].

107. **Dès lors, aucune fraude ne fait obstacle à l'exequatur de la Décision Smith du 30 septembre 2025.**

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108. **Il résulte de ce qui précède que rien ne saurait s'opposer à l'exequatur en France de la Décision Smith du 30 septembre 2025, puisqu'il a été établi, d'une part, que la Décision est bien exécutoire dans son pays d'origine et, d'autre part, que les trois critères de régularité internationale sont bien réunis en l'espèce.**

Il est dès lors demandé au Tribunal de prononcer l'exequatur de la Décision Smith du 30 septembre 2025.

2.3 Demande au titre des frais irrépétibles

109. En outre, au vu des circonstances de l'espèce, il serait particulièrement inéquitable de faire supporter les frais irrépétibles de cette instance aux Demandeurs.

En effet, M. Protopapas est parfaitement informé de la Décision de la *High Court* ainsi que du caractère exécutoire de cette décision. Or, M. Protopapas refuse de se conformer à la Décision Smith et poursuit les procédures en cours au nom de Cape Plc / CIHL à l'encontre des Demandeurs en Caroline du Sud. Cette attitude contraint les Demandeurs à solliciter l'exequatur de cette décision sur le territoire français.

De surcroît, M. Protopapas poursuit abusivement ses actions en Caroline du Sud en violation d'une décision précédemment rendue par les juridictions anglaises, exécutoire en Angleterre depuis le 22 novembre 2024 et en France depuis le 8 avril 2025, ce qui rend d'autant plus nécessaire l'octroi d'une indemnité aux Demandeurs pour les frais de justice conséquents qu'ils sont contraints d'engager.

Outre les frais de représentation en justice, les Demandeurs ont ainsi engagé des dépenses significatives de traduction (vers ou depuis la langue anglaise).

C'est pourquoi, il est demandé au Tribunal de condamner M. Protopapas au paiement d'une indemnité de 50.000 euros au titre de l'article 700 du Code de procédure civile.

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[113] **Pièce n° 17** : Jugement d'exequatur du Tribunal Judiciaire de Montpellier du 8 avril 2025, p.6.

PAR CES MOTIFS

Vu les articles 31 et 122 du Code de procédure civile ;
Vu l'article 509 du Code de procédure civile ;
Vu les pièces versées aux débats ;
Vu les conditions de la régularité d'un jugement étranger en France ;

Il est demandé au Tribunal judiciaire de Montpellier de :

- **JUGER** recevable l'action engagée par M. Mohed Altrad, Altrad Investment Authority (AIA), Altrad UK Limited, Cape UK Holdings Newco Limited, Cape Industrial Services Group Limited, Cape Holdco Limited et Altrad Services Limited ;

- **PRONONCER** l'exequatur à l'encontre de M. Protopapas de la Décision Smith du 30 septembre 2025 par la *High Court of Justice of England and Wales*, dont le dispositif traduit par un traducteur assermenté est reproduit comme suit :

« ***LA COUR DÉCLARE CE QUI SUIT***

1. *Le Protocole Transactionnel a été conclu par les représentants légalement autorisés des Demandeurs et des Parties Cape et lie légalement les parties à celui-ci.*

2. *Les termes et les effets juridiques du Protocole Transactionnel sont tels qu'ils libèrent et règlent toutes les réclamations (qu'elles soient connues ou inconnues) que les Parties Cape ont à l'encontre des Demandeurs en rapport avec ou découlant (i) des réclamations et allégations formulées dans la Procédure Tibbs (y compris dans l'Assignation de Tiers-défendeurs déposée dans ce cadre) et (ii) de toute autre réclamation formulée après la date du Protocole Transactionnel dans le cadre de toute réclamation pour dommages corporels liés à l'amiante qui pourraient être invoquées aux États-Unis, fondée en tout ou en partie sur la responsabilité présumée des Demandeurs pour les actes et/ou omissions de CIHL (toutes ces réclamations étant collectivement dénommées les « **Réclamations Réglées** ») (et, afin de lever toute ambiguïté, il dégage également les parties des obligations découlant de tout jugement (et de toute réclamation fondée sur ou liée à tout jugement) obtenu à la suite de la présentation de telles réclamations).*

3. *Conformément aux termes du Protocole Transactionnel, les Demandeurs n'ont aucune responsabilité envers les Parties Cape pour les Réclamations Réglées et les Parties Cape n'ont aucune réclamation légale à l'encontre des Demandeurs découlant de ou en relation avec les Réclamations Réglées.*

LA COUR DÉCLARE ÉGALEMENT CE QUI SUIT

4. *Les pouvoirs et l'autorité légale des dirigeants de CIHL ne sont pas affectés par l'Ordonnance d'Administration Judiciaire (qui n'est pas reconnue et n'a aucun effet juridique ni en Angleterre et au Pays de Galles ni dans le monde entier).*

5. *M. Protopapas n'a et n'avait aucun pouvoir ou autorité légale pour prendre des mesures ou agir au nom ou pour le compte de CIHL, y compris (mais sans préjudice de la généralité de ce qui précède) dans le cadre de toute Réclamation Réglée.*

LA COUR ORDONNE CE QUI SUIT

6. *M. Protopapas est empêché de prendre toute autre mesure dans le cadre de l'Assignation de Tiers-défendeurs (ou dans le cadre de toute procédure, y compris, mais sans s'y limiter, toute Réclamation Réglée) contre les Demandeurs au nom ou pour le compte de CIHL.*

7. *M. Protopapas est tenu de prendre immédiatement toutes les mesures nécessaires pour obtenir le rejet définitif et sans réserve de l'Assignation de Tiers-défendeurs contre les Demandeurs, avec effet immédiat, et, en tout état de cause, M. Protopapas est tenu d'avoir obtenu ce rejet de l'Appel en Cause contre les Demandeurs dans les 14 jours suivant la date de la présente ordonnance.*

Faculté de déposer d'autres demandes

8. *Les parties sont libres de demander des mesures complémentaires ou connexes si nécessaire* ».

Frais

9. *Les Demandeurs, M. Protopapas et les Parties Cape doivent (si cela leur est conseillé) déposer et signifier leurs conclusions écrites sur la question des frais avant le mardi 7 octobre 2025 - 16 heures.*

- **REJETER** tous moyens, fins et conclusions contraires de M. Protopapas ;

- **CONDAMNER** M. Protopapas aux dépens, dont distraction au profit du Cabinet SV Avocats, Avocats au Barreau de Montpellier, conformément aux dispositions de l'article 699 du Code de procédure civile ;

- **CONDAMNER** M. Protopapas à payer aux Demandeurs à l'exequatur, ensemble, une indemnité de 50.000 Euros au titre de l'article 700 du Code de procédure civile.

LISTE DES PIECES PRODUITES AU SOUTIEN DE L'ASSIGNATION

Pièces citées sous référence « Pièce n° X » :

Pièce n° 1 Jugement de la *High Court of Justice of England and Wales* du 30 septembre 2025 (copie certifiée avec sa traduction assermentée)

Pièce n° 2 Ordonnance de la *High Court of Justice of England and Wales* du 30 septembre 2025 (copie certifiée avec sa traduction assermentée)

Pièce n° 3 Protocole Transactionnel du 11 avril 2025 (avec une traduction libre)

Pièce n° 4 Kbis de la société Altrad Investment Authority

Pièce n° 5 Certificats d'enregistrement des sociétés demanderesses étrangères :

Pièce n° 5.1 : Certificat d'enregistrement de CIHL (avec une traduction libre)

Pièce n° 5.2 : Certificat d'enregistrement de Cape Plc (avec une traduction libre)

Pièce n° 5.3 : Certificat d'enregistrement de Altrad UK Limited

Pièce n° 5.4 : Certificat d'enregistrement de Cape UK Holdings Newco Limited

Pièce n° 5.5 : Certificat d'enregistrement de Cape Industrial Services Group Limited

Pièce n° 5.6 : Certificat d'enregistrement de Cape Holdco Limited

Pièce n° 5.7 : Certificat d'enregistrement de Altrad Services Limited

Pièce n° 6 Ordonnance du 16 mars 2023 de la Juge Toal désignant M. Protopapas en tant qu'administrateur judiciaire (*receiver*) de Cape Plc / CIHL (avec une traduction libre)

Pièce n° 7 Articles de presse du journal américain Legal Newsline :

Pièce n° 7.1 : D. Fisher et J. O'Brien, *Zombies are on the loose in a Carolina courtroom. Can anyone stop them?*, 23 septembre 2024, Legal Newsline (avec une traduction libre)

Pièce n° 7.2 : D. Fisher, *Slammed the door in my face': Key cog in South Carolina's asbestos court not at U.K. showdown*,15 octobre 2024 (avec une traduction libre)

Pièce n° 7.3 : D. Fisher, *Secrecy shrouds asbestos money in South Carolina, but insurer makes play for records*, 23 octobre 2024 (avec une traduction libre)

Pièce n° 8 Ordonnance du 1er octobre 2024 de la Juge Toal fixant un calendrier procédural (avec une traduction libre)

Pièce n° 9 Note de la Juge Toal informant les parties de l'audience fixée au 20 octobre 2025

Pièce n° 10 Ordonnance du 6 décembre 2023 de la Juge Toal rejetant les requêtes en annulation de la désignation de M. Protopapas (avec une traduction libre)

Pièce n° 11 Ordonnance de la Juge Toal du 23 mai 2024 prononçant des sanctions à l'encontre des tiers-défendeurs (avec une traduction libre)

Pièce n° 12 Jugement de la *High Court of Justice of England and Wales* du 22 novembre 2024 (copie certifiée avec sa traduction assermentée)

Pièce n° 13 Ordonnance de la *High Court of Justice of England and Wales* du 22 novembre 2024 (copie certifiée avec sa traduction assermentée)

Pièce n° 14 Notice pénale de la *High Court of Justice of England and Wales* du 22 novembre 2024 (avec une traduction libre)

Pièce n° 15 Signification du 22 novembre 2024 à M. Protopapas du Jugement de la *High Court of Justice of England and Wales* du 22 novembre 2024 (avec une traduction libre)

Pièce n° 16 Ordonnance d'autorisation d'assigner à jour fixe du 20 décembre 2024

Pièce n° 17 Jugement d'exequatur du Tribunal Judiciaire de Montpellier du 8 avril 2025

Pièce n° 18 Signification du jugement d'exequatur du Tribunal Judiciaire de Montpellier du 8 avril 2025 à M. Protopapas du 20 mai 2025

Pièce n° 19 Lettre du cabinet Winston & Strawn à M. Protopapas du 30 août 2024 (avec une traduction libre)

Pièce n° 20 Lettre en réponse de M. Protopapas au cabinet Winston & Strawn du 5 septembre 2024 (avec une traduction libre)

Pièce n° 21 Demande de jugement sommaire contre AIA et M. Altrad dans la procédure relative aux tiers-défendeurs de l'affaire Tibbs du 8 novembre 2024 (avec une traduction libre)

Pièce n° 22 Requête d'urgence de M. Protopapas sollicitant une suspension d'exécution et une ordonnance de restriction temporaire du 13 décembre 2024 (avec une traduction libre)

Pièce n° 23 Requête de M. Protopapas sollicitant la suspension des délais de procédure du 9 janvier 2025 (avec une traduction libre)

Pièce n° 24 Décision de la Cour Suprême de Caroline du Sud du 16 janvier 2025 (avec une traduction libre)

Pièce n° 25 Requête de M. Protopapas devant la Cour Suprême de Caroline du Sud du 3 juin 2025 (avec une traduction libre)

Pièce n° 26 Ordonnance de la Cour Suprême de Caroline du Sud du 26 juin 2025 (avec une traduction libre)

Pièce n° 27 Décision de la Cour Suprême de Caroline du Sud *Welch v. Advance Auto Parts, Inc.*, du 21 mai 2025 (avec une traduction libre)

Pièce n° 28 Ecritures régularisés par M. Protopapas devant la Juge Toal le 11 juillet 2025 :

- **Pièce n° 28.1** : Rapport de de M. Protopapas sur les mesures d'administration judiciaire relevant de la compétence de la Juge Toal
- **Pièce n° 28.2** : Requête de M. Protopapas sollicitant la confirmation de sa désignation en qualité d'administrateur judiciaire de Cape Plc / CIHL dans l'affaire Tibbs

Pièce n° 28.3 : Rapport de M. Protopapas sur les constatations factuelles fondant sa désignation en qualité d'administrateur judiciaire de « Cape »

