

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

JOHN A. TIBBS and MARGARET B. TIBBS,

Plaintiffs,

v.

3M COMPANY, *et al.*,

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,

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

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

C.A. No. 2023-CP-40-01759

In Re: Asbestos Personal Injury Litigation
Coordinated Docket

**SECOND REPORT TO THE
SUPREME COURT OF SOUTH CAROLINA
PURSUANT TO ITS ORDER OF REMAND
DATED JUNE 26, 2025**

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; THE SPARROWS GROUP,
LLC,

Third-Party Defendants.

Pursuant to the Supreme Court's Order of Remand, dated June 26, 2025, in which the Court asked that I submit monthly reports as to my progress in addressing the directives from the Court contained in its Remand Order, this will constitute my Second Report.

On August 12, 2025, I conducted detailed hearings regarding pending motions in the Isabella Park v. Armstrong International, CA No. 2021-CP-40-02727, focusing on the status of the Park case, hearing receiver's motion to compel, certain insurer defendants' and other defendants' opposition to the motion to compel, and considering filings and argument in Park by non-parties. Additionally, I conducted a hearing in Tibbs v. 3M, CA No. 2023-CP-40-01759, the case before me on remand, focusing on filings by the parties in Tibbs related to the validity of the Cape receivership. I have attached to this Report the Agenda I used in conducting the proceedings on August 12.

Preliminarily, I can report that Park v. Armstrong continues to be an open case on my asbestos docket, as reflected in the records of the Clerk of Court for Richland County. I heard detailed arguments with regard to the contention that the Park Estate was closed, even though Park vs. Armstrong International, et al., was still pending before me with Cape as the only remaining defendant. The Park Estate was originally closed on August 6, 2022, due to a miscommunication

between attorneys for Isabella Park in the asbestos case and attorneys handling the probate of Isabella Park's Estate. On July 30, 2025, the Park Estate was validly reopened by Order of the Probate Judge for Spartanburg County. There are no further outstanding motions in Park v. Armstrong.

As to the Tibbs case, as reflected on the Agenda I have attached to this report, I heard lengthy and detailed arguments regarding filings in Tibbs by the parties concerning the validity of the Cape receivership. When the arguments in Park and Tibbs concluded on August 12, 2025, I informed the parties in each case that I would send a letter to all counsel the next day, outlining my rulings in all of these matters, and asking the parties to submit Proposed Orders with respect to these matters. On August 13, 2025, I transmitted the attached letter to all counsel in Isabella Park v. Armstrong International and Tibbs v. 3M, detailing my ruling on each matter heard. Certain Proposed Orders have been submitted to me as of late last week, and I am expecting Reply Proposals on August 27, 2025. Thereafter, I will promptly issue Orders and copy them to the Supreme Court with a Third Report.

Respectfully submitted,



Chief Justice (Ret.) Jean Hoefer Toal
Presiding Circuit Court Judge

Dated August 25, 2025
Columbia, South Carolina

Agenda

August 12 through 14, 2025, at 9:30AM
Richland County Judicial Center, Courtroom 3B

- I. ***Isabella Park v. Armstrong International, et al.*** – C/A No. 2021-CP-40-02727
- A. Plaintiff's Bench Brief to the Court on the Status of the Park Case, filed August 4, 2025.
 - B. Receiver's Motion to Compel Certain Underwriters at Lloyds, Travelers & Liberty Mutual, filed June 2, 2025.
 - C. Certain Insurer's Memo in Opposition, filed July 18, 2025.
 - D. Certain Insurers'/Continental Casualty Reply/Return to "Bench Brief", filed August 7, 2025.
 - E. Non-Party Traveler's Memo in Opposition, filed July 18, 2025.
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Filed in Tibbs:

