



Stephen Neal

From: Simpson, John <jsimpson@fulbright.com>
Sent: Friday, May 17, 2013 2:14 PM
To: Stephen Neal
Subject: Re: Insurance Policies

Thanks.

Sent from my iPhone

On May 17, 2013, at 2:05 PM, "Stephen Neal" <SNeal@dimuro.com> wrote:

> Should be able to get them to you by Tuesday, maybe Monday. S
>
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>
>
> PLEASE NOTE OUR NEW ADDRESS:

> Stephen L. Neal, Jr.
> DiMuroGinsberg, PC
> 1101 King Street, Suite 610
> Alexandria, Virginia 22314
> 703.684.4333
> 703.548.3181 (fax)
> 703-501-5366 (cell)

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>
> -----Original Message-----
> From: Simpson, John [<mailto:jsimpson@fulbright.com>]
> Sent: Friday, May 17, 2013 11:56 AM
> To: Stephen Neal
> Subject: Re: Insurance Policies

>
> 7/11/00 through the present.

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> Sent from my iPhone

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> On May 17, 2013, at 11:03 AM, "Stephen Neal" <SNeal@dimuro.com<<mailto:SNeal@dimuro.com>>> wrote:

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Stephen Neal

From: Simpson, John <jsimpson@fulbright.com>
Sent: Monday, May 20, 2013 3:36 PM
To: Stephen Neal
Subject: RE: Insurance Policies

I think it needs to cover the period at issue, which is at least as long as the ESA Case has been pending.

-----Original Message-----

From: Stephen Neal [mailto:SNeal@dimuro.com]
Sent: Monday, May 20, 2013 3:30 PM
To: Simpson, John
Subject: RE: Insurance Policies

I misread your email. I thought you wanted any policy from 7/11/2010 to the present, not 7/11/2000 to the present. Why do you need policies dating back to 2000, particularly since coverage was denied? Why don't we agree to just the policies since the filing of the Amended Complaint?

From: Simpson, John [jsimpson@fulbright.com]
Sent: Friday, May 17, 2013 2:14 PM
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Stephen Neal

From: Stephen Neal
Sent: Tuesday, May 21, 2013 3:28 PM
To: Simpson, John
Subject: Insurance Policies
Attachments: Hanover - Notice to Policyholders.pdf; Hanover Privacy Policy and Producer Compensation Practices Disclosures.pdf

My understanding is that the carrier(s) denied coverage. I am confirming that. If that is the case, then we do not believe AWI was or is required to produce them as part of its Initial Disclosures. That said, attached please find the current policies. AWI is trying to obtain the older policies. We need to revisit how far back we should go. The Original Complaint was filed on or about August 27, 2007. The Amended Complaint was filed on or about February 16, 2010. That being the case, why should we be producing policies before 2007?

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From: Nina Kovalik
Sent: Tuesday, May 21, 2013 2:49 PM
To: Stephen Neal
Subject: Hanover Policy (AW1-1 to AWI-68)

Nina Kovalik

DIMUROGINSBERG, P.C.
1101 King Street, Suite 610
Alexandria, VA 22314
Phone: (703) 684-4333
Fax: (703) 548-3181
Email: nkovalik@dimuro.com

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Stephen Neal

From: Simpson, John <jsimpson@fulbright.com>
Sent: Thursday, May 23, 2013 5:49 PM
To: Stephen Neal
Subject: RE: Insurance Policies

Based on the policies you forwarded, it is not clear to me why, at a minimum, the claim against AWI for malicious prosecution is not covered as a "personal injury." If language like that existed in earlier policies then the evident denial of coverage could be wrong. As for the time period covered, it depends on whether the insurance was claims made or occurrence. If claims made, then policies in effect when claims could have been made, i.e., from and after February 2007, when the motion for leave to assert file the counterclaim was filed, would be relevant. If based on occurrence, then the relevant time period goes back to December 1998, because, the court has already ruled that case was frivolous and vexatious from inception, and the inception was as early as December 21, 1998 when the original ESA 60-day notice letter was sent to Feld Entertainment.

From: Stephen Neal [<mailto:SNeal@dimuro.com>]
Sent: Tuesday, May 21, 2013 3:28 PM
To: Simpson, John
Subject: Insurance Policies

My understanding is that the carrier(s) denied coverage. I am confirming that. If that is the case, then we do not believe AWI was or is required to produce them as part of its Initial Disclosures. That said, attached please find the current policies. AWI is trying to obtain the older policies. We need to revisit how far back we should go. The Original Complaint was filed on or about August 27, 2007. The Amended Complaint was filed on or about February 16, 2010. That being the case, why should we be producing policies before 2007?

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From: Nina Kovalik
Sent: Tuesday, May 21, 2013 2:49 PM
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Subject: Hanover Policy (AW1-1 to AWI-68)

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Email: nkovalik@dimuro.com

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Stephen Neal

From: Stephen Neal
Sent: Thursday, July 18, 2013 5:20 PM
To: Simpson, John
Subject: FW: Policies: Animal Welfare Institute NOA1311129
Attachments: 92a8a9f9.pdf; Document.pdf

Importance: High

John,

As we have discussed, AWI does not believe that it was or is required to produce its insurance policies as part of its Initial Disclosures because AWI was denied coverage. Nonetheless, I previously sent you the most recent policies. Although not relevant, attached please find insurance policies from January 2006-January 2011, when AWI switched carriers. AWI did not have these policies in its possession, so it had to request them from the carrier.

AWI has repeatedly requested Feld to produce the un-redacted bills/invoices that support Feld's claim for damages as part of its Initial Disclosures. To date, you have failed to produce these materials. Instead, you produced to Ms. Meyer a summary spread sheet (that I don't have – please send it to me). The law is clear in this Circuit that, since Feld's claim for damages is solely based on its attorneys' fees and costs, Feld was required to produce the bills/invoices "in their entirety" with its Initial Disclosures. Indeed, there is authority in this Circuit that if Feld does not produce its bills/invoices as part of its Initial Disclosures, it cannot rely upon them at trial and/or AWI can move to strike Feld's claim for damages. So, again, are you willing to produce these materials now? Please let me know by July 23, 2013. Thanks, Steve.

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