Pièce n° 29 Lettre adressée aux parties par la Juge Toal le 13 août 2025 (avec une traduction libre)

Pièce n° 30 Déclaration sous serment de la signification des actes introductifs d'instance à M. Protopapas le 2 juillet 2025 (avec une traduction libre)

Pièce n° 31 Confirmation de signification d'actes de procédure à M. Protopapas du 18 juillet 2025 (avec une traduction libre)

Pièce n° 32 Note adressée par M. Protopapas à la Juge Toal le 29 juillet 2025 (avec une traduction libre)

Pièce n° 33 Ordonnance de la *High Court* du 25 juillet 2025 et confirmation de sa signification à M. Protopapas

Pièce n° 34 Notifications par voie électronique le 30 septembre 2025 du Jugement et de l'Ordonnance de la *High Court of Justice of England and Wales* du 30 septembre 2025 :

Pièce n° 34.1 : Notification par courrier électronique le 30 septembre 2025 à M. Protopapas de la Décision Smith (avec une traduction libre)

Pièce n° 34.2 : Notification par courrier électronique le 30 septembre 2025 aux conseils de CIHL et Cape Plc de la Décision Smith (avec une traduction libre)

Pièce n° 35 Signification par un agent habilité du Jugement et de l'Ordonnance de la *High Court of Justice of England and Wales* du 30 septembre 2025 à M. Protopapas à son adresse professionnelle (avec une traduction libre)

Pièce n° 36 Ecritures régularisées le 9 octobre 2025 par M. Protopapas devant la Cour Suprême de Caroline du Sud (avec une traduction libre)

Pièce n° 37 Ordonnance de la Juge Toal du 10 octobre 2025 (avec une traduction libre)

Pièce n° 38 Décision de la Cour d'Appel de Caroline du Sud du 20 octobre 2025 (avec une traduction libre)

<u>Pièces citées sous référence « Pièce n° J-X » :</u>

Pièce n° J-1 TJ Paris, exequatur, 13 mars 2024, n° 23/05699

Pièce n° J-2 TJ Paris, exequatur, 11 septembre 2024, n° 23/11042

Pièce n° J-3 JCl. Procédure civile - Encyclopédies - Fasc. 2000-75 : Effets en France des jugements étrangers subordonnés à leur régularité internationale. – Objet du contrôle : les conditions de la régularité internationale

Pièce n° J-4 Répertoire de procédure civile Dalloz - Jugement étranger : matières civile et commerciale – Régularité internationale du jugement étranger – Pascal de Vareilles-Sommières – Section 2, Régularité de la procédure suivie

NEUTRAL CITATION NUMBER: [2025] 2470 (Ch)

Case No: BL-2025-000785

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
BUSINESS LIST (ChD)

7 Rolls Buildings
Fetter Lane
London EC4A 1NL

Date: 30 September 2025

Before:
MR JUSTICE MARCUS SMITH

Between:

(1) ALTRAD INVESTMENT AUTHORITY SAS
(2) ALTRAD UK LIMITED
(3) CAPE UK HOLDINGS NEWCO LIMITED
(4) CAPE INDUSTRIAL SERVICES GROUP LIMITED
(5) CAPE HOLDCO LIMITED
(6) ALTRAD SERVICES LIMITED
(7) MR MOHED ALTRAD

Claimants

-and-

(1) PETER D PROTOPAPAS
(2) CAPE INTERMEDIATE HOLDINGS LIMITED
(3) CAPE PLC

Defendants

Heard on 23 and 24 September 2025

Mr Derrick Dale, KC and **Angus Groom** (instructed by **Enyo Law LLP**) for the **Claimants**
Mr William Willson (instructed by **Signature Litigation LLP**) for the **Second and Third Defendants**
The First Defendant was not represented and did not appear

Approved Judgment

MR JUSTICE MARCUS SMITH

A. Introduction

1. This Judgment disposes of a Part 8 Claim issued by the Claimants on 24 June 2025. The trial of the claim was expedited by order of Trower J on 25 July 2025, and was heard by me on 23 and 24 September 2025.

2. The matters before me are closely related to a Part 8 Claim heard by and disposed of by Mann J (sitting in retirement) in Cape Intermediate Holdings Ltd v. Protopapas [2024] EWHC 2999 (Ch) in a judgment dated 22 November 2024, which I shall refer to as the "Mann J Judgment". The terms and abbreviations used in this Judgment, including this term just used, are set out and defined in Annex 1 to this Judgment.

3. As was the case in the Mann J Judgment, the matters before me concern the relationship between proceedings in the courts of South Carolina, USA and the courts in this jurisdiction. By these proceedings, the Claimants seek various declarations and injunctive relief. These are described and ruled upon below. But before I come to the substance of the matters before me, it is necessary to begin with a description of the relevant proceedings and events, both in South Carolina and here. Sections B to N of this Judgment, accordingly, set out and (where necessary) make findings in relation to events and proceedings taking place in the US and the UK, not merely over the last months, but over the last decades. It is only at Section O that the substance of the matters at issue can directly be addressed, so dependent are they on the prior history. The substance of the Part 8 Claim before me is addressed in Sections O to U. Section V describes how I dispose of the matters before me.

B. The Park Proceedings (proceedings commenced in South Carolina)

4. On 4 June 2021 a claim was issued by Ms Isabella Park in South Carolina against a large number of companies. Ms Park claimed to have sustained asbestos-related injuries derived from her husband, who had worked with asbestos: Mann J Judgment/[42]. I shall refer to these proceedings as the "Park Proceedings". One of the many defendants named in the Park Proceedings was "Cape plc".

5. On 17 November 2021, the complaint in the Park Proceedings (now being pursued by Ms Park's son as her personal representative) was amended to add a further party, Cape Intermediate Holdings Ltd or "CIHL": Mann J Judgment/[42].

C. The "Cape" defendants to the Park Proceedings

6. "Cape plc" is the Third Defendant in these proceedings and Cape Intermediate Holdings Ltd – CIHL – the Second Defendant. They were the only Claimants in the proceedings before Mann J. The Mann J Judgment provides a description of the corporate personalities relevant to the proceedings before him, which I gratefully adopt, and summarise in the following sub-paragraphs:

i) The Cape group is a group of companies that was formerly involved in asbestos mining and distribution. Those activities have now ceased, and the business of the group centres on the provision of critical industrial services focused on the energy and natural resources sectors. The group employs 12,800 employees across 17 countries. In the year ended 31 August 2023, the group had recorded revenue of £848.4m and a profit of £62.6m: Mann J Judgment/[8].

ii) CIHL was incorporated in December 1893 under the name "The Cape Asbestos Company". The Cape group has, historically, been involved in the mining and manufacture of asbestos until the group started to curtail those activities when the associated health risks became more widely known. Originally, CIHL conducted all of the business, but (over time) parts of its business were devolved to other companies in the group: Mann J Judgment/[9].

iii) By 1961, CIHL was essentially a holding company. In May 1974, it changed its name to "Cape Industries Ltd" and changed it again to "Cape Industries plc" when it re-registered as a public company. There was a further name change to Cape plc in July 1989. In June 2011, the company's name was changed once more to "Cape Intermediate Holdings plc" and then – on de-registration as a public company in December 2013 – to "Cape Intermediate Holdings Ltd": Mann J Judgment/[10]. I shall use the term CIHL to refer indifferently to this company whatever name it may have used over its long history.

iv) Cape plc was – as I have described – a former name of CIHL, abandoned as long ago as June 2011: see [6(iii)]. There is a Cape plc within the Cape group, but this is a company incorporated in Jersey in 2011: (Mann J Judgment/[1]). Mann J referred to this company as "Cape Jersey") in preference to the term Cape plc (Mann J Judgment/[1]) because it appears that there is no intention, in the South Carolina proceedings, to bring claims against Cape Jersey, and that the reference to Cape plc is a reference to CIHL, but by an older (and now inaccurate) name: Mann J Judgment/[1], [138].

v) Because of the confusion surrounding the constitution of the South Carolina proceedings, it is necessary (i) to say something about Cape Jersey and (ii) to stress that it was entirely right and proper that Cape Jersey was a claimant in the proceedings before Mann J and is now a defendant before me. The uncertainties in the constitution of the South Carolina proceedings render it necessary that the protection of the English courts (to the extent that such protection is appropriate) be considered not merely in relation to CIHL but also in relation to Cape Jersey.

vi) Cape Jersey was formed in 2011. By virtue of a scheme of arrangement in that year it became the holding company of the Cape group, and has remained so ever since. It was incorporated in Jersey, but listed on the London Stock Exchange, with a tax residence in Jersey and Singapore: Mann J Judgment/[11].

vii) In 2017, the share capital of Cape Jersey was acquired by Altrad UK Ltd (the Second Claimant), an English company which is part of the Altrad group. That group is a very substantial group, employing over 60,000 employees worldwide. Its parent company is Altrad Investment Authority SAS (the First Claimant in these proceedings), incorporated in France. The founder and President of the Altrad group is Mr Mohed Altrad (the Seventh Claimant in these proceedings): Mann J Judgment/[11].

D. Constitution of the Park Proceedings in South Carolina

7. As I have noted (at [6(iv)]), the reference to Cape plc in the Park Proceedings appears to be an erroneous reference to CIHL. The matter is not completely clear, because the manner in which "Cape plc" is said to be liable is not clearly articulated in the Park Proceedings, and the naming of the parties in those (and other proceedings) is much less clear than it ought to be. Nevertheless, the First Defendant to these proceedings – Mr Protopapas, whose role I shall come to describe – has indicated that the reference to "Cape plc" is intended to refer to CIHL. Of course, Mr Protopapas cannot actually speak for the plaintiffs in either the Park Proceedings or any other proceedings originated against the Cape group in the US.

8. I proceed on the basis that Cape Jersey has been joined to these proceedings (as it was to the proceedings before Mann J) for the avoidance of doubt because of the uncertainties in the constitution of the South Carolina proceedings. Cape Jersey has never been served in those proceedings and (again for the avoidance of any doubt) has not submitted to South Carolina jurisdiction.

9. So far as CIHL is concerned, (i) it is contended that the Park Proceedings have been properly served on CIHL, (ii) which contention is disputed by CIHL, but (iii) in any event CIHL has never responded to the process and has never submitted to the jurisdiction: Mann J Judgment/[42].

E. Apparent conclusion of the Park Proceedings

10. Chief Justice Toal is a retired Chief Justice in the State of South Carolina, but she retains her title. Like Mr Justice Mann (Mann J Judgment/[3]), I will refer to the judge by her title as Chief Justice Toal.

11. By an order of Chief Justice Toal dated 1 December 2021, the Park Proceedings were listed for trial on 20 June 2022. However, on 3 June 2022, the court was informed by counsel that the Park Proceedings had been fully resolved. The terms of that resolution are unknown to CIHL, which was not involved. There has been no trial of the Park Proceedings in the South Carolina Courts, and it is difficult to understand how (as they clearly are: see the receivership order considered further below) the Park Proceedings are continuing in the South Carolina Courts: Mann J Judgment/[43].

F. The receivership application in the South Carolina courts

12. On 6 March 2023, the plaintiff in the Park Proceedings issued a "Receivership Motion" seeking to appoint a receiver over CIHL: Mann J Judgment/[44]. According to the terms of the South Carolina Code (set out by Mann J at Mann J Judgment/[46]), "a receiver may be appointed (i) when a corporation has been dissolved, is insolvent or in imminent danger of insolvency or has forfeited its corporate rights and, in like cases, of the property within this State of foreign corporations and/or (ii) in such other cases as are provided by law or may be in accordance with the existing practice".

13. The jurisdictional basis for the receivership motion against CIHL was said to be the presence and operation in the US of an entity referred to as "NAAC". On that basis, the appointment of a receiver over CIHL was justified for all purposes, including but not limited to marshalling available assets of CIHL and its subsidiaries, successors and assigns: Mann J Judgment/[45]. NAAC stands for the "North American Asbestos Corporation", a directly and wholly owned subsidiary of CIHL established by CIHL in October 1953. NAAC was incorporated in the State of Illinois in the US to assist in the marketing of asbestos in the US, to act as a liaison between Egnep Pty Ltd (the principal asbestos mining company in the Cape Group until 1979: Mann J Judgment/[9]) and another Cape company (Casap) on the one hand and US purchasers of asbestos on the other, and to purchase and re-sell asbestos into the US market on its own account: Mann J Judgment/[12].