- 1. ALTRAD DEFENDANTS' REPLY REGARDING REPORT TO THE SUPREME COURT ON "CURRENT STATUS OF PARK" AND THE PLAINTIFFS' "BENCH BRIEF", filed August 7, 2025.
 - 2. Charter Consolidated LTD., ESAB Corporation, and Central Mining and Investment Corporation LTD.'s Supplemental Objection and Opposition to Bench Brief to the Court on the Status of the Park Case, filed August 9, 2025.
 - 3. Altrad Response to the Court's First Report Regarding the Current Status of *Park*, filed July 31, 2025.
 - 4. Charter Consolidated Ltd Joinder to Response to the Court's First Report Regarding the Current Status of *Park*, filed July 29, 2025.
 - 5. Receiver's Response to the Submission Regarding the Court's First Report, filed August 5, 2025.
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II. ***John A. Tibbs and Margaret B. Tibbs v. 3M Company et al. (Third-Party Action: Cape PLC, individually and as successor in interest to Cape Asbestos Company Limited, by and through its duly appointed Receiver Peter D. Protopapas v. Anglo American PLC, et al.)*** – C/A No. 2023-CP-40-01759

A. Anglo American PLC, De Beers PLC, De Beers Consolidated Mines Proprietary Limited, De Beers UK Limited and De Beers Centenary AG's Motion to Dissolve the Cape Receivership and Dismiss the Third-Party Complaint, filed June 24, 2025.

1. Anglo/DeBeers Supplemental Memo in Support of Motion to Dismiss for Lack of Subject Matter Jurisdiction, filed July 1, 2025.
2. Receiver's Memorandum in Opposition, filed July 18, 2025.
3. Anglo American Plc's Third-Party Defendants Memorandum of Law in Support of Motions to Dissolve Cape Receivership and to Dismiss Third-Party Plaintiff's Claims for Lack of SMJ, filed August 1, 2025.
4. Receiver's Response in Opposition to Motions, filed August 5, 2025.
5. Anglo/DeBeers Reply in Further Support, filed August 7, 2025.

B. Receiver's Motion to Confirm Appointment of Receiver, filed July 11, 2025.

1. Anglo and De Beers Defendant's Memorandum in Opposition, filed July 18, 2025.
2. Charter, ESAB and Central Mining's Objection and Opposition to Receiver's July 11 Submissions including the Receiver's Report and Motion to Confirm Appointment, filed July 18, 2025.
3. Altrad Defendant's Notice of Recent Supreme Court Authority Voiding Third Party Litigation, Renewed Motion to Dismiss, and Motion to Strike All Filings and Orders in the Third-Party Case, filed July 18, 2025.
4. Receiver's Supplemental Memorandum in Support, filed July 31, 2025.
5. Anglo/DeBeers Opp. Supplemental Memo in Support of "Motion to Confirm Appointment of Receiver" and Proposed Order, filed August 5, 2025.
6. Altrad Defendants' Response to the Proposed Order, filed August 5, 2025.
7. Receiver's Reply to Defendant's Response, filed August 7, 2025

C. Receiver's Amended Motion for Leave to Amend, filed June 20, 2025.

1. Charter's Supplemental Objection and Opposition to Receiver's Motion to Confirm and Amend the Complaint, filed August 5, 2025.



The Supreme Court of South Carolina

JEAN HOEFER TOAL
CHIEF JUSTICE, RETIRED
SENIOR ACTIVE JUDGE

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August 13, 2025

To: All Counsel

Re: Isabella Park v. Armstrong International, et al., C/A No. 2021-CP-40-02727 and
John Tibbs and Margaret Tibbs v. 3M Company, et al., C/A No. 2023-CP-40-01759

Dear Counsel,

Yesterday, this Court heard a challenge to the viability of the Park v. Armstrong International, et al., case. In connection with the Receiver's attempts to locate potential insurance covering the Park claims against Cape, the Receiver for Defendant and Third-Party Plaintiff Cape made a Motion to Compel production against Certain Underwriter's at Lloyd's London, Continental Casualty Company, and Liberty Mutual Insurance Company (collectively "Insurers"). These potential Insurers opposed the Motion to Compel on the grounds that the Park Estate had been closed, the Park case settled, and therefore Receiver for Cape in the Park case had no authority to compel production from Insurers of Cape. Additionally, certain Third-Party Complaint Defendants in Tibbs v. 3M Company, et al., also filed pleadings challenging the validity of the appointment of the Receiver in Park and the validity of any activity taking place in Park after the Park Estate was originally closed on August 6, 2022.

