

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Jean H. Toal, Circuit Court Judge

Case No. 2020-CP-40-02098

Covil Corporation, by and
through its duly appointed
Receiver, Peter D. Protopapas,

Respondent,

v.

Pennsylvania National Mutual
Casualty Insurance Company;
Sam J. Crain & Co., Inc.; and
South Carolina Property and
Casualty Insurance
Guaranty Association,

Defendants.

**MOTION TO FILE PORTION OF APPENDIX TO
PETITION FOR WRIT OF CERTIORARI UNDER SEAL**

Pennsylvania National Mutual Casualty Insurance Company (“Penn National”), by and through counsel, and pursuant to the South Carolina Rules of Appellate Procedure, Rule 240, moves the Court to seal the attached portion of the Appendix to Penn National’s Petition for Writ of Certiorari filed contemporaneously herewith, which is comprised of an Invoice from the law firm of Ellis & Winters LLP to Penn National dated May 5, 2022, for “Penn National Document Review.” In support of this motion, Penn National states that counsel for the Receiver has raised concerns that the Invoice contains material which may expose financial information or information which may be subject to attorney-client privileged. Specifically, the Invoice includes the rate information for Ellis & Winters as well as narratives describing the work performed by Ellis & Winters in the litigation at issue in this matter. Accordingly, counsel for the Receiver

has raised concerns that if the Invoice is not filed under seal, its filing could adversely affect the parties.

In support of this motion, Penn National states that the information included in the Invoice is integral to its arguments before this Court in its Petition for Writ of Certiorari, and therefore, is needed to ensure fair consideration. Counsel for the Receiver for Covil Corporation (“Covil”) has raised concerns that if the Invoice is not filed under seal, it could result in a breach of privilege for Covil, and therefore, violate Covil’s expectations of confidentiality and resulting harm to Covil and its defense counsel, Ellis & Winters. Although Penn National believes that the public or professional significance of this matter is great, the information in the Invoice which is not disclosed through unsealed filings in this matter is not significant, and so the public interest is not negatively impacted by the sealing of the Invoice. As a result, the balance of public and private interests favors sealing the Invoice. There are no alternatives to the sealing of the Invoice to protect the legitimate private interests set forth above. *See Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 630 S.E.2d 464 (2006); *Davis v. Jennings*, 304 S.C. 502, 405 S.E.2d 601 (1991).

On the motion of Penn National, the circuit court sealed the Invoice.

Penn National respectfully requests that the Invoice attached hereto be filed under seal as part of the Appendix to Penn National’s Petition for Writ of Certiorari in this matter.

Respectfully submitted, this the 6th day of June, 2022.

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