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Apr 22 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Jean H. Toal
Acting Circuit Court Judge

Appellate Case No. 2023-002008
Circuit Court Case No. 2023-CP-40-01759

John A. Tibbs and Margaret B. Tibbs, Plaintiffs,

v.

3M Company; 4520 Corp., Inc.; A.O. Smith Corporation; A.W. Chesterton Company; ABB Inc.; Air & Liquid Systems Corporation; Aiw-2010 Wind Down Corp.; Amentum Environment & Energy, Inc.; Anchor/Darling Valve Company; Armstrong International, Inc.; Asbestos Corporation Limited; ASCO, L.P.; Atlas Asbestos Co; Atlas Turner, Inc.; AWT Air Company, Inc.; Bahnson, Inc.; Banner Industries International, Inc.; Banner Industries, LLC; Banner Industries Of N.E., Inc.; Barretts Minerals Inc.; Beaty Investments, Inc.; Bechtel Corporation; The Bonitz Company; Brand Insulations, Inc.; BW/IP Inc.; Canvas Ct, LLC; Cape PLC; Carboline Company; CB&I Laurens, Inc.; Cleaver-Brooks, Inc.; Consolidated Electrical Distributors, Inc.; Copes-Vulcan, Inc.; Covil Corporation; Crane Instrumentation & Sampling, Inc.; Crosby Valve, LLC; Daniel International Corporation; Davis Mechanical Contractors, Inc.; Dezurik, Inc.; Duke Energy Carolinas, LLC; Duke Energy Corporation; Eaton Corporation; Ellington Insulation Company, Inc.; Emerson Electric Co.; Fisher Controls International LLC; Flame Refractories, Inc.; Flowserve Corporation; Flowserve US Inc.; Fluor Constructors International; Fluor Constructors International, Inc.; Fluor Daniel Services Corporation; Fluor Enterprises, Inc.; FMC Corporation; Foster Wheeler Energy Corporation; Gardner Denver Nash, LLC; General Boiler Casing Company, Inc.; General Cable Corporation; General Cable Industries, Inc.; General Electric Company; Gould Electronics Inc.; Goulds Pumps, Incorporated; Goulds Pumps LLC; Great Barrier Insulation Co.; Grinnell LLC; Hajoca Corporation; Howden North America Inc.; HPC Industrial Services, LLC; IMO Industries Inc.; ITT LLC; Joy Global Underground Mining LLC; K-Mac Services Incorporated; Metropolitan Life Insurance Company; Mine Safety Appliances Company, LLC; MP Supply, Inc.; The Nash Engineering Company; Occidental

Chemical Corporation; Paramount Global; Patterson Pump Company; PECW Holding Company; Pfizer Inc.; Piedmont Insulation, Inc.; Plastics Engineering Company; Presnell Insulation Co., Inc.; Redco Corporation; Riley Power Inc.; Rockwell Automation, Inc.; RSCC Wire & Cable LLC; Schneider Electric USA, Inc.; Sequoia Ventures Inc.; Spirax Sarco, Inc.; SPX Corporation; Stafford Insulation Company; Standard Insulation Company Of N. C., Inc.; Starr Davis Company, Inc.; Starr Davis Company Of S.C., Inc.; Sterling Fluid Systems (USA) LLC; TE Wire & Cable LLC; Thermo Electric Company, Inc.; Union Carbide Corporation; Valves And Controls Us, Inc.; Velan Valve Corp.; Viking Pump, Inc.; Vistra Intermediate Company LLC; The William Powell Company Wind Up, Ltd.; Yuba Heat Transfer LLC; Zurn Industries, LLC, **Defendants**,

and

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

v.

