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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - CENTRAL DIVISION
HONORABLE GEORGE H. WU, U.S. DISTRICT JUDGE

NEW YORK MARINE and GENERAL
INSURANCE COMPANY,

Plaintiffs,

Case No. CV 22-4685

vs.

AMBER HEARD, TRAVELERS COMMERCIAL
INSURANCE COMPANY, et al

Defendants.

REPORTER'S TRANSCRIPT OF
PLAINTIFF MOTION FOR JUDGMENT ON THE PLEADINGS
Monday, August 14, 2023
8:30 A.M.
LOS ANGELES, CALIFORNIA

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FEDERAL OFFICIAL COURT REPORTER
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LOS ANGELES, CALIFORNIA; MONDAY, AUGUST 14, 2023

8:30 A.M.

--oOo--

THE COURT: Let me call the matter of *New York Marine and General Insurance Company versus Heard*.

Let me have appearances.

MS. ROBINSON: Kayla Robinson from Pasich for defendant Amber Heard.

THE COURT: For the plaintiff?

MR. WAGONER: Your Honor, James Wagoner, for New York Marine.

MS. WARREN: Good morning, Your Honor. Andrea Warren from Sheppard Mullen. I'm representing plaintiff in the consolidated action, Travelers Commercial Insurance Company.

THE COURT: All right. We are here on the motion for judgment on the pleadings.

I issued a tentative on this. I presume both sides have seen it?

MS. ROBINSON: Yes, Your Honor.

MR. WAGONER: Yes, Your Honor.

THE COURT: Does somebody want to argue something?

MR. WAGONER: Yes, Your Honor. James Wagoner on

1 behalf of New York Marine. We would like leave to amend to
2 allege an actual controversy of whether New York Marine ever
3 had a duty to defend Heard, including, between September 4th of
4 2019, when she tendered the defense, and when New York Marine
5 accepted the defense on October 1st, meaning notice when she
6 accepted the defense in October -- well, accepted the defense
7 is the wrong term -- when we advised of the reservation of
8 rights.

9 THE COURT: Let me stop you. Are you clicking a
10 pen?

11 MR. WAGONER: Yes.

12 THE COURT: Don't do that.

13 MR. WAGONER: All right, sir.

14 Upon being advised of the reservation rights, and
15 Ms. Heard rejected the defense, the period between the tender
16 and that date is -- there's an issue about duty to defend
17 during that period, and we think that is a live controversy,
18 but also mentioned that Ms. Heard had submitted in discovery
19 over \$4 million in fees and expenses.

20 There a live controversy based on those.

21 We would seek leave to amend to allege that there was an
22 actual controversy over both that \$4 million and the period of
23 time prior to the acceptance of the defense.

24 THE COURT: Let me ask the defense counsel, I don't
25 want you to necessarily defend your client against that, the

1 real question should I allow him a period of time to a file an
2 amended pleading?

3 MS. ROBINSON: No, Your Honor. I don't understand
4 why that would change the mootness analysis in any way.

5 Your Honor's March 16th order resolves the issue as to
6 whether New York Marine does owe reimbursement to Ms. Heard for
7 those fees. That's -- it's the same bucket. There is only one
8 bucket of defense costs that are at issue.

9 It's the period that Mr. Wagoner is talking about, and
10 so, the same analysis at issue in your tentative applies to
11 that as well.

12 MR. WAGONER: Your Honor, I would respectfully
13 disagree.

14 The analysis in your order applies as of the date New
15 York Marine accepted the defense, when Ms. Heard rejected the
16 defense offer through Cameron McElvoy. That is what your order
17 resolved.

18 What it doesn't resolve is what happened in the three or
19 four weeks before then, and there is an actual controversy, and
20 I can't tell you how much was billed during that period, but I
21 do know I saw a statement that the Katherine Hecker Firm billed
22 over \$3 million before it ever filed an appearance.

23 And that is the period of time in which the Katherine
24 Hecker Firm was defending Ms. Heard.

25 So I don't have an exact calculation, but I'm fairly

1 confident it exceeds the minimal jurisdictional limits.

2 I don't see how that order as of when Ms. Heard rejected
3 the defense offer by Cameron McElvoy resolves everything.

4 There is still that period of about four weeks before
5 then.

6 THE COURT: All right. I will allow him to amend,
7 and we will see what he says.

8 MS. ROBINSON: Okay, Your Honor.

9 MR. WAGONER: Two weeks?

10 THE COURT: Two weeks.

11 MS. ROBINSON: Your Honor, are other dates going to
12 remain on calendar?

13 THE COURT: No. At this point in time, why don't I
14 take off all of the dates. Obviously, this matter is going to
15 resolve.

16 If I conclude there is something that is left over, I
17 can reset dates, but I will take off the previously set dates
18 at this point and just resolve this at this point in time.

19 MR. WAGONER: That is in both cases, the Travelers
20 case as well as the Heard case?

21 THE COURT: I can't remember, in the other case what
22 dates do we have?

23 MR. WAGONER: There is the mediation coming up, I
24 have a mediation next week, that's what I'm trying to know.

25 THE COURT: I will suspend the dates on both of

1 those cases, and we will see what happens.

2 MR. WAGONER: Very good, Your Honor.

3 Thank you, Your Honor.

4 THE COURT: Anything else?

5 MS. ROBINSON: No, Your Honor.

6 MR. WAGONER: Thank you very much, Your Honor.

7 THE COURT: All right. Thank you.

8

9 (The proceedings concluded at 9:21 a.m.)

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CERTIFICATE OF OFFICIAL REPORTER

COUNTY OF LOS ANGELES)
)
STATE OF CALIFORNIA)

I, TERRI A. HOURIGAN, Federal Official Realtime Court Reporter, in and for the United States District Court for the Central District of California, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the judicial conference of the United States.

Date: 20th day of November, 2023.

/s/ TERRI A. HOURIGAN

TERRI A. HOURIGAN, CSR NO. 3838, RPR, CRR
Federal Court Reporter

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