

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN**

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KATHLEEN McHUGH and  
DEANNA SCHNEIDER, Individually  
and on behalf of all persons similarly  
situated ,

Plaintiffs,

v.

MADISON-KIPP CORPORATION,  
CONTINENTAL CASUALTY COMPANY,  
COLUMBIA CASUALTY COMPANY,  
UNITED STATES FIRE INSURANCE  
COMPANY and ABC INSURANCE  
COMPANIES 1 – 50,

Defendants,

--and--

MADISON-KIPP CORPORATION,

Cross-Claimant,

v.

CONTINENTAL CASUALTY COMPANY,  
COLUMBIA CASUALTY COMPANY and  
UNITED STATES FIRE INSURANCE  
COMPANY,

Case No. 11-cv-724-bbc

Cross-Claim Defendants,

--and--

CONTINENTAL CASUALTY COMPANY and  
COLUMBIA CASUALTY COMPANY,

Cross-Claimants/Third-Party Plaintiffs,

v.

MADISON-KIPP CORPORATION,

Cross-Claim Defendant,

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and

LUUMBERMENS MUTUAL CASUALTY  
COMPANY, AMERICAN MORTORISTS  
INSURANCE COMPANY, and JOHN DOE  
INSURANCE COMPANIES 1-20,

Third-Party Defendants.

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**DECLARATION REGARDING INABILITY TO FILE SUMMARY JUDGMENT  
DOCUMENTS IN A TIMELY MANNER BECAUSE OF TECHNICAL DIFFICULTIES**

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I, Albert Bianchi, Jr., declare under penalty of perjury that the following is true and correct:

1. I am an associate with the law firm Michael Best & Friedrich LLP and one of the attorneys representing Defendant Madison-Kipp Corporation in this matter.

2. I make this declaration based upon my personal knowledge.

3. On the evening of Tuesday, February 19, 2013, we filed our Motion for Summary Judgment (dkt. #147), Affidavit of Marvin Jellings (dkt. #148), Affidavit of George Schluter (dkt. #149), Declaration of Mark Meunier (with attachments) (dkt. #152) and the Declaration of Christopher Kubacki (with attachments) (dkt. #155).

4. After 9:30pm, upon attempting to file the Declaration of Albert Bianchi, Jr. in support of our Summary Judgment Motion, we were unable to access the Western District of Wisconsin's CM/ECF filing server.

5. After several failed attempts to connect to the CM/ECF server I called the afterhours filing emergency phone number listed on the Court's website: 608-354-8004.

6. In calling the emergency number, I spoke with Chief Deputy Clerk Joel Turner and he also attempted and was unable to access the Court's CM/ECF filing server.

7. Chief Deputy Clerk Joel Turner confirmed that it was the Court's CM/ECF server that was having the technical difficulties and confirmed that I should file this declaration.

8. After hanging up with Chief Deputy Clerk Joel Turner I attempted to access the Court's CM/ECF sever several more times that evening but without success.

9. We have now filed all remaining documents in support of our summary judgment motion, including the Declaration of Albert Bianchi, Jr. (with attachments) (dkt. #s 162, 163, 164, and 167), Proposed Findings of Fact (dkt. # 161) and Brief in Support of Motion for Summary Judgment (dkt. # 160).

10. Additionally, last night we provided opposing counsel as well as co-defendants and cross-claimants with copies of the declaration, proposed findings of fact and brief in support.

11. Accordingly, we respectfully request that the Court accept the filing of the Declaration of Albert Bianchi, Jr. (with attachments) (dkt. #s 162, 163, 164, and 167), Proposed Findings of Fact (dkt. # 161) and Brief in Support of Motion for Summary Judgment (dkt. # 160) as timely filed in light of the technical difficulties discussed above.

Dated this 20th day of February, 2013.

s/ Albert Bianchi, Jr.

Albert Bianchi, Jr.