

**THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT**

CERTIFIED QUESTION FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Joseph F. Anderson, Jr., United States District Judge

**RECEIVED**

SEP 23 2015

APPELLATE CASE NO.:  
2015-000901

S.C. Supreme Court

John William Machin,  
..... Plaintiff,

v.

Carus Corporation,  
..... Defendant.

**MOTION OF DEFENDANT CARUS CORPORATION TO FILE DOCUMENTS  
AS PART OF RECORD ON APPEAL**

Pursuant to Rule 244(b), SCACR, Defendant Carus Corporation (“Carus”), hereby files this motion seeking permission to file certain documents referenced by the parties in their briefing at the trial court as part of the Record on Appeal in this matter.

Specifically, Carus seeks permission to file the following:

- 1) Transcript of February 6, 2015 Charge Conference (ECF No. 251);
- 2) Plaintiff’s Motion to Exclude (ECF No. 150);
- 3) Defendant’s Response to Motion to Exclude (ECF No. 152);
- 4) Transcript of Counsel for Plaintiff’s Closing Argument (ECF No. 252);
- 5) Transcript of Conference Between Judge and Counsel After First Jury Question Sent (ECF No. 253);

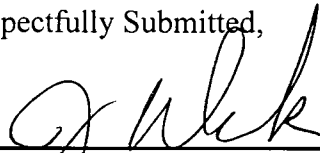
- 6) Final Verdict Form as Completed by Jury (ECF No. 243);
- 7) Plaintiff's Motion in Limine filed January 13, 2015 (ECF No. 184).

Carus requests the documents listed above be included in the record in order to place the questions before the court in context in light of the arguments contained in Plaintiff's brief. The issues on appeal are not and were not the product of a confused jury which sua sponte raised the issues of the Town of Lexington's absence on its own as argued by Plaintiff. Instead, the issues presented by Certified Questions 1-3 were created by Plaintiff's counsel. In his closing argument, Plaintiff's counsel urged the jury to ask the very question that they asked regarding the Town. Specifically, counsel stated "Now, what you don't know and I cannot tell you, if you got any concerns about the Town, you send a note out to his Honor, he's going to explain it to you, but I'm not allowed to tell you everything about the Town. But if you have got any concerns at all, come back and ask the Judge, Judge, what's the deal with this Town thing? He'll tell you. You might be surprised at what he's going to tell you. But it won't be what Mr. Davison told you and it won't be what Mr. Barrow told you. I assure you." Transcript of Koon closing, p. 6-7. Plaintiff's counsel said this despite being told by the Court beforehand that "I don't think the lawyers should argue about it." Transcript of 2/6/15 charge conference, p. 10. Any jury confusion was created by Plaintiff's counsel, not by an inquisitive jury panel. Accordingly, the Certified Questions are not ones that jurors are confused about in the courts of this state.

Rule 244(b) provides that "[i]n the event a party believes that additional materials from the record before the certifying court are necessary, it shall notify the Supreme Court and the certifying court so that the certifying court can determine if the materials

will be submitted.” Rule 244(b), SCACR. Carus respectfully submits that as these documents are directly relevant to the arguments in the parties’ appellate briefs to this Court and the documents are central to the Certified Questions being addressed by the Court. Allowing this Court to review these materials is necessary and will aid in the decisional process. In accordance with the requirements of Rule 244(b), SCACR, Carus also affirms that it will provide notice of this request to the Certifying Court so that the Certifying Court can determine if these materials should be submitted to this Court.

Respectfully Submitted,



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September 23, 2015

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**PROOF OF SERVICE**

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I certify that on September 23, 2015, I served copies of Defendant Carus Corporation's Motion to File Documents as Part of the Record on Appeal by United States mail, postage prepaid, addressed to:

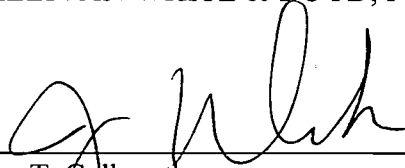
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