14. From the early 1970s, NAAC was the defendant in numerous product liability claims. It eventually ran out of insurance cover and was liquidated and then dissolved in 1978. It has never been restored: Mann J Judgment/[13].

15. Continental Productions Corporation or "CPC" took over from NAAC on its liquidation: Mann J Judgment/[32(ii)].

16. In the Mann J Judgment/[47], Mann J recorded:

    i) That the fundamental factual basis for appointing a receiver was the assertion that CIHL was operating through NAAC and CPC in the US. The Mann J Judgment refers to the confusion in the South Carolina proceedings regarding the entities within the Cape Group that are implicated in the Receivership Motion. It seems to me clear that the Receivership Motion can only (in the first instance) be directed to CIHL and not any other Cape group entity, including in particular Cape Jersey. That is because: (i) NAAC was a subsidiary of CIHL and not of Cape Jersey; (ii) Cape Jersey was incorporated (in 2011: see [6(iv)]) after NAAC was dissolved (in 1978: see [14]). Accordingly, I shall refer to CIHL from hereon, but any orders or declarations that I make will have to reflect the confusing way in which the South Carolina proceedings have been framed.

    ii) That the receivership was not merely sought against CIHL, but also over (i) its subsidiaries and global affiliates; and (ii) its successors and assigns, with an objective of "marshalling" the assets of CIHL: see

Mann J Judgment/[47]. Thus, although the nexus between NAAC and CIHL is the initial basis for the Receivership Motion, the Receivership Motion then builds on that relationship to stretch to many other entities in the Cape group.

17. The receivership order sought in the Park Proceedings was made on 16 March 2023, without a hearing and without any substantive judgment stating the reasons for the making of the order: Mann J Judgment/[48]. I shall refer to it as the "Receivership Order". The order is appended to the Mann J Judgment.

18. Mr Peter Protopapas (the First Defendant in these proceedings) was appointed the receiver by way of the Receivership Order.

G. Exorbitant nature of the Receivership Order

19. As I shall come to describe, for the reasons given in the Mann J Judgment, Mann J declined to recognise the Receivership Order. This is an important holding for the purposes of this Judgment, and for that reason it will be necessary is summarise below (hopefully at not too great a length) the terms of the Mann J Judgment in this regard. Of course, the Mann J Judgment stands and should be read in its own right, but a summary is nevertheless necessary and appropriate in this Judgment. Of course, nothing in this Judgment can or is intended to detract from anything said by Mann J in the Mann J Judgment.

20. Mann J also observed that the Receivership Order – leaving on one side the question of recognition – was a remarkably wide one for any court to make:

    i) It would appear from the terms of the Receivership Order itself and from what Mr Protopapas had said that the Receivership Order has a "long-arm" effect, that is to say it can apply extra-territorially beyond the South Carolina territorial jurisdiction. Mann J observed (Mann J Judgment/[134]):

    > ...The powers given to the receiver are apparently very long-arm and would be capable of being exercised worldwide, including this jurisdiction. He has not disavowed any intention so to use them. They are oppressive and have already been used to the disadvantage of CIHL. CIHL could seek to challenge them in South Carolina, but is, for very good reason, not willing to do acts which would, or might, amount to a submission to the jurisdiction when it laboured long and hard 35 years ago to demonstrate that it was not subject to it...
    >
    > Receivership orders generally without more do not have extraterritorial effect, as has been recognized in e.g. Re Whitaker Clark & Daniels Inc (a decision of the US Court of Appeals (Third Circuit)); Re Asbestos Corporation Ltd (a decision of the Superior Court in the Province of Quebec, Canada); and Masri v. Consolidated Contractors International (UK) Ltd (No 2) [2008] EWCA Civ 303 at [28] (Court of Appeal, England). The approach of most jurisdictions is that receiverships operate locally and where a receiver seeks to take steps in a foreign jurisdiction, (i) the receivership order must expressly so state and (ii)

the receiver will have no power to act even so unless their title to act has been recognized by the foreign jurisdiction in question: see, e.g., Robinson and Walton, Kerr & Hunter on Receivership and Administration, 21st ed (2020), chapter 7.

ii) Mann J expressed the view that Mr Protopapas, at least, was seeking to deploy the Receivership Order "with the object of marshalling assets in some sort of less than complete insolvency proceedings": Mann J Judgment/[135]. If this is the way the Receivership Order is intended by Mr Protopapas to operate, then it runs contrary to generally accepted rules of corporate insolvency, which would indicate (i) an English jurisdiction (for CIHL is incorporated in England and this is where it has its centre of business) and (ii) that South Carolina is an inappropriate jurisdiction (because not only is CIHL not incorporated there, it does no business there either).

H. Mr Protopapas as the First Defendant in these proceedings

21. It is convenient, at this point, to deal with this court's jurisdiction over Mr Protopapas. Mr Protopapas is the First Defendant in these proceedings. The Part 8 Claim initiating these proceedings was issued on 24 June 2025, permission for service out of the jurisdiction on Mr Protopapas was granted by Master Pester on an expedited basis by orders dated 25 June 2025 and 2 July 2025, and service was duly effected on Mr Protopapas on 2 July 2025.

22. Mr Protopapas has not acknowledged service nor filed any evidence. Nor has he sought to contest jurisdiction in these proceedings or to aver, in these proceedings, that this court has no jurisdiction over him.

23. I therefore hold that this court has personal jurisdiction over Mr Protopapas.

24. There is one point that (had he appeared before me on the question of jurisdiction) Mr Protopapas might have deployed, which is the provision at the end of the Receivership Order which provides:

> The Court further orders that, as the Receiver Court, that the Receiver or Cape may not be sued outside this Court without obtaining the Receiver's consent or an order of this Court prior to doing so.

25. Properly, the Claimants in these proceedings drew this provision to my attention. Clearly, Mr Protopapas has not consented to these proceedings being brought against himself (or, for that matter, CIHL). The provision in the Receivership Order reflects the doctrine articulated in Barton v. Barbour, 104 US 126 (1881)), on which Mr Protopapas would doubtless rely. The Claimants contended, and I agree, that this "Barton" provision in the Receivership Order does not assist Mr Protopapas for reasons given by Mann J (Mann J Judgment/[124]):

> One of the points that he [Mr Protopapas, in the South Carolina proceedings] takes is that the "Barton doctrine" requires that the permission of the court be obtained before suing a receiver in respect of his acts, and that therefore no

action can be taken against him without the permission of the South Carolina court. Judge Wilkins [a US-law expert retained by the Claimants before Mann J] has given his opinion on the extent of the application of this doctrine, and his report is uncertain on the extent of its application. However, assuming it does apply in South Carolina, I consider that it does not stand in the way of the present proceedings because the present proceedings are governed by English law, and the whole premise of the proceedings is that the receiver has no recognition under English law. Accordingly it does not recognize the office which would otherwise give him protection. It is therefore not a bar to the relief claimed against him in these proceedings.

26. As I shall come to describe, Mann J held that the Receivership Order was not capable of recognition in this jurisdiction. That being the case, this non-recognition is a complete answer to the "Barton" provision. Accordingly, the "Barton" provision cannot affect my holding at [23] as to this court's personal jurisdiction over Mr Protopapas.

I. The Tibbs Proceedings

27. On 5 April 2023, a Mr and Mrs Tibbs commenced proceedings in the South Carolina courts (the "Tibbs Proceedings"). The claims advanced are similar to those made in the Park Proceedings and a similarly broad, scattergun, approach has been taken to the naming of defendants. One of these defendants is "Cape plc": Mann J Judgment/[51]. Precisely the same confusion as to defendant identity arises here. For the reasons I have given, it is appropriate to refer to CIHL as the primary Cape group target, and not Cape Jersey.

28. The Tibbs Proceedings have, apparently, been dismissed by consent: Mann J Judgment/[52]-[53]. Like the Park Proceedings, it is thus difficult to understand how the Tibbs Proceedings can continue. Yet (as I shall describe) that it what appears to be happening.

J. Third party claims

29. Relying upon the Receivership Order made in the Park Proceedings, Mr Protopapas, on 30 June 2023, initiated (by way of a "summons") third party proceedings on behalf of CIHL within the Tibbs Proceedings (the "Third Party Claim"). The Third Party Claim is advanced (to quote from the Mann J Judgment/[54]) "...against a number of companies, including a number of Cape group companies...The Cape related companies included Altrad companies (the group that had acquired the Cape group in 2017), and the Sparrows entities that were brought within the group much more recently (despite its being hard to see how they can be held responsible for acts done before they were brought into the group). Mr Mohed Altrad, founder of the Altrad group, is also sued personally...".

30. A number of points need to be made in relation to the Third Party Claim:

    i) Subsequent to the Mann J Judgment, Mr Protopapas produced a draft amended Third Party Claim, to which I propose to refer. A motion to amend the Third Party Claim is due to be heard by Chief Justice Toal

at a pre-trial hearing due to take place on 6 October 2025: see the Notice of Pretrial Hearing in the Tibbs Proceedings.

ii) It is the Third Party Claim that provides the basis for my statements (in [11] and [28]) that both the Park Proceedings and the Tibbs Proceedings are (in some way) on-going, contrary to the plaintiffs in those proceedings not actually pursuing their claims. The Park Proceedings are on-going because Mr Protopapas is, in the Tibbs Proceedings, deploying the Receivership Order made in the Park Proceedings. To the eyes of an English lawyer this would appear to be irregular, but this is a matter of South Carolina procedural law on which I cannot and do not comment further.

iii) Self-evidently, by virtue of the Third Party Claim, the Tibbs Proceedings are progressing, but again in what would appear to be an irregular way. Whilst this is again a procedural matter for the South Carolina courts, it is a matter that is of some relevance to the matters before me in these proceedings, and it is therefore necessary to say more.

iv) Receivers are agents of the company in respect of which they are appointed, and they have a basic duty "to act in its proper interests" (Mann J Judgment/[120]). In this case, Mr Protopapas appears to be doing the very reverse of this. As I have described, the plaintiffs in the Tibbs Proceedings do not have a judgment in their favour against CIHL, and do not appear to be pursuing their claims against CIHL. The Tibbs Proceedings have been dismissed by consent (Mann J Judgment/[52]). The trial before Chief Toal is not the trial of the plaintiff's allegations in the Tibbs Proceedings, but the trial of the Third Party Claim. It is – self-evidently – extremely odd for a third party claim to be tried in advance of the main action. This is very much "putting the cart before the horse".

v) What is more, the "defence" pleaded by Mr Protopapas on behalf of CIHL in the Tibbs Proceedings contains a denial in these terms (Mann J Judgment/[53]):

> To the extent that it is not inconsistent with the allegations of the Third Party Complaint, Cape hereby denies each and every allegation contained in the Amended Complaint.

Since the Third Party Claim effectively accepts that CIHL is liable to the plaintiffs in the Tibbs Proceedings and seeks to reflect those allegations or pass them on to the defendants to the Third Party Claim the "defence" of CIHL is no defence at all, but in fact a disguised set of admissions made contrary to the interests of CIHL in circumstances where the plaintiffs to the action are not pursuing their claims. It is to be inferred that Mr Protopapas is seeking to hide the fact that he is acting in disregard of his duties as receiver, for the allegations made in the Third Party Claim are extreme and extremely damaging to CIHL (as well as to the Claimants in these proceedings). Thus, by way of

example, the opening paragraph of the unamended Third Party Claim states:

> This lawsuit seeks to finally hold accountable three groups of Third Party Defendants (including their predecessors in interest) who are responsible for the sale and use of asbestos or asbestos containing products throughout the United States, including South Carolina, and which caused or materially contributed to thousands of deaths from mesothelioma or other asbestos-related disease, and billions of dollars of past, present, and calculable future damages. For decades, certain of these Third Party Defendants created sham transactions to feign exits of the asbestos industry in the United States, leaving shells and an absence of insurance coverage to account for their massive liability exposure. And also for decades, they hid behind (or within) byzantine collectives of limited liability and other holding companies internationally, avoiding responsibility while continuing to reap the profits from the sales of asbestos and asbestos-containing products throughout the United States including South Carolina. In sum, these three groups of Third Party Defendants have wreaked havoc in the United States, padding their already massive coffers with blood money on top of blood money, and amused themselves with the supposed ingenuity of their scheme to avoid any responsibility. This lawsuit is their reckoning.
>
> Perhaps belatedly recognizing that this immoderation is inconsistent with a receiver's duties, Mr Protopapas now seeks to delete this passage from the Third Party Claim and to substitute for it language that is less (but nevertheless still) immoderate.

vi) Mann J's conclusions as to Mr Protopapas' conduct is one in which I respectfully concur (Mann J Judgment/[120]):

> This is a case where the law of England and Wales, where CIHL is incorporated, plainly will not recognise the receivership. It is also quite apparent that the receiver will not himself recognise that fact, and that he is pursuing his receivership vigorously and beyond what one would normally expect of a receiver. He has purported to make admissions, and to run a positive case, which is positively damaging to the legitimate interests of the company over whose assets he has been appointed, despite the fact that one of his obligations is to act in its proper interests. Instead, he has been utilising his appointment as a vehicle which some of the Third Party Defendants have aptly described as a "crusade". All this is without the consent of the legitimately appointed board of CIHL and, for the reasons given above, is potentially and unjustifiably damaging to the legitimate interests of the company...

