

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

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Mar 02 2022

S.C. SUPREME COURT

Sullivan Management, LLC,)
Plaintiff,)
vs.)
Fireman’s Fund Insurance Company and)
Allianz Global Risks US Insurance)
Company,)
Defendants.)

Case No. 3:20-cv-02275-MGL

**MOTION FOR CERTIFICATION
OF THE RECORD**

Movant United Policyholders has been granted leave to proceed as *amicus curiae* by the Supreme Court of South Carolina with respect to the question certified by this Court in its October 19, 2021, *Order Certifying Questions to the Supreme Court* (ECF Doc. No. 76).

The Supreme Court of South Carolina has indicated that certain documents in the appendix associated with the Movant’s briefing must be certified by this Court to be considered. For these reasons, United Policyholders respectfully submits this *Motion for Certification of the Record*, and in support thereof states as follows:

1. On February 16, 2021, Defendant filed its *Amended Motion to Dismiss For Failure to State a Claim* in this Court. (ECF Doc. No. 45-1). Plaintiff filed its opposition on March 16, 2021 (ECF Doc. No. 48) and Defendant's reply was filed on March 26, 2021 (ECF Doc. No. 49). A copy of the policy at issue was included in the parties’ submissions with that briefing. (ECF Doc. No. 45-2).
2. On October 19, 2021, this Court certified questions to the Supreme Court of South Carolina pursuant to Rule 244, SCAR. (ECF No. 76) On November 10, 2021, the South Carolina Supreme Court accepted those certified questions. (11/10/2021 Non-Dispositional Decision - Certified Question Accepted)

3. On February 7, 2022, United Policyholders filed a motion for leave of the Supreme Court to file a brief as *amicus curiae*, pursuant to Rule 213, SCACR. Attached thereto was an Appendix that included the following four documents from the record before this Court:
 - Allianz Insurance Policy (ECF Doc. No. 45-2).
 - Summons and Complaint (ECF Doc. No. 1-1).
 - Defendant’s Motion to Dismiss (ECF Doc. No. 45-1)
 - Defendant’s Reply in further support of its Motion to Dismiss (ECF Doc. No. 49)
4. On February 8, 2022, the Clerk of the Supreme Court of South Carolina notified counsel that the materials in the appendix would only be considered if presented via certification by the District Court, provided that the Supreme Court of South Carolina accepted the Movant’s *amicus* brief by granting its corresponding motion. (02/08/2022 Correspondence - Outgoing email on appendix (not allowed unless ordered by certifying court))
5. On February 23, 2022, the Supreme Court of South Carolina granted United Policyholders’ motion for leave to file its *amicus* brief. (02/23/2022 Non-Dispositional Decision - Order on amicus motion of United Policyholders)
6. The materials in the Appendix to United Policyholders' *amicus* brief will assist the Supreme Court in understanding the terms of the insurance policy at issue and the parties' respective positions on the certified questions.
7. Accordingly, United Policyholders respectfully requests that this Court certify the materials set forth herein as part of the certified questions that are being considered by the Supreme Court, pursuant to Rule 244, SCAR.

8. Counsel for United Policyholders has advised counsel for the parties and other *amici* that United Policyholders would be making this motion, and no one has raised any objections to this motion.

WHEREFORE, movant United Policyholders respectfully request that this Court certify the contents of the Appendix in connection with the certified questions presented to the South Carolina Supreme Court, pursuant to Rule 244, SCAR.

Dated: March 1, 2022

Respectfully submitted,

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ORDER

Upon the captioned motion and any responses hereto, it is hereby ordered that this Court hereby submits to the Supreme Court of South Carolina the following documents for consideration with respect to the question certified by this Court in its October 19, 2021, *Order Certifying Questions to the Supreme Court* (ECF Doc. No. 76):

- Allianz Insurance Policy (ECF Doc. No. 45-2).
- Summons and Complaint (ECF Doc. No. 1-1).
- Defendant’s Motion to Dismiss (ECF Doc. No. 45-1)
- Defendant’s Reply in further support of its Motion to Dismiss (ECF Doc. No. 49)

DATED: _____, 2022

MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE