

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

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

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

RECEIVED

NOV 25 2025

S.C. SUPREME COURT

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.

Pursuant to the South Carolina Supreme Court's Order of Remand in this matter, 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 Fifth Report.

As discussed in my Fourth Report, the Third Party Complaint in the above-captioned matter was set for a non-jury trial before me for October 20, 21, and 22, 2025. On October 13, I filed my Order memorializing my previous rulings from the bench at pre-trial on all outstanding motions, pre-trial and otherwise. My Order contained detailed rulings regarding the status of the Receivership and the jurisdiction of this Court to hear the Third Party Plaintiff Receiver's claims against the Third Party Defendants. On that same day, the Altrad, Charter, Central Mining, and ESAB Defendants appealed my order to the Court of Appeals. I ruled that this appeal was an attempt to request review of an interlocutory non-appealable order, and as such did not delay the trial. On October 20, 2025, the Court of Appeals dismissed this appeal and sent down the remittitur. Despite this action by the Court of Appeals, the remaining Defendants moved the Court of Appeals for reconsideration. I proceeded with this trial as I was directed by this court in its remand.

The trial began with my announcement that Third Party Defendants Anglo American and related entities had reached a settlement with the Third Party Plaintiff, Protopapas as Receiver for Cape. I also filed an Order approving this settlement. The non-jury trial proceeded against the remaining Defendants the Altrad Entities, Charter, Central Mining, and ESAB.

The remaining Defendants declined to participate in the trial in any fashion except to assert, as the Plaintiff submitted its case through witnesses, experts, and exhibits, that the Receivership was void and the trial was a "jural nullity". At the conclusion of the case and before Plaintiff's submission of dispositive motions and final arguments, I recessed the trial for 30 days to allow for receipt of the transcript of trial and to allow the Court to examine the 250 exhibits and conduct research of the authorities pertinent to this matter.

The South Carolina Supreme Court now has before it the remaining Defendants' Petitions for a Common Law Writ of Certiorari, and Writ of Prohibition, filed after the Court of Appeals dismissed these Defendants' appeals from my pre-trial order as above described.

On November 20, 2025, this Court issued its Order holding the remaining Defendant's Petitions for Common Law Writ of Certiorari and Receiver's Motions for Sanctions in abeyance. This Court also stayed the conclusion of the current bench trial in this matter. This Court also announced that it would set forth an expedited briefing schedule for a certified appeal in this matter. I assume this to be a certified appeal of my October 13, 2025 Order in this matter.

At the request of the parties, I had previously set December 4, 2025, for the conclusion of the non-jury trial. In light of the South Carolina Supreme Court's Order, I hereby stay the conclusion of this trial until further Order of the Supreme Court.

Respectfully submitted,



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

Dated November 25, 2025
Columbia, South Carolina