JOHN D. KASSEL
ATTORNEY AT LAW
JKASSEL@KASSELLAW.COM

THEILE B. MCVEY
ATTORNEY AT LAW
TMCVEY@KASSELLAW.COM

JAMIE R. RUTKOSKI
ATTORNEY AT LAW
JRUTKOSKI@KASSELLAW.COM

KASSEL McVEY

1330 LAUREL STREET
POST OFFICE BOX 1476
COLUMBIA, SC 29202

TEL. 803-256-4242
FAX 803-256-1952
WWW.KASSELLAW.COM

RECEIVED
May 14 2026
S.C. SUPREME COURT

May 14, 2026

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 Respondent's response to the Charter Appellant's ("Charter") "Notice of Additional Proceedings and Supplemental Authorities."

Charter continues its pattern and practice of ignoring this Court's rules consistent with its practice in the trial court below. This purported "notice" is improper and should be disregarded. Rule 208(b)(7) provides, in relevant part, that

> [w]hen 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 to either the page of the briefing or to an issue 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)

Nevertheless, because Charter and the other appellants mischaracterize their "new authority" and argue its applicability, Respondents are left with no option but to rebut these erroneous contentions.

Ross Default Judgment

In keeping with Charter's practice of misleading this court, it complains about the entry of a default judgment in *Ross v. Ascend Performance Materials Operations, LLC*, 2024-CP-40-03710, but wholly fails to disclose to this Court that the motion for the entry of default was filed on December 9, 2025[1] and that Cape Intermediate Holdings, Ltd. ("Cape") was, again, served, and failed to answer. Cape's failure to answer underscores the ongoing moral fraud of that entity and demonstrates the fallacy in Appellant's arguments that Cape should simply just be sued in each case. The only answer ever filed in relation to the allegations against Cape continues to be the answer filed in this case by the trial court's appointed receiver, Peter D. Protopapas.

The trial court ordered that a damages hearing proceed in the *Ross* matter. The undersigned, also counsel for the Ross family, again served Cape with notice of the damages hearing offering it yet another opportunity to appear.[2] Unsurprisingly, and in keeping with its moral fraud, Cape, again, refused.

Charter, and by extension the Altrad entities, continue to ignore the undeniable facts relating to the inability to collect any judgment in the United Kingdom and that Cape's insurance carriers may well refuse coverage for Cape's failure to cooperate and tender the matter to them. This was Respondent's contention at the argument of this case and remains so today. The entry of a default damages order merely underscores that the arguments made to this Court were accurate.

Perhaps just as important, Cape's refusal to appear and defend[3] emphasizes why seeking a default judgment prior to the appointment of a receiver where a defendant is engaged in ongoing moral fraud is a waste of judicial resources. To use a colloquialism, insanity is doing the same thing over and over again and expecting a different result.

Whittaker Clark & Daniels, Inc.

Next, Charter and the other appellants seek to compare this case to that of Whittaker Clark & Daniel, Inc. and its federal bankruptcy engineered by Resolute Management, Inc. and its parent company Berkshire Hathaway, Inc. following a $29,000,000 verdict on behalf of Sarah Plant, a 44 year old mother of three suffering from mesothelioma resulting from exposures to Whittaker Clark & Daniel's asbestos laden talc.

---

[1] This is more than 30 days before this matter was argued before this Court.

[2] *See* DHL Confirmation attached as Exhibit A.

[3] Recall that it appears clear that Cape is insured by CLMI which is administered by Resolute Management, Inc. *See* Letter from Cape to CLMI instructing CLMI not to produce any information dated May 7 attached as Exhibit B Similarly, Resolute Management, Inc. was the third-party Administrator for Whittaker Clark & Daniel's insurance and Whittaker Clark & Daniels, Inc. is a wholly owned subsidiary of Berkshire Hathaway, which is also the parent company of Resolute Management, Inc. Not to be left out, Resolute Management, Inc. and CLMI are also the third-party administrator and insurers, respectively, for Asbestos Corporation Limited. Throughout each of these cases Resolute Management, Inc. has been represented by Vic Rawl, counsel for ESAB.

As with most things, appellants fail to point out the most basic facts. In Whittaker Clark & Daniel, the company appeared before the trial court. It had standing to object to the receivership, and did so, vociferously.[4] Here, Cape has chosen to remain silent. Regardless of whether its objections to receivership would have been well received, only Cape has standing to make those objections. Neither Charter nor the Altrad Appellants have that standing. Moreover, here, as opposed to in the Whittaker case, the only thing afforded to the receiver are intangible assets like insurance and claims available to the company. And, as Justice Few stated during the February 11, 2025, arguments in the Welch and Tibbs matters relating to Atlas Turner, Ltd., "there's this idea that the South Carolina Circuit Court can't -- has to stop at the -- at South of the Border on I-95 up toward Canada is wrong." *See* Transcript of Hearing, Case Nos. 2023-001096 and 2023-001451 attached as Exhibit C at pp. 25:22-25. Appellant's citation to Whittaker Clark & Daniel and the Third Circuit's recent decision is inapposite.

Cape Receivership Likely Does Involve Insurance

The Charter Appellants finally assert that this receivership does not involve insurance. Appellants' statements to their insurance companies belie that. On May 7, 2025, Ran Oren, the sole director of Cape Intermediate Holdings Limited, writing on Altrad letterhead, directed CLMI not to respond to the Receiver's subpoena seeking insurance information for Cape. R.5423-5424.

It would be strange indeed to instruct an insurance company not to produce that which it does not have. At a minimum, the Receiver is entitled to discover the truth of the matter.

Respectfully submitted,

s/Theile B. McVey
Theile B. McVey

TBM:ecm

Enclosures

cc: All Counsel of Record

[4] As did Asbestos Corporation Limited and Atlas Turner Limited.