

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

APPEAL FROM OCONEE COUNTY
Court of Common Pleas
J.C. Nicholson, Jr., Circuit Court Judge

MAR 21 2016

S.C. SUPREME COURT

Appellate Case No. 2013-002464
Op. No. 27594 (S.C. Sup. Ct. filed December 2, 2015)

Scott F. Lawing and Tammy R. Lawing..... Petitioners/Respondents,

v.

Univar USA, Inc., Trinity Manufacturing, Inc.
and Matrix Outsourcing, LLC, Defendants,

Of Whom Trinity Manufacturing, Inc. and
Matrix Outsourcing, LLC,
are..... Respondents/Petitioners.

**RESPONDENTS/PETITIONERS' RETURN
TO MOTION FOR COSTS**

TO: THE HONORABLE JUSTICES OF THE SOUTH CAROLINA SUPREME
COURT:

Following argument during the April 2015 term, which was preceded by years of determined advocacy by the litigants, this Court issued its opinion in the instant case on December 2, 2015, affirming in part and reversing in part the previous disposition of the Court of Appeals.

Aggrieved by the decision, Respondents/Petitioners Trinity Manufacturing, Inc. and Matrix Outsourcing, LLC sought rehearing, averring: (1) the majority (4-1) overlooked or misapprehended the parameters of the comments in Restatement (Second) of Torts § 402A when it held Petitioner/Respondent Scott F. Lawing was a “user” of the subject sodium bromide and/or its packaging for purposes of the strict liability analysis; and (2) the majority (3-2) overlooked or misapprehended the parameters of the Sophisticated User Doctrine when it created a distinction between product labeling and the use of the sodium bromate, as if the two are not related. Unfortunately for Respondents/Petitioners, in a 3-2 decision, the majority elected not to grant rehearing. Remittitur was thereafter issued. Petitioners/Respondents Scott F. Lawing and Tammy R. Lawing subsequently moved for costs pursuant to Rule 242(j), SCACR. Petitioners/Respondents seek to recover \$11,777.97 in costs and fees.

Pursuant to Rule 242(j)(4), SCACR, Respondents/Petitioners seek a reduction in costs to be awarded. Specifically, while acknowledging that the decision of the Supreme Court has the effect of reversing the judgment of the Circuit Court, which was reviewed by the Court of Appeals, that decision does not enjoy the unanimous approbation of the members of this tribunal. As noted above, the “user

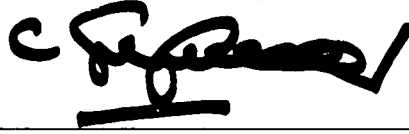
within the meaning of S.C. Code Ann. § 15-73-10” issue was met with a strong dissent by now-Chief Justice Pleicones and the Sophisticated User Doctrine issue contained two detailed and persuasive dissents by now-Chief Justice Pleicones and Justice Kittedge. Moreover, rehearing was nearly had. Further, it is indubitable similar disputes will come before the Court again, such as whether the Sophisticated User Doctrine is in fact a recognized defense in South Carolina. Respectfully, the issues adjudicated in this case are far from settled for those in the Product Liability Bar. Finally, Respondents/Petitioners note that this Court agreed with them concerning their arguments that the Court of Appeals’ definition of “user” for purposes of the strict liability analysis was too expansive and modified the Court of Appeals’ decision on this issue.

Simply stated, Respondents/Petitioners’ pursuit of a reduction of costs is premised on credit being given to them based on: the fact that the case at bar was an extremely complex dispute possessing substantial novelty; the zealous advocacy at all levels of the dispute demonstrated by Respondents/Petitioners; and the fact that the ultimate disposition of this matter can be fairly characterized as a “split” decision of this Court. See Ex parte Dibble, 279 S.C. 592, 595, 310 S.E.2d 440, 442 (Ct. App. 1983) (“Courts have the inherent power to do all things reasonably necessary to insure that just results are reached to the fullest extent possible.”).

[SIGNATURE PAGE FOLLOWS]

Respectfully submitted,

COLLINS & LACY, P.C.



CHRISTIAN STEGMAIER

cstegmaier@collinsandlacy.com

AMY L. NEUSCHAFFER

aneuschafer@collinsandlacy.com

Post Office Box 12487

Columbia, South Carolina 29211

(803) 256-2660 (voice)

(803) 771-4484 (facsimile)

Counsel for Respondents/Petitioners
Trinity Manufacturing, Inc. and
Matrix Outsourcing, LLC

**MOTION FOR EXTENSION OF
TIME TO FILE RETURN TO
MOTION FOR COSTS**

Columbia, South Carolina
March 17, 2016

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

MAR 21 2016

APPEAL FROM OCONEE COUNTY
Court of Common Pleas
J.C. Nicholson, Jr., Circuit Court Judge

S.C. SUPREME COURT

Appellate Case No. 2013-002464
Op. No. 27594 (S.C. Sup. Ct. filed December 2, 2015)

Scott F. Lawing and Tammy R. Lawing..... Petitioners/Respondents,

v.

Univar USA, Inc., Trinity Manufacturing, Inc.
and Matrix Outsourcing, LLC, Defendants,

Of Whom Trinity Manufacturing, Inc. and
Matrix Outsourcing, LLC,
are..... Respondents/Petitioners.

PROOF OF SERVICE

Counsel for Respondents/Petitioners Trinity Manufacturing, Inc. and
Matrix Outsourcing, LLC certifies he has served Respondents/Petitioners'
Return to Motion for Costs on all parties by depositing a copy of it in the United
States Mail, postage prepaid, on March 17, 2016, addressed to the following
attorneys of record:

COUNSEL SERVED

FOSTER LAW FIRM, LLP

Robert P. Foster, Esquire
601 E. McBee Avenue, Suite 104
Greenville, SC 29601

WALKER & MORGAN, LLC

William P. Walker, Jr., Esquire
S. Kirkpatrick Morgan, Jr., Esquire
Post Office Box 949
Lexington, SC 29071

LARRY C. BRANDT, PA

Larry C. Brandt, Esquire
Post Office Box 738
Walhalla, SC 29691

BLUESTEIN, NICHOLS, THOMPSON & DELGADO, LLC

John S. Nichols, Esquire
1614 Taylor Street
Columbia, SC 29201

HAYNSWORTH SINKLER BOYD, PA

Ellis M. Johnson, II, Esquire
Joshua L. Howard, Esquire
Post Office Box 2048
Greenville, SC 29602

GALLIVAN, WHITE & BOYD, PA

Gray T. Culbreath, Esquire
Post Office Box 7368
Columbia, SC 29202

[SIGNATURE PAGE TO FOLLOW]

Respectfully submitted,

COLLINS & LACY, P.C.



CHRISTIAN STEGMAIER

cstegmaier@collinsandlacy.com

AMY L. NEUSCHAFER

aneuschafer@collinsandlacy.com

Post Office Box 12487

Columbia, South Carolina 29211

(803) 256-2660 (Voice)

Counsel for Respondents Trinity

Manufacturing, Inc. and Matrix

Outsourcing, LLC

**PROOF OF SERVICE – MOTION
FOR EXTENSION OF TIME TO
FILE RETURN TO MOTION FOR
COSTS**

Columbia, South Carolina
March 17, 2016