



Diana Ungerleider <dianaunger3@gmail.com>

Del Colliano v. PHOA

1 message

David Schultz <DSchultz@polsinelli.com>

Thu, Apr 7, 2016 at 11:21 AM

To: "Burkholder, Donn M" <dburkholder@chubb.com>, "Iserota@kuluva.com" <lserota@kuluva.com>
Cc: "Clay Robbins (clayrobbinsiii@yahoo.com)" <clayrobbinsiii@yahoo.com>, Francine Kirkpatrick <DrFKirk@verizon.net>, "Miriam Schulman (miriamschulman@hotmail.com)" <miriamschulman@hotmail.com>, "Diana Ungerleider (dianaunger3@gmail.com)" <dianaunger3@gmail.com>, roger broderick <chaselaw@me.com>, "Howard Weisberg (hlweisberg0@gmail.com)" <hlweisberg0@gmail.com>, Suzanne Weisberg <sjw@sjwlegal.com>

When will we be getting a detailed report from Lori on the liability and damage issues? It should be soon.

I understand that Plaintiffs' counsel is intending to appear ex parte sometime to continue the trial. Because we have not heard from Lori on the outstanding questions, I don't know if she believes it is more advantageous to agree to or oppose the request — which might be the case if Plaintiffs have not designated the correct types or any experts and Lori has done what she feels needs to be done to defend the case.

I assume that Lori will appear at the ex parte hearing to protect the interests of the PHOA and its board. One thing I want to make crystal clear is that nothing should be done to upset the trial judge's prior order that precluded Plaintiffs from including the individual board members as named defendants. I have not been advised that Plaintiffs ever filed a writ or motion for reconsideration to challenge that prior order, so it should remain in place. If the Plaintiffs attorney appears in court to continue the trial date, then I am assuming that Lori will take the necessary steps to ensure that the pleadings will not be amended to add more claims or defendants to the case, i.e. the individual board members will not be brought back into the case. The case cannot be continued to allow Plaintiffs to add more claims or parties, particularly since the last amendment to the complaint resulted in claims that required the appointment of *cum suis* counsel.

Lori, this last point is of utmost importance, so please advise immediately that you will appear at any ex parte hearing to ensure that the pleadings will not be amended further and the order precluding Plaintiffs from including the individual board members will remain intact, regardless of Plaintiffs' request to continue the trial date. Since Donn has advised that Plaintiffs apparently need the continuance because they are not ready for trial, then perhaps this will be something that they can stipulate to in order to even appear and seek a trial continuance.

Donn, please also ensure that Lori is getting this and the other emails we have sent. To not get any response from her is unsettling.

From: David Schultz
Sent: Tuesday, April 05, 2016 6:19 PM
To: Burkholder, Donn M
Cc: Iserota@kuluva.com; Clay Robbins (clayrobbinsiii@yahoo.com); Francine Kirkpatrick; Miriam Schulman (miriamschulman@hotmail.com); Diana Ungerleider (dianaunger3@gmail.com); roger broderick; Howard Weisberg (hlweisberg0@gmail.com); Suzanne Weisberg
Subject: Re: David Schultz <DSchultz@Polsinelli.com>

Thank you. Lori, as I understand that you have been defending the case from the beginning, a detailed report from you should be provided first.

Sent from my iPhone

On Apr 5, 2016, at 11:29 AM, "Burkholder, Donn M" <dburkholder@chubb.com> wrote:

Mr. Shultz – I'll ask that Lori &/or Clay respond to your legal questions.