Anglo American PLC, individually and as successor in interest to Anglo American Corporation of South Africa LTD., De Beers PLC, individually and as successor in interest to De Beers S.A., De Beers Centenary AG, De Beers Consolidated Mines Ltd., n/k/a De Beers Consolidated Mines Proprietary Ltd., De Beers UK Ltd., De Beers Jewellers LTD., De Beers Jewellers US, Inc., Anglo American US Holdings Inc., Element Six US Corp., Element Six Technologies US Corp., Element Six Technologies (OR) Corp., First Mode Holdings, Inc., Platinum Guild International (U.S.A.) Jewelry Inc., Lightbox Jewelry Inc., Forevermark US Inc., Anglo American Crop Nutrients (U.S.A.) LLC, Charter Consolidated Ltd., ESAB Corporation, Central Mining & Investment Corporation Ltd., Cape Holdco Ltd., The Law Debenture Corporation PLC, Cape Industrial Services Group Ltd., Mohed Altrad, Altrad UK Ltd., Cape UK Holdings Newco Ltd., Altrad Services, Ltd., f/k/a Cape Industrial Services Ltd., Altrad Investment Authority S.A.S., Sparrows Offshore Group Ltd., Hawk Bidco US Inc., ArranCo US, LLC, Sparrows Offshore, LLC, and The Sparrows Group, LLC, Third-Party Defendants, Of which Anglo American PLC, De Beers, PLC, De Beers Centenary AG, De Beers Consolidated Mines Proprietary Ltd., De Beers UK Ltd. are the **Appellants**.

**APPELLANTS' MOTION FOR *PRO HAC VICE* ADMISSION OF
MAXWELL D. HERMAN**

Pursuant to RULE 240 AND RULE 404 OF THE SOUTH CAROLINA RULES OF APPELLATE PROCEDURE Maxwell D. Herman, through the undersigned counsel, moves to be admitted *Pro Hac Vice* before this Court in the above-entitled action, to participate as counsel for Respondents, and in support thereof, states:

1. That he is a member in good standing of the New York State Bar, admitted before the court of last resort in that state, and has never been the subject of a disciplinary proceeding.

2. This motion is based upon the attached Verified Application for Admission *Pro Hac Vice* of Maxwell D. Herman, Certificate of Good Standing and Order Pro Hac Vice, a copy of which is attached hereto and incorporated herein by reference.

WHEREFORE, the undersigned counsel for the appellants, move for the admission *Pro Hac Vice* of Maxwell D. Herman, as co-counsel in this matter.

**RICHARDSON PLOWDEN
& ROBINSON, P.A.**

/s/ James H. Elliott, Jr.

James H. Elliott, Jr. (SC Bar No. 13620)
Cameron D. Berthelsen (SC Bar No. 104849)
235 Magrath Darby Blvd., Ste. 100
Mt. Pleasant, South Carolina 29464
Tel: 843-805-6550
Fax: 843-805-6599
Email: jelliott@richardsonplowden.com
cberthelsen@richardsonplowden.com

*Attorneys for Appellants
Anglo American plc, De Beers plc, De Beers
Consolidated Mines, Ltd., De Beers Centenary
AG, and De Beers UK Ltd.*

April 22, 2024



The Supreme Court of South Carolina

Office of Bar Admissions

PATRICIA A. HOWARD
CLERK OF COURT

KATHLEEN "TINA" BRYANT
MANAGER, OFFICE OF BAR
ADMISSIONS

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1317
FAX: (803) 734-0394

January 26, 2024

The Honorable Jeanette W. McBride
Clerk of Court
Post Office Box 2766
Columbia, SC 29202-2766

RE: John A. Tibbs, et al. v. 3M Company, et al.

Case No.: 2023-CP-40-01759

Dear Ms. McBride:

I certify that the Office of Bar Admissions has received a verified application requesting Maxwell D. Herman be admitted *pro hac vice* in the above action. The \$250 filing fee for the applicant has been paid.

Sincerely,

M.J. Thames
Bar Admissions Coordinator

cc: Maxwell D. Herman, Esquire
James H. Elliott, Jr., Esquire

**VERIFIED APPLICATION FOR ADMISSION *PRO HAC VICE*
IN THE STATE OF SOUTH CAROLINA**

Please type your answers in the space provided. Provide an answer for every question asked. In your own handwriting, sign in all spaces where a signature is required (no e-signatures). The accompanying certificate of good standing should not be older than 90 days at the time of the filing of this application.

JOHN A. TIBBS and MARGARET
B. TIBBS,

Vs.

3M COMPANY, *et al.*,

And

CAPE, PLC, individually and as
successor in interest to CAPE
ASBESTOS COMPANY
LIMITED, by and through its duly
appointed Receiver
Johnathan M. Robinson,
Third-Party Plaintiff,

v.

ANGLO AMERICAN PLC,
individually and as successor in
interest to ANGLO AMERICAN
CORPORATION OF SOUTH
AFRICA, LTD., *et al.*,

Third-Party Defendants.

