



DLA Piper LLP (US)
2000 University Avenue
East Palo Alto, California 94303-2214
www.dlapiper.com

Hope Anne Case
hope.case@dlapiper.com
T 650.833.2376
F 650.833.2001

OUR FILE NO. 365395-000006

June 16, 2010

VIA ECF FILING

Magistrate Judge Maria-Elena James
United States District Court Clerk's Office, San Francisco
450 Golden Gate Avenue, 16th Floor,
P.O. Box 36060
San Francisco, California 94102

Re: *Balsley v. Delta Star, Inc. et al.*
Northern District of California, San Francisco Division, Case No. CV-09-2952 TEH

Dear Judge James:

I am counsel for Defendants in *Balsley v. Delta Star, Inc. et al.*, Case No. 09-CV-2952 THE. This case is currently set for a Settlement Conference on June 25, 2010 at 10:00 a.m. I write to request that Defendants' insurance carrier, represented by Chastity DaSilva, be allowed to appear telephonically at the Settlement Conference. Ms. DaSilva will be available that day at (860) 293-7401.

I am aware that your Standing Order calls for an indemnitor and its counsel to attend a settlement conference if necessary. This is a case in which an insurance policy exists, but the carrier has reserved all of its rights, and coverage is uncertain. Moreover, Plaintiff's remedies are limited to injunctive relief (which would not be covered by insurance) on his primary claim. Defendants' insurer's outside counsel is planning to fly out from Washington, D.C. to be present in person at the Settlement Conference. However, it is requested that Ms. DaSilva (claims counsel for Greenwich Insurance Company), who is located Hartford, Connecticut, be permitted to appear by telephone rather than in person due to the time and distance involved, and the fact that the insurer, which may have a limited, if any, role will be represented in person by counsel.

Although your Standing Order provides that in some instances a party or its counsel may be allowed to be available by telephone, as opposed to personally appearing, we did not see a provision specifically relating to a party's insurer's participation by telephone. In order to obtain guidance as to the procedure to follow with respect to Defendants' insurer's request to appear by telephone at the Settlement Conference, our office called your Chambers on June 9th. We were advised that the court could provide a call-in number for the insurer's representative to use the day of the Settlement Conference. The woman who helped us stated that she was unsure as to how to do this, and asked that we email Chris Nathan directly about making arrangements. She explained that Mr. Nathan would be out of town until Tuesday, but that he would let us know then whether anything else was needed from us in this regard. Additionally, she asked that we contact opposing counsel and inform them of the situation before Tuesday. Ms. Crawford, who also represents Defendants, copied opposing counsel on her email to Mr. Nathan, dated June 10th, of which I understand you are in receipt, and in which Ms. Crawford included our request regarding the insurer's appearance, to make them aware of the situation. My office then



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received a call from your chambers yesterday, and was asked to file a letter requesting the telephonic appearance, which Defendants now do.

By this letter, Defendants respectfully request that Chastity DaSilva, claims counsel for the insurer, be permitted to appear telephonically, rather than in person for the reasons s indicated above. As noted above, the insurer's outside counsel does intend to fly out from the east coast to attend in person and represent the carrier as well.

Very truly yours,

DLA Piper LLP (US)

/s/ Hope Anne Case

IT IS SO ORDERED:

Dated: June 18, 2010