With regard to the status of the Park Estate, I will rule that the Estate was validly reopened on July 30, 2025, and that pursuant to South Carolina Probate Code Section 62-3-701, the authority of the Personal Representative relates "back in time to give acts by the person appointed which are beneficial to the estate occurring prior to appointment the same effect as those occurring thereafter." Additionally, I will rule that a personal representative, pursuant to the Act, "may ratify and accept acts on behalf of the estate done by others where the acts would have been proper for a personal representative." *Id.* And finally, I will cite the reporter's comments to S.C. Code § 62-3-701 which observes that "the authority of the personal representative relates back to death and stems from appointment and that the personal representative may ratify acts done by others prior to the appointment." Therefore, I will rule that all actions taken by or on behalf of the Personal Representative for the Park Estate in the Park matter are valid.

I will deny the Insurers' Opposition to the Motion to Compel Production from them based on their contention that the subpoenas requiring production were invalid. I will rule that sections

15-9-270 and 38-5-70 allow subpoenas to be served upon them by service on the State of South Carolina Department of Insurance, as the Insurers' statutory agent for service and process. I will rely on the Opinion of the Attorney General, issued November 1, 2022, to Gwendolyn Fuller McGriff, Deputy Director and General Counsel of the South Carolina Department of Insurance, regarding this issue, filed by John Chandler of Rikard & Protopapas this morning, and the Response emailed to me by Wesley Sawyer earlier today.

Of course, Defendants in Cape and Park also contend that the appointment of the Receiver in Park was invalid, and the subpoenaed Insurers as well as other non-parties in Tibbs join in that motion.

I will analyze this issue in connection with the hearing in Tibbs.

Two motions were heard in Tibbs. All of the Tibbs motions heard relate to the validity of the Receiver for Cape's activities in Tibbs. These matters include Defendants Anglo DeBeers and others Motion to Dissolve the Cape Receivership and Dismiss the Third-Party Complaint, as well as Receiver's Motion to Confirm the Appointment of the Receiver. I have previously issued, in Tibbs, on December 6, 2023, a seventy-three-page order denying Certain Third-Party Defendants' Motion to Dissolve the Cape Receivership and the Dismiss the Third-Party Complaint for lack of personal jurisdiction.

Additionally, the instructions of the South Carolina Supreme Court in its Remand of Tibbs to me, also raise issues with respect to the application of the Opinion in Welch v Atlas Turner to the Circuit Court's jurisdiction and authority to appoint a Receiver and certain directives relating thereto.

I propose to issue an Order Denying this latest Motion to Dissolve the Receivership and to Dismiss the Third-Party Complaint, filed June 24, 2025, and to grant the Receiver's Motion to Confirm the Appointment of the Receiver.

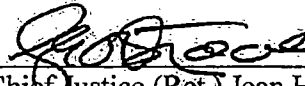
In connection therewith, I intend to repeat my ruling confirming the ongoing validity of the Park Estate as well as the ongoing validity of the appointment of the Receiver for Cape and its authority to bring the third-party action in Tibbs. I will include in that ruling an analysis of alleged moral fraud of behalf of Cape as support for the validity of the appointment of a Receiver for Cape, and I will confirm the authority of the Receiver for Cape to act in the Tibbs case. I would ask that Ms. Theile McVey, in collaboration with Mr. Peter D. Protopapas, Receiver, and Mr. John T. Lay, Attorney for the Receiver, draft orders in Park and in Tibbs reflecting my directives herein. I would appreciate making these focused orders, and I direct that the drafts be submitted to me by August 20, 2025. I would direct that Defendants represented by Mr. Wesley B. Sawyer, Mr. Todd Carroll, and Mr. Scott Balber, along with others they may wish to include, to collaborate on commentary to those proposed orders and propose counter orders if they wish, and have those materials to me by August 27, 2025.

Finally, in connection with my continuing obligation to the South Carolina Supreme Court in connection with its Remand Order in Tibbs, I would like for all parties to advise me as to what you consider to be any current outstanding motions which need attention in either Park or Tibbs.

Thanks to each counsel in these complex matters for your high degree of professionalism and many kindnesses to me.

With My Best Regards, I am,

Sincerely yours,


Chief Justice (Ret.) Jean Hoefer Toal

CC via email to:

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