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Sep 23 2025

S.C. SUPREME COURT

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

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

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

In Re: Asbestos Personal Injury Litigation
Coordinated Docket

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

2025 JUL 24 PM 12:03
RICHLAND COUNTY
FILED
EANNETTE W. MCGRIDE
C.C.P. CLERK

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; THE SPARROWS GROUP, LLC,

Third-Party Defendants.

The above-captioned case of Tibbs, Plaintiff, v. 3M, et al., Defendants, and Cape PLC, Defendant in Tibbs and Third-Party Plaintiff, individually and as Successor in Interest to Cape Asbestos Company, by and through its duly appointed Receiver, Peter D. Protopapas, against Anglo-American, PLC, et al., Third-Party Defendants, Civil Action No. 2023-CP-40-01759, have been remanded to me for all purposes by the Order of the Supreme Court of South Carolina, dated June 26, 2025. This Order contains specific instructions from the Supreme Court to this Court regarding its handling of the Tibbs case on remand and directs this Court to provide the Supreme Court with a report every thirty (30) days on this Court's progress in complying with the Supreme Court's directive in paragraphs (A)(1), (2) and (3), and paragraph (B), regarding the application of its recent opinion in Welch v. Atlas Turner (Op. No. 28284 (S.C. S. Ct. filed May 21, 2025) (Howard Adv. Sheet No. 19)) to the Receivership of Defendant Cape PLC in the Tibbs case.

I did not receive notice of the Supreme Court's Order of Remand with directives when it was issued. When I learned of the Remand Order, I scheduled a Status Conference to discuss with all parties in Tibbs the Supreme Court's directives. This hearing was noticed for July 22, 2025, at 9:30 AM at the Richland County Judicial Center. My office provided a suggested agenda which

included a list of all pending motions in the Tibbs case and the Park v. Armstrong case. I received a report from the Receivership and responses to the report from the various parties.

On Tuesday, July 22, 2025, pursuant to notice to all parties in Tibbs, I conducted a four-and-a-half-hour Status Conference regarding the Supreme Court's directives, and elicited suggestions from the parties as to how we should proceed. During this hearing, I also reviewed with attorneys for all parties the status of Park v. Armstrong, et al., C/A No. 2021-CP-40-02727.

In the Supreme Court's Tibbs Remand Order, paragraph (A), the Supreme Court directed this Court to utilize the holdings of the Supreme Court's recent opinion in Welch v. Atlas Turner, Inc., to ensure that the appointment and activities of Peter D. Protopapas, Receiver for Cape PLC, *et al.*, in the Tibbs case comply with the Supreme Court's Welch Opinion and the Supreme Court's directives in its June 26, 2025, Remand Order. In paragraph (B) of the Supreme Court's Order in Tibbs the Supreme Court directed this Court to rule on all pending motions in Park v. Armstrong, supra, or provide an explanation for not ruling on these motions.

Among the motions pending before this Court in Tibbs is a Motion to Dissolve the Cape Receivership, made by attorneys for Anglo American plc, De Beers Consolidated Mines Propriety Limited, De Beers UK Limited, De Beers plc, and De Beers Centenary AG. Also pending before this Court is Mr. Protopapas, Receiver for Cape PLC's Motion to Confirm the Appointment of Cape Receivership. Also pending is the Receiver's Motion to Amend its Complaint. These pending motions in Tibbs seem to me to be the best vehicles for hearing arguments and receiving factual information, affidavits, testimony, and documents regarding the validity of the creation of the Cape Receivership and the ambit of its authority. The resolution of this issue is central to this Court's responsibilities and directives as set forth in the Supreme Court's June 26, 2025 Remand Order. A

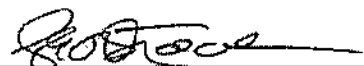
hearing on these motions will give this Court a vehicle for answering the questions and directives given in the Supreme Court's Remand Order in the Tibbs case and allow a full briefing and record for any further appellate review. A hearing on these motions is tentatively scheduled before this Court for August 11, 2025, at 9:30 AM at the Richland County Judicial Center. It is contemplated that any pending motions in Park will also be heard at this time. I will be sending out today a briefing schedule for the hearing of these motions in Tibbs. I have also tentatively set a pre-motion hearing Status Conference for July 30, 2025, to be conducted at 9:30 AM at the Richland County Judicial Center.

With respect to the Park matter, there was some question raised in the hearing before me on July 22, 2025, about whether or not the Park case is still a viable and open case. The Public Index of the Fifth Judicial Circuit in Richland County, and my own records, indicate the Park case is still open and on my docket. I am advised that Cape, and its related entities, is the only Defendant left in the Park case. There is some question raised about the status of the Estate of Park, which was made a Plaintiff when the principal Plaintiff died. Defendant Altrad's Counsel contends that the Park Estate has been closed. Counsel for the Plaintiffs in Park stated that they were unaware that the Estate had been closed until Counsel for Altrad raised this issue. Counsel for Park have moved to reopen the Estate. I will continue to report to the Court as to my progress in hearing these matters.

Filings by all parties regarding the Supreme Court's remand have already been voluminous. Additionally, it may very well be that filings will be made with the South Carolina Supreme Court in the Tibbs matter even though it has been remanded to me. If the Supreme Court receives any further filings in the Tibbs matter currently remanded to me, I would appreciate being copied on such filings to the Supreme Court.

I need the Supreme Court's assistance in conducting an orderly proceeding in Tibbs to evaluate the propriety of the use of the Receivership in the light of the Supreme Court's opinion in Welch and the directives of the Court in connection with the remand to this Court in Tibbs. Defendant Altrad and certain Defendant's in Park continue to direct filings to the Supreme Court disputing this Court's handling of the Tibbs remand. This Court believes inasmuch as Tibbs has been remanded to this Court for all purposes, with directives, all filings should be made to this Court, which will hear these matters fully and provide orders and a complete record for the Supreme Court's review on a proper appeal. If this Court is mistaken in this belief, I ask that the Supreme Court to instruct me further as to how to proceed.

Respectfully Submitted,



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

Dated July 23, 2025
Columbia, South Carolina