

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

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TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA,

Case No. 6:21-cv-02648-DCC

Plaintiff,

v.

BARBARA HAWTHORNE, as Personal
Representative of the Estate of
Nathaniel Hawthorne, Jr.,

Defendant.



ORDER

This matter comes before the Court for consideration of Plaintiff's Notification of Request to Submit Additional Materials to the South Carolina Supreme Court ("Motion"). (ECF 45).

On June 13, 2022, this Court entered its Order certifying a question to the South Carolina Supreme Court. (ECF 41 ("Certification Order")). On August 2, 2022, the South Carolina Supreme Court entered its Order accepting and agreeing to answer the certified question. Pursuant to Rule 244(b) of the South Carolina Appellate Court Rules, the South Carolina Supreme Court will review only the Certification Order when answering the certified question, and "will not consider any documents or other evidentiary materials unless the certifying court has submitted those materials." *Id.*

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S.C. SUPREME COURT

In its Motion, Plaintiff argues that additional materials in the record will enable the South Carolina Supreme Court to more fully analyze and answer the certified question. (Motion at 2). Plaintiff asks this Court to submit the following materials to the South Carolina Supreme Court:

- (1) Plaintiff's Complaint (ECF 1) and exhibit (ECF 1-1);
- (2) Defendant's Answer and Counterclaim (ECF 11);
- (3) Plaintiff's Answer to Defendant's Counterclaim (ECF 17);
- (4) Defendant's Motion for Judgment on the Pleadings (ECF 20) and exhibits (ECF 20-1, 20-2, 20-3);
- (5) Plaintiff's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment (ECF 28) and exhibits (ECF 28-1, 28-2);
- (6) Defendant's Reply (ECF 31);
- (7) Plaintiff's Reply (ECF 33);
- (8) Defendant's Motion to Certify Question (ECF 35);
- (9) Plaintiff's Response in Opposition (ECF 36);
- (10) Defendant's Reply to Plaintiff's Response (ECF 37).

On August 8, 2022, Defendant filed a Response to the Motion. (ECF 46 ("Response")). Defendant "does not object to transmission of the documents identified by [Plaintiff]" but argues that "[Plaintiff's] list of documents is incomplete." (Response at 2). In addition to the documents listed by Plaintiff, Defendant asks the Court to submit the following to the South Carolina Supreme Court:

- (1) Plaintiff's Response to Defendant's Motion for Judgment on the Pleadings (ECF 29);¹
- (2) Defendant's Reply to Response (ECF 30);²
- (3) Exhibits to Defendant's Motion to Certify (ECF 35-1, 35-2, and 35-3).

¹ Document 29 is identical to Document 28-1, and is captioned "Plaintiff's Memorandum in Support of its Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment [ECF 28], and in Opposition to Defendant's Motion for Judgment on the Pleadings [ECF 20]." Document 29 also has an exhibit which is found at ECF 29-1.

² Document 30 and Document 31 are identical.

Having reviewed the Motion and Response, the Court finds that the above-referenced materials are necessary for the South Carolina Supreme Court to review and should be submitted to that Court to aid in answering the certified question. Accordingly, the Motion is GRANTED. The Clerk is hereby ORDERED to submit the following documents and materials to the South Carolina Supreme Court under official seal within ten (10) days of the entry of this Order:

- (1) Plaintiff's Complaint (ECF 1) and exhibit (ECF 1-1);
- (2) Defendant's Answer and Counterclaim (ECF 11);
- (3) Plaintiff's Answer to Defendant's Counterclaim (ECF 17);
- (4) Defendant's Motion for Judgment on the Pleadings (ECF 20) and exhibits (ECF 20-1, 20-2, 20-3);
- (5) Plaintiff's Motion for Judgment on the Pleadings, or in the Alternative, Motion for Summary Judgment (ECF 28) and exhibits (ECF 28-1, 28-2);
- (6) Plaintiff's Memorandum (ECF 29) and exhibit (ECF 29-1);
- (7) Defendant's Reply and Response (ECF 30 and 31);
- (8) Plaintiff's Reply (ECF 33);
- (9) Defendant's Motion to Certify Question (ECF 35) and exhibits (ECF 35-1, 35-2, and 35-3);
- (10) Plaintiff's Response in Opposition (ECF 36);
- (11) Defendant's Reply to Plaintiff's Response (ECF 37).

SO ORDERED this 15th day of August 2022.

s/Donald C. Coggins, Jr.
Donald C. Coggins, Jr.
U.S. District Judge