K. "Single economic unit": the factual basis for the Receivership Order and the Third Party Claim

31. The various parties in what can loosely be called the Cape group were described at [6] (including in particular the status and position of CIHL) and [13]-[16] (dealing with NAAC and CPC). An understanding of the legal and factual relationship between CIHL and NAAC (and, to a limited extent, CPC) is critical to understanding the basis for both the Receivership Order and the Third Party Claim. The basis for making of the Receivership Order was briefly described in [16(i)]. It is now necessary to expand on this, and to explain how the same point drives the Third Party Claim.

32. Both the Receivership Order and the Third Party Claim are founded upon a theory that NAAC is part of a "single economic unit" that includes not only CIHL but later acquirers of the Cape group like Altrad UK Ltd (the Second Claimant), Altrad Investment Authority SAS (the First Claimant) and Mr Altrad (the Seventh Claimant).

33. These parties, and their acquisition of the share capital in Cape Jersey in 2017, were described in [6(vii)]. It is now appropriate, before coming to the single economic unit point, to describe the nature of the acquisition of Cape Jersey in greater detail. This is best done by quoting from the evidence of Mr Alcock in "Alcock 1"/[63]-[69]:

> **[63]** In 2017, Altrad UK acquired Cape Jersey through a public tender offer, which resulted in Cape Jersey becoming a wholly owned subsidiary of Altrad UK.
>
> **[64]** In late 2016 the Altrad Group entered discussions with the board of directors of Cape Jersey about a potential acquisition of the Cape Group.
>
> **[65]** The acquisition process, including due diligence, began in early 2017, ending in mid-2017 when a public tender offer ("PTO") was made – reflecting the fact that Cape Jersey was a publicly listed company on the London Stock Exchange. The terms of the PTO are set out in a Bid Conduct Agreement dated 7 July 2017. In this regard, the PTO stated that:
>
> **[65.1]** The cash offer for each share in Cape plc was 265 pence, which valued the entire issued share capital at £332.3 million.
>
> **[65.2]** The cash consideration would be financed by acquisition debt provided by BNP Paribas SA.
>
> **[66]** As part of the Bid Conduct Agreement, the Altrad Group confirmed an intention to procure that each member of the Cape Group honours its obligations under, or in connection with, the Cape Scheme.
>
> **[67]** The offer was conditional upon, among other matters, obtaining the required number of votes cast in favour of the acquisition. Subsequently, over 90% of the votes were cast in favour of the acquisition and Altrad UK was able to proceed to purchase 100% of the issued share capital of Cape Jersey

(the 90% trigger entitled Altrad to complete a "squeeze out" of the minority who either did not consent or did not respond).

[68] As a result of this transaction, Altrad UK purchased Cape Jersey (and so the Cape Group as a whole) in an arm's length transaction and at an arm's length price.

[69] In operational terms, the companies within the Cape Group have their own boards of directors and corporate governance.

34. I was shown a great deal more evidence than this summary, including in particular the rest of Alcock 1 and also "Oren 1" and "Alcock 2", as well as voluminous exhibits to these statements. On the basis of this evidence – which is helpfully encapsulated in the paragraphs quoted at [33] – I make the following findings of fact:

    i) The Altrad group has itself had no involvement in the sale or distribution of asbestos or asbestos-related products in any part of the world, including in particular in the US. That is implicit in Alcock 1, but is explicitly stated in Oren 1/[54].

    ii) The acquisition of the shares in Cape Jersey by Altrad UK Ltd was on an arms' length basis, where a commercial or market price for those shares was agreed between a willing buyer and willing sellers (or at least 90% willing sellers, based on Alcock 1/[67] as quoted above).

    iii) The value paid by Altrad UK Ltd reflected or took into account the Cape group's exposure to asbestos claims. Every arms' length corporate acquisition involves an assessment (as part of the due diligence process) of the liabilities (actual and potential) of the to-be-acquired company. Altrad UK Ltd's acquisition of the shares in Cape Jersey expressly involved an evaluation of the Cape group's exposure to asbestos claims, which had been the subject of significant (and binding on me) judicial consideration in England. It will be necessary in due course to refer to and describe (i) the decision of Scott J and the Court of Appeal in Adams v. Cape Industries [1990] Ch 433 ("Adams v. Cape"), (ii) the "Cape Scheme" referred to in Alcock 1/[68] and (iii) the sanctioning of the Cape Scheme by David Richards J in an order dated 9 June 2006 (the "David Richards J Order"). For the present I confine myself to finding that the acquisition of the shares in Cape Jersey and the price that was paid for those shares was informed by each of Adams v. Cape, the Cape Scheme and the David Richards J Order. Doubtless there were many other factors informing the decisions of Altrad UK Ltd, but these three factors were all (both individually and in the aggregate) material to the decisions of Altrad UK Ltd and the wider Altrad group.

35. The basis for the making of the Receivership Order against CIHL was its corporate relationship with NAAC. Thus, the Receivership Motion states (at 4-5):

> After the onset of asbestos-related product liability litigation in the 1970s, Cape became especially concerned with its own liability. Thus, Cape Asbestos went through tortured machinations to make it *appear* it was reducing oversight over NAAC, but in reality, NAAC continued to operate as a mere division or instrumentality under Cape's domination and control.
>
> In addition, Cape began to engage in a campaign of litigation avoidance by refusing to accept process or appear in any proceedings in the United States, including failing to respond to the Second Amended Summons in this action, as properly served pursuant to Article 10 of the Hague Convention on March 8, 2022. 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 [a] US product liability cult."

36. The basis for the allegations against the various "Cape" defendants in the Third Party Claim is similarly NAAC. Referring to the proposed draft amendments to the Third Party Claim (which represent the latest expression of Mr Protopapas' thinking, albeit unapproved by the court as yet):

> Today, the assets of Cape are effectively with others. This case seeks declarations to establish that the historical entities intertwined with Cape – Anglo American plc, ESAB, Altrad, and certain De Beers entities – are together responsible for the historical and ongoing fraud perpetrated on the US market. Such a finding will allow the Receiver to administer the full assets of Cape, including all insurance coverage for these amalgamated entities. This litigation, squarely within the Receiver's charge, ultimately will marshal assets for the payment of legitimate claims brought by US workers against Cape. This Receivership, and particularly this third party action, represents the last opportunity for these entities to be held to account for their fraud on the US market. [at 8-9]
>
> ...
>
> 23. Specifically, on information and belief, each of the third party defendants is subject to this Court's jurisdiction because each entity is part of an amalgamation with, part of a single business enterprise with, or an alter ego of North American Asbestos Company ("NAAC"), over which this court has personal jurisdiction. NAAC purposefully availed itself of the South Carolina market through direct sales of asbestos fiber into South Carolina...

37. The basis for the alleged liability of the Claimants in these proceedings who are defendants to the Third Party Claim is the same as the basis on which the Receivership Order was made: namely the operation of NAAC in the US. This conclusion accords with the similar conclusion of Mann J: Mann J Judgment/[55]. Although Mr Protopapas uses a variety of labels to tie CIHL and the Claimants in these proceedings to NAAC ("amalgamation with", "single business enterprise", "alter ego") I shall use the label "single economic unit" compendiously to describe the various ways in which the operations of

NAAC in the US are used as a device to ensnare in US litigation CIHL and the Claimants in these proceedings.

L. Declarations and orders made by Mann J in the proceedings before him

38. The trial of the Part 8 Claim before Mann J sought declaratory and injunctive relief as to Mr Protopapas' status as receiver as a matter of English law. As Mann J noted (Mann J Judgment/[6]), "...it is not part of my function to sit as some sort of appellate court from the South Carolina judge, and overrule her decisions...". Mann J's duty was to consider the position under English law and (as appropriate) ensure that the claimants before him (CIHL and Cape Jersey) received due process and justice according to the laws of this jurisdiction.

39. By an order dated 22 November 2024 (the "Mann J Order"), Mann J made the following declarations and orders:

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 Richmond ("the South Carolina Court") dated 16 March 2023 appointing Mr Peter Protopapas ("Mr Protopapas") as a receiver over CIHL ("the Receivership Order") is not recognised and has no legal effect in England and Wales and worldwide.

2. Mr Protopapas has an had no power or authority to act on behalf of CIHL in England and Wales or worldwide and has no power to or authority in respect of CIHL in England and Wales or worldwide to carry out the acts referred to in paragraphs 6-10 below.

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

4. Mr Protopapas has and had no power or authority of behalf of CIHL to act for or to bind CIHL in the South Carolina Court in respect of Park Claim and the Tibbs Claim...and has or had no power or authority on behalf of CIHL to issue or pursue third party claims including in the Tibbs claim against any of the third party defendants in those proceedings ("the 3P Complaint"), 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.

5. Mr Protopapas has and had no power or authority to accept service on behalf of CIHL in the claim brought in the South Carolina Court by a summons dated 11 November 2024 with claim number C/A No 2024-CP-40-06639 or any other legal proceedings issued against CIHL in the South Carolina Court or worldwide

AND IT IS ORDERED THAT

6. Mr Protopapas be restrained in England and Wales and worldwide from acting or purporting to act as agent or otherwise on behalf of CIHL pursuant to the Receivership Order.

7. Mr Protopapas be restrained 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 CIHL.

8. Mr Protopapas be restrained from acting or purporting to act on behalf of CIHL in the Park Claim and the Tibbs Claim…

9. Mr Protopapas be restrained from continuing to prosecute the 3P Complaint…

10. Mr Protopapas be restrained from purporting to act of CIHL in the claim brought in the South Carolina Court by a summons dated 11 November 2024 and with claim number C/A No 2024-CP-40-06639 or in any other legal proceedings issued against CIHL in the South Carolina Court or worldwide.

40. The reasons for the Mann J Order are fully set out in the Mann J Judgment. That Judgment stands for itself and it would be inappropriate for me to repeat Mann J's reasoning in any detail. However, a summary is both appropriate and necessary for the purposes of this Judgment:

i) The basis for making the Receivership Order against CIHL was the operation of NAAC (and possibly CPC) in the US in circumstances where CIHL was operating through NAAC and CPC.

ii) This precise question was brought before the English courts and resolved by them in Adams v. Cape when a Mr Adams sought to enforce a default judgment in his favour obtained in the Federal Courts of Texas based on injuries said to have been caused by asbestos. One of the defendants against whom Mr Adams sought to enforce was CIHL: Mann J Judgment/[18].

iii) A court of a foreign country (here: the Texas courts) has jurisdiction to give a judgment in personam capable of enforcement or recognition as against the person against whom it was given where (in the only case relevant here: Mann J Judgment/[19]) the person against whom the judgment was given was, at the time the proceedings were instituted, present in the foreign country. For a natural person, this requires physical presence in the territory, and for a legal person it requires a fixed place of business in the territory: Mann J Judgment/[18].

iv) After a trial on the merits, Scott J held in Adams v. Cape that CIHL did not have a fixed place of business in the US, whether by itself or through the operations of NAAC or CPC: Mann J Judgment/[32]. As a consequence, there was no basis upon which Mr Adams could enforce

his judgment in default against CIHL. It is to be stressed that these findings were findings of fact made by an English court of competent jurisdiction after an extensive trial on the merits. None of these factual findings was successfully challenged by Mr Adams in the Court of Appeal: Mann J Judgment/[33].

v) Mann J identified a fundamental inconsistency between the (unreasoned) Receivership Order and the (evidence and merits-based) decision in Adams v. Cape (Mann J Judgment/[90]:

> ...At the heart of the receiver's case in his Third Party proceedings, and underpinning his appointment, is the proposition that NAAC and CPC were essentially to be treated as being one with CIHL for the purposes of founding liability and getting into the rest of the group. That encapsulation is flat contrary to the findings of the courts in Adams v. Cape when they found that they were not effectively one entity, there was no justification for piercing the corporate veil and that CIHL did not operate through NAAC or CPC. CIHL did not control NAAC in any meaningful sense, and the participation of CPC was not a ruse or a sham. The receiver (and the applicant for the receivership, who may well have been motivated and prompted by the receiver) simply ignores this and advances the opposite case.

vi) All matters concerning the constitution of a corporation are governed by the law of the place of incorporation: Mann J Judgment/[93]. That in the case of CIHL is England. But the question before Mann J was not whether an English court could appoint a receiver over CIHL, but whether and to what extent a foreign receiver, such as Mr Protopapas, will be recognised in this jurisdiction: Mann J Judgment/[93]. In order to recognise a foreign receivership, the English court must be satisfied of a sufficient connection between the company and the jurisdiction in which the foreign receiver was appointed so as to justify recognition of the foreign court's order, on English conflict principles, as having effect outside such jurisdiction: Mann J Judgment/[94], citing Schemmer v. Property Resources Ltd [1975] 1 Ch 273.

vii) Mann J held (Mann J Judgment/[98]):

> Applying the "sufficient connection" principle, it is quite clear that the South Carolina receivership would not, should not and could not be recognised here for all the reasons which led to the US judgment in Adams v. Cape not being enforceable here. All the facts which led to the conclusion that CIHL did not have a presence in the US in that case mean that there is no sufficient connection for the purposes of recognition of the receivership. As a matter of private international law, CIHL did not have a presence in South Carolina (or anywhere in the United States) at the time which was relevant in Adams v. Cape and it has not had one since. Nothing in the facts alleged in any of the court documents relating to the receivership demonstrate a change in the facts between then and now. They tend to ignore the facts as found at great length in Adams v. Cape.

