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PA Federal Judge Disallows Third-Party Complaint In Complex Insurance Coverage Dispute

District Judge Rufe has ruled in the Pennsylvania Eastern District that a 15 month delay is sufficient to deny the filing of a third-party complaint in an insurance coverage dispute potentially involving 10 different primary and excess insurers. In the case of *Continental Casualty Co. v. Peerless Indus., Civil No. 06-4621, 2008 WL 4058698*, Continental filed suit against Peerless, TIG Insurance Company, Century Indemnity Company and Fireman's Fund Insurance Company seeking a declaration that it had satisfied its obligations to Peerless, and seeking contribution and indemnification from Century, TIG and Fireman's Funds, for claims arising out of 40,000 underlying asbestos cases.

The insurance company Defendants sought to add as Third-Party Defendants seven other insurance carriers that allegedly issued primary and excess policies to Peerless during the relevant time period. Continental opposed the motion, arguing that there had already been significant delay occasioned by the defense and that the motion is six months too late. Judge Rufe agreed that the addition of seven Third-Party Defendants would lead to further delay in completion of discovery and adjudication of plaintiff's claims. Citing the factors that the courts of the Eastern District consider in deciding such a motion, and that nine months elapsed between the complaint and the answers, and six months elapsed between the answers and the motion, the Court denied the motion.

At the same time, the court decided a Motion to Compel filed by the Defendants. The insurance company Defendants sought documents from Continental related to 40,000 underlying asbestos cases, arguing that the documents are relevant to Plaintiff's claim of exhaustion of limits. The Court granted the request for detailed loss runs, including payments made to the insured and each individual claimant, settlement agreements and related documents, and documentation reflecting the allocation of each payment made to the policy under which it was made. Noting that the Defendants' request for the complete files for each of the 40,000 underlying cases was overly broad, the Court ordered that Continental must produce the complaints from each of the underlying asbestos cases for which it seeks contribution and indemnification.

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