RECEIVED

JAN 24 2024

S.C. SUPREME COURT

2023-CP-40-01759
Case No.

Richland County Common Pleas
Tribunal

Mailing Address of Tribunal:

701 Main St. #205
Columbia, SC 29201

Comes now Maxwell D. Herman, applicant herein, and respectfully represents the following:

1. Applicant resides at:

25 Woodlawn Avenue

Street Address

Cranford

Union

New Jersey

07016

City

County

State

Zip Code

917-542-7600

Telephone

2. Applicant is an attorney and a member of the law firm of (or practices law under the name of)

Herbert Smith Freehills New York LLP

, with offices at

450 Lexington Avenue, 14th Floor

Street Address	New York	New York	New York	10017
City	New York	County	State	Zip Code
917-542-7600			917-542-7601	maxwell.herman@hsf.com
Primary Telephone	Cell Phone	Fax Number	Email Address	

3. Applicant has been retained personally or as a member of the above-named law firm by Anglo American plc, De Beers plc, De Beers UK Ltd, De Beers Centenary AG, and De Beers Consolidated Mines Proprietary Limited to provide legal representation in connection with the above case now pending before the above-named tribunal of the State of South Carolina.

4. Since June of 2015, Applicant has been, and presently is, a member in good standing of the bar of the highest court of the District of Columbia or the State of New York where Applicant regularly practices law. Attached is a certificate of good standing dated within the last 90 days from the bar of the highest court of the District of Columbia or the State where applicant regularly practices law. It is not necessary to provide a certificate of good standing from all courts before which you are admitted.

5. List all courts before which Applicant has been admitted to practice law, including United States District Courts; United States Circuit Courts of Appeals; the Supreme Court of the United States; and state courts or the District of Columbia.

Court:	Date Admitted:
New Jersey Bar	11/14/2014
Pennsylvania Bar	1/10/2022
Southern District of New York	6/8/2021
Northern District of New York	12/8/2017
Western District of New York	6/3/2022
9th Circuit Court of Appeals	5/3/2019
District of New Jersey	12/13/2018

Is Applicant presently a member in good standing of the bars of those courts listed above? List any court named in the preceding paragraph that applicant is no longer admitted to practice before.

Yes and he is admitted to practice in all the courts.

6. Is Applicant presently subject to any suspension or disbarment proceedings, or has Applicant been formally notified of any complaints pending before a disciplinary agency? If yes, give particulars, e.g., jurisdiction, court date.

NO

7. Has Applicant had any application for admission *pro hac vice* in this or any other jurisdiction denied or any *pro hac vice* admission revoked? If yes give particulars, e.g., date, court, docket number, judge, circumstances; attach a copy of any order of denial or revocation.

NO

8. Has Applicant had any certificate or privilege to appear and practice before any court or administrative body suspended or revoked? If yes, give particulars, e.g., date, court, administrative body, date of suspension and reinstatement.

NO

9. Please be aware that local counsel must be Rule 403 certified. Local counsel of record associated

with Applicant in this case is James H. Elliott, Jr. of the Richardson Plowden, P.A. law firm, which has offices at:

235 Magrath Darby Blvd, Suite 100

Street Address

<u>Mt. Pleasant</u>	<u>Charleston</u>	<u>SC</u>	<u>29464</u>
City	County	State	Zip Code
<u>843-805-6550</u>	<u>843-607-4032</u>		<u>jelliott@richardsonplowden.com</u>
Primary Telephone	Cell Phone	Fax Number	Email Address

13620

South Carolina Bar Number

10. Has Applicant previously filed an application to appear *pro hac vice* in South Carolina cases? If yes, give case name and status of litigation, date of application, local counsel of record in each case, and state whether application is pending or was granted.

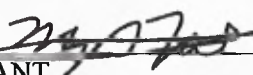
No

11. Does Applicant agree to comply with the applicable statutes, laws and rules of the State of South Carolina and familiarize him/herself with and comply with the South Carolina Rules of Professional Conduct? Does Applicant consent to the jurisdiction of the South Carolina courts and Commission on Lawyer Conduct.