CHUBB

Donn M. Burkholder

D&O Examiner, North American Financial Lines Claims

555 South Flower Street, 4th Floor, Los Angeles, California 90071-2300, USA

O (213) 833-5218

E dburkholder@chubb.com

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From: David Schultz [<mailto:DSchultz@Polsinelli.com>]
Sent: Tuesday, April 05, 2016 10:00 AM
To: Burkholder, Donn M <dburkholder@chubb.com>
Cc: Iserota@kuluva.com; Clay Robbins (clayrobbinsiii@yahoo.com)

<clayrobbinsiii@yahoo.com>; Francine Kirkpatrick <DrFKirk@verizon.net>; Miriam Schulman (miriamschulman@hotmail.com) <miriamschulman@hotmail.com>; Diana Ungerleider (dianaunger3@gmail.com) <dianaunger3@gmail.com>; roger broderick <chaselaw@me.com>; Howard Weisberg (hlweisberg0@gmail.com) <hlweisberg0@gmail.com>; Suzanne Weisberg <sjw@sjwlegal.com>
Subject: Re: David Schultz <DSchultz@Polsinelli.com>

Thank you. But many questions remain unanswered. For instance, have Plaintiffs designated the appropriate experts to pursue their liability and damage claims against the HOA? If not, are you intending to ask the court to keep discovery closed even if trial date is continued? Again, what efforts have been undertaken by you and Lori to preclude or limit the claims. These are among the questions that we should be apprised about but frankly have not revived any meaningful response that advises on the liability and damage issues. A detailed report has been requested and should be provided.

Sent from my iPhone

On Apr 5, 2016, at 9:15 AM, "Burkholder, Donn M" <dburkholder@chubb.com> wrote:

Mr. Schultz:

We may continue to explore settlement potential.

I understand the plaintiffs' counsel intends to seek a continuance of the trial date, which is no assurance that will happen. I personally believe the plaintiffs' are currently unprepared to try the case.

Regards, Donn

CHUBB

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E dburkholder@chubb.com

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From: David Schultz [mailto:DSchultz@Polsinelli.com]

Sent: Monday, April 04, 2016 4:33 PM

To: Burkholder, Donn M <dburkholder@chubb.com>; Iserota@kuluva.com
Cc: Clay Robbins (clayrobbinsiii@yahoo.com) <clayrobbinsiii@yahoo.com>; Francine Kirkpatrick <DrFKirk@verizon.net>; Miriam Schulman (miriamschulman@hotmail.com) <miriamschulman@hotmail.com>; Diana Ungerleider (dianaunger3@gmail.com) <dianaunger3@gmail.com>; roger broderick <chaselaw@me.com>; Howard Weisberg (hlweisberg0@gmail.com) <hlweisberg0@gmail.com>; Suzanne Weisberg <sjw@sjwlegal.com>
Subject: David Schultz <DSchultz@Polsinelli.com>

Thank you for that update. Are there any subsequent mediation/settlement efforts planned? W

We have never received a written response from Lori to advise of the litigation related issues that we raised, including the most pressing issues regarding whether she will be seeking to continue the trial date and what steps have been taken to limit or defend against the claimed damages. Respectfully, a detailed report and action plan should have been provided by Lori and you well before the mediation. And, now, in light of what has transpired, the need for that is even more important.

From: Burkholder, Donn M [<mailto:dburkholder@chubb.com>]
Sent: Monday, April 04, 2016 9:28 AM
To: David Schultz; Iserota@kuluva.com
Cc: Clay Robbins (clayrobbinsiii@yahoo.com); Francine Kirkpatrick; Miriam Schulman (miriamschulman@hotmail.com); Diana Ungerleider (dianaunger3@gmail.com); roger broderick; Howard Weisberg (hlweisberg0@gmail.com); Suzanne Weisberg
Subject: RE: Palisair Home Owners Association

Palisair Home Owners Association

Claim No. 326413

Thanks Mr. Schultz – Mr. Robbins indicated he'd try to reach you last Thursday

The plaintiffs opened the mediation with a \$1,350,000 settlement demand. After several exchanges with the mediator, late in the afternoon the plaintiffs' settlement demand was for \$750,000, to which we responded with a \$100,000 settlement offer.

The plaintiffs didn't respond, and the mediator adjourned the mediation on the belief it would not resolve that day.