41. Mann J concluded (Mann J Judgment/[100]:

> ...in the present case, the receiver is not currently seeking recognition of his receivership in this jurisdiction, so this decision is not in the nature of an actual refusal of recognition. Rather, mine is a decision at a higher level to the effect that the receivership is not capable of recognition in this jurisdiction with the consequence that the receiver's acts should not be recognised for English law purposes. This goes to the question of the relief that should be afforded to the claimant, which I deal with in a later section of this judgment. As will appear, the fact that the receiver is not seeking recognition in this jurisdiction does not mean that this judgment is pointless.

42. Mann J then explained why the orders I have set out at [39] were appropriate in this case. I do not need to set out his reasoning in this regard, which appears at Mann J Judgment/[113] ff.

43. Drawing the threads together:

i) Recognition of a foreign receivership such as that made in the Receivership Order requires a "sufficient connection" between the company over whom a receiver has been appointed and the jurisdiction in which the appointment is made.

ii) In this case for the reasons articulated by Mann J in Mann Judgment/[101] ff (on what may loosely be called "judicial estoppel") the facts found in Adams v. Cape were binding on CIHL and Mr Protopapas (as soi-disant receiver) – see Mann Judgment/[110].

iii) Applying the law (i.e. the "sufficient connection" test) to the facts (i.e. the absence of a connection between NAAC and CIHL found in Adams v. Cape) Mann J was compelled to conclude that there was no sufficient connection to justify the recognition of the Receivership Order.

M. The Cape Scheme and the David Richards J Order

44. The judgment in Adams v. Cape – after a hearing on the merits, and affirmed on appeal before the Court of Appeal – is that the Cape group had so structured its corporate affairs as to ring-fence the rest of the group from the conduct, in selling asbestos in the US, of its US subsidiaries. The effect was that only NAAC and CPC were liable as defendants in the US. NAAC has long since closed its doors (see [14]) – and I anticipate the same is true of CPC.

45. It is worth noting that various plaintiffs in the US successfully recovered from NAAC in regard to asbestos-related claims. The payments made by NAAC to such plaintiffs are described by Scott J in Adams v. Cape at [1990] Ch 433 at 446-449. To the extent that Mr Protopapas insinuates that US plaintiffs have been deprived of all compensation, that is wrong. NAAC has paid significant monies (including to the exhaustion of its insurance cover) to such plaintiffs.

The problem for such US plaintiffs is that NAAC has run out of money and was dissolved long ago (see [14]).

46. Mr Protopapas chooses to characterise this shortfall in the assets of NAAC as a form of "moral fraud", but in reality it is no such thing. The question of whether a parent is liable for the acts of its subsidiary is a question of fact and law, and one with which the US courts are very familiar. On 3 December 1984, over 500,000 people in the vicinity of the Union Carbide India Ltd pesticide plant in Bhopal, India were exposed to the toxic gas methyl isocyanate. The accident caused around 16,000 deaths and over half a million injuries. The Indian company responsible for the accident was majority-owned by a US corporation, the Union Carbide Corporation. Although civil cases seeking compensation were filed in the US, they were dismissed by the US courts on the basis that the Indian company was a separate entity and that there was no "single economic unit" to enable US proceedings against US parents.

47. It was precisely this question that was before the English courts in Adams v. Cape. As I have described, Mr Adams was seeking to enforce a judgment in default obtained in his favour against NAAC in Texas against CIHL in England. The Court of Appeal held that NAAC (and indeed CPC) were not a "single economic unit" and that Mr Adams' enforcement action must therefore fail. In dismissing Mr Adams' appeal, the Court of Appeal said this in Adams v. Cape ([1990] Ch 433 at 544:

> Mr Morison [leading counsel for Mr Adams] submitted that the court will lift the corporate veil where a defendant by the device of a corporate structure attempts to evade (i) limitations imposed on his conduct by law; (ii) such rights of relief against him as third parties already possess; and (iii) such rights of relief as third parties may in the future acquire. Assuming that the first and second of these three conditions will suffice in law to justify such a course, neither of them apply in the present case. It is not suggested that the arrangements involved any actual or potential illegality or were intended to deprive anyone of their existing rights. Whether or not such a course deserves moral approval, there was nothing illegal as such in Cape arranging its affairs (whether by the use of subsidiaries or otherwise) so as to attract the minimum publicity to its involvement in the sale of Cape asbestos in the United States of America. As to condition (iii), we do not accept as a matter of law that the court is entitled to lift the corporate veil as against a defendant company which is the member of a corporate group merely because the corporate structure has been used so as to ensure that the legal liability (if any) in respect of particular future activities of the group (and correspondingly the risk of enforcement of that liability) will fall on another member of the group rather than the defendant company. Whether or not this is desirable, the right to use a corporate structure in this manner is inherent in our corporate law. Mr Morison urged on us that the purpose of the operation was in substance that Cape would have the practical benefit of the group's asbestos trade in the United States of America without the risks of tortious liability. This may be so. However, in our judgment, Cape was in law entitled to organise the group's affairs in that manner and (save in the case of AMC to which special considerations apply)

tom expect that the court would apply the principle of Saloman v. A Saloman & Co Ltd [1897] AC 22 in the ordinary way.

The plaintiffs submitted (paragraph 7 of their notice of appeal) that the motive of the defendants in setting up the arrangements regarding NAAC, AMC and CPC as revealed in the documentary evidence were "consistent only with an acceptance by Cape that they were present in the United States through NAAC and CPC". We think there is no substance in this point. These arrangements at most indicated an apprehension on the part of the defendants that they might be held to be so present and a desire that they should not be. They involved no admission or acceptance of such presence.

48. It is worth stressing (as Mann J did – Mann J Judgment/[39]) that the Court of Appeal reached this conclusion after a careful consideration of the facts that had been before the trial judge (Scott J):

The Adams v. Cape notice of appeal listed 25 findings of fact (some of them multiple) which it was said Scott J should have made but did not make, and which were said to go to the main questions in the case. The Court of Appeal dealt with that part of the appellant's case in a separate Appendix to its judgment, again not published in the report. The Appendix runs to 40 pages and I will not reproduce it here. It can appropriately be summarised by saying it is a thorough consideration of each of the "facts" in question, and it either accepts them as being true but not affecting the decisions on the main points or rejects them as being inconsistent with actual findings of Scott J as being unsustainable on the evidence. Overall it shows the comprehensiveness of the case advanced by Mr Adams, the comprehensiveness of its consideration and the clarity and firmness of the rejection of that case. When put together with the first instance and appeal judgments, it effectively covers the same ground as the claims as to the effect of relationships and trade made in South Carolina and firmly rejects them on the facts and the attempt to tie the claims to the US in terms of jurisdiction.

49. The unequivocal position (i) under English law (ii) on the facts of this case (iii) as found on the merits by a competent court of record in this jurisdiction and affirmed on appeal is that US plaintiffs are confined in their remedies to claims against NAAC as opposed to the wider Cape group.

50. The Cape Scheme described by Mann J in Mann J Judgment/[14]-[17] is predicated on the correctness and bindingness of the Court of Appeal's decision in Adams v. Cape. As a direct result of the decision in Adams v. Cape the Cape Scheme is limited to the compensation of UK claims against UK entities like CIHL.

51. The "Scheme of Arrangement" by which the Cape Scheme was implemented is very clear on this point. There is no need to set out the Scheme in detail. It is sufficient to refer to the definition, in the Scheme of Arrangement, of "Asbestos Personal Injury Claim", which means:

...any claim (not being an Asbestos Contribution Claim or an Excluded Claim) against one or more of the Scheme Companies, whenever brought, of

which the governing law is the law of any of England and Wales, Scotland or Northern Ireland brought either:

(a) by an individual resident in the United Kingdom on the Record Date; or

(b) by an individual not resident in the United Kingdom on the Record Date but whose claim is attributable or is alleged to be attributable to his exposure to Asbestos in the United Kingdom in the course of his employment by any Scheme Company or any Additional Company,

in either case for debt, damages or other relief in respect of death or personal injury or in respect of a Financial Dependency Claim arising out of or connected in any way with exposure to Asbestos attributable, or alleged to be attributable, wholly or in part to any act or omission on the part of any Scheme Company (or for which any Scheme Company is liable or is alleged to be liable) occurring prior to the Record Date…

52. To be clear, neither NAAC nor CPC is a "Scheme Company" within the meaning of the Scheme of Arrangement. The Scheme of Arrangement articulating the Cape Scheme was approved by the David Richards J Order.

53. The Scheme of Arrangement is still running (Mann J Judgment/[14]). Indeed, it remains subject to the supervision of this Court, and (as I have described) the Altrad group committed to supporting the Cape Scheme when the group acquired Cape Jersey.

N. The Settlement Agreement

54. Proceedings and procedural steps based upon the Receivership Order continue in the US. The adverse effects of these steps as described by Mann J (Mann J Judgment/[113] ff) thus continue, notwithstanding the Mann J Order (which has been disregarded by Mr Protopapas).

55. On 11 April 2025, a "Settlement Agreement" was concluded between (i) the targets of the litigation in the US, as evinced by the Park Proceedings and the Tibbs Proceedings), namely CIHL and (for the avoidance of doubt) Cape Jersey and (ii) various the defendants to the Third Party Claim brought by Mr Protopapas. The parties to the Settlement Agreement are (without differentiation) referred to by me as the "Parties".

56. Following a series of detailed recitals (which I do not set out) the Settlement Agreement provides for the compromise and release of any and all disputes subsisting between the Parties and to dismiss all proceedings in respect of the "Allegations". The Allegations are broadly defined as meaning:

…both (i) the claims asserted in the Tibbs claim (including in the Third-Party Complaint made within it), and (ii) any claims made in the future in any asbestos-related personal injury claims that may be asserted in the USA based in part or in whole upon alleged liability for the acts of CIHL, and in either case including but not limited to the claim that each of the Parties is, or is a successor in interest to an entity that was, the alter ego of or part of a single

business enterprise with CIHL and any claim on the right to pierce the corporate veil of CIHL.

57. The Settlement Agreement is governed by English law and there is an exclusive jurisdiction clause in favour of England.

O. The claims in the present proceedings

58. By this Part 8 Claim, the Claimants and the Second and Third Defendants seek the following declarations and orders. I quote from the draft order that was prepared by these parties, as presented to me before the commencement of oral submissions as a convenient way to set out what orders are sought. Whether I am prepared to make these orders is, of course, an altogether different matter. The operative parts of the draft order read as follows:

IT IS DECLARED THAT

1. The Settlement Agreement has been entered into by lawfully authorised officers of the Claimants and of the Cape Parties and is lawfully binding on the parties to it.

