

March 27, 2026

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S.C. SUPREME COURT

Via Email – supctfilings@sccourts.org

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

Re: John A. Tibbs and Margaret B. Tibbs v. 3M Company, et al.
Appellate Case No. 2025-002104

Dear Ms. Howard:

Please allow this correspondence to serve as the Receiver’s response to Appellants’ “Notice of Additional Proceedings and Supplemental Authorities.”

Not unlike the multiple improper interlocutory appeals already presented in this case, Appellants’ Notice is improper and should be disregarded by the Court. 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 appellate court, by letter, with a copy to 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).

The first obvious departure from Rule 208(b)(7), is illustrated in Appellants’ failure to identify any new authorities to Court. Secondly, instead of succinctly stating the purported new authorities without argument, Appellants re-argue the issues under the guise of Rule 208. The only authorities cited in Appellants’ filing—*In re Whittaker, Clark & Daniels, Inc.* and S.C. Code Ann. §§ 33-8-101 and -102—were known to Appellants at the time of their briefs and the oral argument. In fact, the Altrad Appellants cited to *In re Whittaker, Clark & Daniels, Inc.* on pages 34 and 50 of its principal brief and pages 2, 9, and 13 of its reply brief and the Charter Appellants cited to the same case on pages 39 and 40 of their principal brief. Similarly, the Altrad Appellants cited to § 33-8-101 on page 49 of their principal brief and the Charter Appellants cited to § 33-8-101 on page 39 of their principal brief. Appellants’ arguments related to an upcoming hearing on Cape’s

continued default in South Carolina asbestos litigation and the ongoing pursuit of proceedings by the Altrad Appellants in France are not pertinent and significant authorities under Rule 208.

As to *Ross v. Ascend Performance Materials, et. al.*, Appellants represent to the Court that they “became aware of the pursuit of a default judgment in *Ross* after oral argument when counsel for *Ross* plaintiffs copied them on an email to the circuit court about that case.” However, this representation directly contradicts the record in this case. The Tibbs Respondents discussed Cape’s *Ross* default in footnote 27 of their final brief in this appeal on December 30, 2025. Additionally, Mr. Rawl, counsel for the Charter Appellants, and Ms. O’Neil, counsel for the Altrad Appellants, are counsel of record for defendants in *Ross* and received electronic notification of the *Ross* Plaintiffs’ December 9, 2025 motion requesting “a judgment by default and a hearing on damages” against Cape, the circuit court’s December 10, 2025 order finding the *Ross* Plaintiffs were entitled to a default judgment against Cape and stating a default damages hearing would be scheduled, and the circuit court’s March 17, 2026 order scheduling a default damages hearing. Thus, Appellants have long known the plaintiffs were pursuing a default judgment against Cape in *Ross*.

As to the French proceedings, the circuit court requested the Altrad Appellants provide an update to it on March 12, 2026, about the proceedings that were scheduled to occur in France that day. The Altrad Appellants responded to the circuit court that a hearing did not occur, but it would keep the circuit court apprised of any rulings in France. Now, the Altrad Appellants appear to once again bypass the circuit court’s request for updates to provide updates to this Court instead. It is still unclear if any order was issued as a result of the latest French proceedings. However, the purpose of the March French proceedings is to “seek the enforcement in France of the Smith Decision in order to protect [the Altrad Appellants] against the potentially very negative effects of a decision to be taken in the coming weeks in South Carolina in the context of an abusive procedure.” (*See* page 8, paragraph 5, Altrad’s “Purpose of Claim”).¹

Accordingly, as has been demonstrated by the interlocutory appeals in this case, Appellants continue to ignore the appellate court rules. The Court should disregard Appellants’ recent Notice, which attempts to re-argue the issues to this Court under the guise of supplemental citations. If the Court wishes to consider the new arguments, the Receiver requests an opportunity to provide a fulsome response to the arguments that is similarly not limited by Rule 208(b)(7). However, the Receiver respectfully submits that the Court need not reopen arguments in this case and can simply disregard the improper Notice.

Please let me know if anything further is needed.

With kind regards, I am

¹ To be clear, the French proceedings are a continuation of the foreign proceedings in which the Altrad Appellants seek to impose financial and criminal penalties against the court-appointed Receiver for fulfilling his obligations to the South Carolina courts of which the Receiver has asked the Court to address in its sanctions request.

Sincerely,

GALLIVAN, WHITE & BOYD, P.A.

A handwritten signature in blue ink that reads "John T. Lay, Jr." The signature is written in a cursive style with a large, stylized initial "J".

John T. Lay, Jr.

Enclosure

cc: Counsel of record via email