

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
JUDGE CHRISTINE M. ARGUELLO**

Courtroom Deputy: Valeri P. Barnes  
Court Reporter: Darlene Martinez

Date: April 24, 2009

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Civil Action No. 07-cv-01146-CMA-BNB

Parties:

RAPID FUNDING, LLC, a Colorado Limited  
Liability Company,

Plaintiff,

v.

JAMES RIVER INSURANCE COMPANY, an  
Ohio Corporation,

Defendant.

Counsel:

Michael Burg  
David TeSelle  
Thomas Henderson, IV  
Brian Matise

Brent Anderson  
Kyle Seedorf

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**COURTROOM MINUTES**

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HEARING: Motions

**2:03 p.m. Court in session.**

**ORDER:** Rapid Funding's Motion *in Limine* (134) is **granted in part and denied in part** as to the following paragraphs:

- 1) Denied as to post claim compliance with the policy terms;  
granted as to pre-claim
- 2) Granted.
- 3) Denied.
- 4) Denied.
- 5) Denied.
- 6) Granted to the extent it is unfairly prejudicial.
- 7) Deferred.
- 8) Denied.

- ORDER:** James River Insurance Company's Unopposed Motion *in Limine* Re Noneconomic Damages **(144)** is **granted**.
- ORDER:** James River Insurance Company's Unopposed Motion *in Limine* Re Attorney Fees **(145)** is **granted**.
- ORDER:** James River Insurance Company's Motion *in Limine* Re Redundant and/or Duplicative Expert Testimony **(146)** is **denied**.
- ORDER:** James River Insurance Company's Motion *in Limine* to Exclude Evidence of a Company Motto **(147)** is **denied**. The Company's motto Shall not be used excessively used or cumulative.
- ORDER:** James River Insurance Company's Motion *in Limine* Re Reliance on, Reference to or Support of Andrew Miller Valuation Opinion **(148)** is **denied**. Mr. Miller can testify regarding his activities as owner and as to his preparation of claims forms, subject to limiting instruction to be prepared by James River.
- ORDER:** James River Insurance Company's Motion *in Limine* Re Diminution of Value **(149)** is **denied** to the extent it is tied to what the value of the north building is and nothing else.
- ORDER:** James River Insurance Company's Motion *in Limine* Re Zoning **(150)** is **granted** to the extent it relates to any evidence with respect to post fire changes.
- ORDER:** James River Insurance Company's Motion *in Limine* to Exclude Evidence of James River's Underwriting Practices After Rapid Funding's Claim of Loss **(151)** is **granted** to the extent it relates to any subsequent changes.
- ORDER:** James River Insurance Company's Motion *in Limine* Re Underwriting **(152)** is **denied**.
- ORDER:** James River Insurance Company's Motion *in Limine* to Exclude Argument and Evidence of Prior Insurance Coverage **(153)** is **deferred**.
- ORDER:** James River Insurance Company's Cross-Motion *in Limine* to Exclude Argument and Evidence and Evidence of "No Changed Conditions" to Property **(154)** is **denied**.
- ORDER:** James River Insurance Company's Motion *in Limine* Re Swett & Crawford **(155)** is **denied**.

**ORDER:** James River Insurance Company's Motion *in Limine* to Exclude Evidence of Site Inspections Report **(156)** is **deferred**.

**ORDER:** James River Insurance Company's Motion *in Limine* to Exclude Evidence of Paul Davis National Budget **(157)** is **denied**, but only as to testimony, not as an exhibit unless foundation is laid.

**ORDER:** James River Insurance Company's Motion *in Limine* to Exclude Evidence of Profitability and Loss Ratios **(161)** is **granted in part and denied in part**. Granted to the extent the testimony would elicit dollar figures; denied to the extent it is limited to general percentages.

Court ruled on deposition designations.

**4:05 p.m. Court in recess.**

**4:21 p.m. Court in session.**

Continued ruling on deposition designations.

**DEADLINES/HEARINGS:**

- 1) Counsel shall draft a limiting instruction, per Order, on James River Insurance Company's Motion *in Limine* Re Reliance on, Reference to or Support of Andrew Miller Valuation Opinion **(148)**.
- 2) Simultaneous briefing on whether counsel can call undesignated witnesses off opposing sides' witness lists due **April 25, 2009**.

**5:07 p.m. Court in recess/hearing concluded.**

Total in-court time: 2:48