Yes

12. Applicant respectfully requests to be admitted to practice in the above-named tribunal for this case only.

DATED this 12 day of January, 2024


APPLICANT

VERIFICATION

STATE OF NEW YORK)

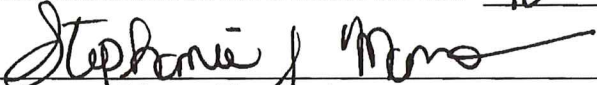
COUNTY OF NEW YORK)

I, Maxwell D. Herman, do hereby swear or affirm under penalty of perjury that I am the applicant in the above-styled matter; that I have read the foregoing application and know the contents thereof; and that the contents are true of my own knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true. I understand that I am under a continuing duty to promptly update the information provided in the application until the tribunal has ruled on the motion for admission pro hac vice. Further, if the motion is granted, I understand that I am under a continuing duty to promptly update the information provided in the application as long as I continue to appear pro hac vice in the action or proceeding. Any updated information shall be provided to both the tribunal that granted the motion and to the tribunal in which the action or proceeding may then be pending.



APPLICANT/AFFIANT

Subscribed and sworn to before me this 12 day of January, 20 24



(Notary Signature)

STEPHANIE J. MORANO
NOTARY PUBLIC-STATE OF NEW YORK
No. 01MO0004079
Qualified in Kings County
My Commission Expires 03-27-2027

Notary Public for the State of New York

My Commission Expires: 3/27/2027

LOCAL COUNSEL CONSENT

I hereby consent, as local counsel of record, to the association of applicant in this cause pursuant to Rules Governing Admission *Pro Hac Vice* to the South Carolina Bar.

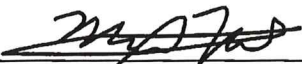
DATED this 16 day of January, 20 24



LOCAL COUNSEL OF RECORD

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this application upon the South Carolina Supreme Court by mail addressed to: South Carolina Supreme Court Office of Bar Admissions, PO Box 11330, Columbia, SC 29211, accompanied by payment of the \$250 filing fee payable to the South Carolina Supreme Court on this 16th day of January, 20 24



APPLICANT/AFFIANT



*Appellate Division of the Supreme Court
of the State of New York
Third Judicial Department*

I, Robert D. Mayberger, Clerk of the Appellate Division of the Supreme Court of the State of New York, Third Judicial Department, do hereby certify that

Maxwell Dane Herman

*was duly licensed and admitted to practice as an Attorney and Counselor at Law in all the courts of this State on **June 24, 2015**, has duly taken and subscribed the oath of office prescribed by law, has been enrolled in the Roll of Attorneys and Counselors at Law on file in this office, is duly registered with the Office of Court Administration, and according to the records of this Court is currently in good standing as an Attorney and Counselor-at-Law.*

In Witness Whereof, I have hereunto set my hand in the City of Albany on January 9, 2024.



Robert D Mayberger

Clerk of the Court

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

JOHN A. TIBBS and MARGARET B.
TIBBS,

Plaintiffs,

V.

3M COMPANY, *et al.*,

Defendants.

CAPE, PLC, individually and as successor in
interest to CAPE ASBESTOS COMPANY
LIMITED, by and through its duly appointed
Receiver Peter D. Protopapas,

Third-Party Plaintiff,

v.

ANGLO AMERICAN PLC, individually and
as successor in interest to ANGLO
AMERICAN CORPORATION OF SOUTH
AFRICA, LTD., *et al.*,

Third-Party Defendants.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CIVIL CASE NO.: 2023-CP-40-01759

**ORDER FOR ADMISSION
PRO HAC VICE OF
MAXWELL D. HERMAN**

Having considered a Motion for Admission *pro hac vice* to admit Maxwell D. Herman, and finding that Maxwell D. Herman meets the qualifications for *pro hac vice* admission, it is hereby

Ordered, Adjudged and Decreed that Maxwell D. Herman be admitted *pro hac vice* to represent the 3rd Party Defendants:

Anglo American plc
De Beers plc
De Beers UK Limited
De Beers Centenary AG
De Beers Consolidated Mines Proprietary, Ltd.

in association with James H. Elliott, Jr. and Cameron D. Berthelsen of the law firm Richardson Plowden & Robinson, P.A., 235 Magrath Darby Blvd., Suite 100, Mount Pleasant, SC 29464.

AND IT IS SO ORDERED.

[JUDGE'S SIGNATURE PAGE FOLLOWS]



Richland Common Pleas

Case Caption: John A Tibbs , plaintiff, et al vs 3M Company , defendant, et al

Case Number: 2023CP4001759

Type: Order/Pro Hac Vice

So Ordered

Jean H. Toal