

The Supreme Court of South Carolina

Tower Street Capital Management Inc., Plaintiff.

v.

KnightBrook Insurance Company, Defendant.

Appellate Case No. 2019-001373

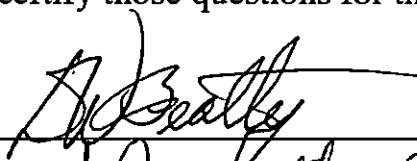
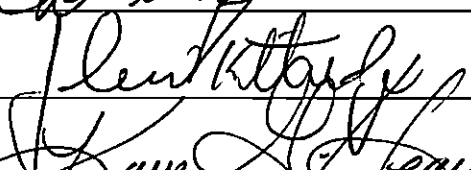
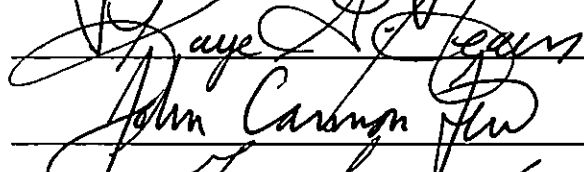
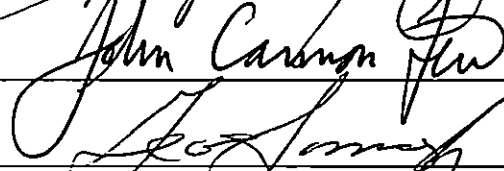
ORDER

Pursuant to Rule 244 of the South Carolina Appellate Court Rules (SCACR), the Court agreed to answer the following questions certified to this Court by order of the Honorable Joseph F. Anderson Jr., United States District Court Judge for the District of South Carolina:

1. Under South Carolina law, when a contract's durational term is keyed to the occurrence of a future, specific event, must the future, specific event be an objective event such that one party to the contract does not have control over it?
2. If the answer to Question #1 is yes, does a contract that requires the two parties to the contract to form a corporation together in the future in order to terminate the contract qualify as an objective event that renders the contract sufficiently definite in duration such that it is not perpetual and thus not terminable at will?

Upon further consideration, the Court respectfully rescinds its agreement to answer the certified questions. *See* Rule 244(f), SCACR ("The Supreme Court, in its discretion, may rescind its agreement to answer a certified question."). Answering Question #1 as framed, would require this Court to create a categorical rule applicable to any contract with a durational term keyed to the occurrence of a future, specific event. Question #2 is dependent upon this Court's answer to Question #1. In this instance, the Court declines to provide a broad pronouncement of South Carolina law. We believe a correct statement of the law may necessarily be factually

driven and subject to different results upon a case-by-case basis. Therefore, if the District Court would like to narrow its questions—providing context or individual facts from the record—it may then certify those questions for this Court's review.

	C.J.
	J.
	J.
	J.
	J.

Columbia, South Carolina

March 12, 2020

cc:

The Honorable Joseph F. Anderson Jr.

Bess Jones DuRant, Esquire

Thornwell F. Sowell III, Esquire

James Grant Long III, Esquire

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Kirsten Elena Small, Esquire