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RECEIVED

March 27, 2026

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S.C. SUPREME COURT

Via Electronic Filing

The Honorable Patricia A. Howard
Clerk of the South Carolina Supreme Court
supctfilings@sccourts.org

Re: *Tibbs v. Asbestos Corporation Ltd*
Appellate Case No. 2025-002104
Response to “Notice of Additional Proceedings and Supplemental Authorities

Dear Ms. Howard:

Pursuant to Rules 208(b)(7) and 240 of the South Carolina Appellate Court Rules, Respondents John and Margaret Tibbs (“Tibbs”) respectfully files this response to the “Notice of Additional Proceedings and Supplemental Authority” filed by the Altrad and Charter Appellants on March 26, 2026. Pursuant to Rule 208(b)(7):

When pertinent and significant authorities come to the attention of a party after his initial brief(s) have been served and filed, the party shall promptly advise the clerk of the appellant court, by letter, with a copy of all counsel, setting forth the citations. There shall be a reference either to the page of the brief or to an issue to which the citations pertain, but the letter shall, **without argument**, state the reasons for the supplemental citations. Any response shall be made promptly and shall be similarly limited.

(emphasis added)

Appellants purported “Notice of Additional Proceedings and Supplemental Authority” is entirely improper and spends five pages presenting argument to this Court that was previously argued both in their briefs and in oral argument. Critically, the Appellants do not cite this Court to any additional or “new” authority for their positions. Each case cited in their letter are cases and statutes they have previously argued in their briefs and in oral argument. Appellants goal is to have one more opportunity to “argue their case” to this court. That is entirely improper.

While Appellant’s continued refusal to comply with this Court’s rules¹ is concerning, perhaps more disturbing is that Appellants are now making objectively untrue statements to this Court. The Appellants state in their March 26, 2026, letter to this court: “The Altrad and Charter Appellants became aware of the pursuit of a default judgment in *Ross* after oral argument when counsel for the Ross plaintiffs copied them on an email to the circuit court about that case.” This statement is simply false. Counsel for the Appellants have received notice of each event they now claim they just became aware of after oral argument. In fact, Appellants had **actual notice** of the Cape default in *Ross* well before argument as evidenced below:

- Counsel for both Altrad and Charter represent defendants in the *Ross* case. Specifically, counsel for Altrad, Elizabeth O’Neil represents Fisher Controls International, Emerson Electric and others. Counsel for Charter, A. Victor Rawl, Jr. represents Bahnson Inc. As a result, they receive notice of each filing via South Carolina’s electric filing system. See attached Exhibit 1, Notice of Electronic Filing.
- Counsel for Appellants, not just their law firms, but each individually, received notice of the following in the *Ross* case:
 - Motion to Amend the Complaint to add CIHL as a defendant filed October 27, 2025
 - Order granting the motion to amend the complaint to add CIHL as a defendant filed October 29, 2025
 - Filed Amended Complaint adding CIHL as a defendant filed October 29, 2025
 - Affidavit of Service of CIHL of the Amended Complaint on November 4, 2025
 - Motion and Affidavit of Default on December 9, 2025
 - Order granting Motion for Default on December 10, 2025
- Additionally, in the Tibbs Response brief filed in **this** appeal, Respondents cite to the *Ross* Order of Default as evidence of Cape’s ongoing moral fraud. Specifically, in footnote 27 on page 26 of their brief, the Tibbs Respondents stated: “Aside from the immediate Tibbs matter in which the Receiver appeared to defend Cape, Cape has continued its policy of refusing to participate in US litigation. Most recently, Cape was defaulted via a December 10, 2025, Order of Default for failing to appear in the matter of *Ross v. Ascend Performance Materials*, Richland County, South Carolina case no: 2024-CP-40-03710 R.101”

South Carolina Appellate Rule 269: Frivolous Appeals, Petitions, Motions or Returns provides for sanctions where a filing is made that is not in compliance with these rules. Appellants’ filings are clearly not in compliance with Rule 208(b)(7) which provides that supplemental authority may be provided to the Court without argument. First, no new supplemental authority was provided. Second, the Appellants’ filing is replete with impermissible argument. Finally, the Appellants filing contains a statement that they had no knowledge of the *Ross* entry of default which is objectively and affirmatively untrue.²

¹ As noted by this Court during oral argument, Appellants have filed more than 16 improper interlocutory appeals.

² SCRCP 11 provides: (a)...The written or electronic signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information and belief there is good ground to support it; and that it is not interposed for delay. ... If a pleading motion or other paper is signed in violation of this Rule, the court, upon motion or its own initiative may impose upon the person who signed it, a

This Court should disregard Appellants' letter of March 26, 2026. Appellants respectfully suggest that this Court might consider Appellants false statements to this court in conjunction with its continued retention of jurisdiction over the Receiver's Motion for Sanctions. To the extent the Court wishes to consider the arguments made in the letter, the Respondents would ask for an opportunity to respond to the substance of the Appellants' arguments.

Yours very truly,

s/Theile B. McVey
Theile B. McVey

Cc: All Counsel of Record

Attachments: Notice of Electronic Filings and delivery in *Ross v. Ascend Performance Materials*, Richland County, South Carolina case no: 2024-CP-40-03710 R.101

represented party, or both, an appropriate sanction which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading motion or other paper, including a reasonable attorneys' fee.