

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

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,)

No. 11-cv-724

Hon. Barbara B. Crabb, Judge

Hon. Stephen L. Crocker, Magistrate
Judge

—and—)

MADISON-KIPP CORPORATION,)
Cross-Claimant,)

v.)

CONTINENTAL CASUALTY COMPANY,)
COLUMBIA CASUALTY COMPANY, and)
UNITED STATES FIRE INSURANCE)
COMPANY,)
Cross-Claim Defendants,)

**DECLARATION OF REBECCA L.
ROSS**

—and—)

CONTINENTAL CASUALTY COMPANY and)
COLUMBIA CASUALTY COMPANY,)
Cross-Claimants/Third-Party Plaintiffs,)

v.)

MADISON-KIPP CORPORATION,)
Cross-Claim Defendant,)

and)

LUMBERMENS MUTUAL CASUALTY)
COMPANY, AMERICAN MOTORISTS)
INSURANCE COMPANY, and JOHN DOE)
INSURANCE COMPANIES 1-20,)
Third-Party Defendants.)

I, Rebecca L. Ross, being first duly sworn on oath, hereby state as follows:

1. I am over the age of 18 and am a resident of the State of Illinois. I am licensed to practice law in Illinois, and I have been admitted pro hac vice on behalf of Continental Casualty Company (“Continental”) and Columbia Casualty Company in the above-captioned litigation. I have personal knowledge of the matters set forth herein, and could testify competently to the following facts.

2. On March 22, 2013, I participated in a meet-and-confer session with counsel for Madison-Kipp and United States Fire Insurance Company regarding Madison-Kipp’s objections to the Rule 30(b)(6) deposition notice (“Notice”) propounded on Madison-Kipp by Continental, Columbia and U.S. Fire.

3. During the meet-and-confer session, I advised Madison-Kipp’s counsel that with respect to Topics 1, 2, 19 and 20 of the Notice, I intended to ask Madison-Kipp’s 30(b)(6) representative about (1) Madison-Kipp’s interpretation of the terms and conditions of the Continental and Columbia policies and (2) Madison-Kipp’s secondary evidence of the alleged Continental, Columbia and Kemper policies.

4. I offered to amend the 30(b)(6) notice to provide this level of information, but Madison-Kipp’s counsel responded that doing so would not alleviate or change their objections.

5. With respect to Madison-Kipp’s interpretation of the terms and conditions of the Continental and Columbia policies, I intend to only ask Madison-Kipp about its interpretation of the following policy provisions:

- The “Maintenance of Insurance” provisions from the four confirmed Columbia policies and the corresponding language in the limits of liability provisions requiring exhaustion of underlying coverage solely as a result

- of injury or destruction occurring during the policy period and not before;
- The Reduction of the Aggregate provision in form G-40219-A which provides if the each occurrence limit of liability of the underlying insurance is less than as stated in the declarations because the aggregate limits of liability of the underlying insurance have been reduced, this policy becomes excess of such reduced limit of liability “if such reduction is solely the result of injury or destruction occurring after the inception date of this policy and not before.”
- The absolute pollution exclusion in the '86-'87 Continental primary policy;
- The qualified pollution exclusions in the Continental and Columbia policies; and
- Any provisions in the Continental or Columbia policies addressing Madison-Kipp’s obligation to provide notification of a loss or claim.

Under penalties as provided by law, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

Rebecca L. Ross
Rebecca L. Ross

Subscribed and sworn to before me this
3rd day of April, 2013.

Audrey J Minglin
Notary Public
My commission expires: 4/1/15

