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February 10, 2025

VIA EMAIL ONLY

Honorable Patricia A. Howard, Clerk
South Carolina Supreme Court
P. O. Box 11330
Columbia, SC 29211-1330
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Feb 10 2025

S.C. SUPREME COURT

Re: John A. Tibbs and Margaret B. Tibbs v. 3M Company, et al.
Appeal Case No.: 2023-001461
Underlying Case No.: 2023-CP-40-01759
YCR File: 17800-20230595

Dear Ms. Howard:

Pursuant to Rule 208(b)(7) of the South Carolina Appellate Court Rules, Appellant Asbestos Corporation Limited writes to respond to the recent submissions by Respondents and to notify the Court of recent decisions pertinent to the above-referenced appeal scheduled for oral argument on February 11, 2025.

As an initial matter, it is far from clear that the unpublished trial-court sanctions orders cited by Respondents constitute “significant authorities”—rather than new factual matter—within the meaning of Rule 208(b)(7). *Cf. Trans-Sterling, Inc. v. Bible*, 804 F.2d 525, 528 (9th Cir. 1986) (“Rule 28(j) permits a party to bring new *authorities* to the attention of the court; it is not designed to bring new evidence through the back door.”). In any event, Respondents’ authorities are far less relevant to the issues before this Court than the supplemental authorities listed below:

1. *Protopapas v. Whittaker, Clark & Daniels, Inc.*, No. 23-4151 (ZNQ), 2024 WL 2796449, at *7 n.8 (D.N.J. May 31, 2024) (holding that a South Carolina receivership did not displace the authority of the board of a New Jersey corporation to declare bankruptcy because, among other reasons, “such a position would violate the rights of other states to dispose of the property within their territories”). This opinion is relevant to whether the circuit court erred in appointing a receiver for ACL, which is discussed at pages 6–12 of Appellant’s brief.

2. *Orthofix, Inc. v. S.C. Dep't of Revenue*, 443 S.C. 138, 144, 903 S.E.2d 496, 500 (2024) (explaining that “[t]he Commerce Clause of the United States Constitution affirmatively grants Congress the power to regulate interstate commerce” and that, “[b]ecause the Constitution bestows authority over interstate commerce to Congress alone, the Commerce Clause impliedly limits states’ regulatory powers in that arena”). This opinion is relevant to whether the circuit court erred in appointing a receiver for ACL, which is discussed at pages 6–12 of Appellant’s brief.

With best wishes and kindest regards, I am

Sincerely,

CLEMENT RIVERS, LLP



Stephen L. Brown

SLB/amj

Enclosures

cc: All counsel of record via email only