Regards, Donn

CHUBB

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E dburkholder@chubb.com

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From: David Schultz [<mailto:DSchultz@Polsinelli.com>]

Sent: Saturday, April 02, 2016 6:29 AM

To: Burkholder, Donn M <dburkholder@chubb.com>; Iserota@kuluva.com

Cc: Clay Robbins (clayrobbinsiii@yahoo.com) <clayrobbinsiii@yahoo.com>;

Francine Kirkpatrick <DrFKirk@verizon.net>; Miriam Schulman

(miriamschulman@hotmail.com) <miriamschulman@hotmail.com>; Diana

Ungerleider (dianaunger3@gmail.com) <dianaunger3@gmail.com>; roger

broderick <chaselaw@me.com>; Howard Weisberg (hlweisberg0@gmail.com)

<hlweisberg0@gmail.com>; Suzanne Weisberg <sjw@sjwlegal.com>

Subject: Re: Palisair Home Owners Association

Donn- we never received any email updates from you. Please do that on Monday.
Thank you.

Sent from my iPhone

On Mar 30, 2016, at 9:43 AM, "David Schultz" <DSchultz@Polsinelli.com> wrote:

At this point, emails from you to the group would be the most expedient way to disseminate information.

From: Burkholder, Donn M [<mailto:dburkholder@chubb.com>]

Sent: Wednesday, March 30, 2016 9:42 AM

To: David Schultz; Iserota@kuluva.com

Cc: Clay Robbins (clayrobbinsiii@yahoo.com); Francine Kirkpatrick;

Miriam Schulman (miriamschulman@hotmail.com); Diana Ungerleider

(dianaunger3@gmail.com); roger broderick; Howard Weisberg
(hlweisberg0@gmail.com); Suzanne Weisberg
Subject: RE: Palisair Home Owners Association

Thanks Mr. Schultz – if you’ll provide me with a cell number I can send you text messages – otherwise, I’ll periodically send you e-mails throughout the day

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From: David Schultz [<mailto:DSchultz@Polsinelli.com>]
Sent: Wednesday, March 30, 2016 9:34 AM
To: Burkholder, Donn M <dburkholder@chubb.com>;
lserota@kuluva.com
Cc: Clay Robbins (clayrobbinsiii@yahoo.com)
<clayrobbinsiii@yahoo.com>; Francine Kirkpatrick
<DrFKirk@verizon.net>; Miriam Schulman
(miriamschulman@hotmail.com)
<miriamschulman@hotmail.com>; Diana Ungerleider
(dianaunger3@gmail.com) <dianaunger3@gmail.com>; roger
broderick <chaselaw@me.com>; Howard Weisberg
(hlweisberg0@gmail.com) <hlweisberg0@gmail.com>; Suzanne
Weisberg <sjw@sjwlegal.com>
Subject: RE: Palisair Home Owners Association

By the way, I also tried to call the number that was provided in Donn’s email for Lori, (714) 913-4816. But that was a fax number that just gave a loud beep and was obviously not accurate.

From: David Schultz
Sent: Wednesday, March 30, 2016 9:29 AM
To: 'dburkholder@chubb.com'; 'lserota@kuluva.com'

Cc: Clay Robbins (clayrobbinsiii@yahoo.com); 'Francine Kirkpatrick'; Miriam Schulman (miriamschulman@hotmail.com); Diana Ungerleider (dianaunger3@gmail.com); 'roger broderick'; Howard Weisberg (hlweisberg0@gmail.com); Suzanne Weisberg
Subject: RE: Palisair Home Owners Association
Importance: High

Donn and Lori—I am one of the current board members of the Palisair HOA, your insured and client. I understand from our cumis counsel, Mr. Clay Robbins, that you are having a mediation concerning the Del Colliano matter today at 10:00 a.m. I don't believe that the Palisair HOA board was ever provided advance notice of the date, time and location of this mediation—which is why inquiries were recently made about whether a mediation was being set up. Because the Palisair HOA board is finding out about this mediation at this late time, no one is available and can possibly attend now. Thus, we expect that you will be providing us with updates throughout and after the mediation, as well as serving to protecting our interests under the policy with regard to this and other pending claims. I am copying the other members of the board, for your ease of reference in communicating with them. .

