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April 9, 2015

VIA FACSIMILE (803)734-1499

The Honorable Daniel E. Shearouse
South Carolina Supreme Court
P.O. Box 11330
Columbia, SC 29201

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SC SUPREME COURT

Re: Scott F. Lawing and Tammy R. Lawing v. Univar USA, Inc., Trinity Manufacturing, Inc., and Matrix Outsourcing, LLC
Appellate Case No.: 2013-002464
Claim No.: 182-083444 / 182-083842
C&L File No.: 1-1687

Dear Mr. Shearouse:

Pursuant to Rule 208(b)(7), SCACR, Respondents/Petitioners Trinity Manufacturing, Inc. and Matrix Outsourcing, LLC supplement their arguments pertaining to the Court of Appeals' reversal of the grant of summary judgment in the strict liability count with the following cases: Tincher v. Omega Flex, Inc., 104 F.3d 357 (Pa. 2014) and DeJesus v. Knight Industries & Associates, Inc., No. 13-3570 (3d Cir., April 6, 2015).

These cases stand for the proposition that "Pennsylvania remains a Second Restatement jurisdiction." Tincher at 399. In their Respondent's Brief, the Lawings asserted that Trinity and Matrix's reliance on a line of Pennsylvania cases with regard to their averment that South Carolina, like Pennsylvania, links strict liability with "intended use" was misplaced because Berrier v. Simplicity Manufacturing, Inc., 563 F.3d 38 (3d Cir. 2009), cert. denied, 558 U.S. 1011 ("Berrier III) supported the notion that Pennsylvania had adopted or would adopt the Restatement (Third) of Torts, effectively neutralizing Trinity and Matrix's use of these cases. Resp. Br. at 27-30. However, as noted above, Tincher and DeJesus expressly state Pennsylvania has not adopted Restatement (Third) of Torts. Just this week, the DeJesus Court vacated a grant of summary judgment based on Berrier III-inspired analysis.

All counsel of record have been included in this communication with the Court.

Thank you for your time and attention.

Respectfully,

Christian Stegmaier

cc: *(VIA FACSIMILE)*
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Robert C. Foster, Esquire
William P. Walker, Jr., Esquire
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File No.: 000001-01687

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By: Susan McLeod

Subject: Lawing v. Univar, et al.
 Appellate Case No. 2013-002464

Remarks: Please see the attached.

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