

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

CATHERINE COSTABILE and :
PETER COSTABILE :
v. : CIV. NO. 3:99CV2470 (AHN)
METROPOLITAN PROPERTY AND :
CASUALTY :

DISCOVERY RULING

This case arises from a fire on December 6, 1998 at the property owned by Catherine Costabile. Defendant contends that it denied liability "primarily on the basis of an exclusion in the policy which provides that no coverage is afforded for acts of vandalism or malicious mischief if the property has been vacant or unoccupied for more than 30 days."

A hearing was held on April 29, 2004, to address discovery issues submitted by the parties by letter brief. Plaintiffs seek an order compelling responses to three interrogatories and two corresponding requests for production. As a preliminary matter, the Court will permit plaintiffs' expanded discovery requests as these requests were granted by the Court in April 2003.¹

In Count Four, plaintiffs allege a violation of the Connecticut Unfair Insurance Practices Act ("CUIPA") Conn. Gen. Stat. §38-815 et seq. Proof of an unfair claims settlement pursuant to Conn. Gen.

¹Plaintiffs' filed their Request for Expansion of Discovery on March 4, 2003. Defendants raise no new arguments to compel the Court to vacate its ruling.

Stat. §38a-816(6) requires, in part, that plaintiffs prove that the insurer commits such unfair acts "with such frequency as to indicate a general business practice." CUIPA requires that the defendant insurer maintain complaint handling procedures which includes maintaining "the total number of complaints, and their classification by line of insurance, the nature of each complaint, the disposition of these complaints, and the time it took to process each complaint. For purposes of this subsection 'complaint' shall mean any written communication primarily expressing a grievance." Conn. Gen. Stat. §38a-816(7).

Interrogatory #2 states:

Identify from 1996 to present the number of complaints filed by Connecticut insureds with the Defendant, Metropolitan Property and Casualty Insurance Company. Identify each such complaint by date filed, its classification by line of insurance, the nature of each complaint and the disposition of each complaint. For purposes of this interrogatory, "complaint" shall mean any written communication primarily expressing a grievance.

Interrogatory #3 states:

Identify for the period from 1996 to present the number of complaints filed with the State of Connecticut Insurance Commissioner alleging that the Defendant, Metropolitan Property and Casualty Insurance Company, violated the Connecticut Unfair Insurance Practices Act. Identify each such complaint by date filed, its classification by line of insurance, the nature of each complaint and the disposition of each complaint.

Plaintiff's Requests for Production seek copies of any and all complaints described in interrogatories number 2 and 3.

Defendant agrees to produce complaint logs involving Connecticut property insurance claims between 1996 and 1999. Defendant objects to producing complaint logs involving Connecticut claims other than property insurance claims.² Defendant also contends that there is no basis for "plaintiffs' claim that they are entitled to information concerning the complaints against Metropolitan for any period of time after their own claim was denied; or at the very latest, after they filed suit." Suit was filed on December 20, 1999. Defendant argues that the "relevant time period of that purported wrongful business practice is the time when the Plaintiffs' claim was being investigated and denied . . . [but] no later than the date when Plaintiffs made a factual representation in a legal pleading that the Defendant engaged in such conduct." Defendant argues that complaint information after 1999 is not relevant to plaintiffs' claims or would not lead to the discovery of relevant evidence.

The Court rules as follows. Defendant will provide a copy of the complaint log for Connecticut insureds for the time period two

²Defendant redacted those claims that do not involve property matters and the insured's social security number if it was used as a policy number.

years before and after December 6, 1998, the date of the fire, i.e. from December 1996 through December 2000. This log will include complaints filed with the State of Connecticut Insurance Commissioner and complaints/"presidential complaints" filed with Metropolitan. The complaints are not limited to property insurance claims. Defendant may redact the policy number where insureds' social security numbers were used.

This is not a recommended ruling. This is a discovery ruling and order which is reviewable pursuant to the "clearly erroneous" statutory standard of review. 28 U.S.C. § 636 (b)(1)(A); Fed. R. Civ. P. 6(a), 6(e) and 72(a); and Rule 2 of the Local Rules for United States Magistrate Judges. As such, it is an order of the Court unless reversed or modified by the district judge upon motion timely made.

ENTERED at Bridgeport this ___ day of May 2004.

HOLLY B. FITZSIMMONS
UNITED STATES MAGISTRATE JUDGE