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S.C. SUPREME COURT

May 15, 2026

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 the Plaintiffs' May 14, 2026 Letter

Dear Ms. Howard:

Yesterday, the Plaintiffs filed a letter that purported to respond to the Charter Appellants' notice of supplemental authority. The Altrad Appellants would prefer to ignore the Plaintiffs' letter, as it offered no meaningful response to the latest batch of supplemental authority that has been provided to the Court.

However, the Plaintiffs' correspondence contained factual insinuations that are simply untrue. The Altrad Appellants are concerned that silence in the face of such misstatements risks being treated as acquiescence, as they consistently face arguments below about "waiver" when they do not correct inaccuracies from an adverse party. Accordingly, they respectfully submit this short response to address two points:

1. On Page 3, the Plaintiffs state that Mr. Oren instructed "their insurance companies" not to respond to a subpoena sent by the putative Receiver to Lloyd's of London, and the Plaintiffs conclude their letter: "At a minimum, the Receiver is entitled to discover the truth of the matter."

These remarks, perhaps inadvertently, misstate Mr. Oren's letter from over a year ago, which is in the record and speaks for itself. To summarize:

Through a subpoena to Lloyd's of London (an English entity), the putative Receiver (a South Carolinian) was claiming to speak on behalf of either Cape plc (a Jersey company) or Cape Intermediate Holdings Limited (an English company), even though he had no lawful ability or authority to do so.

The resulting letter from Mr. Oren did not reference insurance, a policy, or anything of the sort. Instead, that letter informed Lloyd's of the unauthorized nature of the putative Receiver's activity: namely, that English courts do not recognize the putative Receiver, and that the putative Receiver was violating an order of the English courts by attempting to issue a subpoena to Lloyd's in the first place. The letter's stated concern was that by responding as if the subpoena was valid, an English entity would be inadvertently endorsing behavior by the putative Receiver that the English courts had already forbidden.

Most importantly, the putative Receiver himself abandoned the insurance issue nearly *seven months ago* by withdrawing the very subpoenas now invoked by the Plaintiffs as supposedly central to this matter. As reflected in the attached order from the *Park* case: "The Receiver's April 28, 2025 Subpoenas to Continental Casualty Company, Liberty Mutual Insurance Company, and Underwriters at Lloyd's London are deemed *withdrawn and stricken*." (Order in *Park* at 2, ¶ 3 (Oct. 30, 2025) (emphasis added).) Accordingly, the Plaintiffs' recent emphasis on "insurance" appears disconnected from the actual posture of these proceedings and should not distract from the issues properly before the Court.

2. On Page 2 of the Plaintiffs' letter, they state that the Whittaker Clark & Daniels bankruptcy was "engineered by Resolute Management, Inc., and its parent company Berkshire Hathaway, Inc." following litigation in South Carolina.

The Altrad Appellants have no visibility into anything that went into that bankruptcy decision. However, the Third Circuit reports that the bankruptcy was authorized by Whittaker Clark & Daniels' board of directors, not by its insurers. *In re Whittaker Clark & Daniels, Inc.*, ___ F.4th ___, 2026 U.S. App. LEXIS 11990, at *7–8 (3d Cir. Apr. 27, 2026).

And as the Court will recall, the putative Receiver claimed authority to override the board's decision to commence those bankruptcy proceedings—an argument the Third Circuit soundly rejected, finding that any attempt by a South Carolina circuit court to grant a receiver that authority would violate the United States Constitution and other settled law. *Id.* at *17–25. Those same core principles regarding corporate governance, litigation authority, and constitutional boundaries control here.

Best regards,

/s/ M. Todd Carroll

Counsel for the Altrad Appellants

Enclosures—Copy of *Park* Order of October 30, 2025

cc: All Counsel of Record