2. The terms and legal effect of the Settlement Agreement are such that it releases and settles any claims (whether known or unknown) that the Cape Parties have against the Claimants related to or arising (i) from the claims and allegations made in the Tibbs Claim (including in the Third-Party Complaint made within it) and (ii) from any other claims made after the date of the Settlement Agreement in any asbestos-related personal injury claims that may be asserted in the USA based in part or in whole upon the Claimants' alleged liability for the acts and/or omissions of CIHL (all such claims together being "Settled Claims") (and for the avoidance of doubt it also releases and settles any judgments (and any claims based on or related to any judgments) obtained pursuant to the making of any such claims).

3. Pursuant to the terms of the Settlement Agreement, the Claimants have no liability to the Cape Parties for any Settled Claims and the Cape Parties have no lawful claims against any of the Claimants arising out of or in relation to any Settled Claims.

AND IT IS DECLARED THAT

4. The powers and lawful authority of the directors of CIHL are unaffected by the Receivership Order (which is not recognised and has no legal effect in England and Wales and worldwide).

5. Mr Protopapas has and had no power or lawful authority to take any steps or acts for, on behalf of, or in the name of CIHL, including (but without prejudice to the generality of the foregoing) in any Settled Claims.

AND IT IS ORDERED THAT

6. CIHL shall not take any step in the proceedings in the Third-Party Complaint (or in relation to any Settled Claims).

7. Mr Protopapas be restrained from taking any further step in the Third-Party Complaint (or in relation to any proceedings, including but not limited to any Settled Claims) in the name of or on behalf of CIHL.

8. Mr Protopapas shall forthwith take all and any steps to effect a final and with prejudice dismissal of the Third-Party Complaint against the Claimants with immediate effect and, in any event, Mr Protopapas is to have effected such a dismissal of the Third-Party Complaint against the Claimants within 14 days of the date of this order.

59. The orders and declarations sought in this draft can be grouped under the following heads:

i) Declarations as to the effect of the Settlement Agreement: see paragraphs 1 to 3 of the draft order.

ii) Declarations as to the status or powers vesting in (respectively) CIHL and Mr Protopapas so far as their power to act for CIHL is concerned: see paragraphs 4 and 5 of the draft order.

iii) Orders obliging a party (either CIHL or Mr Protopapas) to do or not do something: see paragraphs 6 to 8 of the draft order.

60. I shall consider these groups of orders and declarations in the order set out above, beginning with the declarations as to the effect of the Settlement Agreement.

P. The power in this court to make declarations

61. This court has a discretionary jurisdiction to grant declaratory relief under section 19 of the Senior Courts Act 1981 and rule 40.20 of the English Civil Procedure Rules or "CPR". In Rolls Royce plc v. Unite the Union [2009] EWCA Civ 387 at [120], the Court of Appeal summarised the approach to be taken in regard to the granting of declarations as follows:

i) The power of the court to grant declaratory relief is discretionary.

ii) There must, in general, be a real and present dispute between the parties before the court as to the existence or extent of a legal right between them. However, the claimant does not need to have a present cause of action against the defendant.

iii) Each party must, in general, be affected by the court's determination of the issues concerning the legal right in question.

iv) The fact that the claimant is not a party to the relevant contract in respect of which a declaration is sought is not fatal to an application for a declaration, provided that it is directly affected by the issue.

v) The court will be prepared to give declaratory relief in respect of a "friendly action" or where there is an "academic question" if all parties so wish, even on "private law" issues. This may particularly be so if it is a "test case", or it may affect a significant number of other cases, and it is in the public interest to decide the issue concerned.

vi) However, the court must be satisfied that all sides of the argument will be fully and properly put. It must, therefore, ensure that all those affected are either before it or will have their arguments put before the court.

vii) In all cases, assuming that the other tests are satisfied, the court must ask: is this the most effective way of resolving the issues raised? In answering that question it must consider the other options of resolving this issue.

I shall refer to these points as Rolls Royce Principles (i) to (vii).

Q. Is this a case where it is appropriate for this court to consider making declarations?

(i) The effect of the declarations (if granted)

62. Generally speaking, a court will consider whether the declarations sought are correct in law before turning to consider whether the court should exercise its discretion to make those declarations. In this case, because the declarations are so intrusive into the processes of a foreign court, it is appropriate to consider the question of whether the court should exercise its discretion to make declarations at all first.

63. The first declaration sought (paragraph 1 of the draft order: the Settlement Agreement has been lawfully entered into) can be regarded as merely an articulation of a specific consequence of the Mann J Judgment and the Mann J Order. That is not the case so far as the second declaration sought (paragraph 2 of the draft order: the claims on which the Third Party Claim rests have been compromised/released/settled) nor of the third declaration sought (paragraph 3 of the draft order: the Claimants are under no liability in respect of the Third Party Claim) are concerned. Quite clearly, the declarations have the effect of extinguishing the very subject-matter of the dispute that will be considered by Chief Justice Toal at the trial of Third Party Claim. Given that the declarations have such an effect on proceedings in another jurisdiction, they must be closely considered and be justifiable as a matter of international law, and having due regard to questions of comity.

64. Although there are considerations that point in different directions, I have reached the firm conclusion that (assuming the points of law articulated by the Claimants are correct) it is appropriate for me to make the declarations sought. I set out the various factors that have informed this conclusion in the paragraphs below.

(ii) *The absence of Mr Protopapas*

65. The fact that Mr Protopapas failed to appear before me is a relevant factor against the granting of declarations, but one of limited weight. As I have described (see Section H), Mr Protopapas is properly before the court (i.e. this court has personal jurisdiction over him). Mr Protopapas has not sought to challenge this court's jurisdiction.

66. Of course, I have not had the benefit of argument from Mr Protopapas, but I have a very good sense of the points that Mr Protopapas would make if he were before me from my consideration of the papers in the South Carolina proceedings, in particular (but not limited to) the Receivership Motion, the Receivership Order and the Third Party Claim. The Claimants and the Second and Third Defendants have been assiduous in putting before me the sort of points that Mr Protopapas might be inclined to take. I am satisfied (see Rolls Royce Principle (vi)) that all sides of the argument have been fully and properly put in the written and oral submissions that I have received.

(iii) *A "friendly action"*

67. Mr Protopapas' absence does mean that the hearing before me had aspects of a "friendly action" (Rolls Royce Principle (v)). The Claimants and the Second and Third Defendants were united in urging that I make the declarations sought. As Rolls Royce makes clear, there is no reason why a declaration may not be given in a "friendly action". What matters are the reasons why the declarations are sought. I will be coming to such considerations in due course. I consider the fact that these proceedings might be classed as a "friendly action" to be entirely neutral as to whether the declarations should or should not be made.

(iv) *Comity*

68. The strongest indicator against declaratory relief is the fact that the declarations (as I have described) are materially interfering with the processes of a foreign court. The reaction in the US to the Mann J Order has been strong. In Welch v. Advance Auto Parts, the Supreme Court of South Carolina said (of the Mann J Order):

> ...The English court went so far as to issue an injunction against the Receiver, purporting to bar him from action even in South Carolina.
>
> The English court reasoned that English law may restrain a foreign court to prevent "injustice". It quoted a decree that gave as an example a foreign court whose standard for personal jurisdiction was so wide as to be against accepted international law principles. The English court then proceeded to note that the powers given to the Receiver stretched worldwide. It reasoned that the English company could not risk fighting its case in South Carolina because it would then be submitting to the jurisdiction here.

Shocking to American eyes, the English court enjoined the Receiver "from acting or purporting to act for or on behalf of" the English company in default, even in a South Carolina court.

We appreciate that the laws of different countries may differ, even countries that have a special relationship with each other. Our respect and spirit of commit – not to mention our duty to follow the law – does not permit us to enjoin a court of another sovereign nation from interfering with our rulings on the propriety of a Receivership. As it would with any court, such a ruling by us would be in the words of Lord Scarman, a *brutum fulmen* (an empty noise).

69. English courts do not interfere lightly with the jurisdiction of foreign courts. Although the law in this area has mainly been stated in the context of anti-suit injunctions, the points made in these cases have as much force in the case of a declaration that interferes with the processes of a foreign court. Thus, in a statement that has been approved many times in the English courts, Hoffmann J said this in Re Maxwell Communications Corp plc (No 2) [1992] BCC 757 at 762:

In the last 20 years, however, there has been a shift in the attitude of the English court to foreign jurisdictions…Today the normal assumption is that an English court has no superiority over a foreign court in deciding what justice between the parties requires and in particular that both comity and common sense suggest that the foreign judge is usually the best person to decide whether in his own court he should accept or decline jurisdiction, stay proceedings or allow them to continue. The principle, as Lord Scarman said in Laker…is that:

"[The] equitable right not to be sued abroad arises only if the inequity is such that the English court must intervene to prevent injustice." (emphasis added)

In other words, there must be a good reason why the decision to stop the foreign proceedings should be made here rather than there. Although the injustice which can justify an anti-suit injunction must inevitably be judged according to English notions of justice, it will usually be assumed that a similar quality of justice is available in the foreign court. So the fact that the proceedings would, if brought in England, be struck out as vexatious or oppressive in the domestic sense, will not ordinarily in itself justify the grant of an injunction to restrain their prosecution in a foreign court. The defendant will be left to avail himself of the foreign procedure for dealing with vexation or oppression: Midland Bank plc v. Laker Airlines Ltd [1986] 1 QB 689 per Lawton LJ at 700.

It is the exceptional cases in which justice requires the English court to intervene which cannot be categorised or restricted. But a theme common to certain recent decisions is that the foreign court is, judged by its own jurisprudence, likely to assert a jurisdiction so wide either as to persons or to subject-matter that to English notions it appears contrary to accepted principles of international law. In such cases the English court has sometimes felt it necessary to intervene by injunction to protect a party from the injustice of having to litigate in a jurisdiction with which he had little, if any,

connection, or in relation to subject-matter which had insufficient contact with that jurisdiction, or both. Since the foreign court is per hypothesi likely to accept jurisdiction, this is a decision which has to be made here if it is to be made at all. These are cases in which the judicial or legislative policies of England and the foreign court are so at variance the comity is overridden by the need to protect British national interests or prevent what it regards as a violation of the principles of customary international law.

70. Applying these considerations by analogy to the discretion that I have in regard to declarations, it is incumbent upon me to set out why I must, in this case, set aside the important question of comity and (assuming they are well founded) make the declarations sought.

(v) *Reasons why the South Carolina proceedings must be interfered with: interests of the Claimants and the Second and Third Defendants*

71. The shock expressed by the Supreme Court of South Carolina in Welch v. Advance Auto Parts at the infringement of comity apparently committed by the Mann J Order would (in my judgment) abate on a proper understanding of the facts and matters lying behind the Mann J Order. These facts and matters, in my judgment, entirely justify the Mann J Order. They also – together with other facts and matters relevant to these proceedings – justify the jurisdiction to make declarations that I am minded to exercise, provided of course the declarations sought are otherwise sound in law.

72. The Receivership Order is (for the reasons stated in [19]-[20]) exorbitant in nature. It has a "long-arm" effect that is highly unusual in receivership orders. Indeed, the Receivership Order appears to be more like a half-baked form of insolvency process, operating in clear disregard of internationally accepted standards of corporate insolvency. The reference in the draft amended Third Party Claim (see [36]) to administering and marshalling the full assets of Cape is particularly troubling.

73. Mr Protopapas has asserted a connection between NAAC and CIHL so as to justify the making of the Receivership Order in terms which are both bombastic and immoderate and very far from the objective parsing of the facts that a court is entitled to expect. The Receivership Motion (see [35]) makes sweeping and subjective allegations in regard to this connection.

74. It is a matter of serious concern that Mr Protopapas has failed to draw to the attention of Chief Justice Toal (or, if he has, Chief Justice Toal has failed to consider the point) the significance of the decision of the English Court of Appeal in Adams v. Cape. It appears to be common ground between the English and the South Carolina jurisdictions that some form of connection must exist between the company over which a receiver is appointed and the jurisdiction ordering the receivership. That being the case, a decision on the merits of a court of competent jurisdiction deciding this very issue of "connection" ought to have been placed before Chief Justice Toal by Mr Protopapas. The decision of the Court of Appeal in Adams v. Cape could then have received the careful and respectful consideration by the South Carolina court at the outset. That would have afforded the opportunity at the relevant

time (i.e. when the Receivership Order was made) to have considered the comity issues involved in this case.