Thank you.

David Schultz

From: "Burkholder, Donn M" <dburkholder@chubb.com>
Date: Monday, March 28, 2016 at 4:04 PM
To: Clay Robbins <clayrobbinsiii@yahoo.com>
Cc: ">" <drfkirk@verizon.net>, "Iserota@kuluva.com" <Iserota@kuluva.com>
Subject: RE: Palisair Home Owners Association

Thanks I can make myself available tomorrow between 10:30 AM & 3:30 PM

CHUBB®**Donn M. Burkholder**

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From: Clay Robbins [<mailto:clayrobbinsiii@yahoo.com>]**Sent:** Monday, March 28, 2016 3:54 PM**To:** Burkholder, Donn M <dburkholder@chubb.com>**Cc:** Francine Kirkpatrick <DrFKirk@verizon.net>;lserota@kuluva.com**Subject:** Re: Palisair Home Owners Association

Donn

I need all reports to the insurer about status, discovery, liability and exposure. I need an explanation as to why the trial date was not continued when the complaint was amended to include what you assert are non-covered claims. Discovery has now closed, I assume and experts have been designated. Why would you issue a reservation at this late date under those circumstances? Do you not think your insured's interests have been prejudiced by your decision under the circumstances? What discovery has taken place on the bodily injury/emotional distress claims? Who are the experts? What did you reserve on this claim? Has that criterion changed at all from the beginning and why? I do not know Ms. Serota, but I have worked a case with Mr. Armijo. I would suggest that he and/or one of his partners get involved in this immediately.

I do not know what you mean by "reimbursed" the insured defense costs. Is not the Kuluva firm house counsel for Chubb? Has the insured paid any costs for defense and if so, why?

Where are the parties insofar as demand and offer?

Our hourly rate is \$625.00 per hour.

We need to have a meeting as soon as possible with your claims manager and trial counsel on this case in person or over the phone before the mediation.

Let me know their availability and I will check it with mine.

Yours Truly

CLAY ROBBINS III, ESQ. MAGAÑA, CATHCART & McCARTHY 1900
Avenue of the Stars, Suite 650 Los Angeles, CA 90067 310 553-6630

From: "Burkholder, Donn M" <dburkholder@chubb.com>
To: "clayrobbinsiii@yahoo.com" <clayrobbinsiii@yahoo.com>
Cc: Francine Kirkpatrick <DrFKirk@verizon.net>;
"lserota@kuluva.com" <lserota@kuluva.com>
Sent: Monday, March 28, 2016 11:46 AM
Subject: Palisair Home Owners Association

Insured: Palisair Home Owners Association
Policy No.: 8227-6754
Claim No.: 326413
Plaintiffs: Gerard Del Colliano, *et ux*.
Company: Federal Insurance Company

Mr. Robbins:

This follows my voice mail message.

Palisair Home Owners Association has requested Federal Insurance Company's consent to their retaining you as *Cumis* counsel on their behalf. Federal can conditionally consent to that arrangement. Please let me know your proposed hourly billing rate for this matter.

A private mediation is currently scheduled for March 30, 2016 here in Los Angeles. I've copied Palisair's defense counsel, Lori Serota, at Kuluva Armijo & Garcia on this e-mail. Lori can be reached at (714) [913-4816](tel:913-4816).

Please let me know what information you would like me to send to you.

The Policy carries a \$1,000,000 limit of liability, each **Claim**, each **Policy Year**. Pursuant to Endorsement No. 1, **Defense Costs** are outside of, and are not part of, the limit of liability. To date, Federal has reimbursed the Insured \$117,871.342 for its defense fees and costs incurred in defending this matter.

Let me know if you care to discuss.

Regards, Donn

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90071-2300, USA

O [\(213\) 833-5218](tel:2138335218)

E dburkholder@chubb.com

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