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SC SUPREME COURT

## The Supreme Court of South Carolina

JEAN HOEFER TOAL  
CHIEF JUSTICE, RETIRED  
SENIOR ACTIVE JUDGE

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April 21, 2026

The Hon. Patricia A. Howard  
Clerk of Court  
South Carolina Supreme Court  
1231 Gervais Street  
Columbia, SC 29201

Re: 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,  
Respondent, v. Anglo American PLC, individually and as successor in interest to Anglo  
American Corporation of South Africa LTD., *et al.*, Third-Party Defendants,

Of which Mohed Altrad, Altrad Investment Authority SAS, ArranCo US, LLC, Hawk Bidco  
(US) Inc., Sparrows Offshore, LLC, Charter Consolidated Ltd., ESAB Corporation, and  
Central Mining & Investment Corporation Ltd. are the Petitioners.

Appellate Case Nos. 2024-001423, 2024-00001499, 2024-000916, 2024-002114, 2024-002116,  
2024-002117, 2025-000052

Dear Ms. Howard:

The above-captioned matter was remanded to me by the Supreme Court of South Carolina  
on June 26, 2025, with directives by the Supreme Court.

I hereby file my Amended Tenth Report to the Supreme Court as directed by the Tibbs  
Remand Order as of April 21, 2026.

I will continue to report my progress on this matter to the Court, and welcome any further  
guidance or directives given to me.

With my kindest personal regards,

I am, Sincerely yours,

Jean Hoefler Toal

CC: via email to

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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

**AMENDED TENTH REPORT TO THE  
SUPREME COURT OF SOUTH CAROLINA  
PURSUANT TO ITS ORDER OF REMAND  
DATED JUNE 26, 2025  
(Original Tenth Report Filed in Above-  
Referenced Matter in its Richland County  
Case Only)**

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 Tenth Report.

Since my Ninth Report to this Court, I have continued to review materials concerning cases on the Asbestos Docket, including matters involving the trial or settlement resolution of cases in which a Receiver has been appointed in the matter. I have also continued to administer the Asbestos Trial Docket, which includes hearing pre-trial matters considering Petitions for the approval of settlements and performing all other administrative duties involving the trial of cases on the Asbestos Docket.

My most recent activities regarding the asbestos docket include the conduct of a hearing April 17, 2026, regarding petitions for approval of settlements in *Peggy B. Berley, et al., v. AECOM Energy & Construction Inc., et al.*, C/A No. 2023-CP-40-02840 and *Shirley A. Jenkins, et al., v. Asbestos Corporation Ltd., et al.*, C/A No. 2024-CP-40-04703. In the *Berley* case, approval of most of the settlements reached and submitted for approval was routine, but in the case of Defendant ACL, a troubling situation has arisen. *Berley* was a case set for trial before me on August 5, 2024, with a pre-trial set for July 31, 2024. The plaintiffs are the Estate of Billy G. Berley, deceased, and his wife Peggy B. Berley, individually and as Personal Representative of the Estate. Plaintiff alleges that Billy Berley died as a result of mesothelioma contracted by exposure to asbestos-containing materials placed into the stream of commerce in South Carolina by ACL and its allied corporations. Mediation was held on the *Berley* case, and as the result Resolute Claims, a claims manager for certain insurance assets of Defendant ACL and CLMI (Certain London Market Insurers) an aggregate of Lloyds Insurance Policies of ACL, attended the mediation and settled and entered into a settlement agreement with Plaintiff's attorney. On the basis of the representation that the claim against ACL had been resolved and information that all other claims had been resolved, I removed this case from my trial docket. Subsequently, CLMI and Resolute paid settlement funds into the trust account of Gallivan White & Boyd for distribution to the trust account of Mr. Josh Cagle as attorney for the Berley family. Gallivan White & Boyd subsequently transmitted these funds to Josh Cagle's trust account. In April of 2025 on the eve of mediation in the *Jenkins* case, ACL's Insurers asked Mrs. Berley to sign an additional confidentiality release. Mrs. Berley signed this release. In the time between the request and the

signing, ACL filed for bankruptcy in Canada. Much later it was revealed to Plaintiff's counsel that ACL had filed for bankruptcy in Canada in May of 2025.

In the case of *Jenkins*, similar activities occurred with respect to settlement funds. Jenkins case was scheduled for trial on June 2, 2025, with pre-trial set for May 28, 2025.. The *Jenkins* case was settled at mediation April 24, 2025. It was then removed from my May 28, 2025 trial docket. Releases were obtained from Plaintiff and transmitted to the insurers. Despite the series of inquiries by Plaintiff's counsel regarding each of these settlements, on August 21, 2025, Ms. Melissa King for Resolute informed Mr. Cagle that all settlements had to be submitted through a claims process due to the Canadian bankruptcy of ACL. Neither the alleged ACL Bankruptcy nor its alleged domestication in New York has been noticed to this Court by any filings in *Berley* or *Jenkins* until this Court set hearings to approve settlements. The defense lawyers for the insurer of ACL were not made aware of the Canadian bankruptcy when these releases in *Jenkins* and *Berley* were obtained. It is ACL and its insurers and claims representatives who are not being forthcoming with the lawyers or this Court. These are the kinds of troubling matters that have surrounded settlement issues regarding the Cape/ACL entities and their insurers.

I continue to manage the asbestos docket with trial blocks as indicated in my previous correspondence via the Ninth Report.

Respectfully submitted,



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

Dated April 21, 2026  
Columbia, South Carolina