75. In these circumstances, one can see exactly why CIHL and Cape Jersey took the view that the court in South Carolina was purporting to exercise a jurisdiction so wide as to be an affront to notions of comity between courts of cognate jurisdiction. For the reasons outlined in the Mann J Judgment, and summarised in this Judgment, the Mann J Order was entirely justified and (if I may respectfully say so) the only order that Mann J could have made in these circumstances.

76. Moreover, there are a number of procedural concerns in regard to the conduct of the South Carolina receivership (in addition to the failure properly to consider the question of "connection") so as to justify CIHL and Cape Jersey in applying to the English courts for protection. They are clearly described in the Mann J Judgment and I have summarised them in this Judgment. Specifically:

i) Mr Protopapas appears to be acting in breach of the basic duties of a receiver: see [30(iv)]. Indeed, Mr Protopapas is expressing himself with an immoderation that is regrettable, to say the least: see the content of the Third Party Complaint set out at [30(vi)].

ii) Mr Protopapas is litigating the Third Party Claim without having established whether any liability exists against CIHL. Neither the claim in the Park Proceedings nor the claim in the Tibbs Proceedings has resulted in any judgment on the merits as against CIHL: see [11] and [28].

iii) Mr Protopapas is not properly defending proceedings brought against CIHL. I have referred to the disingenuous "defence" of CIHL in the Tibbs Proceedings at [30(v)]. This is no defence, but rather a conduit by which the immoderate assertions made in the Third Party Claim can operate as disguised admissions by CIHL vis-à-vis the plaintiffs in the Tibbs Proceedings: see [30(vi)].

iv) It is not understood how the Receivership Order made in the Park Proceedings can be deployed in the Tibbs Proceedings: see [30(ii)].

77. The Mann J Order has not been respected in South Carolina: instead, it has been characterised as a *brutum fulmen*, an empty noise: see [68]. Thus, it is no surprise that Mr Protopapas is pressing on with the Third Party Claim and that the courts in South Carolina are indulging him in this regard. This is quite plainly the sort of exceptional case considered in Re Maxwell Communications Corp plc (No 2) (see [69]) where the English court must intervene.

78. The progression of the Third Party Claim is doing real harm to the Claimants. They are faced with a claim – the Third Party Claim – which overtly threatens their financial standing, makes reputationally damaging (and unfounded) allegations, and threatens the Cape Scheme by which a class of victims of

asbestosis related disease are being compensated. This is a case where there is a real and present dispute which the proposed declarations will assist to resolve (Rolls Royce Principle (ii)), where all of the parties before the court will be affected by the court's determination (Rolls Royce Principle (iii)) and where all are party to the relevant contract (viz, the Settlement Agreement, Rolls Royce Principle (iv)).

79. I consider the declarations sought to be an extremely effective way of controlling the conduct of Mr Protopapas: for the declarations, if made, will have the effect of extinguishing the very claims Mr Protopapas seeks to advance by way of the Third Party Claim. I bear in mind that – as yet – the Claimants have received no protection from the English court. I consider that if the declarations can properly be made, they should for this reason alone be made. Although the Second and Third Defendants have the benefit of the Mann J Order, I consider that the declarations, if made, will confer substantial and necessary additional protection on these parties.

80. For these reasons, I conclude that if they can appropriately be made, I should exercise my discretion to give the declarations sought, notwithstanding the interference with the South Carolina proceedings that those declarations would give rise to.

81. So far, I have been considering the important need to protect the position of the Claimants and of the Second and Third Defendants. There is, however, an even weightier consideration in favour of exercising the discretion to make the declarations (if they can appropriately be made), to which I now turn.

(vi) *Protecting the integrity of the English jurisdiction*

82. One of the justifications for the grant of an anti-suit injunction is that such an injunction can serve to protect the jurisdiction of the English court. That justification applies with equal force to the declarations sought in the present case. This rationale in support of anti-suit injunctions is well-established in English law: see, for example, Raphael, The Anti-Suit Injunction, 2nd edition at [5.32]-[5.34].

83. The liability issues raised by the Third Party Claim constitute a collateral attack on the decision of the Court of Appeal in Adams v. Cape. As I have described, the question of "single economic unit" that lies at the heart of the Third Party Claim, whereby it is alleged that the Claimants and CIHL can be dragged into US proceedings by virtue of their connection with NAAC, is a matter that has already been decided by the English Court of Appeal in Adams v. Cape. The Third Party Claim thus constitutes the clearest possible collateral attack on a prior decision of a court of competent jurisdiction and thus constitutes a clear abuse of court process: see e.g. the decisions in Hunter v. Chief Constable of the West Midlands Police [1982] AC 529; Arthur JS Hall & Co v. Simons [2002] 1 AC 615; Secretary of State for Trade and Industry v. Bairstow [2003] EWCA Civ 321; Laing v. Taylor Walton (a firm) [2007] EWCA Civ 1147; Allsop v. Banner Jones Limited [2021] EWCA Civ 7. Although these cases concerned collateral attacks by the bringing of later English cases by a party, the anti-suit jurisdiction shows that the same

principle operates where the collateral attack arises out the bringing of foreign proceedings.

84. The Court of Appeal not only articulated the law in regard to "single economic unit" but (much more importantly for present purposes) decided on the facts that NAAC and CIHL were not part of the same "single economic unit". That point remains true of CIHL, and is a fortiori so far as subsequent joiners of the group (such as the Altrad parties) are concerned. The effect of the factual decision in Adams v. Cape is that liability for US claims for asbestos related disease begins and ends with NAAC. The re-litigation of this factual point in South Carolina is an attack on the English jurisdiction which the declarations sought will, if granted, protect.

(vii) Conclusion

85. I conclude that (i) if they are soundly based and (ii) subject to reviewing the drafting, the declarations sought by the Claimants should be granted. I now turn to the logically anterior question of whether the declarations sought are soundly based in law. Obviously, I can only make the declarations if I find them to be properly and soundly based.

R. Are the declarations properly and soundly based?

(i) General points as to validity

86. A settlement agreement is a contract, and so the ordinary principles of contract law apply. Consideration must exist. The agreement must be complete and certain. The parties to the contract must intend to create legal relations. Having considered the Settlement Agreement, it clear (as a matter of English law) that consideration exists in the mutual releases and other promises (going in all directions between the parties) made. The Settlement Agreement is formally drafted, clear on its face, and expressed to be entire. It is thus complete, and certain and intended to create legal relations.

87. I have dealt with these points quickly because (i) they are obvious (far greater detail on the law appears in the written submissions of the Claimants, which I accept) and (ii) because although Mr Protopapas has asserted that "no consideration" was given for this "farcical and self-dealing agreement", the assertion is unparticularised and unevidenced. The mutuality of the releases in the Settlement Agreement clearly (as a matter of English law) constitutes consideration. I reject the suggestion that the Settlement Agreement is ineffective for any of the (unparticularised) reasons advanced by Mr Protopapas.

(ii) Points taken by Mr Protopapas

88. It is more important to focus on the points that Mr Protopapas would take had he chosen to appear before me. There are three such points:

i) First, and most obviously, Mr Protopapas would contend that the Settlement Agreement was concluded without authority because the

Receivership Order deprived CIHL of any power or authority to enter into the Settlement Agreement. It is very possible that he would assert that, in concluding the Settlement Agreement, the board of CIHL was usurping his functions.

ii) Secondly and thirdly, Mr Protopapas has asserted in the South Carolina proceedings that the Settlement Agreement is both a "sham" and a "fraudulent device". In their written submissions, the Second and Third Defendants summarise Mr Protopapas' position in the following terms (D2/D3 Written Submissions/[89]):

> In his recent court filings, Mr Protopapas has "doubled-down" on his previous position and has made a series of further allegations about the Cape Parties which are simply inaccurate…By way of example:
>
> (1) First, he maintains that the commencement of the CIHL Declaratory Claim (and the proceedings/judgment arising out of it [which resulted in the Mann J Judgment] are a further example of "moral fraud" (which justify the continuance of the Receivership Order). This is misconceived (and seriously misunderstands/misstates the clear legal principles and purpose upon which the Mann Judgment is based).
>
> (2) Second, he alleges that CIHL is a "shell" company which acts as a mere conduit (or "pass through entity") to channel dividends/profits to its ultimate parent, AIA SAS (which is registered/located in France) – such that it is insolvent/at imminent risk of insolvency (such that it should be the subject of an insolvent receivership). Again, this is completely misplaced. The risk to the Cape Parties' financial position – and any potential cause of their insolvency -is Mr Protopapas (and his unprincipled/unreasonable conduct, and any other claims which his conduct has encouraged).

He asserts, based on these sorts of points, but without any particularity, that the Settlement Agreement is both a "device" and a "sham". I will consider these three points in turn below.

(iii) Authority to conclude the Settlement Agreement

89. I do not understand Mr Protopapas to be contending that absent the Receivership Order the Settlement Agreement was concluded without proper authority. However, the Parties in the evidence before me demonstrated that the Settlement Agreement – apart from the question of the Receivership Order, to which I will come – was duly and properly concluded by persons with the authority to do so: see the Claimants' written submissions/[145]-[151]; the written submissions of the Second and Third Defendants/[82]-[87], as well as the references to the evidence set out in these paragraphs, which I accept.

90. The significance of the Receivership Order on those otherwise authorised to enter into the Settlement Agreement is shortly dealt with. The Mann J

Judgment and the Mann J Order make clear, in a manner binding on me, that the Receivership Order is not capable of recognition in this jurisdiction. As is plain from the detailed consideration I have given to the Mann J Judgment and the Mann J Order in this Judgment, I should say (to the extent that it matters) that I am completely satisfied that the Mann J Order was correctly made.

(iv) Sham

91. In Snook v. London and West Riding Investments Ltd [1967] 2 QB 786 at 802, Diplock LJ defined a "sham" as "acts done or documents executed by the parties to the "sham" which are intended by them to give to third parties or to the court the appearance of creating between the parties legal rights and obligations different from the actual legal rights and obligations (if any) which the parties intend to create".

92. I do not consider it to be seriously arguable that the Settlement Agreement is a "sham" in this sense. I am in no doubt that the Parties' intentions are exactly in line with the effect of the Settlement Agreement, namely to extinguish the causes of action on which the Third Party Claim relies. I am sure that the Parties' intentions are exactly in line with what the Settlement Agreement in fact and in law achieves.

93. If, as I rather suspect, Mr Protopapas is using the term "sham" to make the point that the Settlement Agreement is done without authority because of the Receivership Order, the "sham" point makes more sense. But, for the reasons I have given, the point is a bad one. The Receivership Order is entirely ineffective before this court, applying (as it must) the relevant law, which is English law as the law determining CIHL's corporate functions and operation.

(v) Device

94. Mr Protopapas is obviously using this term pejoratively, to suggest that the Settlement Agreement is a part of the "moral fraud" whereby persons entitled to compensation from the Cape group are having that compensation illegitimately taken away. This is no more than another example of the collateral attack being made on Adams v. Cape. The fact is that the Cape group is properly compensating those entitled by way of the Cape Scheme. It is Mr Protopapas who is – through his conduct in the US – causing prejudice to CIHL, the Cape group, the Altrad group and anyone seeking to claim under the Cape Scheme.

95. I reject any suggestion that the Settlement Agreement is an illegitimate device. It is in fact an attempt by the Parties to mitigate the consequences of Mr Protopapas' conduct in the US.

(vi) Other points

96. It is difficult to prove a negative. The Claimants assert (see their written Submissions/[152] ff) that there is no other basis for seeking to impeach the Settlement Agreement. I have considered the matter, and for what it is worth,

can identify no arguable basis for contending that the Settlement Agreement is of no effect.

97. I hold that the Settlement Agreement has the effect of extinguishing the claims articulated on behalf of CIHL in the Third Party Claim.

S. Conclusion in relation to declaratory relief

98. I conclude that declarations along the lines of those set out at paragraphs 1 to 3 of the draft order (see [58]) can and should be made.

T. Declarations at paragraphs 4 and 5 of the draft order

99. I can deal with these two declarations (set out at [58]) very quickly in light of the foregoing analysis:

i) For the reasons that I have given, it is appropriate to exercise this court's power to make declarations, even though they have (and are intended to have) extraterritorial effect and interfere (and are intended to interfere) with the processes of a court in another jurisdiction. The courts of this jurisdiction – like the US courts – place an extremely high value on comity between courts of different jurisdictions. However, those considerations are comprehensively outweighed by the need to ensure that (i) the interests of this jurisdiction, (ii) the interests of the Parties, the Claimants, the First and Second Defendants and those of the wider Cape and Altrad groups and (iii) the interests of existing and future claimants under the Cape Scheme are protected.

ii) The declarations at paragraphs 4 and 5 of the draft order really do no more than articulate the consequences of the Mann J Judgment and the Mann J Order. The proceedings before Mann J involved only CIHL and Cape Jersey, and only they have the benefits of the Mann J Order. It is appropriate, given their interests, that the benefits of the Mann J Order extend to the Claimants, and I can see no harm in these declarations being repeated in the case of CIHL and Cape Jersey.

100. Accordingly, I am prepared to make declarations along the lines of these framed at paragraphs 4 and 5 of the draft order.

U. The injunctions at paragraph 6, 7 and 8 of the draft order

101. I would be prepared to make the order at paragraph 6 of the draft order, save for the prudential considerations that I raised with the Parties during the course of the hearing, and which they accepted. Paragraph 6 seeks to enjoin CIHL, preventing it from taking any step in the proceedings in the Third Party Claim.

102. To be clear, I consider that I have the jurisdiction to make an order of this sort, but it seems to me that the draft order at paragraph 6 should not be made, for pragmatic reasons. Mr Protopapas has shown a disregard of comity between nations, failing even to draw the implications of the anterior Cape litigation (specifically Adams v. Cape, the Cape Scheme and the David Richard J Order)

to the proper attention of the South Carolina courts. I have every expectation that Mr Protopapas will continue in this conduct, and there is every risk that he will cause CIHL to take steps in the proceedings in South Carolina. Were that to occur, there would be a potential for arguing that CIHL was in breach of the very order that I am being invited to make by the Claimants. The capacity for mischief is considerable. Whilst I have every sympathy for the parties before me, this is an order I am not prepared to make, but for this reason only.

103. Paragraphs 7 and 8 seek to enjoin Mr Protopapas from taking steps in the South Carolina proceedings. The effect of these orders is (at least indirectly) to inform the courts in South Carolina as to what is now required of Mr Protopapas. Mr Protopapas is, after all, the beneficiary of the Receivership Order, and there is obviously an expectation in the South Carolina courts that he act pursuant to that receivership. This is, therefore, a highly unusual form of anti-suit injunction because it is maintained not against an ordinary litigant but against a receiver appointed by a foreign court. Nevertheless, it is my conclusion that these orders should be made:

i) Mr Protopapas is properly before this court – although he has chosen not to exercise his right to be heard. Notwithstanding his choice in this regard, this court has personal jurisdiction over him.

ii) I do not need to rehearse the reasons why an anti-suit injunction is appropriate in this case, because those reasons are exactly the same as the remedy of the declarations at paragraphs 1-3 of the draft order. I refer to my earlier consideration.

iii) Whereas the declarations regarding the Settlement Agreement extinguish the subject-matter of the Third Party Claim, the injunctions at paragraphs 7 and 8 merely personally restrain Mr Protopapas from continuing with a claim that actually has no substance, because it has been extinguished by the Settlement Agreement.

That is why these orders are less aggressive than the orders I have already stated I am prepared to make. I have considered whether – pragmatically – it is pointful to make these orders in support of the other orders I am prepared to make. It seems to me that these orders do appropriately reinforce each other, and so I conclude that these orders too ought to be made along the lines of those articulated in the draft order at [58].

iv) Mr Protopapas is properly before this court – although he has not chosen to exercise his right to be heard. Notwithstanding his choice in this regard, this court has personal jurisdiction over him.

v) I do not need to rehearse the reasons why an anti-suit injunction is appropriate in this case, because those reasons are exactly the same as the somewhat more aggressive remedy of the declarations at paragraphs 1-3 of the draft order. I refer to my earlier consideration.

vi) Whereas the declarations regarding the Settlement Agreement extinguish the subject-matter of the Third Party Claim, the injunctions

at paragraphs 7 and 8 merely personally restrain Mr Protopapas from continuing with a claim that actually has no substance, because it has been extinguished by the Settlement Agreement.

vii) That is why these orders are less aggressive than the orders I have already stated I am prepared to make. I have considered whether – pragmatically – it is pointful to make these orders in support of the other orders I am prepared to make. It seems to me that these orders do appropriately reinforce each other, and so I conclude that these orders too ought to be made along the lines of those articulated in the draft order at [58].

V. Disposition

104. For the reasons, I have given, I am going to make an order along the lines of the draft order, except for paragraph 6 of the draft.

Annex 1

TERMS AND ABBREVIATIONS USED IN THE JUDGMENT

([2] of the Judgment)

Adams v. Cape	The decision of Scott J and the English Court of Appeal in Adams v. Cape Industries [1990] Ch 433	[34(iii)]
Alcock 1	Evidence of Mr Alcock in these proceedings.	[33]
Alcock 2	Evidence of Mr Alcock in these proceedings.	[34]
Allegations	A term of art defined in the Settlement Agreement.	[57]
Cape Jersey	Another – and better – reference to Cape plc.	[6(iv)]
Cape plc	A claimant in the proceedings before Mann J and the Second Defendant in the proceedings before me. For reasons given in [6(iv)], Cape plc is better referred to as Cape Jersey.	[6]
Cape Scheme	A compensation scheme based upon the findings and holdings made in Adams v. Cape.	[34(iii)]
CIHL	The England-incorporated company, whose full title is Cape Intermediate Holdings Ltd. CIHL was a claimant in the proceedings before Mann J and the Second Defendant in the proceedings before me.	[5]
CPC	A company whose full title is Continental Productions Corporation.	[15]
CPR	The English Civil Procedure Rules.	[61]

David Richards J Order	An order of David Richards J approving the scheme of arrangement whereby the Cape Scheme is implemented.	[34(iii)]
Mann J Judgment	Judgment of Mann J (sitting in retirement) dated 22 November 2024 in Cape Intermediate Holdings Ltd v. Protopapas [2024] EWHC 2999 (Ch).	[2]
Mann J Order	Mann J's order dated 22 November 2024, made consequential on the Mann J Judgment.	[39]
NAAC	An Illinois-incorporated company and former subsidiary of CIHL, whose full title is North American Asbestos Corporation.	[13]
Oren 1	Evidence of Mr Oren in these proceedings.	[34]
Park Proceedings	Proceedings commenced in the courts of South Carolina by Ms Isabella Park.	[4]
Parties	The parties to the Settlement Agreement.	[55]
Receivership Motion	A motion made by the plaintiffs in the Park Proceedings seeking the appointment of a receiver over "Cape plc".	[12]
Receivership Order	The order made by Chief Justice Toal consequential upon the Receivership Motion.	[17]
Rolls Royce Principles	Principles as to the granting of declarations stated in the decision of Rolls Royce plc v. Unite the Union [2009] EWCA Civ 387.	[61]
Scheme of Arrangement	The scheme of arrangement implementing the Cape Scheme	[51]
Settlement Agreement	An agreement between the Claimants and the Second and Third Defendants in these proceedings causing the causes of action relied upon in the Third Party Claim to be extinguished.	[55]
Third Party Claim	A claim initiated by summons by Mr Protopapas in the Tibbs Proceedings, relying upon the Receivership Order made in the Park Proceedings.	[29]
Tibbs Proceedings	Proceedings commenced by Mr and Mrs Tibbs in the South Carolina courts.	[27]

Claim No.: BL-2025-000785

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
BUSINESS LIST (ChD)

BEFORE THE HON MR JUSTICE MARCUS SMITH

30 SEPTEMBER 2025

BETWEEN:

(1) ALTRAD INVESTMENT AUTHORITY SAS
(2) ALTRAD UK LIMITED
(3) CAPE UK HOLDINGS NEWCO LIMITED
(4) CAPE INDUSTRIAL SERVICES GROUP LIMITED
(5) CAPE HOLDCO LIMITED
(6) ALTRAD SERVICES LIMITED
(7) MR MOHED ALTRAD

Claimants

and

(1) PETER D. PROTOPAPAS
(2) CAPE INTERMEDIATE HOLDINGS LIMITED
(3) CAPE PLC (a company incorporated under the laws of Jersey)

Defendants

ORDER

UPON THE CLAIM brought by the Claimants against Cape Intermediate Holdings Limited ("**CIHL**") and Cape plc ("**Cape Jersey**", and together with CIHL, the "**Cape Parties**") and Peter D Protopapas ("**Mr Protopapas**") by a Part 8 claim form dated 24 June 2025

AND UPON the Court noting that, on 16 March 2023, the Court of Common Pleas for the Fifth Judicial Circuit of the State of South Carolina, County of Richland (the "**South Carolina Court**") made an order appointing Mr Protopapas as a receiver over CIHL (the "**Receivership Order**")

AND UPON Mr Protopapas having (purportedly in the name of CIHL) brought third party proceedings in the claim brought in the South Carolina Court by John A. Tibbs and Margaret B. Tibbs with claim number C/A No. 2023-CP-40-01759 by a summons and complaint first

issued on 30 June 2023 (the "**Third-Party Complaint**", brought as third-party proceedings in the "**Tibbs Claim**")

AND UPON the Cape Parties having brought a claim by a Part 8 claim form dated 6 September 2024 and with claim number BL-2024-001337 against Mr Protopapas

AND UPON the judgment and order in those proceedings of Mr Justice Mann, sitting in retirement, on 22 November 2024

AND UPON various parties, including the Claimants and the Cape Parties having entered into a settlement agreement dated 11 April 2025 (the "**Settlement Agreement**")

AND UPON the Court noting that the Settlement Agreement contains a jurisdiction clause under which the Courts of England and Wales have exclusive jurisdiction in respect of any dispute or issue in any way arising from or relating to the Settlement Agreement

IT IS DECLARED THAT

1. The Settlement Agreement has been entered into by lawfully authorised officers of the Claimants and of the Cape Parties and is lawfully binding on the parties to it.

2. The terms and legal effect of the Settlement Agreement are such that it releases and settles any claims (whether known or unknown) that the Cape Parties have against the Claimants related to or arising (i) from the claims and allegations made in the Tibbs Claim (including in the Third-Party Complaint made within it) and (ii) from any other claims made after the date of the Settlement Agreement in any asbestos-related personal injury claims that may be asserted in the USA based in part or in whole upon the Claimants' alleged liability for the acts and/or omissions of CIHL (all such claims together, being "**Settled Claims**") (and for the avoidance of doubt it also releases and settles any judgments (and any claims based on or related to any judgments) obtained pursuant to the making of any such claims).

3. Pursuant to the terms of the Settlement Agreement, the Claimants have no liability to the Cape Parties for any Settled Claims and the Cape Parties have no lawful claims against any of the Claimants arising out of or in relation to any Settled Claims.

AND IT IS DECLARED THAT

4. The powers and lawful authority of the directors of CIHL are unaffected by the Receivership Order (which is not recognised and has no legal effect in England and Wales and worldwide).

5. Mr Protopapas has and had no power or lawful authority to take any steps or acts for, on behalf of, or in the name of CIHL, including (but without prejudice to the generality of the foregoing) in any Settled Claims.

AND IT IS ORDERED THAT

6. Mr Protopapas be restrained from taking any further step in the Third-Party Complaint (or in relation to any proceedings, including but not limited to any Settled Claims) against the Claimants in the name of or on behalf of CIHL.

7. Mr Protopapas shall forthwith take all and any steps to effect a final and with prejudice dismissal of the Third-Party Complaint against the Claimants with immediate effect and, in any event, Mr Protopapas is to have effected such a dismissal of the Third-Party Complaint against the Claimants within 14 days of the date of this order.

Liberty to apply

8. The parties shall have liberty to apply for further or related relief if necessary.

Costs

9. The Claimants, Mr Protopapas and the Cape Parties shall (if so advised) file and serve written submissions on the issue of costs by 4pm on Tuesday 7 October 2025.

Service

10. The Claimants shall serve this order and the judgment of the Court (the "**Order and Judgment**") on the Defendants.

11. The Claimants may serve the Order and Judgment on Mr Protopapas by email to pdp@rplegalgroup.com or otherwise in accordance with the service orders of Master Pester dated 25 June 2025 and 2 July 2025, and service by any of these methods shall

be regarded as valid and sufficient service for all matters of English law and procedure (but without prejudice to the position as a matter of South Carolina law and procedure).

The Court has provided a sealed copy of this order to the solicitors for the Claimants, Enyo Law LLP, One Tudor Street, London EC4Y 0AH (reference: JTL/ALT1.1)